

YOUR RIGHTS.....

**In a State
Center**



Published by
Texas Department
of Aging and
Disability Services

This book belongs to:

Table of contents

- A special note about your rights 2
- Important words and what they mean 3
- Your rights under the Constitution of the United States. . . 5
- Your rights under the Texas Health
and Safety Code, Title 7, Subtitle D 6
- Your rights in a state center 8
- Your guardian or LAR's rights and responsibilities 11
- Your responsibilities. 12
- Special meetings
 - Guardianship hearing 13
 - Human Rights Committee 13
 - Administrative hearing. 13
- How to make a complaint 14
- State offices. 15
- How to reach your human rights officer
and assistant independent ombudsman 16

A special note about your rights

This handbook tells you about the rights and privileges you have if you are receiving services in programs offered through the Texas Department of Aging and Disability Services (DADS) state supported living centers or the Texas Department of State Health Services (DSHS) Rio Grande State Center.

There are some basic ideas about your rights.

- 1 People have rights.** Rights are what you are allowed to do and how you should be treated.
- 2 Rights are not limited without due process.** Due process is an opportunity to have a hearing or review to decide if there is a good reason to limit your rights or services.
- 3 People have a right to be free from abuse and neglect.**
- 4 People have responsibilities.** Responsibilities are your duties that you must try to do, if you are able.

Staff will help you learn about your rights and responsibilities.

All services are provided in compliance with the Civil Rights Act of 1964, as amended, and in the Americans with Disabilities Act of 1990.

Important words and what they mean

Advance directive – A document that tells your doctor what sort of treatment you want for yourself, should you get very ill. You can write a living will or arrange for a durable power of attorney for health care decisions.

Advocate – A person who helps you make decisions and who looks out for your best interests, such as a family member or friend.

Appeal – To ask for a special meeting when you disagree about a decision.

Assistant independent ombudsman (AIO) – Someone who works for the Office of the Independent Ombudsman. The AIO advocates for your rights and tells the leadership about concerns at the state center.

Behavior Support Plan – A comprehensive, individualized plan that focuses on modifying your environment in order to teach or increase your adaptive skills and build on your strengths and preferences.

Consent (informed consent) – When you agree to do something or give permission to do something. You must understand what you are agreeing to, be 18 or older, and not have a guardian.

Constitutional rights – Certain rights that the United States Supreme Court says the United States Constitution guarantees each person living in a state center.

Due process – A review process to make sure your rights are not taken away from you without a good reason.

Determination of Intellectual and Developmental Disability – An assessment completed by a qualified professional to determine if you have an intellectual and developmental disability.

Guardian – Somebody appointed by a court, often your parent or another adult family member. Your guardian makes certain decisions for you, as described in court papers. These decisions may be about your money, your rights and/or your physical needs.

Hearing – A special meeting to talk about something with which you or your guardian do not agree.

Human Rights Officer – The person whose job it is to help protect your rights.

Individual Support Plan (ISP) – A meeting with your IDT to develop service plans that will help you meet your dreams and goals (this is sometimes called a “staffing”).

Interdisciplinary Team (IDT) – A group of people who will make recommendations for your services based on your goals or dreams through the use of a person-centered planning process. You and your guardian are also members of the team.

Legal Authorized Representative (LAR) – A person approved by law to make decisions for you. This may be a guardian, your parent or managing conservator if you are a minor.

Office of Independent Ombudsman – The independent ombudsman is appointed by the governor to make sure you are safe and your rights are protected. The ombudsman has an assistant at each state center.

Person-centered Planning – Person-centered planning is driven by what is important to you or your LAR in planning your treatment.

Positive Behavior Support Plan – A written, specialized program that staff can use to help you gain skills to be more successful in achieving your interests, wants and needs.

Qualified Intellectual Disabilities Professional (QIDP) – The staff member who arranges services to meet your needs and help you achieve your dreams and goals.

Responsibilities – What you need to do in order to have your rights and be successful in living and working with others.

Rights – What you can do and how you should be treated.

State Center – This refers to where you live at one of the following 12 state supported living centers: Abilene, Austin, Brenham, Corpus Christi, Denton, El Paso, Lubbock, Lufkin, Mexia, Richmond, San Antonio, San Angelo or Rio Grande State Center (operated by the Texas Department of State Health Services).

Treatment – This is something that is done for you, like providing you with training.

Your rights under the Constitution of the United States

The United States Supreme Court says that the United States Constitution guarantees certain rights to each person who lives in an institution for people with intellectual and developmental disabilities, such as a state center. These constitutional rights are:

- 1 You have the right to adequate food, shelter, clothing and medical care.
Medical care means not only emergency care, but also regular and preventive care.
- 2 You have the right to reasonably safe conditions of confinement.
This includes the right to be protected from abuse, neglect and exploitation.
- 3 You have the right to be free from undue bodily restraint.
You may not be restrained unless a trained staff member determines the restraint is necessary to assure your safety or the safety of others.
- 4 You have the right to receive training and develop skills you need to ensure safety and to facilitate your ability to function free of bodily restraint.
You must be provided with training to ensure your safety and to help you be free of bodily restraints. Training should also be provided to prevent you from losing the self-care skills you had before entering the state center.

The United States Supreme Court also says people living in a state center have these additional rights:

- 5** You have the right to move to the community when:
- the center's professionals determine the placement is appropriate
 - you, your guardian or LAR do not oppose the placement
 - the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with intellectual disabilities
- 6** You have the right to due process if you, your guardian or LAR object to the administration of psychotropic medications.
- If you, your guardian or LAR object to taking psychotropic medications, the state center must follow the due process requirements of state law.

Your rights under the Texas Health and Safety Code, Title 7, Subtitle D

If you have an intellectual and developmental disability and live in Texas, you have the following rights:

- 1** You have the same rights all citizens have, unless some of these rights have been taken away by a court. These rights include the right to register to vote and to vote, to practice a religion, to keep your own possessions, to agree to enter into contracts (such as buying a house or car), and to get married. You cannot be treated differently because of your disability.
- 2** No one should hurt you, take advantage of you, or ignore your needs.

- 3** You have the right to live and receive services where you can make as many of your own decisions as possible. This may be with your family, with your friends, alone or where there are trained staff to help you.
- 4** You may have the right to go to public school until age 22.
- 5** Before you receive services, a doctor or a psychologist must determine that you have an intellectual and developmental disability and explain to you what that means. If you do not agree with them, you can also ask for a meeting to review your case. You can ask for a second opinion that you would pay for with your own money. You can ask for services from other agencies and organizations.
- 6** For issues needing consent, you should be able to understand what you agree to. If you have a guardian or LAR, he or she may make decisions for you.
- 7** Before a guardian is named, you will have a hearing in court with a judge. Only a judge can give you a guardian. That guardian may be a parent or another adult. This hearing is considered due process.
- 8** If you are looking for a job and have the skills to do the job, you cannot be denied it just because of your disability. If you have a job, you have the right to be paid fairly like everyone else.
- 9** You have the right to have treatment and services that are best for you. You can change your mind about any or all of the services you receive.

Your rights in a state center

If you receive services in a state center, you have all the rights listed in this handbook as protected under the Texas Health and Safety Code, Title 7, Subtitle D. In addition, you also have the following rights:

- 1** You have the right to a clean and safe home. You also have the right to decorate your room with things you like and storage for your personal items.
- 2** You, your guardian, LAR or advocate should be told about your medical condition, how you are doing, any problem behaviors you may have, the risks of treatment and your right to refuse treatment.
- 3** You have the right to be free from unnecessary drugs and/or restraints. An individual support plan will help you learn new skills and decrease the need for drugs and/or physical restraint.
- 4** If you have a job, you have the right to get paid fairly. Helping around the home, such as making your bed or cleaning up, is not considered work, but is a responsibility.
- 5** You may meet with other people in a place where you can be alone.
- 6** You can send and receive your mail without anybody opening it. If you need help sending, opening, or reading your mail, you can ask someone to help you.
- 7** You have the right to choose and keep any belongings and clothing that are yours. You have the right to wear clothing that fits, is in good condition, and keeps you warm or cool enough. If you do not have suitable clothing, it will be provided for you. You should also be provided a place to store your things.
- 8** You have the right to always be treated with respect. You have the right to not have anyone hurt you, say mean things to you, be too personal with you by touching you in the wrong way, take money from you or make you feel bad by what they say or do to you. Tell staff, your parent, guardian or advocate if this happens. Report all abuse to the Texas Department of Family and Protective Services at 1-800-647-7418.
- 9** You have the right to have regular mealtimes. You, your guardian or LAR, your doctor and/or nutritionist can help you decide what kind of food is best for you.
- 10** You have the right to visit anyone you want. You can meet privately with visitors. Be careful not to bother the others in your home when you have visitors. Your friends and family can visit you in your home and, if it is OK with your friends or family, you can go visit them.
- 11** You have the right to make and receive telephone calls in private. You can ask staff to help you.
- 12** You have the right to manage your money, be trained to manage your money, or have help managing your money. You can ask staff if you need help or have questions. You can look at records that show how much money you have. If you have a guardian or LAR, they may decide how your money is managed.
- 13** You have the right to make decisions about your daily life, including things such as the clothes you wear.
- 14** You have the right to privacy during treatment and care of your personal needs and when you want to be alone. If staff help care for your personal needs, they should close the door so other people cannot see you. Everybody should knock before entering, and wait for you to answer if you can, before entering your room.

- 15** You have the right to be out of bed and out of your bedroom during most of the day, moving around and doing things that are important to you. Staff will assist if you need help.
- 16** You should be provided with basic personal items and supplies, like shampoo and toothpaste. If you like a different brand or type of personal need item, you can buy the item you like with your own money.
- 17** You have the right to receive medical and dental care.
- 18** You have the right to have services and supports that will help you do things for yourself like taking care of your own personal needs. A plan for your treatment will be developed by you, your guardian or LAR, and your team. You have the right to go to meetings about you and tell your team what you want to learn and be involved in. This includes your annual planning meeting. You can also invite a friend or advocate to your meeting.
- 19** You do not have to move from where you live without being given a good reason, unless it is an emergency. You should be given enough time to get ready to move. If you feel you are being rushed, ask for more time to get ready to move.
- 20** You have the right to ask to live in the community.

Your guardian or LAR's rights and responsibilities

If you have a guardian or LAR, there are certain decisions they can make for you. Your guardian or LAR might make decisions about

- your money
- where you live
- what services you will receive
- consent to medical and behavioral treatment

If you are able to make a choice about something, your guardian or LAR should let you. If you think you are not being allowed to do so, you should talk to your guardian or LAR.

Your guardian or LAR helps protect your rights

Your guardian or LAR should participate in the planning meetings with you and your IDT. Your guardian or LAR may look at your records and talk with staff about you. Your guardian or LAR can file complaints for you.

Your guardian has to tell the court every year about how you are doing. For the guardian of the estate, this is called an annual accounting. For the guardian of the person, it is known as an annual report. The law requires all guardians to complete an annual accounting or report to the court, no matter how long they have been a guardian. When your guardian files the annual accounting or report, they are given letters from the court to show the guardianship is current. They need to share this letter with your staff. If you do not have a guardian or LAR, the state center director has designated a human rights protection officer to help protect your rights.

Your responsibilities

Along with rights come certain responsibilities. Responsibilities are your duties that you need to try to do, if you are able. You may not be able to do all these things by yourself, and you can ask for help.

- 1 You should not hurt others.
- 2 You should follow the rules of your program.
- 3 You should tell staff what you need.
- 4 You should speak up at your service planning meeting and tell your team about your goals and dreams.
- 5 You should try your best to follow the ISP developed by your IDT. If you do not like your plan, you can ask that the plan be changed.
- 6 You should be on time for scheduled activities.
- 7 You should help take care of the home where you live.
- 8 You should take care of your things and not bother other people's things.
- 9 If you leave, you should tell staff where you will be.
- 10 You may have other responsibilities, and staff can help you learn what they are.

Special meetings

Guardianship Hearing

If you have a guardian, the guardian had to go to court to tell the judge why he or she wanted to be your guardian to help you make decisions. This process in the court is known as due process. If your guardian is given permission by the court to make certain decisions, then your staff will need your guardian's permission before restricting any of your rights in those areas. You have the right to know about your guardian's decisions.

Human Rights Committee

Sometimes, your team may recommend limiting one or more of your rights. If they do, then a group of people will have a meeting to decide if they agree. This group is called the Human Rights Committee (HRC). You can tell the HRC how you feel about the restriction of your rights. This review is due process. The review is to make sure that your team does not restrict your rights without giving you a chance to talk about it. If you have a guardian, the HRC will need your guardian's permission before restricting any of your rights.

Administrative Hearing

If you, your guardian or LAR do not agree with the findings of a determination of IDD, you can request an administrative hearing. You must submit a request to the center director. This request must be made within 60 days of the determination of IDD.

How to make a complaint

If you have a complaint about your services or how you have been treated, you should call the human rights officer at your state center. Ask staff to help you do this if you need help.

Your Human Rights Officer

You can talk to your local human rights officer where you receive services. The telephone number is listed at the end of this handbook and on posters around the state center.

For More Help

The Office of the Independent Ombudsman was created to make sure that you are safe and are treated fairly. There is an assistant independent ombudsman (AIO) at the center where you live. This person is there to look into your complaints and talk about any concerns you, your guardian or LAR may have. The AIO does not work for the state center and will keep your talks private. The telephone number is listed at the end of this handbook and on posters at the state center.

Office of the Independent Ombudsman **1-877-323-6466**

State offices

If you, your guardian, LAR, family member or advocate want help with complaints or violations of your rights, you can also call:

**Consumer Rights and Services
Texas Department of Aging
and Disability Services** **1-800-458-9858**

If you think staff have abused you, neglected you, or taken advantage of you, you should call:

**Texas Department of Family
and Protective Services** **1-800-647-7418**

If you want to complain about public school, you should call:

Texas Education Agency **1-800-252-9668**

Other places you can call if you have complaints or need help:

Disability Rights Texas **1-800-252-9108**
The ARC of Texas **1-800-252-9729**
Texas Advocates **1-800-252-9729 ext. 12**

If you are hearing impaired and need TDD to make a phone call, you can get help from:

Relay Texas (voice) **1-800-735-2988**
(TDD) **1-800-735-2989**

How to reach your Human Rights Officer and Assistant Independent Ombudsman

Your human rights officer is:

Your human rights officer's telephone number is:

Your assistant independent ombudsman is:

Your assistant independent ombudsman's telephone number is:

Notes:

Texas Department of Aging and Disability Services

DADS toll-free Consumer Rights and Services number:

1-800-458-9858

Attention Medicaid recipients

Under the Medicaid Estate Recovery Program, the state may file a claim against the estate of a deceased Medicaid recipient, age 55 and older, who applied for certain long-term care services on or after March 1, 2005.

For more information call
1-800-458-9858



TEXAS

Department of Aging
and Disability Services

For additional copies of this publication, contact Consumer Rights and Services

DADS Media Services 13P591 ● July 2013 ● Publication 108