

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 E. 12th St., Room 355  
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

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June 12, 2024

Emily Zalkovsky, Medicaid Director  
Texas Health & Human Services Commission  
PO Box 13247  
Austin, TX 78711

Re: TX 24-0009 §1915(k) Community First Choice State Plan Amendment (SPA)

Dear Director Zalkovsky:

The Centers for Medicare and Medicaid Services (CMS) is approving your request to amend the Community First Choice (CFC) state plan benefit submitted under transmittal number 24-0009. This amendment updates State Plan language regarding the Community First Choice program to reduce the provider requirements for emergency response. CMS conducted the review of the state's submittal according to statutory requirements in Title XIX of the Social Security Act and relevant federal regulations.

The SPA is approved with a April 1, 2024 effective date. Enclosed are the following pages to be incorporated into your approved state plan:

- Attachment 3.1-K pages 11 and 12

It is important to note that CMS' approval of this change to the state's 1915(k) CFC state plan benefit solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, §504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).

If you have any questions concerning this information, please contact me at (206) 615-3814. You may contact Lynn Ward at [lynn.ward@cms.hhs.gov](mailto:lynn.ward@cms.hhs.gov) or (214) 767-6327.

Sincerely,

A black rectangular redaction box covers the signature of Wendy Hill Petras.

Wendy Hill Petras, Deputy Director  
Division of HCBS Operations and Oversight

Enclosure

cc: Kathi Montalbano, TX HHSC  
Ford Blunt, CMS DPO  
Michelle Weller, CMS DLTSS  
Wendy Hill-Petras, CMS DHCBSO  
Cynthia Nanes, CMS DHCBSO

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL  
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER 2 4 0 0 0 9	2. STATE T X
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3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT

TO: CENTER DIRECTOR  
CENTERS FOR MEDICAID & CHIP SERVICES  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE  
April 1, 2024

5. FEDERAL STATUTE/REGULATION CITATION  
  
**42 CFR Part 441 Subpart K**

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)  
a. FFY 2024 \$ 0  
b. FFY 2025 \$ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  
  
**Page 11 and 12 of Attachment 3.1-K**

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  
  
**Page 11 and 12 of Attachment 3.1-K (TN 14-026)**

9. SUBJECT OF AMENDMENT

The proposed amendment removes licensure requirements for Emergency Response Services (ERS) providers of backup systems and supports under the Community First Choice State Plan Option. ERS providers are no longer subject to licensure requirements after Senate Bill (S.B.) 202, 84th Texas Legislature, Regular Session, 2015, repealed Texas Health and Safety Code, Chapter 781.

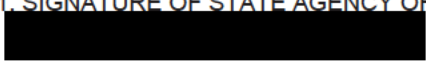
10. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT

COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.

11. SIGNATURE OF STATE AGENCY OFFICIAL  


12. TYPED NAME  
**Emily Zalkovsky**

13. TITLE  
**State Medicaid Director**

14. DATE SUBMITTED  
**April 18, 2024**

15. RETURN TO

**Emily Zalkovsky  
State Medicaid Director  
Post Office Box 13247, MC: H-100  
Austin, Texas 78711**

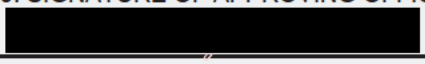
**FOR CMS USE ONLY**

16. DATE RECEIVED April 18, 2024	17. DATE APPROVED June 12, 2024
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**PLAN APPROVED - ONE COPY ATTACHED**

18. EFFECTIVE DATE OF APPROVED MATERIAL  
April 1, 2024

20. TYPED NAME OF APPROVING OFFICIAL  
**Wendy Hill Petras**

19. SIGNATURE OF APPROVING OFFICIAL  


21. TITLE OF APPROVING OFFICIAL  
**Deputy Director, Division of HCBS Operations and Oversight**

22. REMARKS

**Attachment to Block 6 of CMS Form 179**

**Transmittal Number 24-0009**

	<b>Total Fiscal Impact</b>	<b>Federal</b>	<b>State</b>
<b>FFY 2024</b>	\$0	\$0	\$0
<b>FFY 2025</b>	\$0	\$0	\$0
<b>FFY 2026</b>	\$0	\$0	\$0

The proposed amendment is estimated to have no fiscal impact, as it is not expected to have an effect on Medicaid utilization or cost.

**Community First choice State Plan Option (Continued)**

**9. Provider Qualifications**

CFC services are provided by LTSS and state plan service providers determined to be qualified by the State in a program already approved by CMS. Texas ensures all current qualification standards are maintained. Providers delivering CFC services include licensed home and community support services agencies (HCSSAs), certified HCS and TxHmL providers, personal emergency response services agencies, qualified financial management services agencies, and providers hired by individuals using the CDS option who meet qualifications. In accordance with Section 1902(a)(23) of the Act, the state assures that individuals will have free choice of provider, unless a limitation is authorized through a Section 1915(b)(4) waiver authority.

<b>Service</b>	<b>Personal Assistance Services and Habilitation (PAS/HAB)</b>
Service Provider Qualifications	<ul style="list-style-type: none"> <li>• Is at least 18 years of age; and</li> <li>• Has a high school diploma or a certificate recognized by a state as the equivalent of a high school diploma; or</li> <li>• Documentation of a proficiency evaluation of experience and competence to perform the job tasks that includes:               <ul style="list-style-type: none"> <li>○ A written competency-based assessment; and</li> <li>○ At least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals being served.</li> </ul> </li> <li>• Is not the parent of an individual who is under 18 years of age or the individual’s spouse; and</li> <li>• Meets any other qualifications requested by the individual or legally authorized representative (LAR) based on the individual’s needs and preferences.</li> <li>• If requested by an individual the provider must allow the individual to train a CFC PAS/HAB service provider in the specific assistance needed by the individual and to have the service provider perform CFC PAS/HAB in a manner that comports with the individual’s personal, cultural, or religious preferences; and</li> <li>• Ensure that an individual has the right to access other training provided by or through the State so that the service provider can meet any additional qualifications required or desired by the individual.</li> </ul>

**Community First choice State Plan Option (Continued)**

<b>Service provider Qualifications (Continued)</b>	<p><b>Consumer Directed Services</b></p> <ul style="list-style-type: none"> <li>• Is at least 18 years of age; and</li> <li>• Has a high school diploma; or A certificate recognized by a state as the equivalent of a high school diploma; or Documentation of a proficiency evaluation of experience and competence to perform the job tasks that includes:             <ul style="list-style-type: none"> <li>(1) A written competency-based assessment; and</li> <li>(2) At least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals being served.</li> </ul> </li> <li>• Is not the individual’s legally authorized representative (LAR), LAR’s spouse, designated representative, or designated representative’s spouse; and             <ul style="list-style-type: none"> <li>• Meets any other qualifications requested by the individual or LAR based on the individual’s needs and preferences.</li> </ul> </li> </ul>
Provider Entity Qualifications	<ul style="list-style-type: none"> <li>• Licensed home and community support services agencies (HCSSAs). The agency must be licensed as a home and community support service agency under Title 40 of the Texas Administrative Code, Part 1, Chapter 97.</li> <li>• Certified HCS and TxHmL providers.</li> </ul>
<b>Service</b>	<b>Emergency Response Services</b>
Service Provider Qualifications	See provider entity qualifications
Provider Entity Qualifications	<ul style="list-style-type: none"> <li>• Must be capable of providing backup systems and supports as defined at 42 CFR §441.505.</li> </ul>