

Inspections Report

Processes for Hiring Direct Support Professionals at State Supported Living Centers

**Texas Health and Human Services
Commission Human Resources**



**Inspector
General**

**Texas Health
and Human Services**

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INTRODUCTION

Purpose and Objectives

The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Inspections) conducted an inspection to review the processes used by Texas Health and Human Services Commission Human Resources (HHSC-HR) for hiring direct support professionals at state supported living centers (SSLCs). This inspection was conducted based on the results of an inspection of Austin SSLC.

The objective of the inspection was to determine whether HHSC-HR performed preemployment due diligence checks for direct support professionals hired to work at SSLCs consistent with (a) Texas Administrative Code requirements and (b) HHSC-HR policies and procedures.

Background

SSLCs provide around-the-clock, campus-based services to nearly 3,000 residents with intellectual and developmental disabilities in 13 facilities across Texas. SSLCs are administered by the Texas Health and Human Services Commission (HHSC). In fiscal year 2019, SSLCs had an annual budget of \$634 million¹ and employed more than 12,400 professionals, including 3,824 direct support professionals. Employees at SSLCs must submit to due diligence checks prior to employment.² After being cleared through all due diligence check requirements, prospective direct support professionals are eligible for employment.

SSLCs provide a full array of services to residents, including housing, meals, behavioral health treatment, medical services, personal care, and life skills training. Health care professionals, such as physicians, registered nurses, and direct support professionals, provide services to SSLC residents. Direct support professionals assist in the daily care of residents by providing personal care services and support such as grooming, feeding, training, and reporting on the condition of residents. Due to the personal nature of these services and the vulnerability of the resident population, SSLCs must conduct all due diligence checks required by Texas Administrative Code.

¹ General Appropriations Act for the 2018–19 Biennium, Eighty-fifth Texas Legislature Regular Session, Texas Legislative Budget Board (2017).

² 40 Tex. Admin. Code § 3.201(a)(1) – (3) (Oct. 6, 2011).

Due Diligence Checks for Direct Support Professionals

A facility may not employ an applicant who has been convicted of or received deferred adjudication for any of the criminal offenses specified by Texas Administrative Code.^{3,4} The listed offenses include but are not limited to homicide; robbery; aggravated assault; and injury to a child, elderly individual, or disabled individual. Texas Administrative Code requires that SSLCs complete due diligence checks, which include criminal history and registry clearance checks of an applicant prior to the applicant's first day of employment.⁵

Each SSLC must (a) obtain a criminal history check from the Texas Department of Public Safety (DPS), (b) obtain a criminal history check through the Federal Bureau of Investigation (FBI) using a complete set of fingerprints, and (c) conduct searches of the Nurse Aide Registry, the Employee Misconduct Registry, and the Client Abuse and Neglect Reporting System.

HHSC Human Resources (HHSC-HR) and NorthgateArinso, an entity contracted with HHSC to perform human resource services, complete due diligence checks prior to hiring an applicant. Table 1 outlines the five due diligence checks tested as part of this inspection.

Table 1: Due Diligence Checks Required Prior to First Day of Employment

Type of Due Diligence Check	Description
DPS criminal history check	A statewide criminal history check based on an individual's name and date of birth
FBI fingerprint criminal history check	A nationwide criminal history search based on an individual's fingerprints
Nurse Aide Registry	A search of all nurse aides certified to provide services in nursing facilities and skilled nursing facilities licensed by HHSC
Employee Misconduct Registry	A search of unlicensed personnel who committed substantiated acts of abuse, neglect, exploitation, misappropriations, or misconducts against residents or consumers in HHSC-regulated facilities and agencies
Client Abuse and Neglect Reporting System	A search of confirmed instances of client abuse, neglect, or exploitation by caregivers.

Source: *OIG Audit and Inspections Division*

Documentation of Due Diligence Checks

HHSC-HR policies and procedures require job requisition coordinators (JRCs) and NorthGateArinso service center staff to follow a process for completing and documenting a due diligence check. This process outlines when due diligence

³ 40 Tex. Admin. Code § 3.201(b)(1) – (2) (Oct. 6, 2011).

⁴ Tex. Health & Safety Code § 250.006(a) – (b) (Jan. 1, 2017, and Sept. 1, 2019).

⁵ 40 Tex. Admin. Code § 3.201(a)(1) – (3) and (b)(4) – (5) (Oct. 6, 2011).

checks must be initiated and completed. Documentation must include the dates the due diligence checks were completed, the eligibility status of the applicant, and the initials of the HHSC-HR or NorthgateArinso service center staff member who completed the due diligence check.

Methodology

To accomplish its objectives, OIG Inspections collected information for this inspection through (a) discussions and interviews with responsible staff at HHSC-HR and (b) request and review of the following information:

- Relevant policies and procedures
- Documentation of completed due diligence checks in the human resource files for the 363 direct support professionals selected for testing

The inspection focused on reviewing due diligence checks to determine whether direct support professionals hired at SSLCs during calendar year 2019 received all required due diligence checks consistent with Texas Administrative Code requirements.

OIG Inspections presented preliminary inspections results, observations, recommendations, and an opportunity for improvement to HHSC-HR in a draft report dated January 22, 2021. HHSC-HR provided management responses to the recommendations, generally indicating that improvements to controls and processes designed to prevent future noncompliance with Texas Administrative Code requirements had been implemented or will be implemented. Management responses are included in the report following each recommendation.

INSPECTION RESULTS

HHSC-HR implemented policies, procedures, and processes to conduct and document due diligence checks required by Texas Administrative Code and HHSC-HR policy. For example, HHSC-HR completed background checks prior to the first day of employment for 359 (98.9 percent) of 363 direct support professionals tested.

However, HHSC-HR did not always demonstrate compliance with all requirements. Specifically:

- 4 (1.1 percent) of 363 files showed some due diligence checks were not completed prior to first day of employment.⁶
- 99 (27.3 percent) of 363 records showed some due diligence checks did not follow HHSC-HR policies and procedures.

OIG Inspections noted HHSC-HR's electronic record system did not capture when and by whom revisions were made to the documentation of due diligence check results. HHSC-HR should correct electronic records when necessary, and an audit trail may be used as a detective control and increase accountability. In April 2020, NorthgateArinso service center modified the system to capture user ID for entries and changes.

The sections that follow detail (a) HHSC-HR's compliance with due diligence check requirements in accordance with Texas Administrative Code, (b) exceptions related to HHSC-HR's documentation of due diligence checks in accordance with HHSC-HR policies and procedures, and (c) an opportunity for improvement to comprehensively capture revisions to documentation of due diligence checks.

DUE DILIGENCE CHECKS

HHSC-HR job requisition coordinators and NorthgateArinso service center staff document due diligence check results as either (a) pass or fail or (b) eligible or ineligible, depending on the due diligence check.

As prescribed by its policy, HHSC-HR and NorthgateArinso did not retain due diligence check source documentation. Instead, the process is to document the review in Vurv, a system that integrates with the Centralized Accounting and Payroll/Personnel System (CAPPs), as (a) pass or fail or (b) eligible or ineligible.

⁶ 40 Tex. Admin. Code § 3.201(a)(1) – (3) (Oct. 6, 2011).

Due diligence check requirements are necessary to protect and properly care for SSLC residents.

Observation 1: HHSC-HR Did Not Always Comply With Texas Administrative Code Requirements for Due Diligence Checks

Direct support professionals are required to pass due diligence checks prior to employment.⁷ There were four separate instances where direct support professionals began employment prior to the completion of the due diligence checks. Specifically:

- HHSC-HR did not timely complete the employee misconduct verification through the Employee Misconduct and Nurse Aide registries for two direct support professionals. One individual's check was completed one day after the first day of employment and the other was completed two days after the first day of employment.
- HHSC-HR did not complete an FBI fingerprint criminal history check for one direct support professional prior to the individual's first day of employment. This individual was employed from May 1, 2019, through October 24, 2019. HHSC-HR did not provide support indicating the individual passed an FBI fingerprint criminal history check at any time during employment.
- The completion date for the DPS criminal history check was missing for one direct support professional. HHSC-HR did not provide support indicating the DPS criminal history check was completed prior to the individual's first day of employment.

Allowing individuals to work in an SSLC prior to completing all due diligence checks increases the risk of exposing residents to individuals with a history of misconduct that disqualifies them from SSLC employment.

Recommendation 1

HHSC-HR should review and revise its process to ensure due diligence checks for direct support professionals are consistently completed and documented prior to hiring approval and employment.

⁷ 40 Tex. Admin. Code § 3.201(a)(1) – (3) (Oct. 6, 2011).

Management Response

Action Plan

Internal Human Resource discussions revealed that the job requisition coordinators perform preliminary Employee Misconduct Registry and Nurse Aide Registry checks prior to submitting an offer to the Service Center, however since the Service Center has the contractual responsibility of performing these checks, there is no documentation of the job requisition coordinator reviews. HR is exploring a possible revision to the process of conducting and documenting these checks.

A fingerprint check was completed for the individual on April 25, 2019, however the applicant's profile was not updated timely.

The Department of Public Safety and FBI fingerprint check encompasses the Texas name-based Criminal Background Check, which is compliant with Texas Administrative Code, Title 40, Part 1, Chapter 3, Subchapter B, Rule 3.201. The name-based Criminal Background Check is not required to comply with Texas Administrative Code but is used as a pre-screen prior to the drug test and fingerprint check.

Responsible Manager

Director, Human Resources Workforce Operations Management

Target Implementation Date

March 1, 2021

Observation 2: HHSC-HR Did Not Consistently Document Due Diligence Checks in Accordance With Policies and Procedures

HHSC-HR policies and procedures require documentation of (a) the date each due diligence check was completed, (b) the results of each due diligence check, and (c) the initials of the HHSC-HR or NorthgateArinso service center staff member who completed and documented each due diligence check.⁸

⁸ Texas Health and Human Services Commission Human Resources policy and procedure, HHSC State Supported Living Centers Due Diligence required for Departments (Sept. 2017).

Due diligence checks are documented to demonstrate that (a) the required checks were completed prior to an applicant's first day of employment and (b) the applicant is eligible to work in an SSLC facility. HHSC-HR did not consistently document due diligence checks as required by HHSC-HR policies and procedures. Specifically:

- 88 (24.2 percent) of 363 records were recorded as "no records found" rather than eligible or ineligible. The statement "no records found" does not specify if the individual is eligible to work in an SSLC facility as required by HHSC-HR policies and procedures.
- 11 (3.0 percent) of 363 records contained one or more of the following documentation errors: incorrect dates for completion of the check, missing initials for the staff member who completed the check, or misidentified results.

Misidentified results included documented results that were copied from one due diligence check and pasted under a different type of due diligence check. The checks were completed using two different sources and could result in hiring an ineligible applicant.

Recommendation 2

HHSC-HR should evaluate its process for due diligence documentation and revise as necessary to increase consistency in documentation as required by HHSC-HR policies and procedures.

Management Response

Action Plan

HR Workforce Operations Management (WOM) made a major revision to the Health and Human Services Commission-Department of State Health Services Due Diligence Workbook on October 1, 2020, adding a column that specifies the notation text and format, and is notated in red font.

The revision to the Due Diligence Workbook coupled with offer reviews by SSLC WOM Manager, and quality reviews by the SSLC WOM Manager and WOM Operations Specialist, we are triple checking due diligence completion for postings where the job requisition coordinators are the hiring managers. WOM Ops Specialist will conduct a sample review of the requisitions where an SSLC manager is the hiring manager.

Additionally, the Service Center implemented a corrective action plan in January of 2020, adding additional Full Time Employees and increasing from random Quality Assurance checks to 100%.

Responsible Manager

Director, Human Resources Workforce Operations Management

Target Implementation Date

October 1, 2020

REVISIONS TO DUE DILIGENCE CHECKS

HHSC-HR and NorthgateArinso service center staff document results from the due diligence checks in Vurv using the documentation format prescribed by HHSC-HR policies and procedures. Vurv did not track when and by whom entries or changes to entries are made.

The following opportunity for improvement is not an instance of noncompliance with criteria.

Opportunity for Improvement

The ability of HHSC-HR and NorthgateArinso service center staff to make changes without a tracking component makes it possible for information to be improperly revised or incorrect information to be entered without accountability.

Management Response

In April 2020, NorthgateArinso service center modified the system to capture user ID for entries and changes.

CONCLUSION

OIG Inspections completed an inspection to review the processes used by HHSC-HR during the hiring process for direct support professionals at SSLCs. The inspection objective was to determine whether HHSC-HR performs preemployment criminal history and registry clearance checks for direct support professionals at SSLCs in compliance with Texas Administrative Code and HHSC-HR policies and procedures.

OIG Inspections concluded that HHSC-HR implemented policies, procedures, and processes to conduct and document due diligence checks required by Texas Administrative Code; however, some criminal history background and registry clearance checks were not always performed or completed timely, and HHSC-HR did not consistently document due diligence checks. There were four separate instances of direct support professionals beginning employment at an SSLC prior to the completion of the due diligence checks as required by Texas Administrative Code. Additionally, 95 due diligence checks did not follow HHSC-HR policies and procedures, which require the documentation of the dates the due diligence checks were completed, the eligibility status of the applicant, and the initials of the HHSC-HR or NorthgateArinso service center staff member who completed and documented the due diligence check.

HHSC-HR should improve the process for due diligence checks to help ensure that (a) direct support professionals meet all Texas Administrative Code requirements for due diligence checks and (b) due diligence checks are documented in accordance with HHSC-HR policies and procedures.

OIG Inspections offered recommendations to HHSC-HR, which, if implemented, will improve deficiencies in documentation and provide evidence of compliance with Texas Administrative Code and HHSC-HR requirements for due diligence checks.

OIG Inspections thanks management and staff at HHSC-HR for their cooperation and assistance during this inspection.

Appendix A: Detailed Methodology

Methodology

OIG Inspections conducted a previous inspection of Austin SSLC, and based on the results, it was determined an additional review should be done on all SSLCs. To accomplish its objectives, OIG Inspections obtained HHSC-HR's eligibility determination documentation for due diligence checks prior to an applicant's first day of employment at an SSLC facility. HHSC-HR obtained information from DPS, the FBI, the Nurse Aide Registry, the Employee Misconduct Registry, and the Client Abuse and Neglect Reporting System to determine eligibility.

There were 3,824 direct support professionals hired by SSLCs in Texas within the scope of the inspection between January 1, 2019, and December 31, 2019. The OIG Fraud, Waste, and Abuse Research and Analytics team compiled a random sample of 363 direct support professionals. OIG Inspections reviewed the records of due diligence checks for the 363 direct support professionals in the sample, which included records from all 13 SSLCs in Texas, to determine whether the due diligence checks complied with Texas Administrative Code requirements and HHSC-HR policies and procedures.

Standards

OIG Inspections conducts inspections of Texas HHS programs, systems, and functions. Inspections are designed to be expeditious, targeted examinations into specific programmatic areas to identify systemic trends of fraud, waste, or abuse. Inspections typically result in observations and may result in recommendations to strengthen program effectiveness and efficiency. OIG Inspections conducted the inspection in accordance with *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B: State Supported Living Centers in Texas

Table B.1 identifies the 13 SSLCs in Texas from which due diligence check records were reviewed as part of this inspection. The counties served by each SSLC are also listed.

Table B.1: SSLCs and Counties Served

SSLC	Counties
Abilene SSLC	Brown, Callahan, Coleman, Comanche, Eastland, Erath, Hood, Johnson, Jones, McCulloch, Mills, Palo Pinto, Parker, San Saba, Shackelford, Somervell, Stephens, and Taylor
Austin SSLC	Bandera, Bastrop, Blanco, Burnet, Caldwell, Comal, Edwards, Fayette, Gillespie, Gonzales, Guadalupe, Hays, Kendall, Kerr, Kimble, Kinney, Lee, Llano, Mason, Medina, Menard, Real, Schleicher, Sutton, Travis, Uvalde, Val Verde, and Williamson
Brenham SSLC	Brazos, Burleson, Grimes, Leon, Liberty, Madison, Montgomery, Robertson, Walker, and Washington
Corpus Christi SSLC	Aransas, Bee, Brooks, Calhoun, De Witt, Duval, Goliad, Jackson, Jim Hogg, Jim Wells, Kenedy, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio, Starr, Victoria, Webb, and Zapata
Denton SSLC	Camp, Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Grayson, Hopkins, Hunt, Kaufman, Lamar, Morris, Navarro, Rockwall, and Titus
El Paso SSLC	El Paso
Lubbock SSLC	Archer, Armstrong, Bailey, Baylor, Briscoe, Carson, Castro, Childress, Clay, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Hutchinson, Jack, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Montague, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Throckmorton, Wheeler, Wichita, Wilbarger, Wise, and Young
Lufkin SSLC	Anderson, Angelina, Bowie, Cass, Cherokee, Gregg, Harrison, Henderson, Houston, Jasper, Marion, Nacogdoches, Newton, Panola, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Upshur, Van Zandt, and Wood
Mexia SSLC	Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan, Milam, and Tarrant
Richmond SSLC	Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Jefferson, Matagorda, Orange, Waller, and Wharton
Rio Grande State Center	All counties
San Angelo SSLC	Andrews, Borden, Brewster, Coke, Concho, Crane, Crockett, Culberson, Dawson, Ector, Fisher, Gaines, Garza, Glasscock, Howard, Hudspeth, Irion, Jeff Davis, Kent, Loving, Martin, Midland, Mitchell, Nolan, Pecos, Presidio, Reagan, Reeves, Runnels, Scurry, Sterling, Terrell, Terry, Tom Green, Upton, Ward, Winkler, and Yoakum

SSLC	Counties
San Antonio SSLC	Atascosa, Bexar, Dimmit, Frio, Karnes, La Salle, Maverick, McMullen, Wilson, and Zavala

Source: OIG Audit Division and Inspections Division compiled from information contained in "Learn About Out State Supported Living Centers," HHSC, <https://hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities/state-supported-living-centers-sslcs/learn-about-our-state-supported-living-centers> (accessed Nov. 16, 2020)

Appendix C: Acronyms

Acronyms Used in This Report

CAPPS	Centralized Accounting and Payroll/Personnel System
DPS	Texas Department of Public Safety
FBI	Federal Bureau of Investigation
HHS	Health and Human Services
HHSC	Health and Human Services Commission
HHSC-HR	Health and Human Services Commission Human Resources
OIG	Office of Inspector General
OIG Inspections	OIG Audit and Inspections Division
SSLC	State supported living center
WOM	Workforce Operations Management

Appendix D: Report Team and Report Distribution

Report Team

The OIG staff members who contributed to this report include:

- Kacy VerColen, CPA, Assistant Deputy Inspector General for Audit and Inspections
- Bruce Andrews, CPA, CISA, Director for Inspections
- James Aldridge, Manager for Inspections
- Charlene Anderson, Lead Inspector
- Kenin Weeks, Inspector
- Benjamin Munoz, Inspector
- Ashley Rains, CFE, Senior Audit Operations Analyst

Report Distribution

Health and Human Services

- Cecile Erwin Young, Executive Commissioner
- Kate Hendrix, Chief of Staff
- Maurice McCreary, Jr., Chief Operating Officer
- Victoria Ford, Chief Policy and Regulatory Officer
- Karen Ray, Chief Counsel
- Michelle Alletto, Chief Program and Services Officer
- Stephanie Stephens, Deputy Executive Commissioner, Medicaid and CHIP Services
- Nicole Guerrero, Director, Internal Audit
- Mike Maples, Deputy Executive Commissioner for the Health and Specialty Care System
- Scott Schalchlin, Associate Commissioner for State Supported Living Centers

Texas State Supported Living Centers state office

- Lesley Zemanovich, State Office Director of Business Operations and Special Projects

Texas Health and Human Services Commission Human Resources

- Amy Tippie, Deputy Director
- Paula Cook, Director, Human Resources Workforce Operations Management

Appendix E: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Susan Biles, Chief of Staff
- Dirk Johnson, Chief Counsel
- Christine Maldonado, Chief of Operations and Workforce Leadership
- Juliet Charron, Chief of Strategy
- Steve Johnson, Chief of Investigations and Reviews
- Audrey O'Neill, Chief of Audit and Inspections

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To Contact OIG

- Email: OIGCommunications@hhsc.state.tx.us
- Mail: Texas Health and Human Services
Office of Inspector General
P.O. Box 85200
Austin, Texas 78708-5200
- Phone: 512-491-2000