



COMMONWEALTH of VIRGINIA

NELSON SMITH  
COMMISSIONER

DEPARTMENT OF  
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES  
Post Office Box 1797  
Richmond, Virginia 23218-1797

Telephone (804) 786-3921  
Fax (804) 371-6638  
www.dbhds.virginia.gov

MEMORANDUM

**To:** DBHDS Licensed Providers  
**From:** Jae Benz, Director, DBHDS Office of Licensing  
**Date:** February 14, 2023  
**Re:** Tracking of Level I Serious Incidents vs. Baseline Behaviors

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**Purpose:** Based on stakeholder feedback, and in an effort to increase provider compliance with 12VAC35-105-160, the DBHDS Office of Licensing is providing supplemental information regarding the tracking of Level I serious incidents and potential, "baseline behaviors" demonstrated by individuals receiving services from a licensed provider.

As a reminder:

**12VAC35-105-20. Definitions**

- **"Serious incident"** means any event or circumstance that causes or could cause harm to the health, safety, or well-being of an individual. The term "serious incident" includes death and serious injury.
- **"Level I serious incident"** means a serious incident that occurs or originates during the provision of a service or on the premises of the provider and does not meet the definition of a Level II or Level III serious incident. *Level I serious incidents do not result in significant harm to individuals but may include events that result in minor injuries that do not require medical attention or events that have the potential to cause serious injury, even when no injury occurs.*

The provider shall collect, maintain, and review at least quarterly *all serious incidents, including Level I serious incidents*, as part of the quality improvement program in accordance with 12VAC35-105-620 to include an analysis of trends, potential systemic issues or causes, indicated remediation, and documentation of steps taken to mitigate the potential for future incidents.

During unannounced inspections, providers are expected to provide evidence to the licensing specialist that they are tracking Level I incidents for their agency.

However, there may be times when targeted behaviors or baseline behaviors, that would otherwise meet the criteria for a Level I serious incident, is tracked through a behavior tracking tool/data collection system tied to a formal behavior support plan.

If a provider serves an individual who engages in behaviors that would rise to the level of needing a behavior plan, the provider should determine a baseline for these behaviors in an effort to establish what incidents should be classified as a Level I serious incident. Providers should work collaboratively with a Behavior Specialist and Interdisciplinary Team to identify when, and if, baseline behaviors are distinguished from Level I serious incidents. Questions to consider include:

- When does the baseline behavior change to a Level I serious incident?
- When is the potential for harm beyond the baseline?
- When is there a potential to cause serious injury?
  - Is it when there is injury that results in first aid and/or monitoring by the staff?
  - Is it when the staff take an action that is outside what the behavior plan prescribes?

Baseline behaviors should be incorporated into the individual's ISP (Part V). Providers are expected to include a specific plan for addressing, "baseline behaviors" and, in order to monitor an individual's behavior(s), a behavior tracking tool/data collection system should be included in the individual's ISP (Part V). It is expected that all employees or contractors responsible for implementing the ISP demonstrate a working knowledge of the individual's, "baseline behaviors" and the behavior tracking tool/data collection system being used. Providers should ensure that they describe, "baseline behaviors" in detail so that any employee or contractor and regulatory entity is able to recognize "baseline behavior(s)" versus a Level I serious incident. Any observed changes in the severity, intensity, support needs, and/or injury, may result in the behavior being classified as Level I serious incident.

If the change in behavior meets the definition of a Level II or Level II serious incident, then the serious incident would need to be reported using the department's web-based reporting application and by telephone or email to anyone designated by the individual to receive such notice and to the individual's authorized representative within 24 hours of discovery. Additionally, these behaviors should be evaluated by the provider, at a minimum, every three months in order to determine if they are still considered, "baseline behaviors."

**Example:**

Individual #1 exhibits self-injurious behaviors, on average, three times a day and includes skin picking and head banging. This individual currently has a behavior supports plan. These specific behaviors and their frequency would be documented as the individual's "baseline behavior" within the individual's record, including their current ISP. However, if there is an observed change in the severity or frequency of the behavior and it does not meet the definition of a Level II or Level III serious incident, then the self-injurious behavior would be documented as a Level I serious incident in accordance with 12VAC35-105-160.C.

If you have any questions or concerns regarding the information contained in this memorandum, please contact *Karen Matthews, Quality Improvement Review Specialist*.

For additional information related to Serious Incident Reporting, you may view guidance documents and training materials that have been posted on the Office of Licensing Webpage at <https://dbhds.virginia.gov/quality-management/office-of-licensing/>.