**Section 270.402 Definitions**

For the purposes of this Subpart E, the following definitions are applicable:

*"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.* [320 ILCS 20/2(a)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Administrative hearing" means a formal review of an action made by the Department. Specifically, it means any hearing authorized to be held under this Subpart by the Department or other entity authorized by the Director to hold these hearings.

"Administrative law judge" or "ALJ" means an attorney, licensed to practice law in the State of Illinois, who is authorized by the Director to conduct the administrative hearing and related processes under this Subpart.

"Allegation" means a charge or a claim of abuse, neglect or financial exploitation.

"Appeal" means a request to contest placement of a caregiver's identity on the Registry.

"APS" means Adult Protective Services.

"APS provider agency" *means any public or nonprofit agency in a planning and service area that is selected by the Department, or appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.* [320 ILCS 20/2(h)]

"Authorized representative" means any person, including an attorney, authorized in writing by a party to act on behalf of the party in the administrative hearing process.

"Business day" means a day, Monday through Friday, when State agency offices are open. The following are not business days: Saturdays, Sundays, State holidays, and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public will be closed for business.

*"Caregiver" means a person who, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living.* [320 ILCS 20/2(a-7)]

"Continuance" means a decision to proceed with a hearing at a later date than scheduled.

"Department" means the Illinois Department on Aging.

*"Direct care" includes, but is not limited to, direct access to an individual, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living* or instrumental activities of daily living, *or assistance with financial transactions.* [320 ILCS 20/7.5(b)]

"Direct care agency" means a State agency listed in Section 270.404(a) and any entity or provider agency of direct care.

*"Director" means the Director of the Department.* [320 ILCS 20/2(c)]

*"Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:*

*A licensed facility as defined in Section 1-113 of the Nursing Home Care Act* [210 ILCS 45/1-113];

*A facility licensed under the ID/DD Community Care Act* [210 ILCS 47];

*A facility licensed under the MC/DD Act* [210 ILCS 46];

*A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013* [210 ILCS 49];

*A "life care facility" as defined in the Life Care Facilities Act* [210 ILCS 40];

*A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;*

*A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act* [210 ILCS 85];

*A "community living facility" as defined in the Community Living Facilities Licensing Act* [210 ILCS 35];

*A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act* [210 ILCS 135];

*An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act* [210 ILCS 9]; or

*A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code* [305 ILCS 5].

*"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or* is *alleged to be, abused, neglected, or financially exploited by another individual. "Eligible adult" also includes an adult who resides in any of the facilities that are excluded from the definition of "domestic living situation" if either:*

*the alleged abuse or neglect occurs outside of the facility and not under facility supervision and the alleged abuser is a family member, caregiver, or another person who has a continuing relationship with the adult; or*

*the alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult, but who is not an employee of the facility where the adult resides.* [320 ILCS 20/2(e)]

"Filed" means conveyed to the Department/other entity authorized to conduct hearings under this Subpart. A valid document or request will be considered filed on the business day it is received or, if mailed, on the date it is postmarked. Contact in person, by phone, fax, e-mail, via an electronic account, or other acceptable electronic means will be considered filed on a business day if it is received prior 5:00 p.m. on that date. If receipt is after 5:00 p.m., the action will be deemed filed on the next business day.

"Final administrative decision" means the final determination by the Director regarding whether or not placement of a caregiver's identity on the Registry is in the public interest.

*"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.* [320 ILCS 20/2(f-1)]

"Health care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health, the Department of Healthcare and Family Services, or the Department of Human Services.

"Long term care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health.

*"Neglect" means another individual's failure to provide an eligible adult with, or willful withholding from an eligible adult, the necessities of life, including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in* the *Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.* [320 ILCS 20/2(g)]

"Other entity" means an Illinois State agency or its qualified designee with the administrative capacity to handle all hearing functions as set forth in this Subpart.

*"Participant" means an individual who uses the services of an in-home care* or community-based *program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health.* [320 ILCS 20/7.5(b)]

"Party" means an individual or entity, including the Department, that has standing to participate and is participating in a proceeding under this Subpart. For purposes of filing and service, "party" also means an appropriately designated agent for receipt of service.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Registry" means the Adult Protective Service Registry.

"Relevant Contact Information" means the current contact information, including, but not limited to, address, phone number and email address that allows the Department/other entity authorized to conduct hearings under this Subpart to contact the party as necessary during the course of a proceeding under this Subpart.

"Verified and substantiated finding", as used in this Subpart, means a determination by "clear and convincing" evidence by a provider agency, after assessment, that injury or harm has occurred as the result of abuse, neglect or financial exploitation in a reported case.

"Victim" means an eligible adult who is the subject of a verified and substantiated finding of abuse, neglect or financial exploitation.

(Source: Amended at 43 Ill. Reg. 5756, effective April 30, 2019)