



*~ Community First Choice ~*

**Amendments to HCS and**

**TxHmL Program Rules**

**March 21, 2016**

# CFC Rules Webinar – HCS and TxHmL

- Welcome
- Overview of Topics
- Specific Rule Changes
- Questions

# Statutory Authority

HB 3523, (84th Legislature) amended Texas Government Code, §534.152(g) to provide DADS regulatory and oversight authority concerning providers participating in the HCS, TxHmL, CLASS, and DBMD Programs for the delivery of CFC services.

# Overview

- Title 40, Part 1 Chapter 9, Subchapter D, Home and Community-based Services (HCS) Program and Community First Choice (CFC).
- Title 40, Part 1 Chapter 9, Subchapter N, Texas Home Living Program and Community First Choice (CFC).

# Rule Topics Affected by CFC

- Definitions
- Program Descriptions
- Eligibility
- Service Planning
- Termination
- Fair Hearing
- Staff Training

# New Rules Related to CFC

- Emergency Response Services;
- Person-Centered Planning Training Requirements;
- Transportation as an activity of supported home living and community support; and
- Adds the certain qualifications and training requirements for a service provider of CFC PAS/HAB per federal guidelines.

# Non-CFC Rule Changes

- Dental Treatment Service Limit for individuals in the HCS Program.

# Information Letters to be Retired

- The new rules replace the following HCS/TxHmL information letters:
  - IL 2015-52 Providing Transportation in HCS and TxHmL;
  - IL 2015-29 Implementation of CFC Through the CDS Option for HCS and TxHmL Programs; and
  - IL 2015-28 Implementation of CFC in HCS and TxHmL Programs.

# Timeline

- Published as proposed in the *Texas Register* on November 27, 2015.
- Adopted rules were published in the *Texas Register* on March 11, 2016.
- Effective as of March 20, 2016 -
  - Adopted rules can be reviewed on the Texas Register website until Friday, March 18, 2016. After that, they will be in the March 11, 2016 issue on the Texas Register archive page.

# Definitions §9.153 & §9.553

- Adds definitions to address the addition of CFC services to these Chapters (i.e. alarm call, managed care organization, MAO Medicaid).
- Amends definitions to address CFC (i.e. activities of daily living, Implementation Plan (IP), service provider).

# Definitions §9.153 & §9.553

- **AT ADOPTION:** Changes were made in §9.153(44) and §9.553(34) in the definition of “implementation plan” to clarify that an implementation plan is not required for transportation provided as a supported home living activity or as a community support activity because they require a transportation plan.

# Definitions §9.153 & §9.553

- **AT ADOPTION:** Changes were made to the definition of “health-related tasks” for clarification that some health maintenance tasks do not require delegation.

# Description of HCS and TxHmL Programs: §9.154 & §9.554

Adds CFC services which consist of:

- CFC personal assistance services/habilitation (CFC PAS/HAB), which replaces HCS supported home living and TxHmL community support, except transportation services are provided as residential habilitation;
- CFC emergency response services (CFC ERS), which is provided as a distinct CFC service instead of as an adaptive aid; and
- CFC support management.

# Description of the HCS and TxHmL Programs - § 9.154 & §9.554

- FMS and support consultation are services available only if the individual's IPC includes at least one HCS or TxHmL Program service delivered through the CDS option.
- A program provider may only provide and bill for supported home living or community support if the activity provided is transportation.

# Eligibility: §9.155 & §9.556

An applicant or individual is eligible for HCS or TxHmL Program services if he or she requires the provision of (1) at least one HCS or TxHmL Program service per month or a monthly monitoring visit by a service coordinator; and (2) at least one HCS or TxHmL Program service per IPC year.

# Eligibility: §9.155 & §9.556

- Applicant or individual is eligible for a CFC service if the applicant or individual meets the criteria for HCS or TxHmL Program services and requires the provision of the CFC service.
- An applicant or individual receiving MAO Medicaid, is eligible for CFC services if he/she receives an HCS or TxHmL Program service at least monthly, a requirement which is not met by a monthly monitoring visit by a service coordinator.

# Eligibility: §9.155

- **AT ADOPTION:** Changes were made clarify that an individual is not eligible for a CFC service if the individual is receiving host home/companion care, supervised living, or residential support.

# Enrollment: §9.158 & §9.567

- Service coordinator is required to provide the individual or LAR written and oral explanation of:
  - HCS or TxHmL and CFC services; and
  - eligibility requirements for the HCS or TxHmL program and, if identified on the PDP, CFC.
- As with certain other services, the service coordinator is required to inform the individual and LAR:
  - If a nursing assessment is required, refusal to include a sufficient number of RN nursing units for an assessment on the initial proposed IPC will result in the individual not receiving CFC PAS/HAB; and
  - Reasons CFC services may be terminated.

# Enrollment: §9.158 & §9.567

Requires a program provider to develop:

- an implementation plan for CFC services other than CFC support management; and,
- a transportation plan, if transportation as a supported home living activity or a community support activity is included on the IPC.

# Changes: §§9.158, 9.166 & 9.567

- **AT ADOPTION:** Changes were made to §9.158(j)(4), §9.166(a)(1)(B) and (b)(3), and §9.567(k)(3) to require an applicant's or individual's service planning team, if CFC PAS/HAB is included on the PDP or if the IPC needs to be revised for CFC PAS/HAB, to complete DADS HCS/TxHmL CFC PAS/HAB Assessment form to determine the number of CFC PAS/HAB hours needed.

# IPC: §9.159 & §9.558

- IPC must specify the type and amount of each HCS/TxHmL service and CFC service, other than CFC support management, to be provided to an individual during the IPC year.
- For CDS, if an individual's IPC includes only CFC PAS/HAB to be delivered through the CDS option, include “CFC FMS” in the IPC instead of “FMS”.

# DADS review of a proposed IPC: §9.160 & §9.558

- DADS may review supporting documentation specified in the rules to determine the appropriateness of the type and amount of CFC services specified in a proposed IPC.
- (HCS only) Before DADS authorizes a proposed HCS IPC that exceeds 100% of the estimated annualized average per capita cost for ICF/IID Program services, DADS reviews the IPC to determine if the type and amount of CFC services and HCS Program services specified in the proposed IPC are appropriate and supported by documentation specified in the rules.

# Renewal and Revision of an IPC: §9.166 & §9.568

Requires the program provider to:

- develop an implementation plan for CFC services, except for CFC support management;
- develop a transportation plan, if transportation as a supported home living activity or community support activity is included on the IPC; and
- provide HCS or TxHmL services and CFC services in accordance with the implementation plans and the transportation plan.

# Renewal and Revision of an IPC: §9.166

- Allows provision of a CFC service in an emergency and requires the program provider to follow the process for providing an HCS Program service in an emergency.

# Consumer Directed Services

## Option: §9.168

- Adds CFC PAS/HAB to the list of services that, if included in an applicant's or individual's PDP, can be provided through the CDS option.
- Requires the service planning team (SPT) to develop a transportation plan if an individual's proposed IPC includes transportation as a supported home living activity to be delivered through the CDS option.

# Terminations and Suspensions: §§9.155, 9.158 & 9.570

- Describes the reasons DADS may terminate CFC services; and
- If an individual is temporarily admitted to a setting listed in the rule, the individual's HCS or TxHmL Program services and CFC services are suspended during that admission.

# Fair Hearing: §9.169 & §9.571

- An applicant whose HCS or TxHmL Program services or CFC services have been terminated, suspended, denied, or reduced by DADS receives notice of the right to request a fair hearing.
- (HCS rule) Only a service coordinator may "recommend" (instead of "request") that DADS terminate an individual's HCS Program services or CFC services.

# Reimbursement: §9.170 & §9.573

DADS pays a program provider for CFC PAS/HAB in accordance with the reimbursement rate; and pays for CFC ERS based on the actual cost of the service, not to exceed the reimbursement rate ceiling for CFC ERS.

# Reimbursement: §9.170 & §9.573

- DADS does not pay a provider:
  - if CFC services are suspended or terminated, except for the first day of the suspension or termination;
  - if Billing Guidelines requirements are not met;
  - if transportation is not provided according to the transportation plan; or
  - CFC services are provided to an individual in HCS receiving host home/companion care, supervised living, or residential support.

# Certification Principles – Services Delivery: §9.174

- Adds CFC services to this principle;
- requires a program provider to develop a service backup plan for a CFC service identified on the PDP as critical to meeting the individual's health and safety; and
- establishes the requirements for the provision of CFC ERS.

# Certification Principles – Service Provider Requirements: §9.177 & §9.579

Requires providers to:

- employ or contract with a qualified and willing person or entity of the individual's or LAR's choice to provide a CFC service; and
- ensure that a staff member who is responsible for completing the implementation plan completes person-centered service planning training approved by HHSC within specified timeframes.

# Certification Principles – Service Provider Requirements: §9.177 & §9.578

Requires providers:

- to ensure that a service provider of CFC PAS/HAB meets the qualifications listed in the billing guidelines, including any qualifications requested by the individual or LAR based on the individual's needs and preferences; and
- if requested by an individual or LAR, to allow the individual or LAR to train a CFC PAS/HAB service provider in the specific assistance the individual needs.

# LIDDA Requirements:

§§9.158, 9.190 & 9.583

Requires a LIDDA to:

- employ service coordinators who receive training about CDS and CFC services;
- inform an applicant or LAR, during enrollment, of the process for filing complaints; and
- ensure that the PDP states, for each CFC service, whether the service is critical to the individual's health and safety.

# LIDDA Requirements: §9.190 & §9.583

Requires a LIDDA to:

- notify an individual if HCS or TxHmL Program services have been suspended;
- manage the process to transfer an individual's CFC services as well as HCS or TxHmL services; and
- inform the individual, who has requested termination, that CFC services through a managed care organization is a possible service resource.

# All HCS Sections with Changes

- §9.151, Purpose,
- §9.153, Definitions,
- §9.154, Description of the HCS program,
- §9.155, Eligibility Criteria and Suspension of HCS Program Services,
- §9.158, Process for Enrollment of Applicants,
- §9.159, IPC,
- §9.160, DADS Review of a Proposed IPC,
- §9.161, LOC Determination,

# All HCS Sections with Changes

- §9.162, Lapsed LOC,
- §9.166, Renewal and Revision of an IPC,
- §9.168, CDS Option,
- §9.169, Fair Hearing,
- §9.170, Reimbursement,
- §9.171, dads review of a Program Provider and Residential Visit,

# All HCS Sections with Changes

- §9.173, Certification Principles: Rights of Individuals,
- §9.174, Certification Principles: Services Delivery,
- §9.177, Certification Principles: Staff Member and Service Provider Requirements,
- §9.178, Certification Principles: Quality Assurance,

# All HCS Sections with Changes

- §9.185, Program Provider Compliance and Corrective Action,
- §9.188, DADS Approval of Residences,
- §9.190, LIDDA Requirements for Providing Service Coordination in the HCS Program, and
- §9.192, Service Limits.

# All TxHmL Sections with Changes

- §9.551, Purpose,
- §9.553, Definitions,
- §9.554, Description of the TxHmL Program,
- §9.555, Description of TxHmL Program Services,
- §9.556, Eligibility Criteria for TxHmL Program Services,

# All TxHmL Sections with Changes

- §9.558, Individual Plan of Care (IPC),
- §9.567, Process for Enrollment,
- §9.568, Revisions and Renewals of Individual Plans of Care (IPCs), Levels of Care (LOCs), and Levels of Need (LONs) for Enrolled Individuals,

# All TxHmL Sections with Changes

- §9.570, Termination and Suspension of TxHmL Program Services,
- §9.571, Fair Hearings,
- §9.573, Reimbursement,
- §9.576, DADS Review of a Program Provider,
- §9.577, Program Provider Compliance and Corrective Action,

# All TxHmL Sections with Changes

- §9.578, Program Certification Principles: Service Delivery,
- §9.579, Certification Principles: Qualified Personnel,
- §9.580, Certification Principles: Quality Assurance, and
- §9.583, Program Principles for LIDDAs.

# Implementing the New Rules

- Share key changes with all staff.
- Ensure all staff have a copy or know where to access a copy of the new rules:
  - <http://www.sos.state.tx.us/texreg/index.shtml>
  - <http://www.sos.state.tx.us/texreg/archive/index.shtml>
- Replace any copies of previous rules in internal manuals with the new rules.

~ Community First Choice ~  
Amendments to  
HCS & TxHmL Program Rules

**QUESTIONS?**