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PI-12-05

**PROGRAM INSTRUCTION**

TO: Aging Service Access Points  
Protective Services Agencies  
Elder Abuse Hotline

FROM: Ann L. Hartstein *AH*

DATE: September 17, 2012

SUBJ: Protective Services: Record Expungement and APS Business Process

**I. Purpose:**

The purpose of this Program Instruction (PI) is to provide direction to agencies regarding the automatic expungement of certain Protective Services (PS) case files and the business process regarding associating and linking intakes and investigations.

**II. Background:**

Massachusetts General Laws (M.G.L.), chapter 19A, section 23(b) and regulations of the Executive Office of Elder Affairs (EOEA) found at 651 CMR 5.20 (11) require PS agencies to expunge all personal data within its control regarding a data subject where a report of alleged elder abuse cannot be substantiated, or where the report was screened out, within three (3) years of making that determination.

As a result of the implementation of the Adult Protective Services computer system, EOEA issued PI-10-09 which stated in part that the expungement of electronic records from the APS system will occur automatically approximately one year after the PS agency makes a determination that the allegations could not be substantiated or a report is screened out. Since the issuance of that PI, the

expungement utility in the APS system has been deployed. Currently, the utility automatically removes records that are a year old and meet the following criteria: intakes that are “Screened In” and create an investigation that is ultimately unsubstantiated, all unsubstantiated investigations, and intakes that have been screened out. Intakes and investigations that are expunged by the system are captured in an Expungement Report that retains certain data elements but contains no personal identifying information.

The APS case management system has two additional screening “resolutions” if an intake is screened in. Cases can be “Screened In” with a resolution of “DA/Law Enforcement”. This allows an immediate referral to the DA in specific circumstances, such as the death of an elder, when Protective Services will not initiate an investigation. Those intakes will not be expunged. The other screening resolution is “Incident Under Investigation”. This screening choice was added to capture multiple intakes on an elder where an investigation is currently being conducted but has not been completed. Some of those intakes meet the statutory and regulatory criteria for expungement and it is of critical importance that the APS system be able to identify those intakes in order that they be removed from the system.

### **III. Required Actions:**

Intakes that are Screened In with a resolution of “Incident Under Investigation” must be linked to an investigation that is active and not complete. If the intake is not linked to an active investigation, that intake will not be expunged if the investigation is ultimately unsubstantiated. The intake should not be additionally linked to any other intakes or investigations. If multiple intakes are received on an elder where there is currently an active investigation that has not been completed, each intake must be linked to the active, not-completed investigation. Do not link intakes screened as “Incident Under Investigation” to other intakes.

An intake that is received after an investigation is completed and Ongoing Services are being provided may not be Screened In as “Incident Under Investigation”. In that circumstance, the intake would either be Screened Out as Incident Already Investigated, or Screened In for investigation of the new allegations.

In order to ensure that records are appropriately being expunged, intakes must only be linked to a single investigation, not multiple investigations. Do not link intakes to other intakes. To obtain a protective services history of an elder or other participant, there is a Prior Involvement link on the participant page which provides a list of intakes and investigations involving the participant.

APS will automatically delete all electronic case files one year after a determination that the allegations could not be substantiated or where the intake was screened out. The unsubstantiated investigation and any intakes that are linked to it will be removed from the system. If you have a court order requiring the preservation of information, you should print out a hard copy of the case record.

**IV. Effective Date:**

September 17, 2012

**V. Contact Person:**

Deborah Fogarty, Director of Protective Services