



COMMISSIONER
Adelaide Horn

August 15, 2007

To: Home and Community Support Services Agencies (HCSSAs)

Subject: **Provider Letter #07-21** – What to Expect During Your Agency’s Survey
(Replaces Provider Letters #05-47 and #05-28)

Effective: August 20, 2007

The attached document details the Department of Aging and Disability Services (DADS), Regulatory Services, HCSSA survey process. The information outlined in “What to Expect During Your Agency’s Survey” briefly describes the survey process for HCSSA providers and explains DADS surveyor authority. This written information will be provided each time the agency is surveyed.

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

Sincerely,

[signature on file]

Veronda L. Durden
Assistant Commissioner
Regulatory Services

VLD:ca:mdv:rjng

Attachment

c: Chris Adams, E-353
Anthony Chapple, E-335
Susan E. Davis, E-341
Regional Directors
Regional Program Managers



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) initial, recertification, and follow-up survey and/or complaint investigation process. Please refer to these agency protocols as you prepare for a survey.

Entrance Conference

The surveyor will conduct an entrance conference with the agency administrator, supervising nurse, and/or other authorized agency representative. The surveyor will explain the survey process and give you the opportunity to ask questions. All attendees will be asked to sign the entrance conference attendance sheet.

The surveyor will explain that:

1. If the agency is licensed and certified, a minimum of 11 clinical records will be reviewed. This review will include both active and discharged records.
2. If the agency provides licensed home health or personal assistance services, a minimum of 10 clinical records will be reviewed. This review will include both active and discharged records.
3. A minimum of three patient home visits will be conducted, depending on the number of clients served by the agency.
4. The following agency systems will be reviewed:
 - a) administrative records;
 - b) complaint tracking system;
 - c) quality assurance plan and activities;
 - d) policies and procedures; and
 - e) employee files and qualifications.

During the Survey

The surveyor will communicate openly with you throughout the survey.

The surveyor will require copies of documentation reviewed. The copies assist the surveyor and/or program manager in determining survey findings.

Exit Conference

The surveyor will conduct an on-site exit conference with agency representatives at the conclusion of the survey. During this conference, the surveyor will provide and review a list of



preliminary findings with designated agency staff. If after the surveyor leaves the agency he or she identifies additional violations or deficiencies, the surveyor will return and hold an additional face-to-face exit conference with the agency. The surveyor will circulate an exit conference attendance sheet for signature by all present. You will also be given the DADS comment card to complete and return.

Statement of Deficiencies/Licensing Violations

The official notification of survey findings, documented on Form CMS-2567, Statement of Deficiencies, and/or on DADS Form 3724, Statement of Licensing Violations, will be mailed to your agency within 10 working days following the exit conference.

Plan of Correction

If violations and/or deficiencies are cited, your agency will be required to submit a plan of correction (PoC) (40 Texas Administrative Code (TAC) 97.527(g)(2)). The PoC must address how the agency intends to correct the violations/deficiencies cited and the date the correction took effect. You will have 10 calendar days from receipt of the Statement of Deficiencies/Licensing Violations to complete and return your PoC to the appropriate DADS regional HCSSA program manager.

Informal Review of Deficiencies (IRoD) Process

If you disagree with a cited licensure violation or Medicare deficiency, you may submit an IRoD request. This form must be submitted on agency letterhead, separate from the PoC. Please be aware that you must submit a PoC for each deficiency or violation cited, regardless of your submission of an IRoD request. You will have 10 calendar days from receipt of the Statement of Deficiencies/Licensing Violations to complete and return your IRoD request form. Please mail or fax the request form to the following address or fax number:

Department of Aging and Disability Services
Regulatory Services
Survey and Certification Enforcement
Mail Code E-351
P. O. Box 149030
Austin, Texas 78714-9030
Fax number: (512) 438-4138

For additional direction regarding submission of your IRoD request form, reference Provider Letter [#05-03](#). This provider letter includes the IRoD request form.




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 regulations and relevant 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 HCSSA surveyors in a professional and courteous manner.
- Keep DADS apprised of changes in agency ownership, management, or operations, in compliance with the agency's respective licensing regulations.
- Stay current with policy information published to the DADS Web site. This can be accomplished by signing up for e-mail [updates](#) through the DADS Web site.
 1. Go to www.dads.state.tx.us
 2. Look for the sign up for e-mail updates icon.The icon is a blue square with a white outline of the state of Texas. Inside the outline, there is a red five-pointed star. To the right of the star, the words "SIGN UP FOR E-MAIL UPDATES" are written in a blue, sans-serif font, stacked vertically.
 3. Click and enter your e-mail address and preferences.
- Ensure prompt attention to surveyors' requests for clarification and/or documentation during the survey process.
- Provide timely access to surveyor-requested documentation.



Surveyor Authority Policy

- “By applying for or holding a license, an agency consents to entry and survey by a DADS representative to verify compliance with the statute or this chapter” (40 TAC 97.507(a)).
- “If an agency does not cooperate with a survey, DADS may take enforcement action to deny, revoke, or suspend a license” (40 TAC 97.507(b)).
- “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 person in charge must: (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” (40 TAC 97.210(c)).
- “Before beginning a survey, a surveyor holds an entrance conference with the required agency personnel to explain the purpose of the survey and the survey process and provides the personnel an opportunity to ask questions. If a surveyor requests an agency record that is stored at a location other than the survey site, an agency must provide the original record to the surveyor within eight working hours. Failure to comply may result in enforcement action as described in §97.507 of this chapter (relating to Agency Cooperation with a Survey)” (40 TAC 97.525(a)(2)).
- “An agency must provide the surveyor access to all agency records maintained by or on behalf of an agency” (40 TAC 97.525(c)).
- “An agency must provide copies of agency records upon request by the surveyor” (40 TAC 97.525(f)).

For Medicare agencies, the following language from 42 Code of Federal Regulations Section 489.53, Termination by CMS, applies:

- “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.”