Amendments to Subchapter Governing

Service Coordination for Individuals with an Intellectual Disability
Chapter 2, Subchapter L

EFFECTIVE DATE: March 20, 2016

Please remove your copy of rules governing service coordination for individuals with mental retardation (Chapter 2, Subchapter L), with an effective date of June 1, 2010, 2005, and replace it with the attached document.

Reason for Amendments
The adopted rules expand the eligibility criteria for service coordination to include certain individuals:

- enrolling in Community First Choice (CFC) services provided through an MCO; and
- receiving CFC services through an MCO.

In addition, the adopted rules require person-centered service planning training in accordance with the CFC state plan amendment. The adopted rules also update terminology and clarify existing processes.

Questions
Please direct questions concerning this subchapter to:
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Process
The amendments were proposed for public comment in the November 27, 2015, issue of the Texas Register. The adoption is published in the March 11, 2016, issue of the Texas Register.
§2.551. Purpose.  
Effective: August 31, 2010
This subchapter describes requirements for service coordination delivered by the mental retardation authority (MRA) to an individual in the mental retardation priority population (MR priority population) who desires services.

§2.552. Application.  
Effective: August 31, 2010
This subchapter applies to all mental retardation authorities (MRAs).

§2.553. Definitions.  
Effective: March 20, 2016
The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

(1) **Actively involved person** -- For an individual who lacks the ability to provide legally adequate consent and who does not have a legally authorized representative (LAR), a person whose significant and ongoing involvement with the individual is determined by the individual's designated MRA to be supportive of the individual based on the person's:
   (A) observed interactions with the individual;
   (B) knowledge of and sensitivity to the individual's preferences, values, and beliefs;
   (C) availability to the individual for assistance or support; and
   (D) advocacy for the individual's preferences, values, and beliefs.

(2) **CARE -- DADS Client Assignment and Registration System**

(3) **CFC services** -- Community First Choice services. State plan services described in 1 Texas Administrative Code (TAC) Chapter 354, Subchapter A, Division 27 (relating to Community First Choice).

(4) **DADS -- The Department of Aging and Disability Services.**

(5) **Department** -- The Department of Aging and Disability Services

(6) **Designated LIDDA** -- As identified in DADS data system, the LIDDA responsible for assisting an individual and LAR or actively involved person to access services and supports.

(7) **Designated MRA -- Designated LIDDA**

(8) **Duration** -- The specified period of time during which service coordination is provided to an individual.

(9) **Frequency** -- The minimum number of times during a specified period that an individual is to be contacted by a service coordinator based on the individual's need for contacts as determined by person-directed planning.

(10) **General revenue** -- Funds appropriated by the Texas Legislature for use by DADS.

(11) **HCS Program -- The Home and Community-based Services Program.** A program operated by DADS as authorized by the Centers for Medicare and Medicaid Services in accordance with §1915(c) of the Social Security Act.

(12) **ICF/IID -- Intermediate care facility for individuals with an intellectual disability or related conditions.** An ICF/IID is a facility in which ICF/IID Program services are provided.

(13) **ICF/IID level-of-care** -- A level-of-care described in §9.238 of this title (relating to ICF/MR Level of Care I Criteria) or §9.239 of this title (relating to ICF/MR Level of Care VIII Criteria).
(14) **ICF/IID Program** -- The Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions Program. A program operated by DADS that provides Medicaid-funded residential services to individuals with an intellectual disability or related conditions, as described in §1905(d) of the Social Security Act.

(15) **ICF/MR** -- ICF/IID.

(16) **ICF/MR Program** -- ICF/IID Program.

(17) **Individual** -- A person who is or is believed to be a member of the LIDDA priority population.

(18) **Institution** -- One of the following:
    - (A) an ICF/IID;
    - (B) a nursing facility;
    - (C) an assisted living facility licensed or subject to being licensed in accordance with THSC, Chapter 247;
    - (D) a residential child-care operation licensed or subject to being licensed by the Department of Family and Protective Services unless it is a foster family home or a foster group home;
    - (E) a facility licensed or subject to being licensed by the Department of State Health Services;
    - (F) a facility operated by the Department of Assistive and Rehabilitative Services; or
    - (G) a prison.

(19) **Institution for mental diseases (IMD)** -- As defined in 25 TAC §419.373, a hospital of more than 16 beds that is primarily engaged in providing psychiatric diagnosis, treatment, and care of individuals with mental diseases, including medical care, nursing care, and related services.

(20) **Intellectual disability** -- Consistent with Texas Health and Safety Code (THSC), §591.003, significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(21) **LAR (legally authorized representative)** -- A person authorized by law to act on behalf of an individual with regard to a matter described in this subchapter, and who may be a parent, guardian, or managing conservator of a child, or the guardian of an adult.

(22) **LIDDA** -- Local intellectual and developmental disability authority. An entity designated by the executive commissioner of the Texas Health and Human Services Commission in accordance with THSC, §533A.035.

(23) **LIDDA priority population** -- A population as defined in §5.153 of this title (relating to Definitions).

(24) **Local service area** -- A geographic area composed of one or more Texas counties.

(25) **MCO** -- Managed care organization. This term has the meaning set forth in Texas Government Code, §536.001.

(26) **Mental retardation** -- Intellectual disability.

(27) **Mental retardation priority population or MR priority population** -- LIDDA priority population.

(28) **MRA (mental retardation authority)** -- LIDDA.

(29) **Parent Case Management Program** -- A program that utilizes experienced, trained parents of individuals with disabilities to provide case management for other families.

(30) **Partners in Policy Making** -- A leadership training program administered by the Texas Planning Council for Developmental Disabilities for self-advocates and parents.

(31) **Permanency planning** -- A philosophy and planning process that focuses on the outcome of family support for an individual under 22 years of age by facilitating a permanent living arrangement in which the primary feature is an enduring and nurturing parental relationship.

(32) **Person-directed planning** -- A philosophy and planning process that empowers an individual and, on the individual's behalf, an LAR or actively involved person, to direct the development of a plan of services and supports.

(33) **Plan of services and supports** -- A written plan that:
    - (A) describes the desired outcomes identified by the individual, or LAR or actively
involved person on behalf of the individual;

(B) describes the services and supports to be provided to the individual, including service coordination; and

(C) identifies the frequency, in accordance with §2.556(d)(1) of this subchapter (relating to LIDDA's Responsibilities), and duration of service coordination to be provided to the individual.

(34) Related condition -- Consistent with Code of Federal Regulations, Title 42, §435.1010, a severe and chronic disability that:

(A) is attributable to:
   (i) cerebral palsy or epilepsy; or
   (ii) any other condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability, and requires treatment or services similar to those required for those persons with an intellectual disability;

(B) is manifested before the person reaches 22 years of age;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitation in three or more of the following areas of major life activity:
   (i) self-care;
   (ii) understanding and use of language;
   (iii) learning;
   (iv) mobility;
   (v) self-direction; and
   (vi) capacity for independent living.

(35) Relative -- A person related to the individual within the fourth degree of consanguinity or within the second degree of affinity.

(36) Service coordination -- Assistance in accessing medical, social, educational, and other appropriate services and supports that will help an individual achieve a quality of life and community participation acceptable to the individual (and LAR on the individual's behalf) as follows:

(A) crisis prevention and management -- linking and assisting the individual and LAR or actively involved person to secure services and supports that will enable them to prevent or manage a crisis;

(B) monitoring -- ensuring that the individual receives needed services, evaluating the effectiveness and adequacy of services, and determining if identified outcomes are meeting the individual's needs and desires as indicated by the individual and LAR or actively involved person;

(C) assessment -- identifying the individual's needs and the services and supports that address those needs as they relate to the nature of the individual's presenting problem and disability; and

(D) service planning and coordination -- identifying, arranging, advocating, collaborating with other agencies, and linking for the delivery of outcome-focused services and supports that address the individual's needs and desires as indicated by the individual and LAR or actively involved person.

(37) State MH facility (state mental health facility) -- A state hospital or state center with an inpatient psychiatric component operated by the Department of State Health Services.

(38) State supported living center -- A state-supported and structured residential facility that is an ICF/IID operated by DADS to provide persons with an intellectual disability a variety of services, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocational skills, but does not include a community-based facility owned by DADS.

(39) Subaverage general intellectual functioning -- Consistent with THSC, §591.003, measured intelligence on standardized general intelligence tests of two or more standard deviations (not including standard error of measurement adjustments) below the age-group mean for the tests used.

(40) THSC -- Texas Health and Safety Code.

(41) TxHmL Program -- The Texas Home Living Program. A program operated by
§2.554. Eligibility.  
(a) To be eligible for service coordination, an individual must:

(1) be a member of the LIDDA priority population and meet at least one of the following criteria:
   (A) have two or more documented needs that require services and supports other than service coordination as evidenced by an assessment conducted by the designated LIDDA and not reside in an institution;
   (B) be:
      (i) in the process of enrolling in the ICF/IID Program;
      (ii) in the process of enrolling in the HCS or TxHmL Program or be currently enrolled in the HCS or TxHmL Program; or
      (iii) in the process of enrolling in CFC services provided through an MCO;
   (C) be 21 years of age or older with an ICF/IID level-of-care and receiving CFC services through an MCO;
   (D) be seeking admission to a state supported living center;
   (E) be transitioning from an ICF/IID or from a nursing facility to community-based services; or
   (F) be transitioning from a state MH facility to community-based services; or

(2) be a nursing facility resident who is eligible for specialized services for an intellectual disability or a related condition pursuant to §1919(e)(7) of the Social Security Act (United States Code, Title 42, §1396r(e)(7)).

(b) Community-based services as referenced in subsection (a)(1)(E) and (F) of this section does not include services provided in an ICF/IID or nursing facility or services provided in another institutional setting.

(c) The assessment required by subsection (a)(1)(A) of this section must be conducted using DADS form "Service Coordination Assessment -- Intellectual Disability Services" which is available at www.dads.state.tx.us.

§2.555. Funding Service Coordination.  
(a) Service coordination may be funded by:

(1) personal funds or third-party insurance other than Medicaid;
(2) Medicaid targeted case management; or
(3) general revenue.

(b) Service coordination funded by Medicaid targeted case management:

(1) may be provided only to an individual who is a Medicaid recipient and only if:
   (A) the individual meets at least one of the criteria described in §2.554(a)(1)(A) - (D) of this subchapter (relating to Eligibility); or
   (B) the individual meets the criteria described in §2.554(a)(1)(E) or (a)(2) of this subchapter and the service coordination is provided during the last 180 days before the individual transitions to community-based services from the ICF/IID or nursing facility; and

(2) may not be provided to an individual:
   (A) who resides in an institution for mental diseases; or
   (B) who is enrolled in a Medicaid waiver program other than the HCS or TxHmL Program.

§2.556. LIDDA's Responsibilities.  
(a) Developing a plan of services and supports. If the designated LIDDA determines an individual is eligible for and desires service coordination, the LIDDA must develop a plan of services and supports for the individual using person-directed planning that is consistent with DADS Person Directed Planning Guidelines.

(1) For the HCS and TxHmL Programs, the person-directed plan (PDP), as defined in §9.153 and §9.553 of this title (relating to Definitions), qualifies as a plan of services and supports.

(2) For an individual receiving CFC services through an MCO, a completed HHSC
form "Community First Choice Assessment" qualifies as a plan of services and supports.

(b) Provision of service coordination.

(1) A LIDDA must ensure that service coordination:
   (A) is provided to the individual in accordance with the individual's plan of services and supports; and
   (B) is not provided by a staff person who is a relative of the individual or who has the same residence as the individual.

(2) A LIDDA may provide crisis prevention and management to the individual without having first identified the need for such services in the individual's plan of services and supports.

(3) If, as a result of monitoring, the service coordinator identifies a concern with implementation of the plan of services and supports, a LIDDA must ensure the concern is communicated to the entity providing the services and attempts are made to resolve the concern.

(c) Revising the plan of services and supports.

(1) A LIDDA must ensure that a service coordinator revises an individual's plan of services and supports if:
   (A) the individual's needs change; or
   (B) the individual, LAR or actively involved person, service provider, or other person provides relevant information indicating revision of the plan is appropriate.

(2) A LIDDA must ensure that a service coordinator revises the plan using person-directed planning that is consistent with DADS Person Directed Planning Guidelines.

(d) Minimum contact.

(1) A LIDDA must ensure that a service coordinator meets face-to-face with an individual in accordance with one of the following, whichever is the most frequent:
   (A) at least once every 90 days; or
   (B) for the minimum number of face-to-face contacts required by:
      (i) rules or other requirements of the program or services in which the individual is enrolled; or
      (ii) a contract between DADS and the LIDDA.

(2) The face-to-face contact must involve at least one of the four components listed in the definition of "service coordination" in §2.553 of this subchapter (relating to Definitions).

(e) Individuals enrolled in the TxHmL Program. In addition to the requirements in this subchapter, a LIDDA must ensure service coordination is provided to individuals enrolled in the TxHmL Program in accordance with Chapter 9, Subchapter N of this title (relating to Texas Home Living (TxHmL) Program and Community First Choice (CFC)) and Chapter 41 of this title (relating to Consumer Directed Services Option).

(f) Individuals enrolled in the HCS Program. In addition to the requirements in this subchapter, a LIDDA must ensure service coordination is provided to individuals enrolled in the HCS Program in accordance with Chapter 9, Subchapter D, of this title (relating to Home and Community-based Services (HCS) Program and Community First Choice (CFC)) and Chapter 41 of this title.

§2.557. Caseloads.

Effective: August 31, 2004

The MRA is responsible for determining the number of cases per staff person who provides service coordination based on factors such as individuals’ needs, the frequency and duration of contacts, and travel time.

§2.558. Termination of Service Coordination.

Effective: August 1, 2005

The MRA must terminate service coordination for an individual if:

(1) the individual no longer meets the eligibility criteria for service coordination as set forth in §2.554 of this title (relating to Eligibility); or

(2) the individual or the LAR no longer desires service coordination.

§2.559. Minimum Qualifications.

Effective: June 1, 2010

(a) Service coordination may be provided only by an employee of the MRA.
(b) Except as provided by subsections (d), (e), and (f) of this section, a staff person providing service coordination must have:

(1) a bachelor’s or advanced degree from an accredited college or university with a major in a social, behavioral, or human service field including, but not limited to, psychology, social work, medicine, nursing, rehabilitation, counseling, sociology, human development, gerontology, educational psychology, education, and criminal justice; or

(2) a high school diploma or a certificate recognized by a state as the equivalent of a high school diploma and:

(A) two years of paid experience as a case manager in a state or federally funded Parent Case Management Program or have graduated from Partners in Policy Making; and

(B) personal experience as an immediate family member of an individual with mental retardation.

(c) The MRA, at its discretion, may require additional education and experience for staff who provide service coordination.

(d) At the discretion of the MRA, a staff person who was authorized by an MRA to provide service coordination prior to April 1, 1999, may provide service coordination without meeting the minimum qualifications described in subsection (b) of this section.

(e) Until December 31, 2011, an MRA may hire a person to provide service coordination who was employed as a case manager for an HCS Program provider for any period of time prior to June 1, 2010, even if the person does not meet the minimum qualifications described in subsection (b) of this section.

(f) Beginning January 1, 2012, an MRA may hire a person to provide service coordination who was hired by another MRA in accordance with subsection (e) of this section.

§2.560. Staff Person Training.

(a) A LIDDA must ensure that the following staff persons complete the training as described in subsection (b) of this section:

(1) a staff person who provides service coordination; and

(2) a staff person who supervises or oversees the provision of service coordination.

(b) A LIDDA staff person described in subsection (a) of this section must:

(1) within the first 90 days of performing service coordination duties, complete training that addresses:

(A) appropriate LIDDA policies, procedures, and standards;

(B) the LIDDA's performance contract requirements regarding service coordination;

(C) plan of services and supports development and implementation;

(D) person-directed planning consistent with DADS Person Directed Planning Guidelines;

(E) permanency planning;

(F) crisis prevention and management, monitoring, assessment, and service planning and coordination;

(G) community support services, including Medicaid state plan services such as CFC services; and

(H) advocacy for individuals; and

(2) complete person-centered service planning training approved by HHSC:

(A) by June 1, 2017, if the staff person is hired on or before June 1, 2015; or

(B) within two years after hire, if the staff person is hired after June 1, 2015.

(c) A LIDDA must document the training provided in accordance with this section in the personnel record of each staff person providing, supervising, or overseeing service coordination.

§2.561. Documentation of Service Coordination.

(a) The MRA must document the required contacts described in the individual’s plan of services and supports, including:

(1) the date of contact;

(2) the description of the element(s) of service coordination provided;

(3) the progress or lack of progress in achieving goals or outcomes;

(b) A LIDDA staff person described in subsection (a) of this section must:

(1) within the first 90 days of performing service coordination duties, complete training that addresses:

(A) appropriate LIDDA policies, procedures, and standards;

(B) the LIDDA's performance contract requirements regarding service coordination;

(C) plan of services and supports development and implementation;

(D) person-directed planning consistent with DADS Person Directed Planning Guidelines;

(E) permanency planning;

(F) crisis prevention and management, monitoring, assessment, and service planning and coordination;

(G) community support services, including Medicaid state plan services such as CFC services; and

(H) advocacy for individuals; and

(2) complete person-centered service planning training approved by HHSC:

(A) by June 1, 2017, if the staff person is hired on or before June 1, 2015; or

(B) within two years after hire, if the staff person is hired after June 1, 2015.

(c) A LIDDA must document the training provided in accordance with this section in the personnel record of each staff person providing, supervising, or overseeing service coordination.
(4) the person with whom the contact occurred; and
(5) the staff who provided the contact and his or her professional discipline, if applicable.

(b) The MRA must ensure that service coordination activities are documented in the individual’s record.

(c) The MRA must identify the appropriate service code in CARE for all individuals receiving service coordination.

(d) The MRA must retain documentation in compliance with applicable federal and state laws, rules, and regulations.

Effective: June 10, 2010

(a) Medicaid-eligible individuals. Any Medicaid-eligible individual whose request for eligibility for service coordination is denied or is not acted upon with reasonable promptness, or whose service coordination has been terminated, suspended, or reduced by the department is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

(b) Non-Medicaid-eligible individuals. If an MRA decides to deny, involuntarily reduce, or terminate service coordination for a non-Medicaid-eligible individual, the MRA must notify the individual or LAR in writing of the decision and provide an explanation of the procedure for the individual or LAR to request a review by the MRA as required by §2.46 of this chapter (relating to Notification and Appeals Process).