

1.2. LEGAL AND ETHICAL ISSUES

Case managers need to be familiar with a number of statutes and policies that pertain directly to NMHCBS. The following is a summary of important laws and rules; links to Arizona statutes and rules are included where appropriate.

1.2.1. CLIENT RIGHTS AND RESPONSIBILITIES

a. Rights specified by the Older Americans Act

The following rights relating to in-home services for frail older adults are listed in Section 314 of the Older Americans Act. http://www.aoa.gov/AoARoot/AoA_Programs/OAA/oa_full.asp#_Toc153957687

1. The right to be fully informed in advance about each in-home service provided by an agency under this title.
2. The right to be informed about any change in such service that may affect the well-being of the individual receiving services.
3. The right to participate in planning and changing an in-home service provided under this title unless the individual is declared incompetent by a judge.
4. The right to voice a grievance about services received or services not provided, without discrimination or reprisal as a result of voicing the grievance.
5. The right to confidentiality of records.
6. The right to have one's property treated with respect.
7. The right to be fully informed (orally and in writing) of one's rights and obligations before receiving in-home services.

(42 U.S.C. 3030c-1)

b. Additional rights supported by the Arizona State Unit on Aging and the Area Agencies on Aging

In addition to the rights listed above, the Arizona State Unit on Aging (DES-DAAS) and the Area Agencies on Aging also support the following rights for their clients. This list is not intended to be all-inclusive, but it does suggest an outline of the basic principles that should be followed when providing services.

- The right to be treated with respect and dignity.
- The right to self-determination, including participation in developing one's own plan of care.
- The right to refuse any or all portions of the care plan.
- The right not to participate in, or to withdraw from, the process at any time.
- The right to be given a fair and comprehensive assessment of their health, functional, psychosocial, cognitive, economic, and environmental status.
- The right to have access to all needed health and social services.

Client Responsibilities²³

Each client who receives services from the Non-Medical Home and Community Services System agrees to meet his/her client responsibilities, which include, but are not limited to the following:

- The responsibility to provide accurate information regarding physical condition and financial situation and to cooperate with the case manager to determine eligibility.
- The responsibility to participate in developing the service plan and consenting to receive the services in the service plan.
- The responsibility to be available and accept services when they are scheduled and if a scheduled service must be canceled, to give at least a 24-hour notice.
- The responsibility to report any changes that might affect the client's status.
- The responsibility to cooperate with the case manager and service providers, to treat them in a respectful manner and provide a safe work environment.
- The responsibility to report any concerns or problems to the case manager and to work with the case manager and/or service providers to resolve problems.
- The responsibility to report any fraud or abuse.

1.2.2. ABUSE²⁴

Definition

Adult and child abuse refers to any form of maltreatment of a person by a caregiver, service provider, family member, spouse, or friend. Categories of abuse include:

- a. Abuse**
Intentional infliction of physical harm or unreasonable confinement.
- b. Sexual Abuse or Sexual Assault**
Sexual contact with any person incapable of giving consent or through force or coercion, which means by force or threatening.
- c. Neglect**
Failing to provide a person food, water, clothing, medicine, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health. Shelter refers to housing but also the environment. Leaving a person in unsafe or hazardous environments can be neglect. For children this also applies to parents leaving a child with no one to care for him/her or leaving a child with a caretaker and not returning or making other arrangements for his/her care.
- d. Financial Exploitation**
The improper or unauthorized use of a person's funds, property, or assets. This includes forgery, stealing money or possessions, or tricking a person into signing documents that transfer funds, property, or assets. For children this also includes using a child for material gain, including forcing a child to panhandle, steal or perform other illegal or involuntary activities.
- e. Emotional Abuse**
Psychological abuse such as name-calling, insults, threats, and intimidation.

²³ Adapted from a publication of the Pima Health System, Tucson, Arizona.

²⁴ Adapted from *Principles of Caregiving, Fundamentals*, Arizona, 2008.