



COMMISSIONER  
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## Memorandum

To: Community Services Regional Directors  
Community Services Program Managers

From: Dana Williamson  
Manager  
Long Term Services and Supports Policy

Subject: New Requirements for Backup Plans and Change in the Definition of  
Primary Caregiver

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This memorandum establishes procedures for ensuring the backup plan is in each Medically Dependent Children Program (MDCP) case record and to notify staff that the definition of the primary caregiver has changed.

### **Backup Plan**

Effective September 1, 2014, Chapter 51, Medically Dependent Children Program rules were revised and it is no longer required that an in home record be maintained.

To meet reporting requirements for the Centers for Medicare & Medicaid Services (CMS) there must be a copy of the backup plan in the individual's case record. Home and Community Support Service Agencies (HCSSAs) are instructed to send a copy of the current backup plan to the case manager by February 15, 2015.

The case manager must ensure the HCSSA completes this provider requirement. The case manager will submit a referral to the Consumer Rights and Services (CRS) hotline at 1-800-458-9858 to register a complaint within five working days if the required backup plan is not submitted to the case manager by March 2, 2015.

The case manager must identify the complaint is regarding a "Medically Dependent Children Program provider" and indicate the HCSSA is not complying with program requirements. The case manager documents the referral to CRS in the case file, using Form 2405, Narrative Notes.

The HCSSA is also required to send a copy of the backup plan to the case manager within 14 calendar days of the initial assessment, each annual reassessment service authorization received and anytime the backup plan changes.

If the case manager does not receive a backup plan within the 14 days following the initial assessment or annual reassessment service authorization, the case manager will submit a referral to CRS using the same instructions as above.

### **Primary Caregiver**

Effective September 1, 2014, the Texas Administrative Code, Chapter 51, [§51.103](#) rule was revised to change the definition of the primary caregiver. The new definition removed requirement that the primary caregiver had to be legally responsible for the individual. The definition also removed the stipulation that the primary caregiver had to provide daily care for individuals receiving flexible family supports. This was to allow individual's easier access to flexible family supports including when the individual is living independently or attending college.

Questions regarding this memo may be directed to Long Term Services and Supports policy staff at: [MDCP@dads.state.tx.us](mailto:MDCP@dads.state.tx.us)