



Date: January 30, 2023

To: Deaf Blind with Multiple Disabilities (DBMD) Program Providers
Financial Management Service Agencies (FMSA)
Local Intellectual and Developmental Disabilities Authorities (LIDDA)
Home and Community-based Services (HCS) Program Providers
Texas Home Living (TxHmL) Program Providers

Subject: Information Letter No. 2023-07
Implementation of Individualized Skills and Socialization

The purpose of this letter is to describe individualized skills and socialization, a new service available to individuals enrolled in one of the following waiver programs for individuals with intellectual or developmental disabilities (IDD):

- Home and Community-based Services (HCS) Program;
- Texas Home Living (TxHmL) Program; and
- Deaf Blind with Multiple Disabilities (DBMD) Program.

Beginning in January 2023, the Health and Human Services Commission (HHSC) has begun to phase out the day habilitation service in the HCS, TxHmL, and DBMD Programs and replace it with individualized skills and socialization services. Day habilitation will no longer be a Medicaid-billable service in the HCS, TxHmL and DBMD Programs for dates of services beginning March 1, 2023, and ongoing.

HHSC is implementing individualized skills and socialization to comply with Title 42, Code of Federal Regulations (CFR), §441.301(c)(4)(i) - (v), which requires settings in home and community-based programs authorized by §1915(c) of the Social Security Act to have certain qualities, including being integrated in and supporting full access of individuals to the greater community. The Centers for Medicare and Medicaid Services (CMS) requires states to comply with these regulations by March 17, 2023.

The information in this letter provides a summary of important information about the new individualized skills and socialization services. Providers should refer to the applicable Texas Administrative Code (TAC) for a complete list of requirements. DBMD Program rules at [26 TAC Chapter 260, Subchapter I](#)
HCS Program rules at [26 TAC Chapter 263, Subchapter L](#)
TxHmL Program rules at [26 TAC Chapter 262, Subchapter J](#)

Licensure rules at [26 TAC Chapter 559, Subchapter H](#)

Types of Individualized Skills and Socialization

There are three types of individualized skills and socialization:

- On-site individualized skills and socialization;
- Off-site individualized skills and socialization; and
- In-home individualized skills and socialization (HCS and TxHmL only).

Individualized Skills and Socialization Activities

All three types of individualized skills and socialization provide person-centered activities related to acquiring, retaining, or improving self-help and adaptive skills necessary to live successfully in the community, consistent with outcomes identified in an individual's person-directed plan (PDP) or individual program plan (IPP). Assistance may include personal assistance for an individual who cannot manage personal care needs during an individualized skills and socialization activity.

As determined by an assessment conducted by a registered nurse, activities may include assistance with medications and the performance of tasks delegated by a registered nurse in accordance with state law and rules. An assessment may not be necessary if a physician has delegated the task in question as a medical act under Texas Occupations Code, Chapter 157, as documented by the physician. On-site and off-site individualized skills and socialization provides person-centered activities to assist an individual to participate in home and community life and gaining or maintaining independence, socialization, community participation, current or future volunteer goals, or employment goals.

On-site Individualized Skills and Socialization

On-site individualized skills and socialization promotes an individual's development of skills and behavior that support independence and personal choice.

Important Requirements for On-Site Individualized Skills and Socialization

- A provider of on-site or off-site individualized skills and socialization must be licensed in accordance with [26 TAC, Chapter 559, Subchapter H](#) (*related to Individualized Skills and Socialization Provider Requirements*). For more information on licensure requirements, refer to [PL 2023-01 New Regulatory Rules for Long-term Care Regulation \(LTCR\) Individualized Skills and Socialization Services](#).

- On-site individualized skills and socialization is provided in a building or a portion of a building that is owned or leased by an individualized skills and socialization provider. On-site individualized skills and socialization is not provided in a prohibited residential setting for an individual or the residence of an individual or another person. On-site individualized skills and socialization includes transportation of an individual from one on-site individualized skills and socialization location to another on-site individualized skills and socialization location.
- On-site individualized skills and socialization services do not include activities in which an individual produces marketable goods and is paid below minimum wage for producing the goods in accordance with Section 14(c) of the Fair Labor Standards Act.

Refer to 26 TAC [§260.503](#) (DBMD), [§263.2005](#) (HCS), or [§262.905](#) (TxHmL) for a complete list of requirements for the provision of on-site individualized skills and socialization.

Off-site Individualized Skills and Socialization

Off-site individualized skills and socialization provides activities that integrate an individual into the community while promoting the development of skills and behavior that support independence and personal choice.

Important Requirements for Off-Site Individualized Skills and Socialization

- A provider of off-site individualized skills and socialization must be licensed in accordance with [26 TAC, Chapter 559, Subchapter H](#) (*related to Individualized Skills and Socialization Provider Requirements*). For more information on licensure requirements, refer to [PL 2023-01 New Regulatory Rules for Long-term Care Regulation \(LTCR\) Individualized Skills and Socialization Services](#). Off-site individualized skills and socialization is provided in a community setting chosen by the individual from available community setting options and includes transportation of an individual from an on-site individualized skills and socialization location to an off-site individualized skills and socialization location and between off-site individualized skills and socialization locations.
- Off-site individualized skills and socialization is not provided in a building in which on-site individualized skills and socialization is provided or in an institutional setting (for example a hospital, an ICF/IID, or a nursing facility) or in the residence of an individual or another person, unless: the off-site

individualized skills and socialization activity is a volunteer activity performed by an individual in an institutional setting or residence; or

- Off-site individualized skills and socialization is provided in an event open to the public in an institutional setting.
- Off-site individualized skills and socialization services do not include activities in which an individual produces marketable goods and is paid below minimum wage for producing the goods in accordance with Section 14(c) of the Fair Labor Standards Act.

Refer to 26 TAC [§260.503](#) (DBMD), [§263.2005](#) (HCS), or [§262.905](#) (TxHmL) for complete list of requirements for the provision of off-site individualized skills and socialization.

In-home Individualized Skills and Socialization (HCS & TxHmL Only)

In-home individualized skills and socialization is available for individuals who cannot manage personal care needs and provides assistance with acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside and participate successfully in the community and the provision of age-appropriate activities that enhance self-esteem and maximize functional level.

Important Requirements for Off-Site Individualized Skills and Socialization

- A service provider of in-home individualized skills and socialization is not required to obtain a license through HHSC.
- An individual may receive in-home individualized skills and socialization only if they meet one of the following criteria:
- A physician has documented that the individual's medical condition justifies the provision of in-home individualized skills and socialization; or
- If exposure to COVID-19 or another communicable disease poses a medical risk to the individual, this should be documented by the physician and would justify the provision of in-home individualized skills and socialization.
- If an individual is currently receiving in-home day habilitation, the medical or behavioral documentation previously obtained as justification is acceptable as justification for the provision of in-home individualized skills and socialization.
- A licensed professional or behavioral supports service provider has documented that the individual's behavioral issues justify the provision of in-home individualized skills and socialization; or

- The individual is 55 years of age or older and requests to receive in-home individualized skills and socialization.
- If an individual leaves their home during the delivery of in-home individualized skills and socialization, the service is no longer considered in-home individualized skills and socialization. If the individual is still receiving services that meet the definition of individualized skills and socialization, the service becomes off-site individualized skills and socialization (or on-site individualized skills and socialization if provided at an on-site location) and must be provided by a licensed individualized skills and socialization provider.

Electronic Visit Verification (EVV) for In-Home Individualized Skills and Socialization

The 21st Century Cures Act (Section 12006), or Cures Act, is a federal law passed in 2016 requiring states to implement EVV for Medicaid personal care services and home health care services that require an in-home visit. States that do not implement EVV will receive reduced federal Medicaid funding.

EVV must be used because of the following law and rules:

- The Cures Act (federal law), codified in 42 United States Code §1396b(l)
- 1 TAC Chapter 354, Subchapter O, Electronic Visit Verification
- Texas Government Code, Section 531.024172

In-home individualized skills and socialization is a personal care service, therefore the use of EVV is required for in-home individualized skills and socialization delivered in an own home/family home setting. Program providers and Consumer Directed Services employers must comply with [1 TAC Chapter 354, Subchapter O](#), Electronic Visit Verification, regarding in-home individualized skills and socialization provided to an individual whose residential type is "own home/family home".

Refer to the EVV Personal Care Services Bill Codes Services Table on the [HHSC EVV web page](#) for the specific billing codes which require the use of EVV. For dates of services on and after March 1, 2023, HHSC will deny or recoup a claim without a matching EVV visit record. For more information, refer to the EVV notice, "[EVV Personal Care Services Bill Codes Updates for HCS and TxHmL](#)".

For questions about EVV, visit the [EVV web page](#) or email EVV Operations at EVV@hhs.texas.gov.

Guidance for LIDDAs

As of March 1, 2023, day habilitation will no longer be a service in the HCS or TxHmL Programs. LIDDA service coordinators must discuss the new individualized skills and socialization service with individuals and families, including communicating that HCS and TxHmL providers must use EVV for in-home individualized skills and socialization delivered in an own home/family home setting.

At the next scheduled service planning team (SPT) meeting held after the date of this IL for the purpose of completing a revision or annual PDP update, the service coordinator must explain individualized skills and socialization services to the individual and the individual's legally authorized representative. Through the discovery process, the individual's activities and interests will drive how the service will be delivered, especially for off-site individualized skills and socialization. The delivery of off-site individualized skills and socialization will require more planning on the part of the program provider to ensure activities can accommodate a variety of interests likely to be on individual PDPs. Program providers and service coordinators must work with individualized skills and socialization service providers to identify the activities offered by that service provider that align with the individual's interests.

Individualized Skills and Socialization Licensing Requirements

Any DBMD, HCS, or TxHmL program provider who wishes to deliver on-site or off-site individualized skills and socialization services directly to individuals will be required to have a Day Activity and Health Services - Individualized Skills and Socialization license in accordance with [26 TAC, Chapter 559, Subchapter H](#). Once a provider of individualized skills and socialization obtains a license they will be listed on the Day Activity Health Services (DAHS) directory. This directory is updated daily and can be found on the HHS website at [Day Activity & Health Services \(DAHS\) | Texas Health and Human Services](#). Similar to the provision of day habilitation, a HCS, TxHmL, or DBMD program provider may choose to provide individualized skills and socialization directly to individuals or to subcontract with another licensed provider of the service. Regardless of the program provider's decision to obtain a license, they must make both on-site and off-site individualized skills and socialization available to an individual. Program providers are responsible for ensuring that a service provider of individualized skills and socialization is licensed prior to services being delivered. For information related to licensing requirements, refer to [Provider Letter 2023-01](#).

Heightened Scrutiny

There are additional requirements for individualized skills and socialization providers if the on-site service will be provided in the same building as, on the grounds of, or immediately adjacent to an institutional setting. The setting may be subject to heightened scrutiny, a review process in which CMS determines whether the setting has the qualities of a home and community-based setting despite its location. The heightened scrutiny review process includes an on-site visit from HHSC to gather evidence and documentation from the prospective provider in order to demonstrate the service setting does not isolate individuals from the larger community and that it does not have characteristics of an institutional setting.

For more information related to the heightened scrutiny process, refer to [Information Letter 2022-53](#).

Provider Contract Monitoring and Recoupment

HHSC will include the provision of individualized skills and socialization during provider monitoring reviews. The program provider will be responsible for ensuring compliance with 26 TAC Chapter 260, Subchapter I (DBMD), Chapter 263, Subchapter L (HCS), or Chapter 262, Subchapter J (TxHmL) related to the provision of individualized skills and socialization. Additionally, HHSC's provider fiscal compliance monitoring division will conduct provider fiscal compliance reviews. HHSC does not pay and will recoup payment made for on-site, off-site, and in-home individualized skills and socialization not provided in accordance with the rules governing the DBMD, HCS, or TxHmL Program.

Forms

HHSC is currently updating forms related to the implementation of individualized skills and socialization. Notifications related to form updates will be available on the DBMD, HCS, and TxHmL Provider Portals and through govdelivery.com.

Additional Information

More information about individualized skills and socialization is available on the HHS website at Individualized Skills and Socialization | Texas Health and Human Services. Please contact HCSPolicy@hhs.texas.gov, TxHmLPolicy@hhs.texas.gov or DBMDPolicy@hhs.texas.gov with any additional questions.

Sincerely,

[signature on file]

Erica Brown
Deputy Director of Program Policy
Medicaid and CHIP Services