

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 307 MENTAL HEALTH COMMUNITY-BASED SERVICES
SUBCHAPTER B HOME AND COMMUNITY-BASED SERVICES--ADULT MENTAL HEALTH PROGRAM

§307.51 Purpose and Application

(a) The purpose of this subchapter is to implement the Home and Community-Based Services--Adult Mental Health (HCBS-AMH) program, providing home and community-based services to individuals with a serious mental illness who are eligible for or currently receiving Medicaid in accordance with the Medicaid state plan and applicable state legislative direction.

(b) The subchapter applies to:

- (1) a person or entity contracting with HHSC to provide HCBS-AMH services, as described in this subchapter;
- (2) an entity having administrative responsibilities under this program; and
- (3) an individual applying for or enrolled in the HCBS-AMH program.

§307.52 Definitions

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

- (1) Activities of daily living--Routine daily activities. These activities include:
 - (A) performing personal hygiene activities;
 - (B) dressing;
 - (C) meal planning and preparation;
 - (D) managing finances;
 - (E) shopping for food, clothing, and other essential items;
 - (F) performing essential household chores;
 - (G) communicating by phone or other media;
 - (H) navigating public transportation;
 - (I) participating in the community; and
 - (J) other activities as defined by HHSC.
- (2) Adult--An individual 18 years of age or older.
- (3) Assessor--A qualified mental health professional-community services as defined in 25 TAC Chapter 412, Subchapter G (relating to Mental Health Community Services Standards) who conducts the HCBS-AMH assessment evaluating an individual's need for HCBS-AMH.
- (4) Designee--A person or entity named by HHSC to act on its behalf.

(5) HCBS--Home and community-based services.

(6) HCBS-AMH--Home and community-based services-adult mental health.

(7) HCBS-AMH assessment--A set of HHSC-defined standardized assessment measures used by HHSC to determine an individual's level of need based on an individual's strengths and needs. The HCBS-AMH assessment serves as the basis for the IRP.

(8) HHSC--Texas Health and Human Services Commission, or its designee.

(9) Individual--A person seeking or receiving services under this subchapter.

(10) IRP--Individual recovery plan. A written, individualized plan, developed in accordance with 25 TAC Chapter 412, Subchapter D (relating to Mental Health Services--Admission, Continuity, and Discharge) and 25 TAC §412.322 (relating to Provider Responsibilities for Treatment Planning and Service Authorization) in consultation with the individual and LAR, if applicable, identifying necessary HCBS-AMH services the provider will deliver to the individual and which serves as the treatment plan or recovery plan.

(11) LAR--Legally authorized representative. A person authorized by law to act on behalf of an individual as defined in Texas Health and Safety Code §241.151.

(12) Ombudsman--The Ombudsman for Behavioral Health Access to Care established by Texas Government Code §531.02251, which serves as a neutral party to help consumers, including consumers who are uninsured or have public or private health benefit coverage, and behavioral health care providers navigate and resolve issues related to consumer access to behavioral health care, including care for mental health conditions and substance use disorders.

(13) Provider--A person or entity that contracts with HHSC to provide services under this subchapter.

(14) Serious mental illness--An illness, disease, or condition (other than a sole diagnosis of epilepsy, neurocognitive disorders, substance use disorder, or intellectual disability) that:

(A) substantially impairs thought, perception of reality, emotional process, development, or judgment;
or

(B) grossly impairs an individual's behavior as demonstrated by recent disturbed behavior.

§307.53 Eligibility Criteria and HCBS-AMH Assessment

(a) To participate in the HCBS-AMH program, an assessor must conduct an HCBS-AMH assessment on each individual for HHSC to determine that the individual meets the needs-based eligibility criteria for HCBS-AMH.

11) providers, and other persons according to the needs and desire of the individual to conduct the HCBS-AMH assessment.

(2) The HCBS-AMH assessment must:

(A) be conducted face-to-face as permitted under Medicaid guidelines;

(B) take into account the ability of the individual to perform two or more activities of daily living;
and

(C) assess the individual's need for HCBS-AMH.

(b) For HHSC to determine an individual eligible to participate in HCBS-AMH, the individual must meet criteria in accordance with applicable state legislative direction and eligibility requirements as set forth in the Medicaid state plan, including:

(1) having three years or more of consecutive or cumulative inpatient psychiatric hospitalizations during the five years before initial enrollment in the HCBS-AMH program;

(2) having two or more psychiatric crises and four or more discharges from correctional facilities during the three years before initial enrollment in HCBS-AMH; or

(3) having two or more psychiatric crises and fifteen or more total emergency department documented contacts in which services are delivered during the three years before initial enrollment in HCBS-AMH.

(c) The HCBS-AMH assessment must be repeated at least annually for each individual, and when circumstances necessitate a re-assessment, using the same requirements outlined in subsections (a) and (b) of this section.

(d) HHSC approves each HCBS-AMH initial eligibility assessment, annual assessment, and assessment conducted based on a change in circumstances.

§307.54 Individual Recovery Plan

(a) An IRP must:

(1) prepare for the individual's effective transition to the community;

(2) promote the individual's inclusion into the community;

(3) protect the individual's health and welfare in the community;

(4) supplement, rather than replace, the individual's natural support systems and resources;

(5) be designed to prevent or reduce the individual's likelihood of:

(A) an inpatient psychiatric facility admission;

(B) a correctional facility admission; and

(C) an emergency department visit in which services are delivered;

(6) include the most appropriate type and amount of services to meet the individual's needs;

(7) prevent the provision of unnecessary or inappropriate care;

(8) be based on the individual's preferences, needs, and goals; and

(9) be developed with the individual, LAR, individual's treatment team and providers, and other persons according to the needs and desire of the individual.

(b) An HHSC-approved designee must review the IRP and submit it to HHSC for its approval.

(c) An HHSC-approved designee must submit to HHSC, with the IRP:

(1) an HCBS-AMH assessment of the individual identifying the individual's needs and supporting the HCBS-AMH included in the IRP; and

(2) documentation that non-HCBS-AMH support systems and resources are unavailable or are insufficient to meet the goals specified in the IRP.

(d) A provider must obtain HHSC's approval of the IRP before the provider may deliver HCBS-AMH program services.

(e) HHSC may conduct a utilization review of an IRP and supporting documentation at any time to determine

if the services specified in the IRP meet the requirements described in subsection (a) of this section.

(f) If HHSC determines one or more of the services specified in the IRP do not meet the requirements described in subsection (a) of this section, HHSC may:

(1) deny, reduce, or terminate the service; or modify the IRP; and

(2) send written notification to the individual, LAR, and the provider according to §307.57 of this subchapter (relating to Fair Hearings Process).

(g) The cost of the IRP must be reasonable as determined by HHSC.

§307.55 Co-payments

A co-payment for HCBS-AMH services may be assessed as described in 25 TAC Chapter 412, Subchapter C (relating to Charges for Community Services).

§307.56 Provider Qualifications and Contracting

(a) A prospective provider may request and submit an application to HHSC to provide HCBS-AMH at any time. The application sets forth the qualifications to be a provider.

(b) HHSC must approve the provider and enter into a contract with the provider before the provider serves any individual.

(c) HCBS providers must comply with any applicable federal or state law or rule.

§307.57 Fair Hearings Process

(a) Right of an individual to request a fair hearing. Any individual whose request for eligibility to receive HCBS-AMH is denied or is not acted upon with reasonable promptness, or whose services have been terminated, suspended, or reduced by HHSC, is entitled to a fair hearing in accordance with 1 TAC Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

(b) At any time, an individual may contact the Ombudsman for additional information and resources by calling toll-free (1-800-252-8154) or online at hhs.texas.gov/ombudsman.