

MEMORANDUM

Department of Aging and Disability Services (DADS)
Regulatory Services Policy * Survey and Certification Clarification (S&CC)

TO: Regulatory Services
Regional Directors, Regional Program Managers and State Office Managers

FROM: Veronda L. Durden
Assistant Commissioner
Regulatory Services

SUBJECT: **S&CC 11-03** – Regulatory Services Complaint Reinvestigations (**Replaces S&CC 04-05**)

APPLIES TO: Adult Day Care Facilities, Assisted Living Facilities, Home and Community Support Services Agencies (HCSSAs), Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions (ICFs/MR), and Nursing Facilities

DATE: March 30, 2011

This memorandum provides guidance regarding complaint reinvestigations.

A reinvestigation is a subsequent, onsite, independent investigation of a complaint that has been previously investigated. A reinvestigation is conducted when Survey Operations administration or a regional director (RD) or his or her designee determines that a subsequent investigation is warranted.

Reasons to conduct a reinvestigation include:

1. new or additional information about the allegation(s) is available that was not reviewed during the original investigation;
2. the allegation(s) was not adequately addressed during the original investigation; or
3. the allegation(s) was not addressed during the original investigation.

Complainants may request reinvestigations orally or in writing within two years of the original date of alleged noncompliance. If DADS identifies extraordinary circumstances, an exception to the two-year limit may be granted.

The reinvestigation must address only allegations that were investigated during the original investigation. Additional allegations should be made to the Consumer Rights and Services section at (800) 458-9858. Additional allegations will be assigned a separate control number and investigated separately from a reinvestigation.

The Consumer Rights and Services section, regional offices and State Office receive requests for reinvestigations.

Procedures for Requests Received in Consumer Rights and Services

When the Consumer Rights and Services section receives a reinvestigation request, it forwards the request within two work days of receipt via electronic mail to the regional office where the facility or agency that was the subject of the original investigation is located.

If the regional office is not the original investigating office, the RD or designee will obtain the investigation report from the Compliance, Assessment, Regulation and Enforcement System (CARES).

To determine if a reinvestigation will be conducted, the RD or designee reviews the reinvestigation request and the original investigation report.

The RD or designee contacts the individual who requested the reinvestigation to ensure he or she has an accurate understanding of the investigation process and to clarify the reasons for the request. The RD or designee evaluates requests to determine if a reinvestigation should be conducted.

Within ten working days of receiving the request, the RD or designee sends written notice via electronic mail to the Consumer Rights and Services complaints mailbox at CRSComplaints@dads.state.tx.us regarding whether the regional office will conduct a reinvestigation. If the complaint is to be reinvestigated, the written notice must include a request to assign a new control number and to have the reinvestigation entered into the CARES complaint tracking system or HCSSA intake tracking system, as applicable.

After the Consumer Rights and Services professional review manager or designee receives notice of the decision to conduct a reinvestigation, he or she ensures that:

1. the complaint is entered into the CARES complaint tracking system or HCSSA intake tracking system, as applicable, by a Complaint and Intake Management unit staff person;
2. a new control number is assigned; and
3. the complaint is forwarded to the regional office for reinvestigation.

Procedures for Requests Received in Regional Offices

If the request for reinvestigation is received in the regional office, the RD or designee notifies the Consumer Rights and Services professional review manager of the request via electronic mail and proceeds as stated above in "Procedures for Requests Received in Consumer Rights and Services."

The RD or designee contacts the individual who requested the reinvestigation to ensure he or she has an accurate understanding of the investigation process and to clarify the reasons for the request. The RD or designee evaluates requests to determine if a reinvestigation should be conducted.

Procedures for Requests Received in State Office

If the request for reinvestigation is received in State Office (e.g., Commissioner's Office, Government Relations, or Regulatory Services Administration), it is forwarded to Survey Operations administration for review. Survey Operations administration works with the RD to evaluate the request to determine the appropriateness of a reinvestigation and its assignment.

If scheduled, the reinvestigation is entered into the complaint system in accordance with guidelines for "Procedures for Requests Received in Regional Offices," as stated above.

The RD or designee contacts the individual who requested the reinvestigation to ensure he or she has an accurate understanding of the investigation process and to clarify the reasons for the request. If the request came from Government Relations, the RD or designee contacts Government Relations to determine if they would like to participate in a telephone conference with the RD or designee and the individual who requested the reinvestigation.

Procedures for Requests Initiated by State Office

Reinvestigations may be initiated on request from the commissioner, deputy commissioner, assistant deputy commissioner, or assistant commissioner for Regulatory Services. These requests are handled in accordance with guidelines for "Procedures for Requests Received in State Office," as stated above.

Procedures for all Reinvestigation Requests

Reinvestigations are conducted by individuals **other than** those who conducted the original or subsequent investigations. If appropriate, the reinvestigation may be conducted by an investigator or investigation team from a different region or from State Office. The decision to utilize staff from other areas to either conduct or participate in a reinvestigation is made by Survey Operations administration, with input from the RD or designee.

Complaint reinvestigations for all facilities, except ICFs/MR, are conducted as set out in the Regulatory Services Investigation Handbook. Complaint reinvestigations in ICFs/MR are conducted in accordance with the guidelines in the ICF/MR Investigation Handbook.

Upon completion of the reinvestigation, Survey Operations administration or the RD or designee, reviews and approves findings and final decisions as appropriate. Reinvestigation findings are considered final and will either overturn or uphold the findings from the original investigation. Survey Operations administration or the RD or designee, as appropriate, notifies the individual who made the reinvestigation request of the results of the reinvestigation.

For questions regarding this memorandum, please contact Survey Operations administration at (512) 438-2627.