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

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Agenda

- Overview of federal home and community-based services rule
- Overview of statewide transition plan
- 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)*



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)*



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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)*



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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.



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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)*



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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)*



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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)*



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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



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11/19/2018

*Because these programs were implemented after March 2014 they had to be compliant at time of implementation.

Impacted Services

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



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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.



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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



STP Status- Activities in Progress

- Finalize remediation plan.
- Finalize plan for heightened scrutiny.
- Drafting of ISS Rules
- Post STP and remediation plan.
- Stakeholder meetings.
- Submit statewide transition plan with remediation plan to CMS.



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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



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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.



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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.



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Stakeholder Meetings

- HHS intends to hold two public stakeholder meetings in early 2019 to obtain feedback on the STP prior to resubmitting it to CMS.
- Posting of the STP is anticipated by the end of 2018.
- Meeting will be webcast to maximize stakeholder involvement.



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STP Status- Next Steps

- Submit STP to CMS and obtain final approval.
- Identify and submit heightened scrutiny settings to CMS.
- Complete ISS rules with stakeholder input
- Develop new or amend existing policy, operational guidance and oversight tools.



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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>



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Questions can be sent to:

Medicaid_HCBS_Rule@hhsc.state.tx.us