

APS Residency FAQs

Q: How do you define County of Residence? Where Client first obtained Medicaid? Last known physical address?

The county of Medicaid is not necessarily the determining factor but it could be a starting point. Statute defines county of residence as where an adult resides/lives (cited on the flow 153a-257) and this may or may not have a direct relationship to Medicaid. If a DSS receives an APS report about someone in the hospital in their county, but living in a neighboring county, it is important for the intake worker to obtain as much information about where the person was living prior to them being admitted to the hospital. It is extremely important that reports are not delayed due to trying to figure out county of residence - if it's unknown, or you are unable to ascertain the needed info it's imperative that you move forward with action as required by the law. Law does not state that COR has to be determined prior to action being taken. Statute provides authority to the agency that is receiving the report to take action. If COR cannot be determined, COL will assume all responsibility (i.e. - evaluation, case decision, etc.).

Q: Is there a time frame to consider for residency?

There is no defined timeframe associated with the COR/COL guidance on establishing where an adult has residence. Residency should be determined based on the information available and provided by the reporter. It is where the person lives or considers to be their home.

Q: How do you determine residence for those that are homeless/living in a homeless shelter?

If the disabled adult is in a homeless shelter, by virtue of them being there it can be presumed that the person doesn't have a current home or residence. Thus the county of location would be responsible for the APS report.

Q: What if the APS evaluation results in a petition for guardianship? Who and where is it filed?

In most situations it would be the COR - the clerk can decide if it needs to be moved elsewhere; tools are available to the attorneys and clerks to file for change in venue if needed

Q: Currently the guardianship petition must be filed in COL. Is that policy now changing?

No, policy has not changed. This guidance is in the context of obtaining legal authority for the provision of protective services and does not refer to the general act of filing for a guardianship petition. There is flexibility for the clerks to allow filings in any jurisdiction - this will vary on a case by case basis and what best meets the circumstances presented in the case should also be considered.

Q: What if COL gets a report and screens it in, but the COR is the guardian, and COL does not know this at intake?

When a COL receives a report alleging abuse, neglect or exploitation of a vulnerable adult who also happens to have a guardian, regardless of who that guardian is, the report should be screened as required by law and policy. If the allegations meet criteria and the report is screened in for evaluation, COL should proceed as per guidance and contact the COR. Whether it is known that the COR DSS director is the guardian at intake, or discovered when contact is made with the COR, the COR will need to request that another DSS take responsibility for the evaluation of the need for protective services as conflict of interest. It would seem reasonable that the COL DSS agency assume that responsibility and proceed with the APS evaluation.

If the COL receives a report on a ward whose legal guardian is the COR and there are allegations of mistreatment against the COR, the report should be handled as a conflict of interest.

Q: Is there anything on conflict of interest cases?

Counties should follow the existing conflict of interest protocol referenced in the APS manual.

Q: If a client is in a SNF for short term rehab, does that meet residency? Who has responsibility?

Yes; the county where the facility is located is responsible as required by 10A NCAC 71A .0504(a).

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Q: What about individuals residing in Nursing Homes, Assisted Livings or Group Homes or AFLs?

The county where the nursing home, assisted living, group home or other type of facility is located is responsible for the APS case as required by 10A NCAC 71A. 0504(a).

Q: Who has responsibility for the evaluation where a person was discharged from a facility in county A and is currently in a hospital in county B?

It would be based upon the information received from the reporter about where the adult lives. If it is clear at intake that the person has been discharged from a facility and ends up in a hospital, the report belongs to the COL

Q: What happens if the COR takes the report on an adult located in another county? Does the COR screen? Or COL? Does COL initiate?

APS law indicates clearly that when a report is received, there is an expectation that the report is screened and acted on immediately - if COR receives the report they will immediately screen and make any type of requests that are needed. COL makes the screening decision if the APS report is made to them initially.

Q: Is there any recourse if we disagree with the COL's decision to screen in or out the report? Is there ever a time that the COL can refuse to cooperate with the COR?

No, COL's decision stands and COR cannot change it. The Administrative Code and rule is very specific that cooperation is required. If there is a conflict between two counties, Adult Program Representatives and Division of Aging and Adult Services staff is available for consultation

Q: How is COR determined if the adult is homeless (i.e. IVC/not allowed to come back to nursing home, adult care home)?

This will vary from case to case. It will be important for the agency receiving the report to gather as much detail as possible from the reporter to determine county of residence. If COR cannot be determined, COL is responsible for the APS process.

Q: Can 2 counties (COR/COL) both code for the 202 and 204 services at the same time and who obtains the SIS number?

COR has the responsibility of opening services to evaluate the need for protective services and will both complete the 5027 and obtain the SIS number. COR will share the SIS number with the COL and both are able to code/bill for 202 and 204 services simultaneously.

Q: If the COR is on the opposite side of the state, COR is responsible but would COL have to conduct the evaluation due to distance?

Mileage or distance does not have any bearing on the COR/COL policy. If COR determines that assistance is needed from COL due to distance, then COR will request the COL's cooperation, as necessary. COL has permission to request COR to reimburse for costs incurred for doing the work on their behalf.

Q: Will an e-mail notification be required to be on an encrypted e-mail such as Zix-Mail?

You would follow your agency's internal policy in regards to confidential information being disseminated electronically; we would expect agencies to adhere to requirements for maintaining confidentiality. A range of policies on this vary across the state which are driven by HIPAA securities and other requirements determined by your county's IT and securities teams.

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Q: Is that 7 working or calendar days for communication between COL and COR?

7 Working Days - as stated in APPENDIX V- Page 1

Q: Are we correct in thinking that our agency attorneys will be in serviced on the new policy/and that they may have to provide legal service/action in another county (COL)?

Yes, Aimee Wall with School of Government has notified all county and DSS attorneys of this clarification in guidance and they are also aware that movement between counties may be needed in order to follow through with legal proceedings.

Q: What if COR is out of state? We are a border county and have this occur frequently.

If the adult is an out of state resident the COL/COR policy does not apply. The APS report would belong to the county where the adult is located at the time of the report.

Q: Is/Can this policy apply to tribal entities who are performing their own protective services? (Specifically the Eastern Band of Cherokee Indians)

EBCI has its own jurisdiction and would follow their own policy.

Q: Who sends the reporter letter if the COL screens the report? Is it always whoever screens the report?

The COR is responsible for handling all notifications as required by statute, with the exception of situations of emergencies. In an emergency, the COL would move forward with making any immediate notifications needed

Q: When the COL immediately notifies the DA or LE, in which county do they notify?

Notification to DA/LE should occur in the jurisdiction where the mistreatment occurred.

Q: Where can we find the new intake report?

The revised APS intake tool is now available on the DHHS website in the Forms section.

Q: Is new intake tool to be used now or is there an effective date?

The revised APS intake tool may be implemented now.

Q: Who would be the secondary screener?

The space for a secondary screener's signature on the APS Intake form is optional and could be a program manager, supervisor from another area/unit, lead social worker, intake social worker - or whomever your agency determines would be appropriate.

Q: If COL screens out the report, do we need to send a copy of that screened out report to the COR?

When a COL screens out a report the COL may offer other services & refer to other agencies if appropriate. If the DSS which received the report determines that the DSS in the COR should know about the report as a matter of referral for services for that individual, then the COL would notify them in the same manner as any other referral.

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Q: Do both counties keep a record of one report? i.e. it's screened in and they work together then we both log the report as an open case in each county?

As far as keeping a record of reports, this policy should not affect how counties do so already. However, if the question refers to which county sends in the info for statistical purposes, the COR sends in the 5026 and the COL may include information from report on the Annual APS Survey for their county.

Q: When a report comes in on nights/weekends/holidays, the COL may not have the technology to fax or email the report. How should this be handled?

County DSSs are required by law to ensure protective services are provided 24 hours a day including protocols for availability afterhours, so this would not be any different when implementing the COL/COR guidance. If counties have concerns of their agency's ability to communicate with other counties due to limited technology or other reasons, planning to ensure proper notification/follow-up should take place ahead of time.

Q: If a report is received about an individual and your county is neither the COR or the COL, do you still screen the report and determine the timeframe before trying to determine the COR and/or COL?

In this situation, the county receiving the report should forward the report to the county where the adult is located so that they may determine the needed follow up.

Q: If a COR has to take legal action, do staff of the COR have to travel to the COL or can the filing be done in the COR?

COR has both legal jurisdiction and responsibility for petitioning. The law allows flexibility for the DSS attorney to determine the proper venue.

In the best situation, COL staff who obtained the case information and shared these findings with the COR should be present at the hearing. Sworn affidavits from the COL can be used during the petitioning and hearing process if the COL staff cannot be present.

Q: If a resident of a facility is in one county, but has been declared incompetent in another county, how should this be handled?

Implement the COL/COR procedure.

Q: Does COR or COL complete Functional assessment, calls collaterals, obtains medical information from doctors, obtain financial records etc.?

While both COR and COL can obtain the information needed, COR is responsible for having and utilizing all available information in order to make an informed case decision.

Q: What is the COR responsibility to have a face to face with a client if the county borders the COL county?

APS Law - GS. 108a states that both COR and COL share a level of responsibility in the completion of the APS evaluation with the COR being responsible for the case decision. If COR is unable to complete a face to face interview with the disabled adult, as a part of this guidance, COR would be able to request that the COL completes that particular required activity, in addition to others that COR determines is needed.