

# MEMORANDUM

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

**TO:** Regulatory Services  
Regional Directors, State Office Managers and HCSSA Program Managers

**FROM:** Veronda L. Durden  
Assistant Commissioner  
Regulatory Services

**SUBJECT:** Processing Two Forms CMS-2567 or Two Department of Aging and Disability Services (DADS) Forms 3724 when a Complaint Investigation and a Follow-up Survey are Conducted Concurrently – **S&CC 05-08** (Replaces S&CC #05-02)

**APPLIES TO:** Home and Community Support Services Agencies (HCSSA) Program State and Regional Survey Staff

**DATE:** August 19, 2005

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In processing multiple Forms CMS-2567 and DADS Forms 3724 for a single visit, Regulatory Services HCSSA survey staff will follow these instructions:

- **When a certification survey is conducted in conjunction with a complaint investigation:**

When agencies are cited deficiencies as a result of both the certification survey and the complaint investigation, they will receive a Form CMS-2567. This form, produced in the Automated System Processing Environment (**ASPEN**) for the certification survey, will include a comprehensive listing of all deficiencies cited during the single agency visit. (**ASPEN** will also format a Form CMS-2567 for those deficiencies associated with the complaint investigation; however, those forms should not be printed.) Only the Form CMS-2567 produced in **ASPEN** for the certification survey should be sent to the HCSSA.

- **When a certification survey is conducted in conjunction with one or more follow-ups to previous visits (regardless of whether those visits were investigations, other follow-ups, or even the prior certification survey):**

If previously cited deficiencies remain out of compliance, they are cited as repeat/continuing deficiencies. The Form CMS-2567 produced in **ASPEN** will include a comprehensive listing of all deficiencies cited during the single agency visit. The deficiency(ies) and evidence are documented on the new certification survey Form CMS-2567. However, the follow-up with the re-cited deficiency(ies) should be uploaded from ASPEN Central Office (**ACO**)/ ASPEN Complaint Tracking Systems (**ACTS**) to the national server.

- **When a new complaint investigation is conducted in conjunction with follow-ups from previous visits (regardless of whether those visits were investigations, other follow-ups, or even the prior certification survey):**

If deficiencies are rewritten as a result of one of the follow-ups, and **new** deficiencies are written as a result of the complaint investigation, multiple Forms CMS-2567 must be printed from **ASPEN** and sent to the provider. If this occurs, the Initial Comment section of each document should contain the following information: "This Form CMS-2567 is one of two (or three, etc.) Forms CMS-2567 documenting deficiencies cited during the survey/complaint investigation/follow-up survey(s) conducted on 00/00/0000 (listing each previous survey event by type and exit date)."

NOTE: To maintain integrity of compliance history from previous citations, new tags should **NOT** be added to follow-up visit Form CMS-2567, and follow-up visit re-cites should **NOT** be added to the new complaint investigation Form CMS-2567 **UNLESS** those citations pertain to all activities (complaint investigation and follow-up).

- **When a state licensure survey is conducted in conjunction with a complaint investigation:**

Violations are cited as a result of both the survey and the investigation. The DADS Forms 3724 produced in **ASPEN** for the licensure survey will include a comprehensive listing of all deficiencies cited during the single agency visit. (**ASPEN** will also format a DADS Forms 3724 for those deficiencies associated with the complaint investigation; however, those forms should not be printed.) Only the DADS Forms 3724 produced in **ASPEN** for the licensure survey should be sent to the agency.

- **When a state licensure survey is conducted in conjunction with one or more follow-ups to previous visits (regardless of whether those visits were investigations, other follow-ups, or even the prior licensure survey):**

If previously cited violations remain out of compliance, they are cited as repeat/continuing violations. DADS Forms 3724 produced in **ASPEN** will include a comprehensive listing of all violations cited during the single agency visit. The violation(s) and evidence are documented on the new licensure DADS Forms 3724.

- **When a new complaint investigation is conducted in conjunction with follow-ups from previous visits (regardless of whether those visits were investigations, other follow-ups, or even the prior licensure survey):**

If violations are rewritten as a result of one of the follow-ups, and **new** violations are written as a result of the complaint investigation, multiple DADS Forms 3724 must be printed from **ASPEN** and sent to the provider. If this occurs, the Initial Comment section of each document should contain the following information: "This DADS Form 3724 is one of two (or three, etc.) DADS Forms 3724 documenting violations cited during the survey/complaint investigation/follow-up survey(s) conducted on 00/00/0000 (listing each previous survey event by type and exit date)."

**NOTE:** To maintain integrity of compliance history from previous citations, new tags should **NOT** be added to follow-up visit DADS Form 3724, and follow-up visit re-cites should **NOT** be added to the new complaint investigation DADS Form 3724, **UNLESS** those citations pertain to all activities (complaint investigation and follow-up).

- **Re-cites at follow-up surveys when rule revisions have occurred:**

When a state regulation has been revised or amended at some point between the time of an initial licensure violation citation and the follow-up visit for that citation, **AND** a licensing violation is being re-cited, **ASPEN** users must select the **CURRENT** regulation in the follow-up survey event's properties in **ASPEN**. **ASPEN** users should then select the rule violation being rewritten from the current regulation and type in the violation evidence in that citation. (The notation stating the violation is being re-cited from a previous survey activity by date and type **must** be included with the citation.) The original tag is **NOT** corrected in this follow-up visit. **ASPEN** will format two DADS Forms 3724 for this visit--one which includes the original licensing violation from the outdated regulation, and a second that includes the rewritten violation using the current regulation. **ASPEN** users should print **ONLY** the DADS Form 3724 which contains the re-cited violation using the current regulation.

When a subsequent follow-up visit clears the re-cited violation, the **ASPEN** user should enter correction dates for **BOTH** the original violation **AND** the re-cited violation. Two DADS Forms 3724B

will be sent to providers containing different Texas Administrative Code (TAC) references for the same rule (one, for the re-cite, and one, for the original).

- **When are HCSSA agencies given two, separate Forms CMS-2567 or DADS Forms 3724?**

If deficiencies are rewritten as a result of a follow-up, and **new** deficiencies are written as a result of a complaint investigation, multiple Forms CMS-2567 or DADS Forms 3724 (depending on whether the survey is a federal certification activity or a state licensure activity) must be printed from **ASPEN** and sent to the agency. If this occurs, the Initial Comment section of each document should contain the following information: "This Form CMS-2567 (DADS Form 3724) is one of two (or three, etc.) Forms CMS-2567 (DADS Forms 3724) documenting deficiencies/violations cited during the survey/complaint investigation/follow-up survey(s) conducted on 00/00/0000 (listing each previous survey event by type and exit date)."

If you have questions concerning this memorandum, please contact Mary Valente, Program Manager, Policy Development and Support, at (512) 438-2440.

Sincerely,

[signature on file]

Veronda L. Durden

VLD:ca