TEXAS
Department of
Human Services

COMMISSIONER
James R. Hine

August 29, 2003

TO: All Nursing Facilities

RE: Provider Letter # 03-23 — Changes in Trust Fund Surety Bonds and Trust Fund Accounts

Changes to facility surety bonds and trust fund accounts resulted from the 78th Regular Session of the Texas Legislature. The changes to the Nursing Facility Requirements for Licensure and Medicaid Certification are effective September 1, 2003. The changes to Human Resources Code, Chapter 32, are outlined in this provider letter.

§19.405 Additional Requirements for Trust Funds in Medicaid-certified Facilities.

A new methodology will be used to calculate the amount of the surety bond. In addition, facilities must comply with new requirements regarding theft of funds from a resident's trust fund account.

Methodology for Calculating Surety Bonds

A facility is required to secure a bond that is not in excess of the 12-month average of the monthly average of the residents' trust account. This 12-month average is based on the 12 months preceding the bond issuance or bond renewal date, whichever is more recent.

The following steps must be used to calculate the amount required for the surety bond for residents' funds held in a banking institution:

1. Calculate the average daily balance for each bank statement (some institutions provide this information on the monthly bank statement). If this is not provided, add the daily balances for the month and divide the total by the number of days reported on the bank statement. This is the average daily balance for that month.
2. Complete this calculation for each of the 12 months to be used in the calculation.
3. Add all average daily balances for the 12-month period and divide the sum by 12.
4. This figure will be the amount required for your surety bond.

The following steps must be used to calculate the amount of the surety bond for trust fund money maintained in a cash account:

1. For the first month, add all of a resident's daily balances for a month and divide by the number of days in the month. This is the average daily balance for this resident for the first month.
2. Calculate each residents' average daily balance for the month using this method.
3. Add the average daily balance for all residents for the first month and divide by the number of residents who have trust fund account balances. This figure is an average daily balance for all resident trust fund accounts for the first month.
4. Repeat this process for the next 11 months.
5. Add all 12 average daily balances for the 12-month period and divide this figure by 12.
6. This is the amount required for the trust fund surety bond.

The facility must ensure that documents required to calculate the amount of the surety bond are available upon request to Department of Human Services (DHS) staff. DHS monitoring staff may request that facility staff complete the bond amount calculation and provide them with source documents to verify the bond amount.

Theft from Resident's Trust Fund Account

A facility must not require a resident, a resident's responsible party or legal representative to pay charges owed to the facility when the funds on deposit with the facility to pay those charges are lost due to theft from the trust fund by facility staff. In this case, DHS staff may require the facility to provide documentation showing the resident, the resident's responsible party or legal representative were notified in writing that charges are not owed to the facility.

If you have questions about the information contained in this letter, please contact Doris Gifford, Audit/Trust Fund Program Specialist, at (512) 438-2538.

Sincerely,

[signature on file]

Evelyn Delgado
Assistant Deputy Commissioner
Long Term Care-Regulatory

ED:jw