

CDS Policy Updates

- Abuse, Neglect and Exploitation Rules
- Base Wage Increase
- Rider 31: EVV Funds for CDS Employers
- Expanding MDCP Services Available in CDS
- Revisions to STAR+PLUS and STAR Kids Handbooks



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Abuse, Neglect & Exploitation (ANE)

- New rules became effective October 1, 2019 addressing ANE investigations for individuals using the CDS option.
- The new rules have been added to Texas Administrative Code (TAC) [Chapter 41](#).
- Contractors, including FMSAs, are still required to follow requirements listed in Chapter 49.



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ANE Reporting

- To report knowledge or suspicions of ANE to DFPS:
- Call the DFPS Abuse Hotline toll-free telephone number, 1-800-647-7418; or
- Use the [DFPS Abuse Hotline website](#).



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ANE Reporting

- An FMSA must report ANE immediately, but **not later than 24 hours**, after having knowledge or suspicion for the following programs:
 - Community Living Assistance and Support Services (CLASS)
 - Deaf Blind with Multiple Disabilities (DBMD)
 - Primary Home Care (PHC)
 - Community Attendant Services (CAS)
 - Family Care (FC)



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ANE Reporting

- An FMSA must report ANE immediately, but **not later than one hour**, after having knowledge or suspicion for the following programs:
 - Home and Community-based Services (HCS)
 - Texas Home Living (TxHmL)



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ANE Training

- CDS Employers, Designated Representatives and FMSAs must ensure their staff persons and service providers receive training and information regarding ANE.



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ANE Training

- Employees of an FMSA will be required to complete HHSC's computer-based [ANE Competency Training](#) and must complete the [ANE Competency Final Test](#) with a score of at least 80 percent.

<https://learningportal.dfps.state.tx.us/course/index.php?categoryid=22>



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ANE Training

- CDS Employers have the option to require their employees to complete HHSC's ANE Competency Training and ANE Competency Final Test.



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Form 1732

- Revisions to CDS [Form 1732](#), Management and Training of a Service Provider, are currently in progress.
- Additional information regarding ANE will be added to this form.

<https://hhs.texas.gov/laws-regulations/forms/1000-1999/form-1732-management-training-service-provider>



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Form 1732

- An FMSA is responsible for reviewing Form 1732 with the CDS employer during initial orientation.
- The FMSA must provide a copy of this form to the CDS employer annually thereafter.
- A CDS employer is responsible for reviewing the form with each employee at the time of hire, and annually thereafter.



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Base Wage Increase

- The base wage requirement for wages paid to a “personal attendant” has increased to \$8.11 per hour.
- Rider 45 of the 2020-2021 General Appropriations Act provided funding to HHSC to meet the base wage requirement for certain program services.



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Base Wage Increase

- [Information Letter 2019-24 addresses](#) requirements for FMSAs relating to the base wage increase.

<https://apps.hhs.texas.gov/providers/communications/2019/letters/IL2019-24.pdf>



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EVV Funds for CDS

- Rider 31 of the 2020-2021 General Appropriations Act appropriated funds to offset EVV-related costs for CDS employers.
- These funds will be incorporated into CDS employers' budgets through a rate increase.



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MDCP Services Available in CDS

- House Bill (HB) 4533 requires HHSC to make all services in the Medically Dependent Children Program(MDCP) available through the CDS option.
- Currently, the only MDCP services not available through CDS are:
 - Adaptive aids
 - Minor home modifications
 - Transition assistance services
- Anticipated effective date: Fall 2020



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STAR+PLUS and STAR Kids Handbooks

- Revisions to CDS sections of the STAR+PLUS and STAR Kids handbooks will be effective in Spring 2020.



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CDS@hhsc.state.tx.us



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Current CDS Projects



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Training for Service Coordinators and Case Managers

- The CDS team is providing in-person trainings for Medicaid program service coordinators and case managers around the state.
- Upcoming training:
 - November 6, 2019 in Houston



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Support Advisor List

- The Support Advisor Choice List will be updated by January 2020.



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FMSA Enrollment Training

- The next FMSA enrollment training is tentatively scheduled for January 15-17, 2020.



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Texas Administrative Code Changes for HCS & TxHmL Effective Oct. 1, 2019

Elaine Wied,

HCS and TxHmL Lead Policy Specialist

Oct. 21, 2019

Purpose for Rule Changes

- Consolidate and organize the requirements related to abuse, neglect, and exploitation of an individual
- Add specificity and new requirements to the current abuse, neglect, and exploitation requirements
- Transition of the Department of Family and Protective Services investigations to Health and Human Services Commission investigations



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What's Changed

- New Definitions
- New §9.175 Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- New §9.585. Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- New Training Requirements



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What's Changed

- Other Miscellaneous Changes
 - Local Intellectual and Developmental Disability Authorities changes in the investigatory process for abuse, neglect, and exploitation
 - Service provider requirements for a Behavior Analyst to be licensed in accordance with Texas Occupations Code, Chapter 506
 - Critical Incident Reporting
 - Delete rules pertaining to Social Work in TxHmL
- Changes in 40 TAC Chapter 49, Contracting for Community Services



New Definitions

- Abuse
- Alleged perpetrator
- Chemical restraint
- Controlling person
- Exploitation
- Mechanical restraint
- Neglect
- Physical abuse
- Physical restraint
- Restraint
- Sexual abuse
- Sexual activity
- Sexual exploitation
- Verbal or emotional abuse
- Volunteer



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New Sections

HCS - §9.175 Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual.

TxHmL - §9.585. Certification Principles: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual.



New Training Requirements

The program provider must:

- Ensure that each staff member, service provider, and volunteer are trained and knowledgeable of signs and symptoms of abuse, neglect, and exploitation
- Conduct training activities related to abuse, neglect, and exploitation before a staff member, service provider, or volunteer assumes job duties and at least annually thereafter
- Educate the individual and their legally authorized representative about protecting the individual from abuse, neglect, and exploitation



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New Requirements

If a report made to DFPS alleges abuse, neglect, or exploitation, by a service provider, staff member, volunteer, or controlling person the program provider must:

- Avoid compromising the investigation or further traumatizing the individual as described in §9.175(d)(3) or §9.585(d)(3)
- Preserve and protect evidence
- Take disciplinary action against a service provider, staff member, or volunteer confirmed to have committed abuse, neglect, or exploitation



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New Requirements

If a report made to DFPS alleges abuse, neglect, or exploitation by a person who is not a service provider, staff member, volunteer, or controlling person, a program provider must:

- Discuss with the individual or LAR alternative residential settings and additional services that may help ensure the individual's safety
- Avoid compromising the investigation or further traumatizing the individual as described in §9.175(c)(3) or §9.585(c)(3)
- Preserve and protect evidence



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New Requirements - LIDDA

For investigations of abuse, neglect, and exploitation for individuals receiving services through the CDS option:

- The rights protection officer who receives a copy of an HHSC initial intake report or a final investigative report from an FMSEA gives a copy of the report to the individual's service coordinator
- The service coordinator performs the functions related to those reports as described in 40 TAC Chapter 41, Subchapter G, Allegations of Abuse, Neglect, and Exploitation



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Other Changes

Critical Incident Reporting

- A program provider must enter critical incident data in the HHSC data system no later than the last calendar day of the month that follows the month being reported in accordance with the HCS Provider User Guide or the TxHmL Provider User Guide.

Provider Qualifications

- A service provider of behavioral support who is a behavior analyst must be licensed in accordance with Texas Occupations Code, Chapter 506



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Other Changes (TxHmL only)

Deleted rules regarding Social Work

Added requirement that a service coordinator must:

- Provide an applicant or individual, LAR, or family member with a written copy of the booklet titled *Your Rights In the Texas Home Living (TxHmL) Program*
- Document the provision of the booklet and oral explanation
- Ensure that the documentation is signed by the individual or LAR and the service coordinator



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Chapter 49

Adopted rules in 40 TAC Chapter 49, Contracting for Community Services, provide that §49.310, Abuse, Neglect, and Exploitation Allegations, does not apply to a contractor who has a contract for the HCS Program or the TxHmL Program because the adopted HCS Program and TxHmL Program rules make the application of §49.310 unnecessary for these programs



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Training

Program Providers have the option to use HHSC's ANE training to meet the training requirements in rule.

Information regarding HHSC ANE training is located in:

- [Appendix XII](#) of the HCS Handbook
- [Appendix IX](#) of the TxHmL Handbook



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Where to Find the Rules

Effective October 1, 2019

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=9](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=9)



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Questions

**Additional Questions can be emailed
to hcspolicy@hhsc.state.tx.us or
txhmlpolicy@hhsc.state.tx.us**



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Texas Administrative Code Changes for CLASS & DBMD Effective Oct. 1, 2019

Elizabeth Dalglish,

CLASS and DBMD Lead Policy Specialist

Oct. 21, 2019

Purpose for the Rule Changes

- Add and update requirements around abuse, neglect, and exploitation of an individual
- Transition of the Department of Family and Protective Services investigations to Health and Human Services Commission investigations



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What's Changed

- New Definitions
- New training requirements for abuse, neglect, and exploitation
- New reporting requirements for allegations of abuse, neglect, or exploitation of an individual
- New requirements for agency action related to alleged abuse, neglect, or exploitation



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What's Changed (cont.)

- Other Miscellaneous Changes
 - Revised eligibility, enrollment, renewal, and revision criteria reviewed by HHSC
 - Changes to reduction and denial of services
 - Updates to record keeping requirements
 - Changes to therapy and minor home modification requirements (DBMD only)



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ANE Definitions

- Abuse
- Alleged perpetrator
- Calendar Day
 - *CLASS only*
- Chemical restraint
 - *DBMD only*
- Controlling person
- DADS-HHSC
- Texas Workforce Commission
 - *CLASS only*
- Exploitation
- LOC
- MESAV
- Neglect



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ANE Definitions (cont.)

- Physical abuse
- Sexual abuse
- Sexual activity
- Sexual exploitation
- Staff person
 - DBMD only
- Texas Health and Safety Code (THSC)
 - DBMD only
- Verbal or emotional abuse
- Volunteer



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New ANE Sections

- §45.708 - CMA: Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual
- §45.709 - CMA: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- §45.810 - DSA: Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual
- §45.811 - DSA: Requirements Related to the Abuse, Neglect, and Exploitation of an Individual
- §42.410 - Reporting Allegations of Abuse, Neglect, or Exploitation of an Individual
- §42.411 – Requirements Related to the Abuse, Neglect, and Exploitation of an Individual



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New Training Requirements

HHSC contractors contracting for community services must meet requirements listed in §49.310:

- Ensure each service provider, staff person, or volunteer are trained and knowledgeable of:
 - Acts considered ANE
 - Signs and symptoms of ANE
 - When and how to report ANE
 - Methods to prevent ANE occurrence
- Ensure each service provider, staff person, or volunteer are trained within required timelines of hire date.



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New Training and Exam Requirements

- HHSC contractors for community services must meet requirements listed in §49.310:
 - Ensure documentation of ANE training is kept and includes:
 - Name of person receiving training
 - Date of training
 - Name of person who conducted the training
- Each service provider, staff person, or volunteer must pass the [ANE competency exam](#) with at least an 80%.



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Death Reporting

CLASS ONLY – the DSA and CMA must report a death, using the HHSC CLASS/DBMD Notification of Critical Incidents form, to HHSC and the CMA or DSA within 24 hours after learning of the death.

DBMD ONLY - A DBMD program provider must report a death to HHSC within 24 hours after learning of the death, in accordance with 40 TAC, §42.401(c).

- Complete form 8498, Notification Regarding a Death in HCS, TxHmL and DBMD Programs
- Fax completed form to HHSC at 512-438-4148



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New ANE Requirements

- New CLASS and DBMD notification requirements to inform individual of:
 - Report of an allegation
 - Investigation findings:
 - Confirmation of an allegation
 - An allegation that is unconfirmed, inconclusive or unfounded
- Appropriate action(s) taken to protect the individual when an allegation is made
- Requirements for cooperating with an investigation without compromising the investigation



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New ANE Requirements

The agency must not retaliate against the Individual, person(s), or person(s) on behalf of the individual who files the complaint or provides good faith information relating to possible ANE.

- This is including use of seclusion and restraint



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ANE Changes for CDS

The FMISA must send a copy of report alleging ANE or the final investigation report to the program director of the individual's case manager within 1 business day after receiving the report from HHSC.



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Non-ANE Critical Incident Requirements

- CMAs, DSAs, and DBMD program providers are required to report critical incidents electronically to HHSC on the HHSC CLASS/DBMD Notification of Critical Incidents form.

<http://texashhs.force.com/NCIForm>



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Other Changes

- CMAs, DSAs, and DBMD program providers must have written policies and procedures to:
 - Ensure timely submission of LOC determinations to HHSC.
 - Ensure timely submissions of Individual Plans of Care Renewals to HHSC.
- CMA, DSA, and DBMD program provider must continue to provide services to the individual until HHSC authorizes the proposed renewal IPC and ID/RC to ensure continuity of care and prevent the individual's health and welfare from being jeopardized



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Other Changes

- CFC PAS/HAB service providers must have valid CPR and choking prevention training
 - DBMD also requires first aid training
- CMAs, DSAs, and DBMD program providers are required to access the Medicaid Eligibility Service Authorization Verification (MESAV) system to determine if the information authorized by HHSC is consistent with the information in MESAV.



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Training

- CMAs, DSAs, and DBMD program providers have the option to use [HHSC's ANE training](#) to meet the training requirements in rule and **MUST** take the ANE Exam and pass with at least 80%.
- Information regarding HHSC ANE training is located in:
 - [Appendix XV](#) of the CLASS Provider Manual
 - [Appendix XI](#) of the DBMD Program Manual
- Information Letter 19-12 - New Requirements Regarding Abuse, Neglect, and Exploitation:
 - <https://apps.hhs.texas.gov/providers/communications/2019/letters/IL2019-12.pdf>



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Where to Find the Rules

- **CLASS Rules:**

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45)

- **DBMD Rules:**

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)



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CLASSPolicy@hhsc.state.tx.us

DBMDPolicy@hhsc.state.tx.us



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Updates to STAR Kids and STAR+PLUS Medicaid Managed Care Programs

Medicaid & CHIP Services Department

Prior Authorizations

Senate Bill (SB) 1207

- Managed Care Organizations (MCOs) must maintain websites that are easily searchable and in an accessible format.
 - Must have prior authorization (PA) timelines
 - Coverage criteria and PA requirements
 - A description of supporting documentation necessary to obtain a PA for a specified service



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Prior Authorizations

continued

SB 1207

- MCOs will be required to adopt and maintain a process for a provider or member to contact them to:
 - Clarify PA requirements
 - Assist them in submitting a PA request
 - Ensure that the process is not overly burdensome



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MCO Denial Notices

SB 1207

- A denial notice must be sent to members or a provider for a full denial, partial denial/partial approval, reduction or termination of services.
- Notices must include:
 - Information required by federal and state law and applicable regulations
 - For the member, a clear and easy to understand explanation of the reason for the decision, including the medical basis or accepted standard of medical practice of the member's particular medical circumstances
 - Include a copy of the information that was sent to the provider
 - A description of the member's rights and the process related to appeals, fair hearings and the role of the external medical reviewer



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MCO Denial Notices

continued

SB 1207

- For the provider, notices must include:
 - A clear and specific list and description of the documentation necessary in order to make a final determination
 - The timeline for the provider to submit the necessary documentation
 - The process for reconsideration
 - Information on how the provider may contact the MCO



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Adverse Determinations

SB 1207

- Prior to MCO issuing an adverse determination for a PA, the physician requesting the PA must be given a reasonable opportunity to discuss the request with another physician who practices in the same or similar specialty.



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Reconsiderations

SB 1207

- HHSC must establish a process for MCOs to reconsider an adverse determination on a PA that resulted solely from the submission of insufficient or inadequate documentation.
 - Must allow the provider to submit any documentation within a certain timeline
 - Allow the provider to discuss the request with another provider who practices in the same or similar specialty
 - Require the MCO to consider the additional information and amend the decision, as appropriate



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External Review Organization

SB 1207

- HHSC must contract with an independent external medical reviewer to review:
 - MCO appeal decision related to denial or reduction of services
 - HHSC denial of eligibility for STAR+PLUS Home and Community-based Services Program or the Medically Dependent Childrens Waiver Program.



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External Review Organization continued

SB 1207

- The member may request an external medical review (EMR).
- If requested, EMR would occur after the internal MCO appeal for the denied service or after the HHSC eligibility denial
- The EMR would occur before the Medicaid State Fair Hearing



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STAR Kids Medically Dependent Children's Program (MDCP)

SB 1207

- If an MDCP member no longer meets eligibility due to medical necessity (MN) criteria for nursing facility (NF) level of care:
 - The parent/legally authorized representative (LAR) may request the child be returned to the MDCP interest list in the top position
 - Or request that the child be placed on another waiver program interest list in a position relative to the date they were originally placed on the MDCP interest list
 - A different MCO will conduct the assessment for MN
- HHSC must also educate the parent/LAR on process to apply for the Medicaid Buy-In program for children with disabilities



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STAR Kids MDCP

SB 1207

- STAR Kids Screening and Assessment Instrument (SK-SAI) must be shared with parent/LAR and signed by them to verify receipt prior to submission to TMHP portal.
- Parent/LAR may request a Peer to Peer Review with the treating physician of their choice if they disagree with coding of the SK-SAI
 - This process must not delay the delivery of care



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MDCP Help Line

SB 1207

- HHSC must implement an escalation help line for MDCP.
 - Assist families with navigating and resolving issues related to STAR Kids program
 - Must be operational at all times including evenings, weekends and holidays
 - MCOs must designate a single point of contact for the escalation help line and authorize them to take action to resolve issues.



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SK-SAI

SB 1207

- HHSC is currently working on a project to improve the assessment tool and process to:
 - Reduce the amount of time needed to complete the assessment
 - Improve training and consistency in completion of the tool with MCO service coordinators
 - Consider streamlining the reassessment process for MDCP members who have not had a significant change in function that may affect medical necessity.



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Coordination of Benefits

SB 1207

- HHSC must work with the STAR Kids Managed Care Advisory Committee to develop a clear policy for a MCO to ensure timely delivery and coordination of Medicaid wrap around benefits with both primary insurer and Medicaid.
 - “Wrap-around”: a Medicaid covered service, including pharmacy or medical benefit, that is provided to a member who has both Medicaid and other primary health insurance coverage when the primary insurance either has exceeded the benefit limit or the service is not a covered benefit



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MDCP Consumer Directed Services

HB 4533

- The provision that all long term services and supports (LTSS) delivered through MDCP must be made available through consumer direction.



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STAR+PLUS Billing Codes

Effective 9/1/19

- To comply with national billing standards, units for 3 STAR+PLUS billing codes were changed from 1 hour units to 15 minute units
- S5125 - Personal Assistance Services
- T2021 - Habilitation
- T1005 - In home respite



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STAR+PLUS Attendant Base Wage

Effective 9/1/19

- 2020-21 General Appropriations Act provided funding to HHSC to increase the base wage paid to a personal attendant to \$8.11
 - Fully fund the attendant compensation rate enhancement programs for community care and intellectual and developmental disabilities providers.
 - Personal attendant services involve assisting an individual with activities of daily living such as bathing, grooming, toileting, and ambulation and instrumental activities of daily living such as cleaning, laundry, and shopping.
- MCOs must ensure that facilities and agencies that provide attendant services are paying attendants at or above the \$8.11 per hour amount.



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Thank you

[Managed_Care_Initiatives@hhsc.
state.tx.us](mailto:Managed_Care_Initiatives@hhsc.state.tx.us)

For Questions