



Health & Safety Alert #8-3-02

MUI Rule

Frequently Asked Questions

OBSOLETE

Below are some frequently asked questions gleaned from the Department's MUI Rule training sessions:

1. A. Concerning the requirement of annual MUI training, does "all county board staff" literally mean every person employed by the county board of MRDD?
ANSWER: Yes, all staff should be trained annually.
- B. May anyone conduct the annual training?
ANSWER: It is recommended that persons knowledgeable with the MUI Rule and process be the trainers.
- C. Are there any requirements regarding the content of the training?
ANSWER: Yes, at a minimum, Rule requirements are to be covered annually. Outside of that, the content is open to the county board.
2. Will the ICFs/MR or provider agency's investigative agent have to meet the same training criteria and the same training content as the county board investigative agent?
ANSWER: No, however, the department plans to offer training in the future that will include provider investigators.
3. Who trains the independent providers?
ANSWER: County boards are responsible for ensuring they are trained.
4. If the incident could be coded as more than one type, which code should be used?
ANSWER: It is to be coded to the more severe of the codings. For example, abuse is a more severe classification than rights.
5. Is any medication error a reportable MUI?
ANSWER: By itself, it is only a UI. If the result is unexpected hospitalization or emergency medical intervention, then it would be an MUI because of the result of the action versus the action itself.
6. Does the criteria of five stitches to be an MUI mean that the stitches must be in one injury site or can the criteria apply regardless of how many suture sites?
ANSWER: The criteria is five stitches or more from an incident, regardless of how many suture sites (e.g., three on the head and two on the arm, etc.).
7. A wristband to prevent biting has been ordered by the physician; however, the plan has been written but not yet approved. If the band is used, would it be an MUI?
ANSWER: If the wristband is under a doctor's order to allow the injury to heal, it would be acceptable until the plan is approved (reasonable time period). If it is tethered and restricts movement without consent, it would be an MUI.
8. Is it an MUI if a consumer refuses to take their medication?
ANSWER: It could be in situations such as the following:
 - a. If person is forced to take medication.
 - b. If refusal results in another MUI category such as unplanned hospitalization, emergency medical intervention.
 - c. Failure of the Team to address a behavior, which is recurring.
 - d. The team does not initiate emergency guardianship when it is realized that the refusal is affecting the consumer's health and safety.

Simple refusal of medication without any problems would be an unusual incident (UI) that is addressed by the team before it becomes serious.

9. If I filed a series of incidents as an MUI, should I continue to file a new MUI every time one more incident occurs?

ANSWER: No, an MUI would be filed where there are three *new* incidents determined from the weekly review or five *new* incidents in a month.

10. How do you handle consensual sex between an individual and a staff person?

ANSWER: It is reported as an MUI under sexual abuse. Providers and county boards shall make it clear in their policies and procedures that sexual conduct or contact with consumers by employees is prohibited.

11. Suppose there is a pattern of med errors that does not affect health and safety, does this fall under neglect?

ANSWER: Normally, med errors would be filed as an MUI under a series of unusual incidents. When there is a serious impact or malicious intent, then it should be filed as neglect.

12. What do you do about the agencies that don't provide services due to the fact that Medicaid does not cover that service?

ANSWER: If the service is identified as part of the IP, then failing to provide the service is neglect if that service affects health and safety.

13. The county board determines that the individual needs attention/treatment (broken bones) and the provider has them wait. What would you do with this?

ANSWER: The key is to ensure immediate action such as immobilization has occurred, and the person is protected from further injury. The delay should be minimal and for a valid reason.

14. A. If a provider has five homes and there are five or more medication errors in a month across the homes, is this an MUI?

ANSWER: No, consider the home or a living unit as an entity.

- B. If the provider runs a large ICF/MR and there are five or more medication errors in a month across the ICF/MR, is it an MUI?

ANSWER: No, consider each living unit as a separate entity.

15. If you have a direct care staff giving an individual insulin and the staff is not trained on giving the insulin, do you file an MUI?

ANSWER: No, unless the result was unexpected hospitalization or medical emergency. The issue would be coded as a UI and appropriately addressed.

16. When is a missing person considered neglect due to lack of supervision?

ANSWER: It depends on what the plan says about the level of supervision that needs to be given to that person to protect the individual's health and safety, or whether any specific facts were present that suggest that the person providing services to the individual should have known that the individual's health and safety were in danger.

17. If preventive measures are in place but a consumer continues to have seizures and/or falls, then does the provider/county board need to report this as an MUI for series or similar incidents?

ANSWER: Yes, when the MUI criteria for a series of unusual incidents is met.

18. Can a trend or series of incidents as outlined in the rule be applied to a facility or a staff person?

ANSWER: It is to be applied to both.

19. Do ICFs/MR licensed by the Department of Health have to report MUIs?
ANSWER: Yes.
20. For family resources where the CB pays the family and the family pays the provider, who is required to report?
ANSWER: The family would be required to report in this case, as they are directly receiving CB funds.
21. Is a family member who is also guardian a required reporter?
ANSWER: A family member who is also a guardian is only required to report abuse and neglect. Otherwise, they do not meet the definition of a provider.
22. What do you expect out of the independent providers in terms of reporting?
ANSWER: The expectation for reporting is the same for all providers.
23. If the county board becomes aware of an MUI involving consumers in nursing homes/families/schools, then is the county board required to report the incident even though the nursing homes/families/schools are not?
ANSWER: Yes, the county board is required to report.
24. Is the county board required to report all abuse/neglect/theft to law enforcement?
ANSWER: Law enforcement is to be notified when the abuse, neglect or theft is of a criminal nature as identified in 2903, 2907, 2911 and 2913 of the ORC. Generally, it includes any time physical harm is a result.
25. If a consumer has a Behavior Support Plan (BSP), then does every incident of aggression have to be reported either as a UI or MUI? If so, what is the determining factor when the incident becomes an MUI rather than a UI?
ANSWER: No. It would not automatically be an MUI or UI. Agencies may use systems other than UIs to document targeted behaviors, but must review them monthly. These systems need to collect the relevant data so proper adjustments to the BSP can be made. Aggression incidents become an MUI when:
- i. The result of the behavior meets one of the existing MUI definitions (e.g., injury, abuse, unanticipated hospitalization, etc.).
 - ii. If one person is the target of the aggressive acts, then it is filed as a "series of incidents."
26. When the CSB has a case and they won't share information, can the case be closed?
ANSWER: Ensure the steps listed below are taken and then close the case:
- A. Make sure the individual is protected.
 - B. Prevention plan is in place.
 - C. Monitoring of the situation is taking place.
27. If the local CSB does not want reports on cases of individuals 18-21, what should the county board do, if they would normally report the incident to the CSB?
ANSWER: It is the county board responsibility to send the report; however, CSB can choose not to investigate.
28. Is the county required to send a written summary to the family upon closing "death" cases? -
ANSWER: The department suggests a letter of sympathy be sent immediately after the death. The letter could include or must be followed by a second letter indicating that all deaths are reviewed and closed by ODMRDD, and that should those family members designated by law wish to request a copy of the completed report, they should contact a specifically identified county board employee. This expanded letter of sympathy or second letter would suffice as the written summary. =

29. In the Licensure rule, the provider must investigate in order to let someone work after an abuse allegation is made. How does this work if the county board is conducting the investigation?
ANSWER: The provider makes the decision as to when an individual can come back to work by conducting an investigation. This can be done independently, with the county board or done by the county board.
30. At what point should we look for the providers to produce evidence that their reviews have been conducted?
ANSWER: The weekly reviews are to start January 1, 2002. The quarterly reviews are expected to begin in April 2002. I would start reviewing right away to ensure compliance with the rule.
31. Are the independent providers expected to write their own policy/procedures or can they follow the county boards?
ANSWER: The department recommends having independent providers follow the county 's policies and procedures.
32. Since the rule did not come about until November 23, 2001, at what point do you require the providers to have their unusual incident logs?
ANSWER: The Rule went into effect on November 23, 2001, which required the keeping of a log; but, no consequences will result as long as providers began keeping a log as of January 1, 2002.
33. Prior to the state mediating a disagreement between the provider and county board regarding actions to ensure health and safety, does the county board have the authority to request the provider to take specific actions and does the provider have to comply with the request?
ANSWER: Yes, the county board needs to ensure the person is safe and the provider is responsible for taking the necessary action to ensure this to their satisfaction. The facts and evidence at hand need to be the determining factors.
34. If the county board determines that a PPI (Primary Person Involved) needs to be removed from contact with any consumers to ensure health and safety, then does the county board have the authority to request the provider to remove the staff and does the provider have to comply with the request?
ANSWER: The provider needs to ensure the safety to the satisfaction of the county board. It could mean reassignment to a non-direct role, assigning a supervisor to work side-by-side, etc.
35. If an incident occurred at the workshop, then how detailed does the county board have to be in sharing the information with the residential provider?
ANSWER: The rule specifies that the county board needs only to notify the residential provider that an MUI occurred. It should include what happened and the immediate action to prevent further injury.
36. Is the county board required to provide the investigation information to a provider upon the provider's request?
ANSWER: No, the written summary is provided at the 25th working day from the county board's knowledge of the incident.
37. Does the county board need to maintain an on-call system for accepting reports for after working hours and weekends?
ANSWER: Yes. County boards must ensure immediate action and in some instances initiate the investigation immediately. It is the responsibility of the county board to let the provider know what that on-call system is.

38. Is the presence of a provider administrator with a PPI (Primary Person Involved) during an investigation interview allowed?

ANSWER: No, unless there is a provision in the contract between the county board and provider that says the county board can't interview provider staff without having someone else from the provider present. It's more likely that if a contract says anything about this, it says the provider has to provide access to provider staff as part of MUI investigations. It would be poor policy to allow provider administrators to sit in on interviews with staff, since having a provider administrator present could be intimidating and likely to impede the investigation.

39. What if the provider can't afford to remove the staff? What if it is a case of verbal abuse?

ANSWER: The provider needs to provide for the health and safety of the person. The money is not the consideration. Verbal abuse is the same as other types where the person should not be allowed to work with consumers until the investigation is complete or a supervisor is assigned to work side-by-side with them.

40. Do investigative agents have to review and investigate all MUIs even if the rule does not require an investigation? Can another staff person handle the "review" cases?

ANSWER: All MUIs are to be investigated by the investigative agent. Certain types of MUIs require the investigative agent to use the protocol specified in the rule. Other types of MUIs do not require the same level of intensity and may, at times, be a matter of reviewing all documentation and developing the report based upon that review. Other staff can assist by gathering information that the investigative agent needs. The investigative agent is responsible for the review of all information related to the MUI.

41. How long should a county board maintain MUI records?

ANSWER: Seven years.

For questions or comments regarding the above Alert, please contact the MUI/Registry Unit at (614) 995-3810.

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