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June 8, 2001

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To: CBA Home and Community Support Service Agencies
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CBA/CCAD Respite Care Agencies
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Special Services to Persons with Disabilities Agencies
Home Delivered Meals Agencies
Primary Home Care Provider Agencies

Subject: Long Term Care (LTC)
Information Letter 01-02
Complaints

This letter is in response to concerns expressed by providers regarding different definitions of a complaint. A complaint is defined as follows:

Community Care Policy defines a complaint as a situation, problem or concern that alleges abuse, neglect, or exploitation of a client, may pose a health or safety threat, may cause harm or appears to be a violation of state standards, program standards or contract requirements. The complaint may be general or specific and could involve staff, beneficiaries, volunteers, physical environment, administration, or services.

Proposed Home and Community Support Services Agencies (HCSSA) licensure rules, currently published in the Texas Register, define complaint as an allegation against an agency regulated by or against an employee of an agency regulated by the Texas Department of Human Services (DHS). The complaint may be general or specific and can involve staff, clients, volunteers, care issues, and administration.

While each definition may vary, there is no conflict between the Community Care Policy and HCSSA definitions. You must continue to report any suspected cases of abuse, neglect or exploitation to Adult Protective Services (APS).

Title 40 Texas Administrative Code (TAC) defines complaint procedures as follows:

§49.14 Complaint Procedures. The provider agency must investigate and document all complaints as follows:

- (1) date stamp all written complaints received;
- (2) document verbal complaints;
- (3) maintain a log of the client complaints. The log of complaints must be accessible to the department's contract manager;
- (4) investigate and resolve all complaints, problems, or deficiencies and noncompliance with policies, procedures, and standards, which are reported by the client or the Texas Department of Human Services (DHS) staff, within the five workdays from the receipt of the report unless a different time frame is found in the service-specific manual. The documented complaint and resolution must be maintained by the provider agency and a copy submitted to DHS within 30 days of the receipt of the report;
- (5) obtain the client's initials when a client-initiated complaint is resolved or obtain a witness's signature when the client refuses to sign; and
- (6) not require clients to perform services for the provider agency or other clients.

The documented complaint and resolution should be forwarded to the assigned DHS contract manager and a copy should also go to the reporting DHS staff, as applicable.

Contract managers are required to monitor for compliance with this standard for the three month review period. Contract managers will look for possible violations of contract and program requirements when reviewing the complaint log and the provider's investigation of the complaint.

If you have any questions about this policy, contact your contract manager.

Sincerely,

signature on file

Becky Beechinor
Assistant Deputy Commissioner
Long Term care Services

BB:ck