The information included in this paper is provided as general information only. This information should not be considered complete or
dispositive guidance for legal or regulatory compliance. The specific application of laws and regulations to an organization requires a careful
consideration of all the relevant facts and circumstances and may require assistance of competent legal counsel.

This memo provides the history of events that led to home health agencies being permitted to use drop sites. You can review the following documents by below:

- 1) Letter from CAHSAH to CMS detailing the rationale for Drop Sites, and requesting that home health be permitted to use Drop Sites (September 15, 2004)
- 2) Letter from CMS Clarifying that CMS does not regulate Drop Sites, and that Drop Sites must be in compliance with State law (November 12, 2004)
- 3) All Facilities Letter from DHS to Home Health Agencies clarifying State Law regarding Drop Site (March 23, 2005)
- 4) CAHSAH’s E-Alert to members clarifying that Drop Sites are permitted in Home Health (March 25, 2005)

September 15, 2004

Thomas E. Hamilton
Director, Center for Medicaid and State Operations
Survey and Certification Group
Centers for Medicare and Medicaid Services
Building Services, Room S-2-13-17
Mail Stop S2-12-25
Baltimore, MD 21244

Re: Drop Sites for Licensed and/or Certified Home Health Agencies in California

Dear Mr. Hamilton:

The California Association for Health Services at Home (CAHSAH) represents licensed home health agencies and hospices, providers of private personal care services and other products and services in the home. We represent over 410 Medicare Certified home health agencies, which includes both parents and branches.

As you are aware, the “drop site” issue resurfaced in the June 23, 2004 “CMS Open Door Forum” when a caller requested clarification from CMS on “drop sites.” It was noted by CMS in that forum that “drop sites” are not recognized in the CoPs. This current situation on drop sites is similar to dialogue that CAHSAH had with CMS and DHS in 1996 and 1997, whereby HCFA and DHS similarly indicated that the “drop sites” were not defined in regulation and therefore not considered legal if records or supplies were maintained on site. However, this policy changed in 1997. In a December 5, 1997 CAHSAH bulletin article (see attachment), CAHSAH reported the following reversal of policy by HCFA and DHS:
“In a reversal of previously held positions, both the Department of Health Services (DHS) and the Health Care Financing Administration (HCFA) now recognize that agencies may find it necessary to have sites available for staff to pick up supplies, make phone calls, and otherwise avoid returning to the office.”

The article indicated that the change in policy emerged during CAHSAH Title 22 (State Licensure Regulations) trainings held in November 1997. Additionally, DHS staff indicated to CAHSAH that such sites could be utilized by agencies with the following parameters in a January 1998 correspondence:

A work station:
1. Must not meet the definition of a branch:
   - Patients are not served out of a work station.
   - There is no staff assigned to a work station for any reason.
   - There are not staff meetings, training or orientation conducted at a work station.
   - There are no patient and/or personnel records stored at a work station.

2. May Provide:
   - Office furniture and equipment for the sole purpose of nursing staff documentation and/or communication.
   - Documentation and nursing supplies.
   - Temporary storage of patient clinical record “working” documents solely for the purpose of transporting for inclusion in the record maintained only at the branch or parent office. These documents must be protected from loss, destruction and theft as well as from unauthorized use as required by Title 22, Section 74731.

If work stations are found to be used for purposes different than the above criteria:
1. Please contact your legal staff for further direction.
2. The home health agency may need to consider opening a branch at that location.

**A Work Station is different from Parent/Branch**

Current law in California and the federal government requires all home health agencies that provide skilled nursing services to patients at home be licensed as a home health agency, which, in California, is designated as either a parent or a branch. In defining a parent or branch, there are specific requirements. All of them are based on patient care and the ability of the parent to share administration, supervision and services within a geographic distance that is located sufficiently close.”

Medicare CoPs, Section 484.2 defines a “branch office” as a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.”

According to California State Law, Title 22, Section 74609 a branch office is defined as a “home health agency established and administered by a parent home health agency, providing services within a portion of the total service area served by the parent agency. Patients are accepted for
service by the branch office at a separate location from the parent agency. The branch office is not required to be staffed with an administrator and a Director of Patient Care Services but must have a Nurse Supervisor available on the premises or immediately accessible by telecommunications during operating hours when patients are receiving services. The parent agency shall develop and implement a written plan for administration and supervision of a branch office. The administration at the parent agency shall be responsible for the staffing, patient census, and any issues affecting the operation of a given branch.” California Law also indicates that the parent service area may not extend beyond four hours surface travel time from the agency unless the agency serves a rural, scarcely populated area pursuant to Section 74663. (Source: Title 22, Section 74607)

The use of a “drop site,” “work station,” or “auxiliary work station” (and other terms that are used for it) would not be used for patient care and therefore would not be considered either a parent or a branch location as defined in the Federal CoPs, Title 22, and the State Operations Manual. The function of these non-licensed sites is not to increase geographical service area or to serve as an “illegal” parent or branch office. Its sole function is to facilitate the efficiency of patient care by providing a convenient location for field staff to pick up supplies, drop off paperwork, use office equipment, etc. It would reduce unnecessary trips back to the parent/branch. This is especially important in rural areas with few patients, where it is not feasible to have branches because of the distance and low density of patients.

CAHSAH members have indicated that drop sites would facilitate nursing retention. After nurses have completed patient visits at the end of the day, they must currently drive a significant distance to drop of the patient records at the parent or branch offices. Even though nurses enjoy the one-on-one patient care of home health, our members have informed us that they have had nurses resign because of they had to travel back to the office at the end of the day. The use of a drop site would be very helpful in these situations. The nursing shortage in California is already exacerbated by the one year of prior professional nursing experience regulation required in home health. Drop sites would serve as a means to help nurses do their job more efficiently and effectively and help home health agencies retain their nurses in a time of great shortage.

Rationale for a Drop Site
The Medicare PPS system requires agencies to be efficient and effective organizations. However, the prohibition of drop sites frustrates the ability of agencies to create policies and procedures to create systems to safely increase productivity with basic work tasks. Drop sites allow agencies to efficiently cover their geographic areas. These sites provide a time effective base to do tasks that would require time and mileage to complete if they went back to the parent or branch and provides them with a safe location.

Agencies should be able to set up its own internal processes/systems to best meet CMS regulations and patient needs without creating additional oversight by CMS. Drop sites are meant to function as “transfer sites” of information. These are only for dropping off paperwork to make its way to the Parent/Branch site where it is stored and accessed as needed.

Reasons why these sites do not need to be under direct CMS oversight:
1. Patients are not accepted for service, nor processed as such at these locations;
2. There is no intent to establish and administrative or supervisory presence since care is not coordinated from these locations;
3. No patient information/medical records are kept at these locations.

The uses of drop site fall into three categories:
1. Patient care issues such as privacy and timeliness of care;
2. Time and mileage savings (serve patients living 30 to 50 miles in the country);
3. Employee Management – which includes improved adherence to labor rules (for staff and employer) and improved employee satisfaction and retention.

We agree that patient medical information must be safeguarded, and supplies must be handled, and the care must be adequately supervised. That is why the use of drop sites would not be allowed for these functions.

**Standards of Practice in Home Care Industry**

CMS must recognize that home care *is* community based care – not institutional care – and the regulating bodies must recognize the unique nature of the service and how it differs from facility care. Clinicians often use their homes, McDonalds or their cars as locations to complete paperwork. However, CMS does not treat every clinician’s household, lunch spot, or car as a possible site requiring survey.

Our National Association, the National Association for Home Care and Hospice (NAHC), has also been in contact with CMS regarding this issue and has indicated that they have received concerns from 21 other states. As you know, both New Mexico and Florida have state regulations allowing for “drop sites” that are quite clear and would serve as a model for a policy from CMS on the issue. We join NAHC and request CMS to issue a policy, without regulation, that identifies the functions and activities that may take place in sites other than parents and branches and gives agencies the ability to set up their own internal processes/systems to best meet CMS regulations and patient needs without creating additional oversight by CMS. Please do not hesitate to contact me at (916) 641-5795 ext 123 if I may provide additional information regarding this issue.

Sincerely,

Barbara Biglieri
Director of Policy

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-12-25  
Baltimore, Maryland 21244-1850  
Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-05-07

DATE: November 12, 2004  
TO: State Survey Agency Directors  
FROM: Director Survey and Certification Group  
SUBJECT: Home Health Agency (HHA) Drop Sites

Letter Summary
• This memorandum clarifies that the Centers for Medicare and Medicaid Services (CMS) does not regulate or define an HHA “drop site.”  
• An HHA “drop site” must comply with any applicable state requirements and must not meet the definition of a branch. The purpose of this memorandum is to clarify our policy on the locations or sites from which a Medicare approved HHA may provide services.

Background  
The home health regulations at 42 C.F.R. Part 484 permit an HHA to provide services from other locations, namely a branch or a subunit. Branches and subunits are defined at 42 C.F.R. §484.2. The branch office is a location or site from which an HHA provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the HHA and must be located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation (CoPs) as an HHA. If an HHA proposes to provide services from a location that meets the definition of a branch, it must first receive approval from the CMS regional office (RO). See section 2182.4B of the State Operations Manual for further discussion of the factors that the state survey agency and the CMS RO consider in reviewing an HHA’s request for branch approval.
TO: HOME HEALTH AGENCIES

FROM: CALIFORNIA DEPARTMENT OF HEALTH SERVICES LICENSING AND CERTIFICATION PROGRAM

SUBJECT: CLARIFICATION OF HOME HEALTH AGENCY “DROP SITES”

On November 12, 2004, the Centers for Medicare and Medicaid Services (CMS) released Survey and Certification (S&C) Memorandum 05-07, “Home Health Agency (HHA) Drop Sites.” The S&C clarifies that CMS does not regulate or define “drop sites” and that the function of a “drop site” does not meet the Federal definition of an HHA branch or subunit. The S&C also clarified that an HHA must comply with applicable state and local law. The S&C Memorandum is enclosed for reference.

The purpose of this All Facility Letter is to provide clarification of State law related to “drop sites.” An HHA “drop site” is not regulated or defined by State regulation or statute. Therefore, a “drop site” is not prohibited as long as the HHA is licensed by the Department of Health Services (DHS), and the function of the “drop site” does not meet the State definition of an HHA parent or branch. An HHA parent is defined as the primary home health agency which establishes, maintains and assures administrative and supervisory control of branch offices. A branch is defined as a home health agency established and administered by a parent home health agency, providing services within a portion of the total service are served by the parent agency.

Unacceptable uses of “drop sites” include but are not limited to: assigning staff to the “drop site” locations, accepting referrals at a “drop site” location, advertising a “drop site” as part of the HHA, and operating the “drop site” as a parent or branch of an HHA. A “drop site” is not subject to routine surveys; however, it may be subject to State inspection at any time.

If an HHA utilizes a “drop site,” the HHA’s policies on “drop sites” should reflect current Federal (if certified) and State requirements, including compliance with the Health Insurance Portability and Accountability Act (HIPAA).

AFL 05-09
Page Two
March 23, 2005

If you have any questions, please contact your local DHS Licensing and Certification District Office, or contact Carol Wegner, R.N., Program Policy Section, at (916) 552-8721 or by email at cwegner@dhs.ca.gov.

Sincerely,

Original Signed by
Ruth I. Jacobs, RN

Ruth I. Jacobs, Chief
Program Policy Section
Licensing and Certification Program
March 25, 2005 - Issue #03-2005

CAHSAH E-alert

DHS issues “All Facilities Letter (AFL)” Clarifying Policy on Drop Sites

After seven months of discussion with both Centers for Medicare and Medicaid Services (CMS) and Department of Health Services (DHS), there is a positive, final resolution to the drop site issue for licensed home health agencies.

California home health agencies are officially allowed to use drop sites per a March 23 “All Facilities Letter” (AFL) to home health agencies from Department of Health Services, which can be found here http://www.cahsah.org/Stateadvocacy/2005/AFL_05-09HHA.pdf

This AFL reinforces a November 12, 2004 Centers for Medicare and Medicaid Survey and Certification Memo that stated that drop sites were acceptable provided that the state requirements did not prohibit the use of the drop site. The Survey and Certification memo can be found here: http://www.cms.hhs.gov/medicaid/survey-cert/sc0506.pdf

Therefore, CAHSAH made the argument that the absence of a state law should be enough to allow for the drop site under the circumstances described in the memo and requested that Department of Health Services issue an AFL clarifying that drop site is not prohibited under the guidelines cited in the CMS November 12, 2004 memo. DHS responded with this AFL stating the following:

The purpose of this All Facility Letter is to provide clarification of State law related to “drop sites.” An HHA “drop site” is not regulated or defined by State regulation or statute. Therefore, a “drop site” is not prohibited as long as the HHA is licensed by the Department of Health Services (DHS), and the function of the “drop site” does not meet the State definition of an HHA parent or branch. An HHA parent is defined as the primary home health agency which establishes, maintains and assures administrative and supervisory control of branch offices. A branch is defined as a home health agency established and
administered by a parent home health agency, providing services within a portion of the total service are served by the parent agency.

The memo goes on to state that, “Unacceptable uses of “drop sites” include but are not limited to: assigning staff to the “drop site” locations, accepting referrals at a “drop site” location, advertising a “drop site” as part of the HHA, and operating the “drop site” as a parent or branch of an HHA. A “drop site” is not subject to routine surveys; however, it may be subject to inspection at any time.

If an HHA utilizes a “drop site,” the HHA’s policies on “drop sites” should reflect current Federal (if certified) and State requirements, including compliance with the Health Insurance Portability and Accountability Act (HIPAA).

**What is a Drop Site?**

In home health nomenclature, a “drop site” can be referred to as many names -- “work station,” “auxiliary work station,” “transfer sites,” “way stations,” “satellites,” “convenience sites.” The function of these non-licensed sites is not to increase geographical service area or to serve as an “illegal” parent or branch office. Its sole function is to facilitate the efficiency of patient care by providing a convenient location for field staff to pick up supplies, drop off paperwork, use office equipment, etc. It reduces unnecessary trips back to the parent/branch.

Drop sites allow agencies to efficiently cover their geographic areas. These sites provide a time effective base to do tasks that would require time and mileage to complete if they went back to the parent or branch. It additionally can provide a safe location for the nursing and/or other staff persons in the field and many administrators have reported that a drop site can result in higher nursing retention. This is especially important in rural areas with few patients, where it is not feasible to have branches because of the distance and low density of patients.

**Application of Memos to Your HHA**

We recommend that all home health agencies print these memos and share it with your nursing and other pertinent agency staff. Make sure that your agency is not using your drop site as a parent or a branch or the four things listed in both memos (1. advertising; 2. accepting referrals; 3. operating the drop site as a parent or a branch from the drop site; 4. assigning staff to the drop site), as well as other inappropriate uses of the drop site. Remember to consult with your DHS, L&C Field Office if you have any issues or concerns with the use of your drop site. You can find your DHS Field Office here: [http://www.dhs.ca.gov/lnc/contact/default.htm](http://www.dhs.ca.gov/lnc/contact/default.htm)