

MEMORANDUM

Department of Aging and Disability Services Regulatory Services Policy * Survey and Certification Clarification

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: **S&CC 13-01** – Conflict of Interest Protocol Regarding State Supported Living Center Survey and Certification Procedures (**Replaces S&CC 07-01**)

APPLIES TO: State Supported Living Centers

DATE: March 27, 2013

This memorandum provides guidance related to conflict of interest regarding state supported living center survey and certification procedures.

The Department of Aging and Disability Services (DADS) is responsible for the direct provision of services in state supported living centers under the direction of the State Supported Living Centers Division. Each state supported living center is certified as an ICF/IID. State supported living centers, while exempt from licensure in Texas, must be in compliance with all federal conditions of participation in the ICF/IID program, including all state standards for participation.

In addition, DADS is responsible for ongoing federal survey and certification activities in state supported living centers through the Regulatory Services Division. DADS Regulatory Services is also responsible for ensuring that information regarding state supported living centers survey and certification processes and activities are shared with staff in the DADS State Supported Living Centers Division in the same manner that information is shared with all other providers in the ICF/IID program.

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

- The Regulatory Services Division is responsible for all survey and certification activities for the state supported living centers in accordance with federally mandated ICF/IID survey protocols and procedures.

- All surveys and investigations at state supported living centers will be unannounced. All survey schedules will remain confidential and will not be shared with staff in the State Supported Living Centers Division or with any other provider.
- Information related to complaints involving the operation of a state supported living center that are reported to the DADS Consumer Rights and Services Complaint Intake Unit and referred to Regulatory Services for investigation and disposition will not be shared with staff in the 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 individual(s) involved will remain confidential except to the extent that such information would need to be shared with a provider in order to complete the investigation or protect the health and safety/security of an individual.
- 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.
- Information related to state supported living center operations and/or quality assurance activities will not be shared with Regulatory Services Division staff except through the survey/certification processes. Internal communications from state supported living center management through the DADS management structure will not be shared with Regulatory Services Division staff.
- State supported living centers have access to all complaint procedures and due process procedures afforded any ICF/IID provider.
- All decisions regarding state supported living center ICF/IID contract actions – contract amendments, punitive actions (including vendor hold and/or contract cancellation recommendations) recommended by the Regulatory Services Division are forwarded to the Assistant Commissioner for Regulatory Services, who has signature authority for ICF/IID vendor hold notices, contract cancellation notices, and contract amendment notices sent to the state supported living centers.

DADS Regulatory Services is responsible for ensuring that all elements of the agency's established firewall procedures are maintained at all times. The Regulatory Services Division's Director of Survey Operations will report any suspected or identified violation of these required procedures to the Executive Commissioner of the Health and Human Services Commission (HHSC).

For questions concerning this memorandum, please contact an ICF/IID policy specialist at (512) 438-3161.