



COMMISSIONER
Jon Weizenbaum

Date: August 31, 2016

To: Financial Management Services Agencies (FMSAs)
Community Living Assistance and Support Services (CLASS) Case Management Agencies (CMAs)
Deaf Blind with Multiple Disabilities (DBMD) Program Providers

Subject: Information Letter No. 16-35 (Replaces IL 16-20)
Receiving Services Outside the State of Texas in the CLASS and DBMD Programs

The Texas Department of Aging and Disability Services (DADS) allows an individual in the CLASS or DBMD Program to receive certain services available through the consumer directed services (CDS) option while the individual is temporarily staying at a location outside the State of Texas. This information letter replaces previous IL 16-20, Receiving Out-of-State Services in the CLASS and DBMD Programs.

Services in the CLASS and DBMD Programs Available Through the CDS Option that may be Received Outside of the State of Texas

An individual in the CLASS Program may receive only the following services through the CDS option while the individual is temporarily staying at a location outside the State of Texas:

- community first choice personal assistance services/habilitation (CFC PAS/HAB);
- registered nursing;
- licensed vocational nursing;
- specialized registered nursing;
- specialized licensed vocational nursing; and
- out-of-home respite in a camp setting.

An individual in the DBMD program may receive only the following services through the CDS option while the individual is temporarily staying at a location outside the State of Texas:

- CFC PAS/HAB;
- intervener; and
- out-of-home respite in a camp setting.

Time Limit on Receiving Services Outside of the State of Texas

An individual in the CLASS or DBMD Program may receive services listed above through the CDS option while the individual is temporarily staying at a location outside of the State of Texas for no more than 30 calendar days within a service plan year.

Payment of Overtime

A CDS employer must work with the FMSA to determine, in advance of the individual leaving the state, the hours to be paid to the service provider and the hours the service provider will not be on duty in accordance with requirements of the U.S. Department of Labor.

Notifications to the Case Manager and FMSA from the CDS Employer

If an individual wants to receive a service through the CDS option while the individual is temporarily staying at a location outside the State of Texas, a CDS employer must, at least five working days **before** the individual leaves the state, send written notification to the individual's case manager and FMSA stating the individual is temporarily staying at a location outside the state. If circumstances beyond the CDS employer's control do not permit the notification to be sent within the five-day time frame, the CDS employer must, at least 24 hours **before** the individual leaves the state, send written notification to the individual's case manager and FMSA stating the individual is temporarily staying at a location outside the state.

The written notification must include:

- the name of the individual who will be receiving a service outside the State of Texas;
- the type of service the individual will be receiving;
- the date the delivery of the service will begin;
- the specific location where the individual will be receiving the service;
- the length of time the individual is expected to be outside the State of Texas which may be **no more than** 30 calendar days within a service plan year;
- contact information for the individual or legally authorized representative while the individual is outside the State of Texas;
- a copy of a completed DADS [Form 1739, CDS Service Provider Agreement](#), for the service provider who will be providing the service outside the State of Texas; and
- an acknowledgement stating the employer and service provider will follow applicable DADS rules while providing services outside the State of Texas.

Within three working days after the individual's return to the individual's residence in Texas, the employer must notify the individual's case manager and FMSA, by phone or in writing, of the individual's return.

The FMSA and case manager must keep the notifications required above in the individual's record.

Nursing Service Provided Outside of the State of Texas

If an individual in the CLASS Program is going to receive registered nursing, licensed vocational nursing, specialized registered nursing, or specialized licensed vocational nursing at a location outside the State of Texas, the nurse providing the service must be in compliance with the practice requirements of the state or country of the individual's temporary location. The CDS

employer is required to inform the nurse service provider of the information contained in this letter.

Non-compliance with Notification Requirements

If a CDS employer does not comply with the notification requirements described above, the CDS employer may be required to develop a corrective action plan in accordance with DADS rule at Texas Administrative Code (TAC), Title 40, [§41.221](#).

Exception to DADS Rules Regarding Suspension for Leaving the State

DADS rule at 40 TAC [§45.404](#)(a)(2) states DADS suspends an individual's CLASS Program services if the individual leaves the state for 180 consecutive calendar days or less. DADS rule at 40 [§42.242](#)(a)(2) states DADS suspends an individual's DBMD Program services if the individual leaves the state. This IL creates an exception to these rules by allowing an individual to receive the services listed above through the CDS option while the individual is temporarily staying at a location outside the State of Texas for no more than 30 calendar days within a service plan year without having services suspended.

If an individual is temporarily staying at a location outside of the State of Texas and the conditions described in this IL are not met, the individual's services may be suspended in accordance with 40 TAC [§45.404](#)(a)(2) and [§42.242](#)(a)(2).

A CLASS case manager or DBMD program provider is still required to comply with [§45.406](#)(b) and [§42.244](#)(b) regarding an individual leaving the state for more than 180 consecutive calendar days.

An individual will be given the opportunity to request a fair hearing if DADS suspends an individual's CLASS or DBMD Program services.

Future Amendments to DADS Rules

DADS will propose amendments to 40 TAC, Chapters 41, 42 and 45 to reflect the changes described in this IL.

Providing IL to CDS Employers

An FMSA must provide a copy of this letter within one business day of receipt to each CDS employer in the CLASS and DBMD Programs for whom the FMSA provides financial management services.

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Resources

If you have any questions about this IL, please contact the CDS Mailbox at cds@dads.state.tx.us.

For questions about rates, please contact the Rate Analysis unit at RAD-LTSS@hhsc.state.tx.us.

Sincerely,

[signature on file]

S. Michelle Martin
Director
Center for Policy and Innovation

[signature on file]

Elisa J. Garza
Assistant Commissioner
Access and Intake