

# MEMORANDUM

## Texas Department of Aging and Disability Services

**TO:** Regulatory Services Division  
Regional Directors and State Office Managers

**FROM:** Linda Lothringer, Unit Manager  
Policy, Rules and Curriculum Development Unit  
State Office MC E-370

**SUBJECT:** Regional Survey and Certification (RS&C) Letter No. 09-03

**DATE:** March 10, 2009

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The referenced Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter was issued on February 27, 2009. This letter, which was distributed by e-mail on March 9<sup>th</sup>, is being provided to you for information and action purposes and should be shared with all professional staff.

- RS&C Letter No. 09-03 – Clarification for Determining Distinct Part In Nursing Facilities (NFs) (Medicaid Only) and Skilled Nursing Facilities (SNFs) (Medicare Only) In Institutions or Institutional Complexes

If you have any questions, please contact a nursing facility program specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Attachment

## Division of Survey and Certification, Region VI

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February 27, 2009

### Regional Survey and Certification Letter No. 09-03

**To:** All State Survey Agencies (Action/Information)  
All Title XIX Single State Agencies (Information)

**Subject:** Clarification for determining distinct part in nursing facilities (NFs) (Medicaid only) and skilled nursing facilities (SNFs) (Medicare only) in Institutions or Institutional Complexes.

**Issue:** Two (2) Bed Distinct Part SNFs or NFs that do not meet the distinct part requirements set forth in 42 CFR 483.5 (b).

The purpose of this guidance is to ensure consistency in the interpretation of 42 CFR 483.5 (b) Distinct Part – (1) Definition. *A distinct part SNF or NF is physically distinguishable from the larger institution or institutional complex that houses it, meets the requirements of this paragraph and of paragraph (b)(2) of this section, and meets the applicable statutory requirements for SNFs or NFs in sections 1819 or 1919 of the Act, respectively. A distinct part SNF or NF may be comprised of one or more buildings or designated parts of buildings (that is, wings, wards, or floors) that are: In the same physical area immediately adjacent to the institution's main buildings; other areas and structures that are not strictly contiguous to the main buildings but are located within close proximity of the main buildings; and any other areas that CMS determines on an individual basis, to be part of the institution's campus. A distinct part must include all of the beds within the designated area, and cannot consist of a random collection of individual rooms or beds that are scattered throughout the physical plant. The term "distinct part" also includes a composite distinct part that meets the additional requirements of paragraph (c) of this section.*

A distinct part includes all the rooms in a designated area (wing, floor, or ward). Therefore, a 2-bed distinct part would not be appropriate.

The SNF or NF functions as an integral and subordinate part of the institution of which it is a distinct part. The distinct part must be physically distinguishable from the larger institution and fiscally separate for cost reporting purposes.

Institutions can have a maximum of **only one** distinct part SNF and one distinct part NF. A hospital based SNF is by definition a distinct part. Multiple certifications within the same institution or institutional complex are strictly prohibited. Therefore, only one certification number is assigned to a provider operating a SNF and/or NF within their larger institution.

An institution cannot designate a distinct part SNF or NF, **but instead must submit a written request with documentation that demonstrates it meets the requirements for distinct part to the CMS Regional Office (RO) or State Agency (SA)**. The effective date of approval of a distinct part is the date that CMS or SA determines all requirements are met for approval, and cannot be made retroactive.

SAs should refer to § 2762B (4) and 3202,-3202B of the State Operations Manual (SOM) for guidance in determining and approving distinct part within an institution or institutional complex.

**Action:**

**Effective immediately** the Dallas RO is delegating their authority for determining and approving SNF distinct parts to the SA.

Once the SA approves the facility's request for a SNF distinct part, they will forward copies of the Medicare/Medicaid Certification and Transmittal (CMS 1539), the provider's request letter, the SAs distinct part approval letter, and the facility's floor plan to the RO. The RO will then send the tie-in notice (Form 2007) to the provider's Medicare Administrative Contractor (MAC), which will notify them of the distinct part determination.

In addition, the institution must request approval from CMS or the SA for any proposed changes in the number of beds in the approved distinct part.

**RO Monitoring:**

The RO will develop a process to randomly review the SAs consistency and accuracy in determining and processing distinct part requests. This random sample review will also ensure that SAs are approving these requests in accordance with Federal regulations, policies and procedures. If you have any additional questions, please call Connie Jones at (214) 767-6213.

Sincerely,

David R. Wright  
Associate Regional Administrator  
Division of Survey and Certification