



INTERIM COMMISSIONER  
Jon Weizenbaum

September 3, 2009

To: Home and Community Support Services Agencies (HCSSAs)

Subject: **Provider Letter 09-17** – Guidelines for Temporary Relocation or Expansion, Voluntary Suspension of Operations, or Permanent Closure due to a Disaster or Emergency  
**(Replaces PL #05-42)**

This provider letter applies to agencies that are temporarily relocating a place of business, temporarily expanding their service area, voluntarily suspending operations, or permanently closing in response to a disaster or emergency that affects the need for the agency's services or its ability to provide those services. Agencies must have measures in place to protect the health and safety of clients in accordance with all applicable state and federal requirements.

### **Emergency Preparedness Planning and Implementation**

Effective May 1, 2008, the Department of Aging and Disability Services (DADS) amended the rules under Texas Administrative Code (TAC) Title 40, Part 1, Chapter 97, § 97.256 that require an agency to have a written emergency preparedness and response plan based on its risk assessment of potential disasters most likely to occur in the agency's service area. The plan must comprehensively describe the agency's approach to a disaster that could affect the need for its services or its ability to provide those services. With the exception of a freestanding hospice, DADS does not require an agency to physically evacuate or transport a client. Freestanding hospices are required to meet additional requirements at 40 TAC § 97.403(w)(2) that address the core functions of emergency management in their written emergency preparedness and response plans.

### **Notification Requirements**

In accordance with 40 TAC § 97.256(5), an agency must notify the DADS Agency Licensing branch of a temporary relocation of a place of business or a temporary expansion of its service area resulting from the effects of an emergency or disaster. If an agency voluntarily suspends operations or permanently closes, it must comply with the requirements at 40 TAC § 97.217 and also notify the DADS Agency Licensing branch. The agency must provide notice by fax or e-mail within five working days. If fax and e-mail are unavailable, notifications can be provided by telephone, but must be provided in writing as soon as possible. Provide notification to Mary Jo Grassmuck, Agency Licensing Branch Manager, at 512-438-2213 (fax), [mary.grassmuck@dads.state.tx.us](mailto:mary.grassmuck@dads.state.tx.us) (e-mail) or 512-438-2630 (telephone).

If communication with the DADS Agency Licensing branch is not possible, an agency may fax, e-mail or telephone its regional office to provide notification. Regional contact information can be accessed at <http://www.dads.state.tx.us/providers/HCSSA/contact.html>.

### **Temporary Agency Relocation**

An agency must notify DADS of the temporary relocation of a place of business and must provide DADS with:

- its license number;
- the date of temporary relocation;
- the physical address and phone number of the temporary location; and
- the date the agency returns to its original place of business after temporary relocation.

These requirements are specified at 40 TAC § 97.256(5)(A).

#### *Temporary Agency Relocation – Licensed and Certified Agencies*

In addition to the licensure requirements, Medicare-certified home health or hospice agencies should refer to the Centers for Medicare & Medicaid Services (CMS) Federal Survey and Certification Letter ([S&C 08-36](#) revised September 15, 2008, for emergency notification requirements. For further guidance S&C 08-36 provides a link to frequently asked questions concerning certified agency relocations at [CMS Provider and Certification Declared Public Health Emergencies document/FAQs](#), last updated August 31, 2008. Certified home health and hospice agencies should contact the CMS Regional Office at 214-767-6301 for additional procedures for agency relocations. The CMS Regional Office reviews requests on a case-by-case basis and may make limited exceptions to the physical location requirements.

#### *Protection of Client and Agency Records During Temporary Relocation*

During a disaster, an agency must ensure physical and confidential protection of agency and client records in accordance with its written policies and procedures. A client may be given a copy of his/her physician's orders and records to ensure client health and safety. If written records are damaged during a disaster, the agency must not reproduce or recreate client records except from existing electronic records. Records reproduced from existing electronic records must include the date the record was reproduced, the agency staff member who reproduced the record, and how the original record was damaged. These requirements are specified at 40 TAC § 97.301.

### **Temporary Expansion of Service Area**

During a disaster, an agency may continue to provide services to clients who have evacuated outside of the agency's service area. If an agency is temporarily expanding its service area to provide services during a disaster, the agency must provide DADS with:

- its license number;
- the revised boundaries of the service area;
- the date of temporary expansion; and
- the date an agency's temporary expansion of its service area ends.

These requirements are specified at 40 TAC § 97.256(5)(B).

### **Agency Voluntary Suspension of Operations**

An agency licensed to provide licensed home health services, personal assistance services or licensed-only hospice services may voluntarily suspend its normal business operations for 10 or

more consecutive days due to an emergency. A voluntary suspension of operations may not last longer than the licensure renewal period. If an agency voluntarily suspends operations, the agency must:

- discharge or arrange for backup services for active clients;
- provide written notice to the agency's regional survey office location, within two working days; and
- post a notice of voluntary suspension of operations on the entry door of the agency and leave a message on an answering machine or with an answering service that informs callers of the voluntary suspension of operations.
- An agency must notify DADS Licensing Unit in writing no later than seven days after resuming operations.

These requirements are specified at 40 TAC § 97.217(b)(1).

### **Agency Permanent Closure**

An agency must notify DADS before the permanent closure of the agency, branch office or alternate delivery site.

- The agency must include in the written notice the reason for closing, the location of the client records (active and inactive), and the name and address of the client record custodian.
- If the agency closes with an active client roster, the agency must transfer a copy of the active client record with the client to the receiving agency in order to ensure continuity of care and services to the client.
- The agency must mail or return the initial license or renewal license to DADS Licensing Unit at the end of the day that services cease.

These requirements are specified at 40 TAC § 97.217(a).

If you have questions regarding the content of this letter, please contact a HCSSA program specialist in the Policy, Rules and Curriculum Development unit at 512-438-3161.

Sincerely,

*[signature on file]*

Veronda L. Durden  
Assistant Commissioner  
Regulatory Services

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