

MEMORANDUM

Department of Aging and Disability Services (DADS) Regulatory Services Policy * Survey and Certification Clarification (S&CC)

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: **S&CC 11-05** – Distinction between HCSSA Services and
Babysitting/Child Care Services

APPLIES TO: Home and Community Support Services Agencies (HCSSAs)

DATE: November 21, 2011

This memorandum provides guidance on distinguishing between services provided under a HCSSA license and in-home babysitting or child care services provided as a distinct part of a business's operations.

Distinction between HCSSA Services and Babysitting/Child Care Services

Pursuant to Health and Safety Code (HSC) §142.001(22), the ability for an individual to maintain “independent living” is central to the definition of personal assistance services (PAS). Since, by law, children are not capable of independent living, regardless of their physical or mental capabilities, the provision of services that would be otherwise considered to be “personal care services”ⁱ to children is not considered to be under the definition of PAS, and the provider of such “babysitting” servicesⁱⁱ is not required to hold a HCSSA license. Personal assistance services include assistance with activities of daily living under an individualized service plan.

However, home health services are defined as services required by an individual regardless of the capacity for independent living. These services are provided under a care plan or plan of care prepared by the appropriate health care professional and are delivered pursuant to an assessment by the appropriate health professional(s). If a business is providing home health servicesⁱⁱⁱ or personal care services to individuals of any age, the business must have a HCSSA license.

Surveyor Review

Surveyors must distinguish and separate licensed PAS from babysitting services in an agency that provides PAS and or home health services to its clients. HCSSA surveyors **must not** include babysitting clients in the sample for record review or cite a business for non-compliance with the licensing standards for providing babysitting services.

Surveyors must review plans of care, care plans, or individualized service plans for recipients of home health and personal assistance services regardless of their age. During the entrance conference, surveyors should ask the agency for a complete client list and note whether the agency has contracts, as the individual contract program may or may not include home health or personal assistance services. If the agency's client list includes both babysitting and licensed services, the surveyor should ask for a list that clearly excludes or denotes individuals who are receiving ancillary services, such as babysitting only.

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

ⁱ "Personal care services," per HSC §142.001(22-a), include bathing, dressing, grooming, feeding, exercising, toileting, positioning, assistance with self-administered medications, routine hair and skin care, and transfer or ambulation. This reference to personal care services is distinct from the Health and Human Services Commission's Personal Care Services program under *Social Security Act* Sec. 1902(e)(9)(A)-(C) [42 U.S.C. 1396a].

ⁱⁱ Note that, per HSC §142.003(15), a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services does not require a HCSSA license.

ⁱⁱⁱ "Home health services," per HSC §142.001(13), include nursing (including blood pressure monitoring and diabetes treatment); physical, occupational, speech, or respiratory therapy; medical social service; intravenous therapy; dialysis; service provided by unlicensed personnel under the delegation or supervision of a licensed health professional; the furnishing of medical equipment and supplies (excluding drugs and medicines); or nutritional counseling.