

MEMORANDUM

Department of Aging and Disability Services Regulatory Services Policy * Survey and Certification Clarification

TO: Regulatory Services
Regional Directors and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: Rule Changes Related to Surrogate Decision-Making and Repeal of Rules
Related to Contracting - S&CC 07-07

APPLIES TO: Intermediate Care Facilities for Persons with Mental Retardation or a Related
Condition (ICFs/MR)

EFFECTIVE: July 1, 2007

The purpose of this letter is to inform providers of the following changes to Title 40 of the Texas Administrative Code (TAC):

1. The following amendments have been made and new sections added in [Chapter 9, Subchapter E, Division 10, related to Surrogate Decision-Making](#) (SDM):
 - Amendments to §9.203, which add and reorder definitions of words and terms; and
 - New §§9.281-9.295, containing the new rules governing SDM.

These rules were adopted to provide state standards for community ICF/MR providers with regard to SDM, in accordance with [Texas Health and Safety Code](#), Chapter 597, Subchapter C. They were published in the June 22, 2007, issue of the [Texas Register](#) and are effective July 1, 2007.

2. The following rules have been repealed in 40 TAC:

- §6.301;
- §6.310;
- §§8.231-8.249; and
- §§9.299 and 9.300.

ICF/MR providers requesting treatment decisions by a surrogate consent committee through the Department of Aging and Disability Services (DADS) must obtain, complete, and **mail** an application packet containing all required SDM forms. Applications **cannot be accepted by e-mail due to the requirement for original signatures.**

For your convenience, the forms and instructions for submitting an application for a treatment decision can be obtained at DADS' [Forms and Instructions](#) Web page.

In completing an application packet (see [SDM Form 2749](#)), an ICF/MR provider must:

- Include the application for a treatment decision, signed and dated;
- Include the applicable certification of need form, signed and dated;
- Include supporting documentation;
- Maintain a copy of the application and applicable certification of need form at the facility; and
- Mail the original forms and supporting documentation to the SDM Program.

Mail an application packet to:

- Overnight: Texas Department of Aging and Disability Services, SDM Program, 701 West 51st Street, Mail Code E249, Austin, Texas 78751
- Regular mail or certified priority: Texas Department of Aging and Disability Services, SDM Program, Mail Code E249, P.O. Box 149030, Austin, Texas 78714-9030

If you have any questions regarding the SDM process or the process for submitting an application for a treatment decision, contact Dennis Tomlinson, SDM Program Supervisor, at (512) 438-4275 or Dennis.Tomlinson@dads.state.tx.us.

Please direct any questions you may have about this letter to the Policy, Rules, and Curriculum Development Unit at (512) 438-3161.

VLD:ca