MEMORANDUM

Texas Department of Human Services * Long Term Care/Policy

TO: LTC-R Regional Directors
Section/Unit Managers

FROM: Marc Gold
Section Manager
Long Term Care Policy
State Office MC: W-519

SUBJECT: Regional Survey & Certification Letter RS&C #98-09

DATE: July 17, 1998

The attached RS&C Letter is being provided to you for information purposes and should be shared with all professional staff.

1. RS&C Letter No. 98-09 -- ***Leaving Draft HCFA-2567s With the Provider***; Call **Dan Callaway, Certification Section Manager *for Nursing Facilities***, (512) 438-2524 or **Beverly Tucker, Section Manager for *ICFMR/RC Facilities***, (512) 438-2631.

If you have any questions, please direct inquiries to the individuals or sections listed above.

{Original Signature on File}

Marc Gold

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Region VI
1301 Young Street, Room 833
Dallas, Texas 75202

June 26, 1998

REGIONAL SURVEY AND CERTIFICATION LETTER NO: 98-09

To: All State Survey Agencies (Action)
All Title XIX Single State Agencies (Information)

Subject: Leaving Draft HCFA-2567s With The Provider

With the increasing numbers of Medicare and Medicaid adverse actions and terminations that our office has been involved in, we are convinced that surveyors should not leave a "draft" HCFA-2567 with the provider at the conclusion of a survey. While the survey findings do reflect the findings of the survey team, those findings also represent an official determination of the State survey agency regarding the results of a Medicare and/or Medicaid survey. The statement of deficiencies on the HCFA-2567 constitutes evidence that the provider or supplier was notified of the specific deficiencies. These deficiencies are to be written completely, accurately, and in accordance with the Principles of Documentation. This assures that the statement provides accurate descriptions of the deficiencies and interpretations of the Medicare and/or Medicaid requirements that are not met.

In many cases, there may be differences between the "draft" survey findings and the final HCFA-2567. In some cases, those differences are so significant as to cause the provider to question the qualifications and ability of the surveyors or to question the effectiveness of the survey process. In researching this issue, we do not find anything in the Federal regulations or the State Operations Manual, which would require that a draft HCFA-2567 be left with the provider at the conclusion of a survey. After considering the pros and cons of the issue, we do not believe that it is necessary or desirable to leave a draft HCFA-2567 with the provider. Therefore, please discontinue the policy of leaving draft HCFA-2567 with the provider at the conclusion of the survey.

If State law or policy requires that written documentation be left with the provider, we recommend a simple list of "potentially unmet" regulations on plain bond or State letterhead. The list should have a disclaimer such as, "This list contains preliminary recommendations of noncompliance with Medicare/Medicaid requirements, based on a survey [date] to [date] of the care and services provided by the entity."

If you or your staff have any questions about this policy change, please contact your State representative.

Sincerely,

~Signature on File~

Calvin G. Cline, Chief
Survey and Certification Operations
Division of Medicaid and State Operations