



May 22, 2023

Pennsylvania Statewide Independent Living Council (PA SILC)

205 Grandview Avenue, Suite 405

Camp Hill, PA 17011

Pennsylvania Independent Regulatory Review Commission (IRRC)

333 Market Street, 14th Floor

Harrisburg, PA 17101

Re: PA SILC- PA IRRC- Draft Adult Protective Services (APS, Ages 18-59, for PA Act 70 of 2010)- IRRC Number 3364- Regulation # 14-543 for PA Code 55 Chapter 15 to be enforced by the PA Department of Human Services (PA DHS)

On behalf of PA SILC, we would like to express our gratitude for the opportunity to provide feedback in response to the public comment period from the Pennsylvania Independent Regulatory Review Commission (IRRC) regarding the draft Adult Protective Services (APS, Ages 18-59) pertaining to Act 70 of 2010. Our organization has been actively involved in working with Centers for Independent Living (CILs) and other disability services advocacy, providers and consumers accessing services in Pennsylvania under Medical Assistance (Medicaid) since the early 1990s. As a result, we have identified key areas needing attention and improvements to better serve the community.

As a systems advocacy organization for individuals with disabilities and older adults in our community, PA SILC is committed to promoting independent living and ensuring the provision of high-quality services. In this response, we will outline our concerns and offer suggestions for APS, with the ultimate goal of fostering a more inclusive and effective system.

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Please find enclosed our detailed comments and recommendations that we believe will contribute to the ongoing success and improvement of APS regulations in our state.

Thank you for your attention to our concerns, and we look forward to the possibility of future collaboration in the continued development and refinement of the APS program.

Sincerely,

Matthew Seeley, Esquire, Executive Director

PA SILC

PA SILC Policy Recommendations for draft APS Regulations due May 22, 2023

- **We are glad that the PA DHS, IRRC and others in state government have collaborated, and have finally put forth draft regulations.**
- **Our organization and others in our network worked with other disability stakeholders and additional organizations in getting the original law passed back in 2010 with several years of systems advocacy done for this badly needed law. Pennsylvania was one of the last states to adopt an APS law (see p.4 in draft regulations, we worked with those groups noted).**
- **In addition to advocacy for passage of the law, we were part of PA DHS groups years ago after 2010 that met with them to address issues for consumers and providers; also on how the public outreach could be done to raise awareness of APS.**
- **Below are specific areas noted in the APS draft regulations where we have concerns based on both language and reports we have heard regarding the current implementation of APS prior to these draft regulations:**
 - **APS was intended to be a protection for people with disabilities, not to be used as retribution for individuals making APS complaints where**



individuals making such complaints get forced into guardianships against their will(s).

- **Guardianship is mentioned numerous times in the draft regulations, far more than what was intended. Guardianship should be viewed as the last option and not the first choice.**
- **Conflict of Interests: Organizations performing APS should not also be guardians / substitute decision makers, long-term living providers or subcontracted entities for either institutional or community long-term living programs or have financial planning interests (including representative payee or such services) for victims of abuse under APS. Those should be provided by separate organizations to avoid any appearance of conflicts and promote greater safety.**
- **Alternatives to Guardianship: In addition to reducing the prevalence of guardianship in the draft APS regulations, the final APS regulations need to do more to promote alternatives, such as Substitute Decision Making. We partner with organizations that are working on raising greater awareness of the need for alternatives.**
- **The IRRC should review the information presented at Senator Lisa Baker's guardianship reforms hearing held on March 14, 2023, for related concepts to be included in the final APS regulations that would protect people in the community and in nursing facilities or other institutional care settings who are under guardianship currently.**
- **State Agency Coordination (CPS into APS): Regarding other state agencies beside PA DHS, how will protective services be addressed for individuals that may begin at under Child Protective Services- CPS but age into the adult system? What about inclusion of related state agencies: PA Department of Education (where students with disabilities who are 18 or older in the current system and are under APS due to abuse in the school system or reported by the school) or those under PA Department of Labor & Industry Office of Vocational Rehabilitation (PA L&I OVR) where abuse may occur or be reported by a service provider)? How will that complaint and /or abuse be addressed? Related cumulative data should also be included in the annual APS reports by PA DHS and referring state agencies.**



- **State Agency Coordination (Aging out of APS into OAPS, Aging):** What is the role of PA Department of Aging for individuals who experienced abuse prior to age 60 and are aging into the older adults system? How will that complaint and /or abuse be addressed? Related cumulative data should also be included in the annual APS reports by PA DHS and referring state agencies.
- **Regarding the contracted organization (s) that are in charge of APS** which are contracted by the PA Department of Human Services, they should be conflict free. In other words, such organizations should not oversee guardianships or provide other services for APS complainants.
- **P. 53- Law Enforcement / Police:** Should Public Housing Authority (PHA) Police be mentioned here (90 PHAs in PA)? What about Federal law enforcement?
- **Planning for APS populations:** We understand that PA DHS ODP includes funding for finding individuals out in the community not previously receiving services who were abused and then need services. What are OLTL and OMHSAS doing? Can this be part of the public data reporting by PA DHS?
- **Other state agencies provide referrals to PA DHS for APS:** Is this tracked and if not, can it be required reporting by other state agencies regarding APS referrals (Health, L&I, PDE, etc.) for other state agencies that provide disability services?
- **Financial abuse experienced by those under APS :** Can there be more substantive documentation, including fiscal impact incurred by the victims? P.20 is helpful, but more substantive language is needed here to detail the impact to victims which should include a cumulative impact statement for all those under APS in PA DHS annual APS reports. Also, what efforts are made to help victims of financial abuse receive restoration?
- **Use on internet, social media, and protection of personal virtual information:** as our world has evolved regarding these matters, APS regulations need to evolve to reflect concerns related to protecting the privacy of this population and the abuse or harm that may result from the failure to safe guard personal information.



- **As a closing point, PA SILC supports people with disabilities living the community, including the adults ages 18-59 which this regulation covers, and nothing should diminish individual rights to live in the community, but only preserve and protect to the greatest degree possible.**

Please reply that our comments were received and if there are further clarifications.

Thank you.