



Commissioner
Jon Weizenbaum

Date December 30, 2015

To: Medically Dependent Children Program Providers (MDCP)
Community Living Assistance and Support Providers (CLASS)
Deaf Blind Multiple Disabilities Providers (DBMD)
Primary Home Care Providers (PHC)
Community Attendant Services Providers (CAS)

Subject: Information Letter No. 15-81
Abuse, Neglect and Exploitation (ANE) Investigation Procedures in Home and
Community-based Medicaid Programs

Effective September 1, 2015, the Texas Department of Family and Protective Services (DFPS) Adult Protective Services (APS) Provider Program investigates an allegation of ANE of an adult or child receiving services through a licensed Home and Community Support Services Agency (HCSSA).

This change is a result of Senate Bill (SB) 1880 and SB 760 (84th Texas Legislature, Regular Session, 2015), which amended Texas Human Resources Code, Chapter 48, Subchapter F and Family Code, Chapter 261, Subchapter E.

Rules governing investigation of ANE for children served in a licensed Home and Community Support Services Agency (HCSSA) have been amended in DFPS Title 40 Texas Administrative Code (TAC) Part 19 DFPS §711.25, and Department of Aging and Disability Services (DADS) Title 40 TAC Part 1 §97.501.

The bills do not make any changes to current self-reporting requirements. For more information about the regulatory requirements of HCSSAs to self-report and investigate incidents of ANE, please refer to TAC, Title 40, Part 1, §97.249 and §97.250. Additional licensure guidance information in regard to ANE investigations of HCSSAs is provided by PL 15-29 Statutory and Regulatory Changes to Investigations of Abuse, Neglect and Exploitation (ANE).

In addition, the DFPS-APS Provider Investigations program will investigate all allegations of ANE when an adult is receiving Medicaid HCSSA services, when a child is receiving any HCSSA services or when the individual-employer participates in the Consumer Directed Services (CDS) option and any employee, fiscal agent, case manager, or service coordinator is named as an alleged perpetrator.

Dependent upon whether the alleged perpetrator is an agent of a provider agency or an employee of the CDS individual-employer who is also listed as the alleged victim, the investigation process will include the following:

If the alleged perpetrator is an officer, employee, agent, contractor, or subcontractor of the provider agency:

- APS will contact the contracted provider agency to notify the agency that the allegation has been received. A copy of the intake report will be sent to the provider agency.
- As instructed in 40 TAC §49.310, the provider agency is required to take necessary actions to secure the safety of the individual.
- Once the APS investigation is completed, APS will provide the provider agency with a copy of the final investigative report. The provider agency is required to take any necessary actions to ensure the individual's continued safety during program services.

If the alleged perpetrator is an employee, fiscal agent, case manager, or service coordinator of an individual-employer using the CDS option:

- APS will contact the appropriate entity providing case management or service coordination to provide notification that the allegation has been received.
- Specific requirements for Financial Management Service Agencies, service coordinators and case managers are provided in Information Letters 15-80, 15-82 and 15-83.

If you have questions about this letter, please contact DADS at pdo@dads.state.tx.us.

Sincerely,

[signature on file]

S. Michelle Martin
Director
Center for Policy and Innovation

[signature on file]

Elisa J. Garza
Assistant Commissioner
Access and Intake

[signature on file]

Mary T. Henderson
Assistant Commissioner
Regulatory Services