



COMMISSIONER
Jon Weizenbaum

July 22, 2014

To: Local Authorities
Home and Community-based Services Providers
Financial Management Services Agencies

Subject: Information Letter No. 14-42
Implementation of Consumer Directed Services Nursing in the Home and
Community-based Services Program

The purpose of this information letter is to inform Home and Community-based Services (HCS) providers, local authorities (LAs), financial management services agencies (FMSAs) and consumer directed service (CDS) employers that, effective August 1, 2014, individuals may, as described in this letter, choose to receive nursing services through the CDS option.

Except as described in the paragraph below, an individual who does not receive supervised living, residential support, or host /companion care may choose to receive nursing services, if included on the person-directed plan, through the CDS option. In addition, an individual using the CDS option or the Legally Authorized Representative (LAR) may determine that a nursing task performed by an unlicensed employee in the CDS option is exempt from delegation by a registered nurse as described in Texas Government Code, Section 31.051(e). For an explanation of the CDS option exemption from registered nurse delegation, see the Department of Aging and Disability Services (DADS) Form 1733, Employer and Employee Acknowledgement of Exemption from Nursing Licensure for Certain Services Delivered through Consumer Directed Services, available at <http://www.dads.state.tx.us/forms/1733/>

It is possible that an individual may receive nursing both from a program provider and through the CDS option. If the individual receives an HCS service from a program provider in which nursing tasks may be performed by unlicensed personnel, the program provider nurse must perform an initial nursing assessment of the individual and make delegation decisions. For example, if an individual receives day habilitation from a program provider, a program provider nurse must perform an initial nursing assessment of the individual and delegate or supervise the performance of nursing tasks performed by the day habilitation service provider. Further, if the individual who receives day habilitation from the program provider also needs nursing services in his or her home, the individual may receive CDS nursing for that purpose. The HCS program provider has no responsibility regarding the provision of CDS nursing, except if an individual is receiving nursing from the program provider, the provider nurse has the responsibility to collaborate with the individual's health care team in accordance with Board of Nursing rule at Title 22 of the Texas Administration Code (TAC), Chapter 217, Licensure, Peer Assistance And Practice, Section 217.11.

This change regarding CDS nursing services and related requirements are included in amendments to DADS rules at Title 40, Chapter 41 and Chapter 9, Subchapter D of the TAC, to be proposed in

701 W. 51st St. ★ P.O. Box 149030 Austin, Texas 78714-9030 ★ (512) 438-3011 ★ www.dads.state.tx.us

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the *Texas Register* in the near future. DADS is implementing the change before the effective date of the rules to allow individuals in the HCS program who do not receive supervised living, residential support, or host/companion care to receive nursing through the CDS option, if desired.

HCS providers, LAs, FMSAs, and CDS employers must comply with the requirements described in Attachment A “Responsibilities Regarding the Provision of CDS Nursing.” As noted on the attachment, some of the requirements are in current rule, some in current proposed amendments, and others will be in future rule amendments. In addition, as referenced in Attachment A, the “Home and Community-based Services Consumer Directed Service Option Nursing Toolkit” developed for CDS employers to provide to a CDS nurse is included with this letter as Attachment B.

DADS updated The Client Assignment Registration System (CARE) for service plans that begin on August 1, 2014, to allow provider and CDS nursing services to be authorized simultaneously. The revised CARE screens and Form 3608, Individual Plan of Care, include four additional nursing services that would be authorized only if the individual is using both CDS nursing and a provider-delivered services in which a nursing task will be performed by the provider’s unlicensed staff. See the [Provider Alert](#) posted on July 3, 2014, for more information.

To help prepare FMSAs, and CDS employers for the provision of CDS nursing, DADS hosted a webinar on CDS nursing on July 8, 2014. To access a recording of the webinar, [click here](#). As an additional resource, this letter includes, as Attachment C, a document containing frequently asked questions and answers regarding the provision of nursing through the CDS option in the HCS program.

An FMSA must immediately provide a copy of this letter and the attachments to each CDS employer in the HCS program for whom the FMSA provides financial management services.

Questions related to CDS policy may be sent to: cds@dads.state.tx.us. Questions related to HCS policy may be sent to: hcs@dads.state.tx.us.

Sincerely,

[signature on file]

Elisa J. Garza
Assistant Commissioner
Access and Intake

[signature on file]

Donna Jessee
Director
Center for Policy and Innovation

Attachments

[A – Responsibilities Regarding the Provision of CDS Nursing](#)

[B – Home and Community-based Services Consumer Directed Service Option Nursing Toolkit](#)

[C – HCS CDS Nursing FAQs](#)