



**HHS Circular C-026**  
**Separation of Duties, Responsibilities, and Decision-**  
**making Regarding the Operation and Federal**  
**Certification of the State Supported Living Centers**

**Purpose**

To define and describe procedures that ensure separation of duties, responsibilities, and decision-making regarding the operation and federal certification of the state supported living centers in Texas operated by the Department of Aging and Disability Services (DADS) State Supported Living Centers Division and regulated by the DADS Regulatory Services Division.

**Directive**

The DADS Regulatory Services Division is responsible for survey and certification of each of the state supported living centers in Texas as intermediate care facilities for persons with an intellectual disability (ICFs/ID).

In that capacity, the Director of Survey Operations is responsible for conducting surveys and investigations authorized in §1902(a)(33)(B) of the Social Security Act to determine whether facilities meet all applicable federal health standards for Medicaid participation. These federal regulations are found at 42 Code of Federal Regulations Part 483, Subpart I, Sections 483.400-483.480. Survey and investigation protocols for ICFs/ID are found in the Centers for Medicare and Medicaid Services State Operations Manual.

The Director of Survey Operations is further responsible for ensuring that information regarding the state supported living centers survey and certification processes and activities are not shared with staff in the DADS State Supported Living Centers Division and that all elements of the agency's established "firewall" procedures are maintained at all times.

The Director of Survey Operations is responsible for reporting immediately any suspected or identified violation of these required procedures to the Executive Commissioner of the Health and Human Services Commission (HHSC).

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**Revised: 06/12/12**

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## **Background**

DADS is responsible for the direct provision of services in state supported living centers under the direction of the State Supported Living Centers Division. State supported living centers,

while exempt from licensure in Texas, must be in compliance with all federal conditions of participation in the ICF/ID program, including all state standards for participation. DADS is also responsible for ongoing federal survey and certification activities in each of the state supported living centers through its Regulatory Services Division.

To ensure that there is appropriate separation of duties, responsibilities, and decision-making regarding the operation and federal certification of the state supported living centers, DADS has established specific firewall procedures. These procedures include:

- All surveys and investigations at state supported living centers will be unannounced. All survey schedules are confidential and are not shared with staff in the State Supported Living Centers Division or with any provider of services.
- Information related to complaints involving the operations of one or more of the state supported living centers that are reported to the DADS Consumer Rights and Services - Complaint Intake Unit and referred to Regulatory Services for investigation and disposition are not shared with staff in State Supported Living Centers Division.
- For complaints reported to and investigated by Regulatory Services, the focus of the complaint, the identity of the complainant(s), and the identity of the consumer(s) involved are confidential except to the extent that such information would necessarily need to be shared with any provider in order to complete the investigation or protect the health and safety of a consumer.
- Access to the "ASPEN" federal survey/certification database and the "CARES" state survey/certification database will be restricted to staff within DADS Consumer Rights and Services - Complaint Intake Unit, staff within the Regulatory Services Division, and staff in the Legal Services Section working with or supporting Regulatory Services functional areas. Staff working in the ICF/ID Contracts Section of Regulatory Services has access only to the modules in the CARES database that deal with facility ownership and licensing; they do not have access to the ASPEN database.

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- Information related to state supported living centers operations and/or quality assurance activities is not shared with staff in the Regulatory Services Division except through the survey/certification processes. Internal communications from state supported living centers management through the DADS management structure are not shared with Regulatory Services Division staff.
- State supported living centers have access to all complaint procedures and due process procedures afforded any ICF/ID provider in the state.
- All decisions regarding state supported living centers ICF/ID contract actions – contract extensions, punitive actions (including vendor hold and/or contract cancellation recommendations) recommended by the Regulatory Services Division – are reviewed by the ICF/ID Sanction Team. Final recommended decisions are forwarded to the Assistant Commissioner for Regulatory Services, who has signature authority for ICF/ID vendor hold notices, contract cancellation notices, and contract extension notices sent to the state supported living centers.

## **Summary**

DADS has identified the necessity of having a clearly defined set of conflict of interest or firewall procedures that address the dual roles of provider and regulator as a high priority for the agency since its inception on September 1, 2004. The responsibilities and procedures outlined in this circular ensure that all necessary regulatory oversight functions related to the ICF/ID certification of the state supported living centers are handled consistent with federally mandated regulatory survey and certification procedures and protocols and that information regarding these procedures and protocols are shared with DADS State Supported Living Centers Division in the same manner that information is shared with all providers in the ICF/ID program.

Suspected violations of any of these firewall procedures will be immediately brought to the attention of the HHSC executive commissioner for necessary evaluation and follow-up action.

## **Inquiries**

Inquiries regarding the content of this circular should be directed to the Director of Survey Operations, Department of Aging and Disability Services, at (512) 438-5695.