



COMMISSIONER
Chris Traylor

September 19, 2011

To: Home and Community Support Services Agencies (HCSSAs)

Subject: **Provider Letter (PL) 11-01 – What to Expect during Your Agency's Survey
(Replaces PLs 07-21, 05-47 and 05-28)**

The attached document describes the Department of Aging and Disability Services (DADS) Regulatory Services HCSSA survey process and explains DADS' authority to survey. This written information will be provided each time the agency is surveyed.

If you have questions regarding this provider letter, please contact a HCSSA program specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

[signature on file]

Veronda L. Durden
Assistant Commissioner
Regulatory Services

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Attachment

Home and Community Support Services Agencies (HCSSAs) What To Expect During Your Agency's Survey

The following information briefly describes the Department of Aging and Disability Services (DADS) survey process and protocols for home and community support services agencies. Please refer to these protocols as you prepare for a survey. DADS does not give prior notice to an agency of a survey. Upon arrival at the agency, the surveyor will present identification.

Entrance Conference

The surveyor will conduct an entrance conference with the agency's administrator or alternate administrator and other agency representatives in person or by telephone. For an initial survey, the administrator or alternate administrator must be present at the entrance conference. The surveyor will explain the purpose of the visit, the survey process, provide an estimated on-site time and provide an opportunity for attendees to ask questions. All attendees will be asked to sign the entrance conference attendance form.

Note: During the entrance conference for a licensed and certified (L&C) home health agency (HHA) the surveyor will begin to gather information from agency staff about its compliance with the highest priority standards called Level 1 standards. This process includes conducting interviews with clinical management staff and other appropriate staff to gather information about the agency's processes. For additional information on L&C HHA survey protocols refer to CMS Survey and Certification letter [11-11 HHA](#) - Revised Home Health Survey Protocols.

Information Gathering and Review Process

- 1) If the agency is a licensed and certified home health agency, a minimum of 10 client records will be reviewed. If the agency is a Medicare-certified hospice, a minimum of 11 client records will be reviewed. This review will include both active and discharge records.
- 2) If the agency provides only licensed home health and/or personal assistance services, a minimum of 10 client records will be reviewed. This review will include both active and discharge records.
- 3) If the purpose of the visit is to investigate a complaint(s), the surveyor will review a sample number of client records. This review may include both active and discharge records.
- 4) A minimum of three home visits will be conducted, depending on the number of clients served by a hospice or licensed only agency. A minimum of five home visits will be conducted, depending on the number of clients served by a licensed and certified home health agency. On-site complaint investigations may include home visits.
- 5) At a minimum, the following systems will be reviewed:
 - administrative records;
 - complaint tracking system;
 - quality assurance plan and activities;
 - policies and procedures; and

- personnel files.

The information-gathering process is an organized, systematic and consistent process designed to enable surveyors to make decisions concerning an agency's compliance with each of the regulatory requirements during the survey.

During the Survey

The surveyor will communicate openly with you throughout the survey. If you have questions during the survey, feel free to ask questions. You will be required to provide copies of agency record(s) and/or client record(s) as requested by the surveyor. The copies assist the surveyor and/or program manager in determining survey findings.

Exit Conference

The surveyor will conduct an on-site exit conference to discuss with and provide the administrator or alternate administrator a list of the preliminary findings at the conclusion of the survey. An agency may submit additional written documentation and facts after the exit conference only if the agency describes the additional documentation and facts to the surveyor during the exit conference and submits it within 2 working days of the exit date (Refer to TAC 40 §97.527(d)). If after the exit conference, the surveyor identifies additional violations or deficiencies, the surveyor will return to the HCSSA and hold an additional face-to-face exit conference with the administrator. All attendees will be asked to sign the exit conference attendance form.

DADS encourages agencies to take a few moments to complete a survey comment card to inform DADS about survey visits. This feedback provides valuable information on the survey staff and process and is kept confidential. To complete a comment card, visit this website:
http://www.surveymonkey.com/s.aspx?sm=Ygu5f0mWHFQUdaPXO2_2bfzw_3d_3d.

Statement of Deficiencies/Licensing Violations

The official notification of survey findings, documented on the Centers for Medicare and Medicaid Services (CMS) form, Form CMS-2567, Statement of Deficiencies, and/or on DADS Form 3724, Statement of Licensing Violations, will be mailed, faxed or e-mailed to your agency within 10 working days after the exit conference. For further guidance on receiving an electronic version, review Provider Letter [\(PL\) 06-30 "Electronic Transmission of the Statement of Deficiencies or Statement of Violations with the Plan of Correction."](#)

If an agency does not receive a Form CMS-2567, Statement of Deficiencies, and/or on DADS Form 3724, Statement of Licensing Violations within 10 working days after the exit conference, an agency may contact the regional survey office.

Plan of Correction

If DADS cites a violation(s) and/or deficiency(ies), your agency is required to submit a plan of correction (PoC). The PoC must include corrective measures and time frames with which the

agency must comply to ensure correction of a violation(s) and/or deficiency(ies). You must submit an acceptable PoC for each violation(s) or deficiency(ies) to the appropriate DADS regional HCSSA program manager no later than 10 calendar days after your receipt of the official written notification of the survey findings. **You must submit a PoC in response to an official written notification of survey findings that declares a violation(s) or deficiency(ies) even if the agency disagrees with the survey findings.**

DADS has a web-based computer training course on writing “Acceptable Plans of Correction for HCSSAs” available to all agencies at: <http://www.dads.state.tx.us/business/CBT/index.html>.

Informal Review of Deficiencies (IRoD) Process

If you disagree with a survey finding, you may submit an IRoD request form and submit additional written information to refute a violation(s) or deficiency(ies) to demonstrate compliance. Mail or fax a complete and accurate IRoD request form to the address or fax number listed below, which must be postmarked or faxed **within** 10 calendar days after the date of receipt of the official written notification of the survey findings. In addition to the IRoD request form it is also required to mail or fax a rebuttal letter on agency letterhead, with supporting documentation, to the address listed on the IRoD request form and ensure receipt by the Survey and Certification Enforcement unit within seven calendar days after the postmark or fax date of the IRoD request form. It is also required to mail or fax a copy of the IRoD request form, and all the supporting documentation, to your agency’s regional office location within the same time frames.

Department of Aging and Disability Services
Regulatory Services
Survey and Certification Enforcement Unit, Mail Code E-351
701 West 51st Street
P. O. Box 149030
Austin, Texas 78714-9030
Fax number: (512) 438-4138 or (512) 428-2729

For additional directions regarding submission of your IRoD request, reference [PL 11-15](#). The IRoD request form (DADS Form 2407) is included in the PL and available on the DADS forms website at <http://www.dads.state.tx.us/forms/list.asp?group=2000>.

Agency Rights

You have a right to:

- An impartial survey based on HCSSA regulations relating to your agency’s licensure categories.
- A survey process performed in a manner free of intimidation, coercion or harassment.
- A survey conducted by a trained professional knowledgeable in current home health, hospice and personal assistance services regulations and applicable operational issues.

- Openly discuss survey-related concerns with surveyors in a constructive manner without retribution or retaliation.
- Have all written IRoD requests handled promptly and objectively.
- Have accurate survey results on file with DADS in case of public disclosure requests.

Agency Responsibilities

Agency employees or the agency representative will:

- Comply with HCSSA rules and regulations.
- Conduct interactions with DADS surveyors in a professional and courteous manner.
- Keep DADS informed of changes in agency ownership, management or operations, in compliance with the agency's respective licensing regulations.
- Ensure prompt attention to surveyors' requests for clarification during the survey process.
- Provide timely access to surveyors' requests for documentation during the survey process.
- Stay current with policy information published on the DADS website.

To sign up for e-mail updates:

- 1) Go to www.dads.state.tx.us.
- 2) Scroll down.
- 3) Look for the e-mail updates icon and click on it.
- 4) Enter your e-mail address and preferences.

For additional information on how to view DADS program updates, review [PL 10-07 Electronic Notifications](#).

Surveyor Authority Policy

The following language from Texas Administrative Code (TAC), Title 40, Part 1, Chapter 97 applies to all licensed HCSSAs:

- By applying for or holding a license, an agency consents to entry and survey by a DADS representative to verify compliance with Health and Safety Code Chapter 142 and Chapter 97 (§97.507(a)).
- An agency must ensure the required personnel are available to the surveyor during the entrance and exit conferences and available during the survey process (§97.523(a)-(g)).
- If an agency does not cooperate with a survey, DADS may assess an administrative penalty without an opportunity to correct for a violation of 40 TAC §97.507 or may take enforcement action to deny, revoke, or suspend a license (§97.507(f)).
- If a surveyor arrives during regular business hours between 8:00 a.m. and 5:00 p.m. and the agency is closed, an administrator, alternate administrator, or a designated agency representative is required to provide the surveyor entry into the agency within two hours after the surveyor's arrival at the agency (§97.523(e)).
- If an agency is closed during the agency's operating hours or between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, the administrator, alternate administrator, supervising nurse **or** alternate supervising nurse is required to: (1) post a notice in a

visible location outside the agency that will provide information regarding how to contact the person in charge; and (2) leave a message on an answering machine or similar electronic mechanism that will provide information regarding how to contact the person in charge (§97.210(c)).

- If a surveyor requests an agency record or client record that is stored at a location other than the survey site, an agency is required to provide the original record to the surveyor within eight working hours (§97.507(c)).
- An agency is required to provide the surveyor access to all of its records required by DADS to be maintained by or on behalf of an agency (§97.507(b)).
- An agency is required to provide the surveyor with copies of its records upon request (§97.507(d)).

The following language from Title 42 of the Code of Federal Regulations, Section §489.53, Termination by CMS, applies to all Medicare-certified HCSSAs:

- “a) Basis for termination of agreement with any provider. CMS may terminate the agreement with any provider if CMS finds that any of the following failings is attributable to that provider:
- (5) It refuses to permit examination of its fiscal or other records by, or on behalf of, CMS, as necessary, for verification of information furnished as a basis for payment under Medicare...
 - (13) It refuses to permit photocopying of any records or other information by, or on behalf of, CMS, as necessary, to determine or verify compliance with participation requirements.”