



TEXAS
Health and Human
Services

Home and Community-Based Services Settings: Texas Statewide Transition Plan

**Kate Layman, Senior Policy Advisor
Texas Health and Human Services
November 16, 2017**

Agenda

- Overview of federal home and community-based services rule
- Overview of statewide transition plan
- Completed activities
- Activities in progress
- Next steps
- Resources



Community Access

- The home and community-based services (HCBS) rules speak to the importance of individuals being able to participate in their community to the greatest extent possible. The following HCBS regulation relates to community access:
 - The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. *42 CFR 441.301 (c)(4)(i)*



TEXAS
Health and Human
Services

Individual Choice

- The Health and Human Services Commission (HHSC) recognizes that choice is vital in all aspects of day-to-day life.
- For purposes of this project, the questions of choice are limited to choice of residential setting and choice of day activities.
- The following HCBS rules relate to individual choice of providers, services, and supports:
 - Individuals sharing units have a choice of roommates in that setting. *42 CFR 441.301(c)(4)(vi)(B)(2)*



TEXAS
Health and Human
Services

Individual Choice

- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board. *42 CFR 441.301(c)(4)(ii)*
- [The setting] Facilitates individual choice regarding services and supports, and who provides them. *42 CFR 441.301(c)(4)(v)*



TEXAS
Health and Human
Services

Rights and Dignity

- Individuals receiving HCBS are, through various approaches, made aware of their rights when receiving program services.
- These rights address privacy and confidentiality, service delivery, and financial matters, among other topics.



TEXAS
Health and Human
Services

Rights and Dignity

- Each individual has privacy in their sleeping or living unit [and] units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. *42 CFR 441.301(c)(4)(vi)(B)(1)*
- Any modification...must be supported by a specific assessed need and justified in the person-centered service plan. *42 CFR 441.301(c)(4)(vi)(F)*
- [Setting must] ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. *42 CFR 441.301 (c)(4)(iii)*



TEXAS
Health and Human
Services

Individual Autonomy

- Self-determination and autonomy are the foundation of independence, and are integral to service delivery in home and community-based settings.
 - Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. *42 CFR 441.301(c)(4)(vi)(B)(3)*
 - Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. *42 CFR 441.301(c)(4)(vi)(C)*
 - Individuals are able to have visitors of their choosing at any time. *42 CFR 441.301(c)(4)(vi)(D)*



TEXAS
Health and Human
Services

Individual Autonomy

- The setting is physically accessible to the individual. *42 CFR 441.301(c)(4)(vi)(E)*
- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community...to the same degree of access as individuals not receiving Medicaid HCBS. *42 CFR 441.301(c)(4)(i)*
- [The setting] optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. *42 CFR 441.301(c)(4)(iv)*



TEXAS
Health and Human
Services

Impacted Texas Programs

- 1915(c) waivers
 - Community Living Assistance and Support Services (CLASS)
 - Deaf-Blind with Multiple Disabilities (DBMD)
 - Home and Community-based Services (HCS)
 - Medically Dependent Children Program (MDCP)
 - Texas Home Living (TxHmL)
 - Youth Empowerment Services (YES)



Impacted Texas Programs

- HCBS-Adult Mental Health*
- Community First Choice*
- STAR+PLUS HCBS 1115 Waiver



TEXAS
Health and Human
Services

Impacted Services

	Residential Services	Employment Services	Day Habilitation	Other
HCS Waiver	Yes	Yes	Yes	
CLASS		Yes		Yes
MDCP		Yes		Yes
TxHmL		Yes		
YES				Yes
DBMD	Yes	Yes	Yes	
STAR+ PLUS	Yes			



Statewide Transition Plan

- Each state is required to file a statewide transition plan (STP) with the Centers for Medicare and Medicaid Services (CMS) outlining the state's plan for compliance.
- The Texas STP includes high-level timeframes and milestones for State actions, including assessment of the State's current compliance and planned steps for remediation.
- Information obtained through the provider, service coordinator, and individual surveys will provide the basis for more detailed remediation in a revised draft of the STP slated for submission to CMS in 2018.



TEXAS
Health and Human
Services

Statewide Transition Plan

- Public Input
- Assessment
 - Internal Assessment
 - External Assessment
- Remediation
 - Any settings found to be out of compliance will be addressed through the remediation phase.
 - Remediation will include the CMS heightened scrutiny process, if needed.



Public Input

- HHS relies on the following mechanisms to obtain public input:
 - Stakeholder education webinars
 - Stakeholder meetings and conference calls
 - Electronic notices via email and state agency websites
 - Presentations at advisory committees, stakeholder meetings and agency workgroups
 - Tribal stakeholder conference call meetings
 - Presentations at stakeholder-sponsored conferences



TEXAS
Health and Human
Services

STP Status- Completed Activities

Deliverable	Date Completed
Developed provider and individual surveys for 1915(c) waivers and 1115 Demonstration waiver	December 2015
Completed survey of 1115 Demonstration waiver providers and individuals receiving services	August 2016
Completed survey of HCS waiver providers	August 2016
Completed survey of individuals receiving HCS waiver services	November 2016
Posted report of analysis of HCS waiver survey results	August 2017



TEXAS
Health and Human
Services

Internal Assessment

- Internal review of rules, policies, and oversight processes governing Texas HCBS to determine areas of compliance, non-compliance, or silence.
 - 1915(c) waivers: September 2014
 - STAR+PLUS HCBS (1115): September 2015
- Summary of findings can be found in the STP.



TEXAS
Health and Human
Services

External Assessment

- Included provider self-assessments and face-to-face interviews with individuals receiving relevant services.
- Service coordinators/case managers exercise the most influence over individual's opportunities to choose providers or services; therefore, service coordinators/case managers also completed a self-assessment.



TEXAS
Health and Human
Services

External Assessment

- Developed survey tools based on CMS exploratory questions.
- The provider self-assessment was designed for direct support professionals who work directly with individuals.
- Participation in the assessment was mandatory and not anonymous.
- Providers were asked to submit electronic copies of policies and procedures to support their claims of compliance.



TEXAS
Health and Human
Services

Community Access- Summary

- Residential
 - Revising rules and policy will provide clear guidelines regarding areas identified as barriers to community integration and the need to ensure the person-centered planning process addresses those barriers.
 - Educating providers, service coordinators, and case managers on reported barriers to community integration will aid in efforts to ensure the person-centered planning process addresses these barriers to the greatest extent possible given available resources.



TEXAS
Health and Human
Services

Community Access- Summary

- While HHS cannot create public transportation where there is none available, rule and policy changes may be able to improve availability of program transportation.
- Non-residential
 - HHS has already identified a need to re-conceptualize the day habilitation service in a way that allows for increased access to the community during the day.
 - HHS will continue to pursue the policy changes necessary to support this change.



TEXAS
Health and Human
Services

Individual Choice- Summary

- Residential
 - Ensure rules and policy fully support individuals' knowing their rights regarding choice of comprehensive waiver providers, specific service providers to the degree these are available, and the residential settings from which the individual can choose.
 - Ensure appropriate tools (including rules, policies and training resources) and monitoring support individuals in taking a central role in the person-centered service planning process.



TEXAS
Health and Human
Services

Individual Choice- Summary

- Non-Residential
 - A continuum for supporting employment should be a part of the discussion on restructuring day habilitation and how day habilitation can be a bridge to employment for individuals.



TEXAS
Health and Human
Services

Rights and Dignity- Summary

- Residential
 - Survey responses related to privacy indicate a need for provider education and reinforcing key principles regarding expectations related to individual rights.
 - HHS is developing a document that will serve the purpose of a lease and be used by all residential providers.



TEXAS
Health and Human
Services

Rights and Dignity- Summary

- Non-Residential
 - HHS has already identified a need to re-conceptualize the day habilitation service.
 - HHS will continue to pursue rule and policy changes necessary to support this change.
 - Interim efforts to address immediate privacy issues will be addressed through provider education and discussion of survey results to outline areas where individuals have reported a lack of privacy while participating in day habilitation.



TEXAS
Health and Human
Services

Individual Autonomy-Summary

- Residential
 - It will be important to provide more detailed guidance in rule, policy, and where appropriate, individual rights documentation, to address issues.
 - Enhanced guidance will be combined with oversight to ensure compliance with rules and policy.
- Non-Residential
 - HHS is committed to working with stakeholders to identify creative strategies to overcome challenges such as the limitations of the current rate structure and availability of community resources.



TEXAS
Health and Human
Services

STP Status- Activities in Progress

- Complete DBMD waiver assessment.
- Report STAR+PLUS member, service coordinator, and provider assessment results.
- Finalize remediation plan.
- Finalize plan for heightened scrutiny.
- Submit statewide transition plan with remediation plan to CMS.
- Obtain CMS initial approval of statewide transition plan.



TEXAS
Health and Human
Services

Remediation

- The remediation strategy will include how HHS will ensure initial and on-going compliance with the HCBS requirements.
- HHS has identified a number of strategies to address potential non-compliance:
 - Rule and policy revisions
 - Contract changes
 - Revisions to processes used for provider oversight
 - Personal rights
 - Provider education



TEXAS
Health and Human
Services

Stakeholder Workgroups

- HHS recognizes the importance of obtaining stakeholder feedback on the remediation strategy.
- Two workgroups have been formed to provide input on the IDD strategy, one focused on non-residential services and one on residential services.
- A similar approach will be followed for the managed care settings.



TEXAS
Health and Human
Services

Stakeholder Meeting

- HHS intends to hold a public stakeholder meeting to obtain feedback on the STP prior to resubmitting it to CMS.
- This meeting will be scheduled once a more firm date for resubmission has been identified.
- Meeting will be webcast to maximize stakeholder involvement.



TEXAS
Health and Human
Services

STP Status- Next Steps

- Submit STP to CMS and obtain final approval.
- Identify and submit heightened scrutiny settings to CMS.
- Develop new or amend existing operational guidance and oversight tools.



TEXAS
Health and Human
Services

Heightened Scrutiny

- What is “heightened scrutiny?”
 - Settings that CMS considers to potentially have the qualities of an institution but that the state believes are actually community-based must be submitted to CMS for additional review and approval through their heightened scrutiny process.



TEXAS
Health and Human
Services

Heightened Scrutiny

- Three categories of settings require CMS heightened scrutiny:
 - Settings located in a building where inpatient institutional treatment is also provided.
 - Settings located on the grounds of, or immediately adjacent to, a public institution.
 - Settings that have the effect of separating people receiving HCBS from those not receiving HCBS.



HCBS Resources

- CMS HCBS webpage
 - <https://www.medicaid.gov/medicaid/hcbs/index.html>
- HHS HCBS webpage
 - <https://hhs.texas.gov/services/health/medicaid-chip/about-medicaid-chip/homecommunity-based-services>



TEXAS
Health and Human
Services



TEXAS
Health and Human
Services

Questions can be sent to:

Medicaid_HCBS_Rule@hhsc.state.tx.us