

MEMORANDUM

Texas Department of Human Services * Long Term Care/Policy

TO: LTC-R Regional Directors
Section/Unit Managers

FROM: Marc Gold
Section Manager
Long Term Care-Policy
State Office MC: W-519

SUBJECT: Regional Survey & Certification Letter #99-19

DATE: May 28, 1999

The attached RS&C Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 99-19 -- Waiver Of Certain Staffing Requirements Within The Medicare Hospice Program; Call Beverly Tucker, Section Manager, Professional Services, at (512) 438-2631.

~Original Signature on File~

Marc Gold

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Region VI
1301 Young Street, Room 833
Dallas, Texas 75202

May 17, 1999

REGIONAL SURVEY AND CERTIFICATION LETTER NO: 99-19

To: All State Agencies (Information)
All Title XIX Single State Agencies (Information)

Subject: Waiver of Certain Staffing Requirements Within The Medicare Hospice Program

The purpose of this letter is to inform you of a change in the process for submitting and approving certain waivers of the requirements that the hospice make physical therapy, occupational therapy, speech language services and dietary counseling available on a 24- hour basis. This letter supersedes the information furnished in response to question number four, "How Will The Balanced Budget Act Impact the Medicare Conditions Of Participation For Hospice" in Regional Survey and Certification Letter No 98-04 issued March 24, 1998.

Background: Effective August 5, 1997, as a result of legislation enacted by the Balanced Budget Act (the Act of 1997), Section 1861(d) (5) of the Act was modified to allow the Health Care Financing Administration (HCFA) to permit certain waivers of the requirements that the hospice make physical therapy, occupational therapy, speech language pathology, and dietary counseling available (as needed) on a 24-hour basis. HCFA is also allowed to waive the requirement that hospices provide dietary counseling directly. These waivers are available only to an agency or organization that is located in an area which is not an urbanized area (as defined by the Bureau of Census) and that can demonstrate to HCFA that it has been unable to, despite diligent efforts, to recruit appropriate personnel. Hospices will be required to submit evidence to establish "diligent efforts." HCFA will use the requirements for the nursing services waiver found at 42 CFR 418.83(a) (3) in determining that a hospice has made diligent efforts. The waiver requirements located in 42 CFR 418.83(a) (3) are attached for your convenience.

In 1997, The Center for Health Plans and Providers sent a Program Memorandum to Medicare fiscal Intermediaries (FI) directing waiver applications be submitted to the Office of Clinical Standards and Quality (OCSQ) in Baltimore. In 1998, the OCSQ revised the Program.

Memorandum which was again addressed to the FIs, directing the waivers be sent to the HCFA Regional Offices (ROs). Effective immediately the State Agencies should use the following procedure for dealing with waivers. The hospice's request for a waiver should be submitted in writing to the State Agency. The hospice must include evidence that it made a good faith effort to provide the service(s) they are requesting to be waived. The State Agency is responsible for recommending in writing approval or disapproval of the requested waiver/s to the Regional Office within 30 days of receiving it. The waiver shall be deemed granted unless the waiver

request is denied by the Regional Office within 60 days after the date the State Agency received the request. Written notice of acceptance or denial of waiver should be sent to the hospice which requested the waiver. Waivers will remain effective for one year. HCFA Central Office plans to incorporate this material within the State Operations Manual at the earliest possible data.

If you have any questions concerning this letter, please contact, Karen Herbelin of my staff at (214) 767-4422.

Sincerely,

~Signature on File~

Calvin G. Cline, Chief
Survey and Certification Operations Branch
Division of Medicaid and State Operations

[Enclosure](#)