



Date: December 17, 2018

To: Community Living Assistance and Support Services Case Management Agencies
Community Living Assistance and Support Services Direct Services Agencies
Deaf Blind with Multiple Disabilities Program Providers

Subject: Information Letter No. 18-12 – New Requirements to Report Critical Incidents and Evaluate Critical Incident Data

Effective January 1, 2019:

- Community Living Assistance and Support Services (CLASS) case management agencies (CMAs) and CLASS direct services agencies (DSAs) must, in accordance with the CLASS Provider Manual, report critical incidents to HHSC and to each other;
- Deaf Blind with Multiple Disabilities (DBMD) program providers must, in accordance with the DBMD Provider Manual, report critical incidents to HHSC; and
- CLASS CMAs, CLASS DSAs, and DBMD program providers must, at least annually, evaluate critical incident data reported to HHSC and identify program process improvements that help prevent the occurrence of critical incidents and improve service delivery.

These requirements are being implemented by HHSC to address the Centers for Medicare & Medicaid Services (CMS) requirement, included in the CLASS and DBMD waiver applications, that HHSC have an incident management system in place.

HHSC has made changes to add an appendix regarding critical incident reporting to the [CLASS Provider Manual](#) (as Appendix XIII) and to the [DBMD Provider Manual](#) (as Appendix IX). A copy of the appendix is attached to this information letter. The appendix describes the requirements that CLASS CMAs, CLASS DSAs, and DBMD program providers must follow to report and evaluate critical incidents.

IL 18-12 – New Requirements to Report Critical Incidents and Evaluate Critical
Incident Data

December 17, 2018

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If you have any questions about this Information Letter, please contact
CLASSPolicy@hhsc.state.tx.us or DBMDPolicy@hhsc.state.tx.us.

Sincerely,

[signature on file]

Stephanie Stephens
Deputy State Medicaid Director

Attachment: Critical Incident Reporting (Appendix XIII in CLASS and Appendix IX in
DBMD)

Critical Incident Reporting (Appendix XIII in CLASS and Appendix IX in DBMD)

Critical incident

In this appendix, the term “critical incident” means an incident that meets any of the definitions listed below and:

1. involves a staff person or service provider of the Deaf Blind with Multiple Disabilities (DBMD) program provider, Direct Services Agency (DSA) or Case Management Agency (CMA);
2. occurs during the provision of services to an individual; or
3. affects the provision of services to an individual.

Definitions

Choking – When a foreign object, such as food, a button, a coin, or a toy part is inhaled by an individual and partially or completely blocks the individual’s airway and prevents the individual from adequately breathing, requiring medical attention.

Criminal conduct – An act performed by an individual or an act performed by another person against an individual that:

1. may be a crime;
2. does not meet the definition of “Theft or Property Damage under \$25” or “Physical Altercation”; and
3. is not required to be reported to the Department of Family and Protective Services (DFPS) as abuse, neglect or exploitation.

Death – The death of an individual from any cause.

Elopement/Missing individual – When an individual leaves a safe area or safe premise and goes to a known or unknown location that places the individual at risk of serious injury or death.

Emergency room visit due to illness or injury – When an illness of, or injury to, an individual results in a visit to an emergency room, regardless of whether the individual is admitted to the hospital. For purposes of this definition, “emergency room” does not include an urgent care facility or minor emergency center.

Emergency situation – A human-made disaster, such as a house fire or terrorism, or a natural disaster, such as a wild fire, flood, tornado or hurricane, that:

1. results in harm to an individual;
2. poses an immediate risk to an individual's health and safety resulting in the individual evacuating his or her residence; or
3. causes significant damage to, or loss of, an individual's residence.

Medication error – Any of the following:

1. A medication administered to an individual and a licensed practitioner did not prescribe the medication for the individual;
2. A medication administered to an individual in a dose other than the dose prescribed by a licensed practitioner;
3. A medication administered to an individual by a route or method other than the route or method prescribed by a licensed practitioner; or
4. A medication administered to an individual at a frequency other than the frequency prescribed by a licensed practitioner.

Other incidents or events that involve harm or risk of harm to an individual – Any of the following:

1. When a Community Living Assistance and Support Services (CLASS) CMA reports an allegation of abuse, neglect or exploitation to DFPS and the alleged perpetrator is a staff person or volunteer of the CMA;
2. An incident or event that involves harm or risk of harm to an individual and:
 - a. does not meet the definition of any other critical incident; and
 - b. is not required to be reported to DFPS as abuse, neglect or exploitation; or
3. A restraint not authorized by a physician or not performed in a behavioral emergency not required to be reported to DFPS as physical abuse.

Physical altercation – A dispute between individuals involving physical aggression.

Restraint – The use of a physical restraint, mechanical restraint or psychoactive medication restraint which is authorized by a doctor or in a behavioral emergency, performed by a CLASS or DBMD service provider during the provision of paid waiver services which is not required to be reported to DFPS as physical abuse.

Theft or property damage not reported to DFPS – One of the following:

1. An individual's property is stolen by another person and the incident is not required to be reported to DFPS as exploitation; or
2. An individual's property is intentionally damaged by another person.

Examples:

The following is an example of a situation that would be considered a critical incident:

- A hurricane resulted in an individual being displaced and receiving services in a new location. The hurricane did not occur during the provision of services to the individual. This is a critical incident.

The following is an example of a situation that would **not** be considered a critical incident:

- While the individual was on a weekend vacation with family, a family member took the individual to an emergency room because the individual was nauseous. No staff person or service provider was on the vacation with the individual. The individual was not admitted to the hospital and no medical services were needed. The individual was not in any discomfort when the service provider came to the individual's home on Monday to provide services. This is **not** a critical incident.

Reporting by a DBMD Program Provider

Critical Incidents

A DBMD program provider must report a critical incident to HHSC by the last calendar day of the month following the date of becoming aware of the incident. For example, if a medication error occurred on May 31st, but a DBMD provider does not become aware of the error until July 10th, the DBMD program provider must report the incident to HHSC by August 31st.

To report a critical incident, a DBMD program provider must:

- complete the HHSC CLASS/DBMD Notification of Critical Incidents form, available at <http://texashhs.force.com/NCIForm>, unless the DBMD program provider reported the incident to HHSC using [Form 3613](#), Provider Investigation Report with Fax Cover Sheet (Home Health, Hospice and Personal Assistance Services Provider Use Only), in accordance with Texas Administrative Code, Title 40 (40 TAC), §97.250(b), or [Form 3613-A](#), SNF, NF, ICF/IID, ALF, DAHS and PPECC Provider Investigation Report with Cover Sheet, in accordance with 40 TAC §92.102(d); and
- do one of the following:
 - if possible, submit the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC electronically; or
 - if electronic submission is not possible, fax the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC at 512-206-3975.

A DBMD program provider must use a separate HHSC CLASS/DBMD Notification of Critical Incidents form for each individual who is the subject of a critical incident, but may report multiple incidents for one individual on a single form. The DBMD program

provider reporting the incident must print the completed HHSC CLASS/DBMD Notification of Critical Incidents form and maintain the form in the individual's record.

Deaths

A DBMD program provider must report a death to HHSC within 24 hours after learning of the death, in accordance with 40 TAC, §42.401(c).

To report a death, a DBMD program provider must:

- complete [Form 8493](#), Notification Regarding a Death in HCS, TxHmL and DBMD Programs; and
- fax the completed form to HHSC at 512-438-4148.

Reporting by a CLASS DSA

A CLASS DSA must report a critical incident to HHSC by the last calendar day of the month following the date of becoming aware of the incident. For example, if a medication error occurred on May 31st, but a DSA does not become aware of the error until July 10th, the DSA must report the incident to HHSC by August 31st.

To report a critical incident, a DSA must:

- complete the HHSC CLASS/DBMD Notification of Critical Incidents form, available at <http://texashhs.force.com/NCIForm>, unless the DSA reported the incident to HHSC using Form 3613 in accordance with 40 TAC, §97.250(b); and
- do one of the following:
 - if possible, submit the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC electronically; or
 - if electronic submission is not possible, fax the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC at 512-206-3975.

A DSA must use a separate HHSC CLASS/DBMD Notification of Critical Incidents form for each individual who is the subject of a critical incident, but may report multiple incidents that occur on the same date for one individual on a single form. The DSA reporting the incident must print the completed HHSC CLASS/DBMD Notification of Critical Incidents form and maintain the form in the individual's record.

A DSA must send the CMA a copy of the completed HHSC CLASS/DBMD Notification of Critical Incidents form and a completed [Form 2067](#), Case Information, within five calendar days after submitting the HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC. For example, if a DSA sends the completed HHSC CLASS/DBMD

Notification of Critical Incidents form to HHSC on August 31st, the DSA must send a copy of the completed form and a completed Form 2067 to the CMA by September 5th.

Deaths

A CLASS DSA must report a death to HHSC and the CMA within 24 hours after learning of the death.

To report a death, a CLASS DSA must complete the HHSC CLASS/DBMD Notification of Critical Incidents form and follow the procedures described in this appendix. See Reporting by a CLASS DSA below for reporting a critical incident to HHSC and the CMA.

Reporting by a CLASS CMA

A CLASS CMA must report a critical incident to HHSC by the last calendar day of the month following the date of becoming aware of the incident. For example, if a medication error occurred on May 31st, but a CMA does not become aware of the error until July 10th, the CMA must report the incident to HHSC by August 31st.

To report a critical incident, a CMA must:

- complete the HHSC CLASS/DBMD Notification of Critical Incidents form, available at <http://texashhs.force.com/NCIForm>; and
- do one of the following:
 - if possible, submit the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC electronically; or
 - if electronic submission is not possible, fax the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC at 512-206-3975.

A CMA must use a separate HHSC CLASS/DBMD Notification of Critical Incidents form for each individual who is the subject of a critical incident, but may report multiple incidents that occur on the same date for one individual on a single form. The CMA reporting the incident must print the completed HHSC CLASS/DBMD Notification of Critical Incidents form and maintain the form in the individual's record.

A CMA must send the DSA a copy of the completed HHSC CLASS/DBMD Notification of Critical Incidents form and a completed HHSC Form 2067 within five calendar days after submitting the HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC. For example, if a CMA sends the completed HHSC CLASS/DBMD Notification of Critical Incidents form to HHSC on August 31st, the CMA must send a copy of the completed form and a completed Form 2067 to the DSA by September 5th.

Deaths

A CLASS CMA must report a death to HHSC and the DSA within 24 hours after learning of the death.

New requirement regarding Form 3613 and Form 3613-A

Form 3613 has been revised to require a DBMD program provider and a CLASS DSA to identify the source of payment for an individual's services by checking the "Medicaid - DBMD" or the "Medicaid - CLASS" box on the form if the individual who is the subject of the form is in the DBMD program or the CLASS program. A DBMD program provider and a CLASS DSA must use the most current version of the 3613, which is available on the HHSC website.

Form 3613-A has been revised to require a DBMD program provider to identify the source of payment for an individual's services by checking the "Medicaid - DBMD" box on the form if the individual who is the subject of the form is in the DBMD Program. A DBMD program provider must use the most current version of the 3613-A, which is available on the HHSC website.

Instructions for Completing the HHSC CLASS/DBMD Notification of Critical Incidents Form

**Fields marked with an asterisk in the form must be completed or the form cannot be submitted.*

Use drop-down menus and choose pre-populated responses instead of typing a response, whenever possible.

Reporter – Select the option that applies; CLASS Case Management Agency, CLASS Direct Services Agency, Consumer Directed Services (CDS) Employer, DBMD

Provider Agency Provider Information – Use the drop-down menu to identify the type of licensure(s) the provider agency has, if applicable. Include as much information about the provider agency as possible.

Individual Information – Type in or select from the drop-down menu to provide as much information about the individual as possible. Describe the individual's mode of

communication (i.e., sign language, tactile symbols, etc.) and any other important information about the individual in the open text boxes.

Incident Information – Select the date of the incident by clicking on the date on the pre-populated calendar.

Select the date of discovery by clicking on the date on the pre-populated calendar.

Select whether the incident was witnessed or discovered. If the incident was witnessed by provider staff, the date of the incident and the date of discovery should be the same.

The date of submission is pre-populated with the current date. While it is possible to select an earlier or later date than the actual date of submission, it will be recorded on the actual date it was submitted.

Select the location of the incident. If “other” is indicated, type in the “Location of incident-Other” field where the incident occurred.

Select the type of incident by clicking on the incident in the drop-down list and clicking the right arrow icon to add the incident. Multiple incidents for the same individual can be recorded on the same submission form. Incidents can be added one at a time, or all at once by holding the Ctrl key as you make your selections, and then use the right arrow icon to add the incidents. The left arrow icon may be used to remove incidents added in error.

If “Death (CLASS only)” is selected, describe circumstances about the death, including the cause and/or manner of the death including but not limited to a previously identified diagnosis, occurring during or after an unusual incident, natural causes, accident, homicide, suicide, pending investigation, or could not be determined. The death is considered Unexplained (unusual) if the cause is unknown, including deaths not caused by a previously identified diagnosis or deaths that occur during or after an unusual incident. If the death is Unexplained (unusual), include that information when describing the circumstances.

Incident Follow Up – Select incident follow up by clicking on the appropriate description(s) in the drop-down list and clicking on the right arrow icon to add the follow up. The left arrow icon may be used to remove selections made in error. If “other” is indicated, type in the “Incident Follow Up-Other” field detailed information about the incident follow up. If addition of waiver services is selected, use the “CLASS/DBMD/CFC Services Added” field to indicate all the services that were added as a result of this incident.

Select other involved entities by clicking on the appropriate entity(ies) in the drop-down list. If multiple entities are involved or an entity that is not listed, indicate “other” and type in the “Other Involved Entities-Details” field which entity (entities) was (were) involved.

Once all required fields, indicated by an asterisk "*", are completed, you may click the "Click Here to Add Incident and Follow Up Information" button to add another incident.

If there are no additional incidents to report for that individual for the reporting period, click the "SUBMIT" button; otherwise click the "Click Here to Add Incident and Follow Up Information" to add additional incidents, following the steps above, and click "SUBMIT" once all incidents for the reporting period have been documented.

Shared Appendix 59

This appendix appears in the following handbooks:

Community Living Assistance and Support Services Provider Manual (CLASS):
Appendix XIII
Deaf Blind with Multiple Disabilities Program Manual (DBMD): Appendix IX