JULY 31, 2017

HCBS ASSESSMENT RESULTS

INTELLECTUAL AND DEVELOPMENTAL DISABILITY PROGRAM EXTERNAL ASSESSMENT

TEXAS HEALTH AND HUMAN SERVICES
Medicaid and CHIP Services Department

Tables

Background

Effective March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) issued a rule under which states must provide home and community-based long-term services and supports in a manner that meets new requirements by March 17, 2019 (CMS has recently provided guidance that includes an extended compliance deadline of March 2022). The rule requires states to ensure that all settings in which home and community-based services (HCBS) are provided comply with the federal requirements that individuals are integrated in and have full access to their communities, including engagement in community life, integrated work environments, and control of personal resources. The rule also includes a number of requirements for increasing person-centeredness in the planning for and delivery of HCBS.

While the rule identifies settings that are definitively not community-based (i.e., nursing facilities or intermediate care facilities for individuals with an intellectual disability or related conditions (ICF/IID), it is less clear on what does constitute HCBS. To ensure compliance, states must do an assessment of their own rules and policies and an assessment of how services are being delivered. Each state is required to file a statewide transition plan (STP) with CMS outlining the state's plan for compliance. The Texas STP includes high-level timeframes and milestones for State actions, including assessment of the State's current compliance and planned steps for remediation. Information obtained through the provider, service coordinator and individual surveys will provide the basis for more detailed remediation in a revised draft of the STP slated for submission to CMS in early 2018.

This rule impacts several programs operated in Texas:

- 1915(c) waivers
  - Community Living Assistance and Support Services (CLASS)
  - Deaf-Blind with Multiple Disabilities (DBMD)
  - Home and Community-based Services (HCS)
  - Medically Dependent Children Program (MDCP)
  - Texas Home Living (TxHmL)
  - Youth Empowerment Services (YES)
- Home and Community-Based Services (HCBS)-Adult Mental Health
- Community First Choice
- STAR+PLUS HCBS 1115 Waiver

This initial report focuses on the four 1915(c) waivers that serve individuals with intellectual and developmental disabilities: CLASS, DBMD, HCS, and TxHmL. Information pertaining to programs for individuals who meet the nursing facility level of care or psychiatric hospital level of care will be added at a later date.

Programs

The Community Living Assistance and Support Services (CLASS) waiver provides home and community-based services and supports to an eligible individual as an alternative to an ICF/IID. CLASS program services are intended, as a whole, to enhance the individual's integration into the community, maintain or improve the individual's independent functioning, and prevent the individual's admission into an institution. The waiver serves individuals with related conditions living in their own home or their family's home. In addition, the waiver allows individuals to receive services in a licensed foster home; however, only two individuals are currently receiving services in a foster home setting.

The Deaf Blind with Multiple Disabilities (DBMD) waiver provides home and community-based services to eligible individuals as an alternative to living in an ICF/IID. Recipients may live in their own home, their family's home, or in a small (four- to six-bed) assisted living facility.

The Home and Community-based Services (HCS) waiver provides home and community-based services to individuals with an intellectual disability as an alternative to living in an ICF/IID. Recipients can live in their own homes, their families' homes, in host home/companion care settings, or in residences with no more than three others who receive similar services.

The Texas Home Living (TxHmL) waiver provides essential services and supports for people with intellectual disabilities as an alternative to living in an ICF/IID. Recipients must live in their own home or their family's home.

Based on the internal assessment conducted by the State and guidance provided by CMS, the following services are the focus of the external assessment and Texas's efforts to comply with settings portion of the HCBS rules. It is important to note that employment services are only included when they are provided in the same location as day habilitation. Employment services not connected to day habilitation were not included in this assessment.

Program	Residential Setting		Non-Residential Setting		
HCS	Supervised living and residential support services (3 or 4-person homes)	Host Home/ Companion Care	Supported Employment	Employment Assistance	Day Habilitation
CLASS	Support/ Continued Family Services	N/A	Supported Employment	Employment Assistance	Pre-Vocational Services
TxHmL	N/A	N/A	Supported Employment	Employment Assistance	Day Habilitation
DBMD	Assisted Living Facility	N/A	Supported Employment	Employment Assistance	Day Habilitation

External Assessment Process

Methodology

As part of the statewide project to assess compliance with the settings component of the CMS HCBS rule, the Department of Aging and Disability Services (DADS) Center for Policy and Innovation (CPI) developed and distributed a self-assessment to providers of supervised living and residential support services[1], host home/companion care services, day habilitation, employment assistance, and supported employment as well as case managers/service coordinators. Stakeholders provided input on the provider assessment tool. The program with the largest number of individuals receiving the services at the focus of this assessment is HCS. Therefore, interviews were conducted with providers contracted to

[1] These services are provided in three- or four-bed homes. For purposes of this project this analysis refers to the setting, not the service, unless otherwise noted.

serve this program and individuals enrolled in the HCS waiver and receiving either residential (three or four-bed homes and host home/companion home) services or non-residential (day habilitation) services.

Provider Assessment

The provider self-assessment was designed for direct support professionals who work directly with individuals. Participation in the assessment was mandatory and not anonymous. Providers were asked to submit electronic copies of policies and procedures to support their claims of compliance. DADS and HHSC held webinars outlining the CMS rule and the assessment process and providers received information letters regarding completion of the self-assessment. In addition, DADS partnered with providers to test the usability of the assessment tools.

Residential

An informational email went out to three- and four-bedroom homes and to host home/companion care homes on April 5, 2016, advising them they had been selected in the sample. The assessment tool was distributed electronically on April 15, 2016, and mailed on April 19, 2016. A total of 2,066 providers were asked to participate in the assessment. DADS received 635 electronic responses and 370 paper assessments for a total of 1,005 responses (response rate of 49 percent).

Non-Residential

Because DADS does not contract directly with HCS day habilitation providers, program providers were asked to provide contact information for any location at which day habilitation is provided. The request included information that would flag those day habilitation providers who also provide employment services. The State sampled 100 percent of these locations for whom email addresses were available for a total of 971 unique locations. Electronic survey links were sent to 959 non-residential providers, including legal entities identified as providing day habilitation, supported employment, and employment assistance services. Twelve providers were sent surveys directly by email. DADS received 320 responses at a 33 percent rate of return. Of these 320 responses, 83 reported they did not provide day habilitation, supported employment, or employment assistance services, leaving 237 surveys to be analyzed.

Service Coordinator/Case Manager Assessment

Providers of residential and other services often have little formal or official responsibilities regarding the individual's opportunities to choose providers or services. The most influence in that area is exercised by the service coordinators employed by the local intellectual and developmental disability authorities (LIDDAs) and case managers employed by the DBMD provider agencies and CLASS case management agencies. Providers are responsible for ensuring personal preferences are met in the provision of services, but it is primarily the responsibility of the service coordinator or case manager to ensure an individual has choice among providers. Because the service coordinator is responsible for convening the service planning team to develop the person-centered plan and make any changes as needed, it was important to survey the service coordinators around individual choice and the person-centered planning process that outlines choices made by the individual.

DADS and HHSC held webinars outlining the CMS rule and the assessment process and service coordinators and case managers received information letters regarding completion of the self-assessment. In addition, DADS partnered with service coordinators to test the usability of the assessment tools. DADS disseminated assessments to 823 service coordinators, a sample which represents all currently employed service coordinators/case managers as reported by program providers and LIDDAs. The assessment was released on May 27, 2016. DADS received 444 replies, or a response rate of 54 percent.

Individual Assessment

DADS contracted with Texas A&M University to implement the residential and non-residential individual assessment process. Texas A&M then subcontracted with the Public Policy Research Institute (PPRI) to actually conduct the assessments. A total of 1,685 face-to-face interviews with individuals receiving HCS waiver services were completed by PPRI. This is representative of the setting types in question and therefore can be used as a baseline for remediation strategies. (Public Policy Research Institute, 2016)

DADS provided PPRI with a sample divided into individuals receiving residential services and those receiving non-residential services. Individuals in the sample who resided in the same residence or attended the same day habilitation site were not removed from the sample. Individuals who were duplicated in the two samples (i.e., an individual residing in a three-bed home and attending day habilitation is included in both the residential and non-residential samples) received the residential assessment only. PPRI conducted pre-surveys to ensure the full assessment would be conducted with someone meeting the sample requirements. (Public Policy Research Institute, 2016)

Residential

PPRI reported facing several challenges when conducting the residential assessment. The language of the assessment uses the term "staff" when asking how care is provided in the home. This seemed to be confusing for individuals who reside in a host home/companion home setting in which their primary caretaker is a family member. The survey attempts to obtain information on whether the individual had an opportunity to choose from a variety of types of settings and between more than one home before choosing his or her current residence. For individuals residing in a host home/companion home with family members, this question was sometimes confusing. When asked if they could be forced to move from their current residence against their will, some individuals appeared to become anxious. An acceptable proxy for individuals who were unable to understand the questions or unable to respond to the questions was not available. Because of the nature of the survey it would not be appropriate for staff to respond, and many individuals did not live with their legal guardian, eliminating that potential resource. (Public Policy Research Institute, 2016)

Non-Residential

The non-residential assessment was considerably shorter than the residential assessment. In this survey, PPRI noted two challenging questions. First, individuals appeared confused by the question asking if their private information is posted publically at the site. Second, when asked if there is a safe place at the day habilitation site where individuals can store their belongings, more individuals than not responded that they didn't bring anything to day habilitation. (Public Policy Research Institute, 2016)

Description of Residential Settings

Table 1. Type of residential setting[2]

[2] While some providers did report operating an assisted living facility or providing adult foster care, the sample for this assessment was limited to HCS providers. The data does not allow insight as to why assisted living facility or adult foster care were selected.

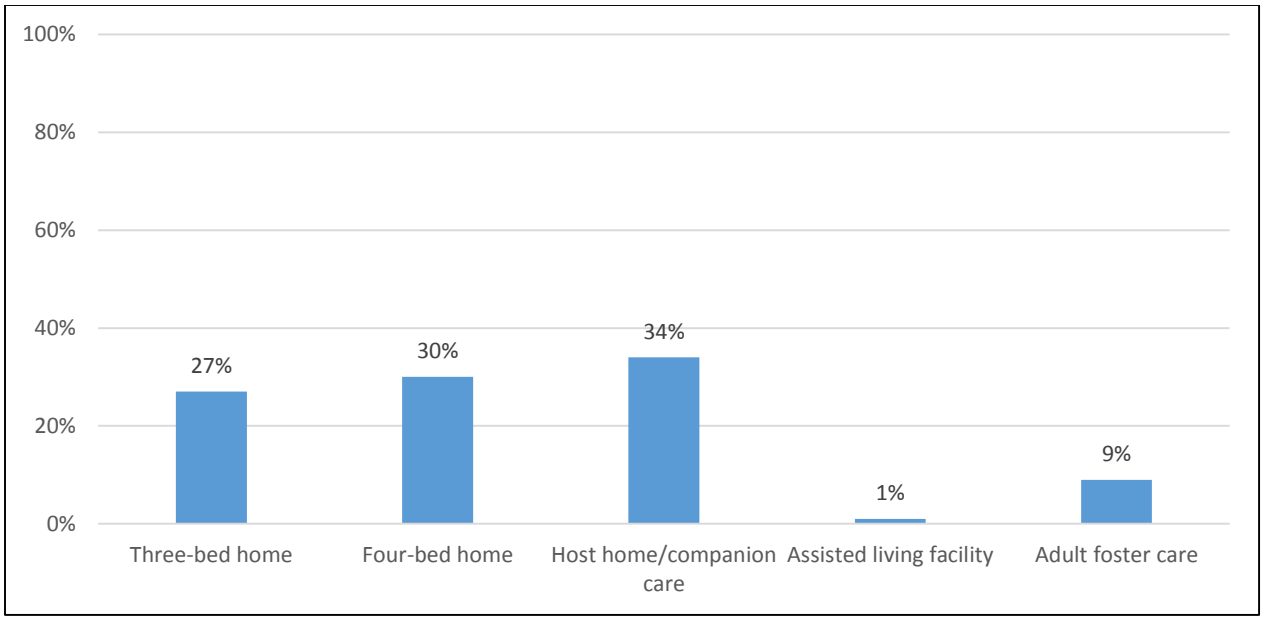
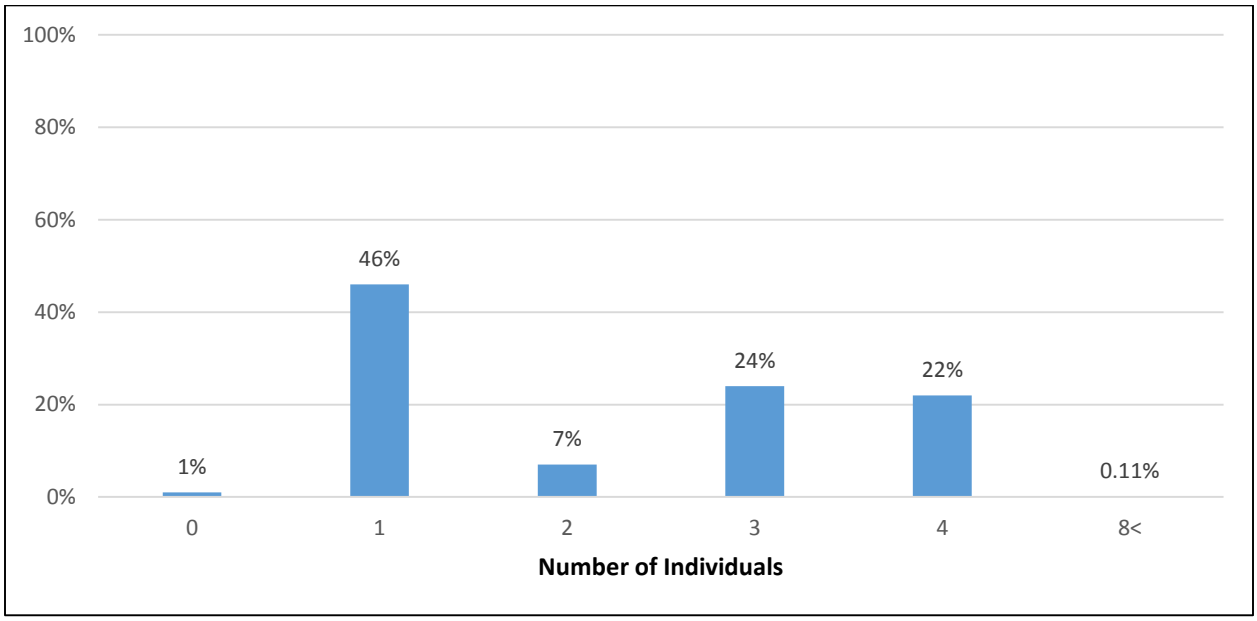


Table 2. Number of individuals receiving HCS services at the assessed location



When asked whether, within one block of the location surveyed, there are any other sites or facilities that provide services to individuals with IDD or who are elderly or have a physical disability, 15 percent of providers said yes. This could require Texas to submit the specific settings referenced for the CMS heightened scrutiny process. Three categories of settings require CMS heightened scrutiny: settings located in a building where inpatient institutional treatment is also provided; settings located on the grounds of, or immediately adjacent to, a public institution; settings that have the effect of separating

people receiving HCBS from those not receiving HCBS. Site-specific follow up will help HHSC determine if heightened scrutiny is necessary for any Texas settings.

Notable findings

This report includes findings that met at least one of two criteria: the preferred individual or provider response was below 86 percent or the difference between the preferred individual and provider responses was greater than 10 percent. For each question, the preferred response is the one that indicates strongest compliance with the HCBS regulations.

Results are broken into four domains:

Community Access: This section includes findings that indicate how well an individual might access the broader community in which they live.

Individual Choice: Findings included in this section relate to an individual's choice of the setting in which they receive services and to their choice of what those services and supports include.

Rights and Dignity: This section includes information ranging from residential leases to privacy.

Individual Autonomy: This section speaks to the extent to which individuals are supported to make their own choices and practice self-determination.

Results are reported separately for residential settings and non-residential settings, and include a brief list of high level notes for remediation. Because data with small denominators cannot be relied upon to draw conclusions about the program, service, or setting, any results with fewer than 30 responses in the denominator are not included in this analysis, although the data itself is included in the report appendices.

Community Access

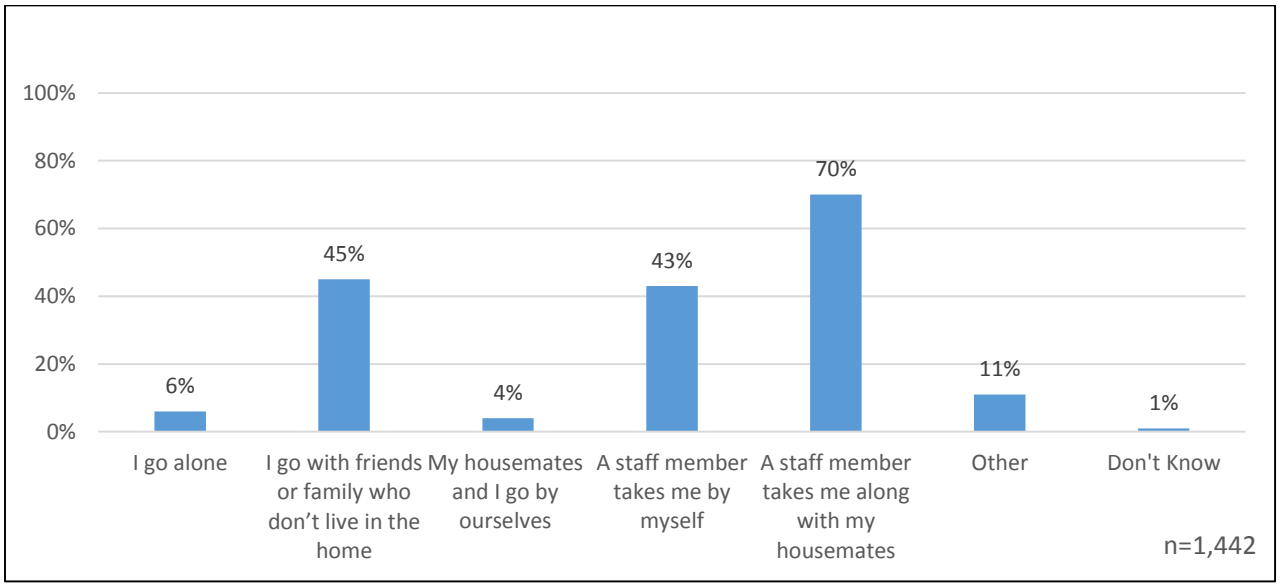
The HCBS rules speak to the importance of individuals being able to participate in their community to the greatest extent possible. The following HCBS regulation relates to community access:

- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS. *42 CFR 441.301 (c)(4)(i)*

Residential

Sixty-four percent of providers reported that individuals can participate in the community without staff support unless otherwise specified in the individual's service plan. Eighty-three percent of providers indicated residents who need staff support can participate in the community one-on-one with staff. Forty-three percent of individuals reported a staff member takes them to activities one-on-one, while 70 percent of individuals indicated a staff member takes them on outings with housemates. Because this question allowed respondents to select multiple responses, it cannot be determined how many individuals selected both of these options (which would be appropriate) or how many reported they only go out with their housemates (which might indicate opportunity for improvement). It also is not apparent when the individual may be choosing to invite housemates on outings.

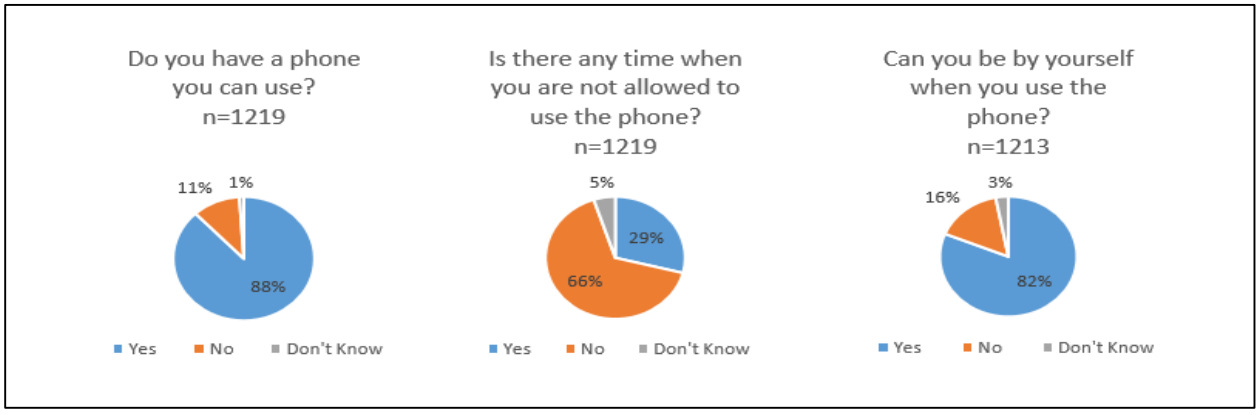
Table 3 How individuals access the community



The data indicates individuals have multiple ways they are accessing the community when living in residential settings. Future rule and policy will need to emphasize facilitating access to the community by ensuring appropriate person-centered planning and a combination of the resources outlined in the table above. Rule and policy needs to emphasize empowering more individuals to access the community alone and with peers.

Having the ability to easily contact friends and family, and to be contacted by them, contributes to an individual's sense of belonging. For many individuals, access to a telephone is important in maintaining these relationships. Eighty-eight percent of individuals indicated they had access to a phone. Of the individuals reporting they had access to a phone, 66 percent of respondents (n=1,219) indicated they had unlimited access to the phone. Eighty-two percent of individuals indicated they could use the phone in private.

Table 4 Opportunities to use phone



Data limitations do not allow the rate of individuals reporting they are sometimes unable to use the phone because others are using it to be separated from the rate of individuals who are unable to use the phone as a result of general restriction. Future rule and policy clarifications will need to emphasize

providers must allow an individual to access to a telephone at the individual's discretion unless otherwise indicated as a restriction on an individual service plan. It is important to ensure these rights are clearly identified for the individual and the individual's guardian.

Transportation

Only 17 percent of individuals indicated using public transportation. However, it is unclear if this question was asked of individuals who live in an area without public transportation options. Of the 242 individuals who reported using local transportation, 76 percent indicated residential staff assist them in doing so. Out of 908 providers, 70 percent indicated public transportation is available in the setting's community; however, out of 906 providers, 63 percent responded "not applicable" when asked if individuals were provided support and training to use public transportation. Future rule and policy changes will emphasize the need to ensure person-centered planning addresses how transportation will be provided based on the activities identified in the individual's plan.

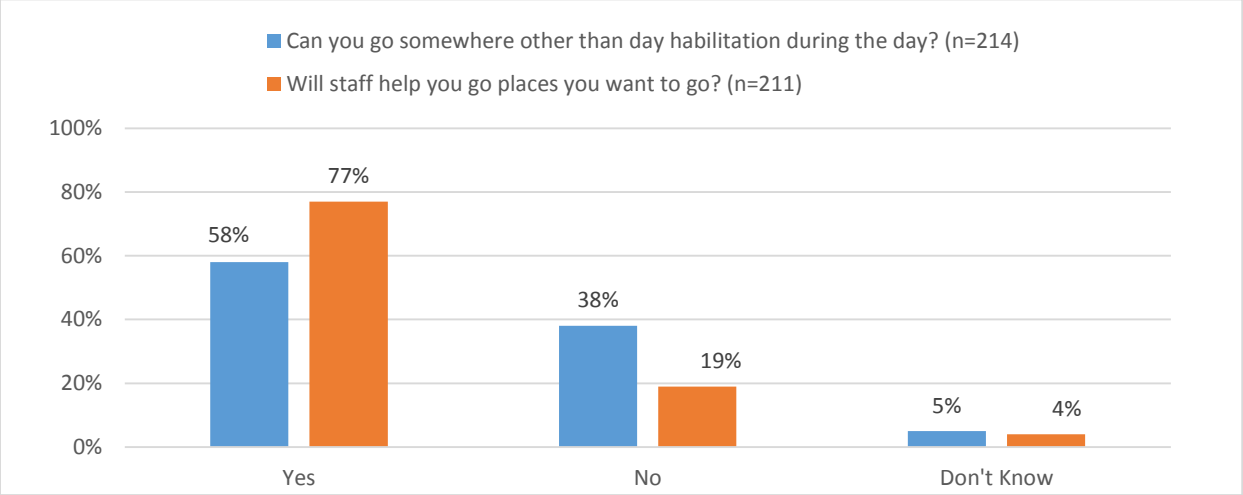
Eighty-four percent of providers reported an accessible vehicle is available for individuals. This is somewhat supported by the 96 percent of individuals who indicated their residence had a car or van to take them where they need to go; however, approximately 56 percent of respondents indicated they can use the provider transportation when they want to. The availability of transportation impacts an individual's ability to participate in their community. While HHSC cannot create public transportation where there is none available, HHSC can explore avenues available to address transportation needs.

Non-Residential

While day habilitation is usually provided outside the home, it can still be experienced by individuals as lacking integration into the broader community if part of the day habilitation service does not include opportunities for individuals to engage in their community outside day habilitation. Increasing the extent to which individuals attending day habilitation have opportunities for community integration has already been identified by HHSC as an area for improvement in terms of CMS rule compliance. This may be achieved through increasing individual opportunities to leave site-based day habilitation. Another approach is for the site itself to become more integrated, either through moving to a less isolated location or by offering opportunities for community members not receiving services to use the site. These options are being reviewed by HHSC.

In response to this survey, 58 percent of individuals indicated they had opportunities to leave their day habilitation site during the day. Seventy-seven percent of individuals indicated staff will help them go places they want to go.

Table 5 Opportunities to leave site-based day habilitation



Forty-six percent of individuals reported that staff help them arrange public transportation, while seventy-four percent of providers report that they provide support to individuals in accessing transportation off-site during the day. As discussed above, rule and policy revisions needs to emphasize the importance of addressing how transportation needs will be met through the person-centered planning process in coordination with the individual's provider, and available community resources.

Thirty-four percent of residential providers reported that individuals residing at the location perform volunteer work. The same rate indicated individuals residing at the location participate in unpaid or volunteer activities where the majority of others do not have a disability. Eighty-one percent of providers reported individuals are supported in skill development in order to participate in an alternative to day habilitation (e.g. supported employment), which appears consistent with the rate of individuals reporting they could do something different during the day (eighty percent).

Conclusion- Community Access

Residential

The survey results support that individuals in HCS residential settings are accessing the community through the support of staff, natural supports, and to some degree on their own. While further research is needed to address residential settings in the Deaf Blind with Multiple Disabilities program, revising rules and policy will provide clear guidelines regarding areas identified in the survey as barriers to community integration and the need to ensure the person-centered planning process addresses those barriers in coordination with the individual's provider, and available community resources.

Educating providers, service coordinators, and case managers on the results of the assessment and reported barriers to community integration will aid in efforts to ensure the person centered planning process addresses these barriers to the greatest extent possible given available resources.

Non-Residential

HHSC has already identified a need to re-conceptualize the day habilitation service in a way that allows for increased access to the community during the day. HHSC will continue to pursue the policy changes necessary to support this change. These changes may include:

- Increased funding for the service to support staffing needs necessary to increase community access.

- Potential creation of a new service to be offered for the purpose of increasing community integration as an alternative to day habilitation.

Individual Choice

Individuals having choice in the types of services they receive, who their comprehensive provider of waiver services will be and when possible, who will provide discreet waiver services, is supported in rule and policy. The individual and the individual's guardian begin this process at enrollment by choosing a comprehensive waiver provider and throughout the person-centered planning process as the need for specific services is identified. This assessment focused on measuring the amount of choice providers are allowing and individuals' perceptions of how much choice they actually have. HHSC recognizes that choice is vital in all aspects of day-to-day life. For purposes of this project, the questions of choice are limited to choice of residential setting and choice of day activities. Information was also gathered relating to choice while receiving the services provided in the assessed settings. The following HCBS rules relate to individual choice of providers, services, and supports.

- Individuals sharing units have a choice of roommates in that setting. *42 CFR 441.301(c)(4)(vi)(B)(2)*
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.*42 CFR 441.301(c)(4)(ii)*
- [The setting] Facilitates individual choice regarding services and supports, and who provides them. *42 CFR 441.301(c)(4)(v)*

Person Centered Planning

The service planning process is facilitated by the service coordinator/case manager. Current requirements direct the service coordinator/case manager to include the individual in the process and as outlined in the HCBS regulations, Texas is providing training support and revising rules and policy to outline the expectations of person-centered planning in which individuals are not only included in the planning process, but are instead leading the planning process. The provider also has an important role in the person centered planning process. In response to the question, "How do you ensure that individual needs, preferences, goals, and desires are included in the service plan?", 82 percent of providers reported asking the individual for input; 86 percent speak with family, guardian, legally authorized representative, or other involved individuals; and 86 percent consult with the service coordinator or case manager. Providers are duplicated across these responses as the question allowed for more than one answer.

Seventy-eight percent of individuals indicated someone asked them what they wanted to include in their service plan. Ninety-nine percent of service coordinators indicated they consult the individual when creating or updating the service plan. Seventy-six percent of individuals indicated their service plan always or most of the time has everything they would like it to include. HHSC is committed to supporting person centered planning through training, technical assistance and communicating best practices as they are identified. Communicating the results of the survey responses to providers and service coordinators will be important in furthering the emphasis on the importance of the person-centered planning process and the perception of individuals in terms of the extent of their involvement.

When asked how they respond to individual requests for new or changed services and supports, 25 percent of responding providers reported they encourage and assist the individuals to contact the service coordinator, family, or other appropriate person. Sixty-seven percent reported they make

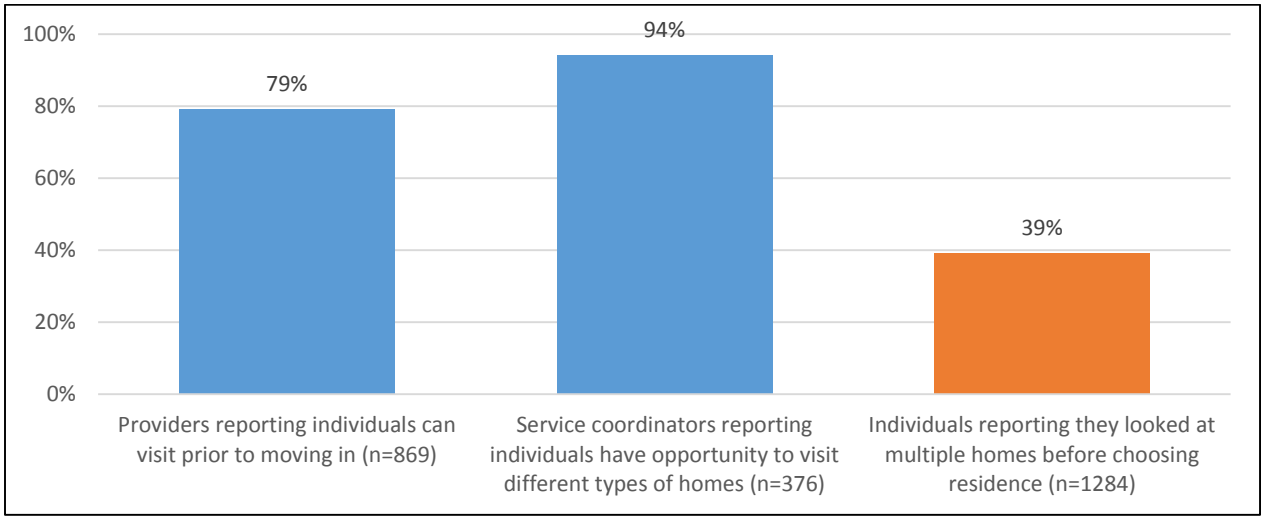
contact with the service coordinator on behalf of the individual. While combined these responses indicate providers are fairly responsive, it is important to ensure rules and policy focus on appropriate follow-up and ensuring providers who do reach out directly to service coordinators do so with the individual's permission and that the individual is involved in the discussion.

When asked what they would do or whom they would tell if they were not satisfied with their services, 39 percent of individuals indicated they would contact their family, legally authorized representative (LAR), or guardian. Thirty-two percent would tell residential staff, and eleven percent would contact their LIDDA. Four percent would call DADS or HHSC, although it is not clear based on the question what area of DADS or HHSC the individual would be notifying. Twenty percent of individuals chose "other". It is important to note that of the "other" responses, over half of the responses were either "case manager" or "service coordinator". Individuals were able to choose all responses that applied, so there is overlap in these percentages. Survey results highlight the importance of ensuring providers and family members know how to contact the individual's service coordinator. They also highlight the importance of ensuring individuals know how to contact their service coordinator directly in the event they want to change service providers.

Choice of Residential Setting

Eighty percent of service coordinators responded there are at least two homes for individuals to choose between. Ninety percent of service coordinators reported individuals had a chance to visit more than one type of residential setting before making a choice, and 94 percent reported individuals are offered opportunities to visit different types of homes. Seventy-nine percent of providers said individuals could visit their home before moving in, while thirty-nine percent of individuals reported looking at multiple homes before choosing their current residence.

Table 6. Home visits during residential selection process



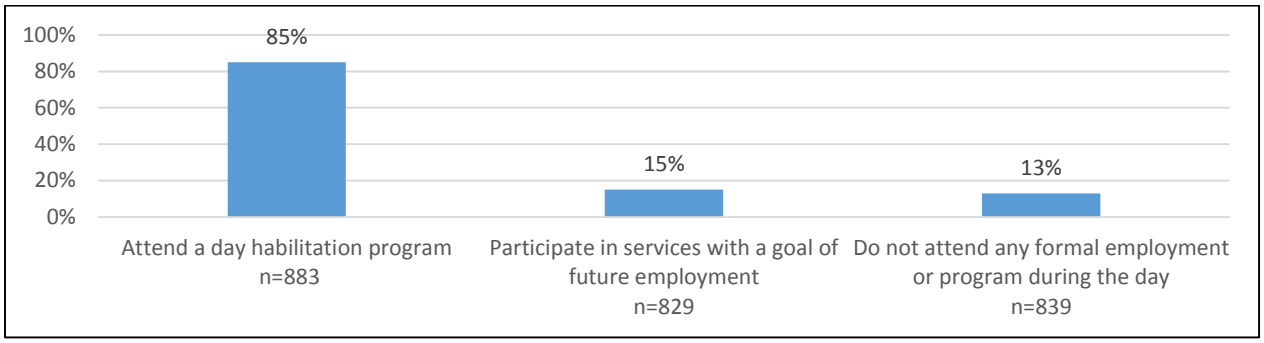
Ninety-four percent of providers said individuals could visit overnight. This is inconsistent with the 78 percent of service coordinators responding that prospective residents could visit overnight. Given these survey results, it will be important to ensure rules and policies clearly explain that individuals may visit provider residential settings prior to making a final selection.

Choice of Non-Residential Setting

The individual chooses a comprehensive provider to deliver or subcontract and oversee the delivery of all of the individual's long-term services and supports provided through the waiver. An individual may choose to receive day habilitation from a different provider than their residential services provider. The comprehensive provider then subcontracts with the day habilitation provider chosen by the individual.

Ninety-two percent of individuals receiving residential services reported they either attend day habilitation or are employed. Eighty-five percent of residential providers reported that at least one individual in the home attends day habilitation. Thirteen percent of residential providers reported that at least one individual in the home does not attend a day program or maintain employment. Fifteen percent of residential providers reported at least one individual in the home is receiving employment services with a goal of becoming employed, and eighteen percent reported that at least one individual is employed and making at least minimum wage. Eighty-seven percent of providers reported that no individuals in the home are employed in a setting where the majority of other individuals do not have a disability.

Table 7. Day activities reported by provider



Only 41 percent of individuals reported they decided to attend their day habilitation site. Ninety-four percent of non-residential providers indicated individuals are informed of choice of day activity, provider, or site annually or more frequently than annually. Eighty-nine percent of providers reported that individuals are informed they can choose a day habilitation provider different from their comprehensive waiver provider. Twenty-one percent of individuals responding to the residential survey stated they have a paid job in the community, while 42 percent of individuals responding to the non-residential survey indicated they were working. Fifty-five percent of individuals who were not already working responded to the residential survey they would like a job. Sixty-nine percent of individuals asked the same question on the non-residential survey reported they would like a job.

Seventy percent of non-residential providers reported individuals are supported to find competitive employment. It should be noted the data does not indicate or allow conclusions to be drawn on the reason the other 30 percent are not supported to find competitive employment. Seventy-eight percent of non-residential providers reported that individuals have access to supported employment and 75 percent reported individuals have access to employment assistance. Seventy-nine percent of individuals said they have services intended to help them get a job. The survey results indicate strong interest among individuals regarding employment opportunities. HHSC acknowledges continuing efforts to help individuals successfully obtain employment are important and need to be strongly emphasized in the person-centered planning process and supported through the use of employment assistance and supported employment. A continuum for supporting employment should be a part of the discussion on restructuring day habilitation and how day habilitation can be a bridge to employment for individuals.

Conclusion- Individual Choice

Residential

- Ensure rules and policy fully support individuals' knowing their rights regarding choice of comprehensive waiver providers, specific service providers to the degree these are available, and the residential settings (e.g. three or four bed, host home) from which the individual can choose.
- Ensure appropriate tools, including rules, policies and training resources, and monitoring to support individuals in taking a central role in the person-centered service planning process.

Non-Residential

- HHSC acknowledges continuing efforts to help individuals successfully obtain employment are important and need to be strongly emphasized in the person-centered planning process and supported through the use of employment assistance and supported employment.
- A continuum for supporting employment should be a part of the discussion on restructuring day habilitation and how day habilitation can be a bridge to employment for individuals.

Rights and Dignity

Individuals receiving HCS services receive a brochure outlining their rights when receiving program services. The brochure can be found on the HHSC website at this address: https://hhs.texas.gov/services/disability/intellectual-or-developmental-disabilities-idd-long-term-care. These rights address privacy and confidentiality, service delivery, and financial matters, among other topics. The assessment questions included in this domain are those most closely related to an individual's right to privacy and dignity while receiving services. The HCBS rules related to rights and dignity include:

- Each individual has privacy in their sleeping or living unit [and] Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. *42 CFR 441.301(c)(4)(vi)(B)(1)*
- Any modification… must be supported by a specific assessed need and justified in the person-centered service plan. *42 CFR 441.301(c)(4)(vi)(F)*
- [Setting must] Ensure an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. *42 CFR 441.301 (c)(4)(iii)*
- The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law. *42 CFR 441.301(c)(4)(vi)(A)*

Residential

An individual's right to privacy and dignity includes receiving assistance with certain tasks one on one with a staff person, and away from housemates or staff who are not assisting with the task. Consistent with this expectation, 97 percent of providers indicated they helped individuals with hygiene activities one on one, and 99 percent reported providing this assistance in private. However, only 82 percent of individuals reported that staff assist them with hygiene activities individually, although 91 percent reported being assisted by staff in private. These inconsistencies indicate a need for HHSC follow-up. Additionally, 19 percent of providers reported posting in public areas of the home individual information such as therapy schedules, medications, or diets. Survey results will inform the development of the

remediation plan, including changes to provider education and adding language to rule and policy emphasizing specific activities requiring privacy.

When asked if they can close and lock their bedroom door, 60 percent of individuals responded affirmatively. However, a higher rate of providers (86 percent) indicated residents with private bedrooms can always close and lock their bedroom doors, unless it is otherwise specified in the service plan or there is a safety concern. Ninety-three percent of providers reported that staff knock and receive permission to enter prior to entering an individual's bedroom or bathroom unless it is otherwise specified in the service plan or if there is a safety concern.

Seventy-four percent of individuals indicated staff do not enter their bedrooms with a key. Twenty-two percent of providers indicated they do not use a key to enter a resident's locked bedroom. Twenty-four percent do, but only with the individual's permission and fifty-five percent reported they would only in certain circumstances such as cleaning or for a safety reason.

Eighty-one percent of individuals indicated no one comes in the bathroom without permission. Ninety percent of providers indicated residents can always close and lock their bathroom doors unless it is otherwise specified in the service plan or there is a safety concern. Ninety-three percent of providers reported that staff knock and receive permission to enter prior to entering an individual's bedroom or bathroom unless otherwise specified in the service plan or if there is a safety concern. These inconsistencies indicate a need to ensure rule, policy, and provider education emphasize the need for privacy.

Eighty-three percent of individuals responding indicated they do know the rules about living in their home, and 66 percent indicated they do not have to move from their home if they do not want to. Fifty-five percent of providers report that individuals have a lease-like document, while 85 percent of providers report that individuals are informed about their rights under a residency agreement. The State is developing a document that will serve the purpose of a lease and that can be used uniformly by all residential providers. This will help to ensure all providers are enforcing the same policies.

Survey responses related to privacy indicate a need to ensure individuals have the ability to assure privacy by locking bedroom and bathroom doors and by having privacy when receiving assistance with all hygiene activities unless restrictions are indicated in the service plan. Survey responses in this area indicate a need for provider education as well as strengthening language in individuals' rights materials ensuring individuals and legal guardians understand individuals have a right to privacy and specific examples regarding these expectations.

Non-Residential

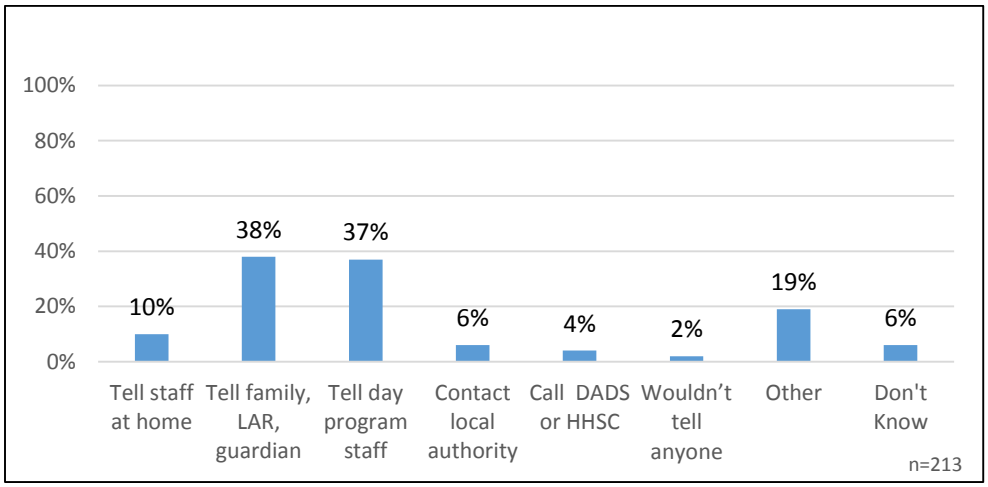
While day habilitation sites are often very busy, it is critical that staff maintain the same standards for privacy expected in a residential setting. However, only 79 percent of individuals report that staff do not speak about them in front of other people. The question was not specific as to what is said by staff in these circumstances. Provider education may improve this behavior.

While the majority of individuals did not report that day habilitation staff assist them with hygiene-related activities, almost half of the individuals who did report being assisted indicated staff do not assist them with these activities in private. This is inconsistent with the 82 percent of providers who reported that assistance with toileting or grooming is provided in private.

Eighty-two percent of providers reported that individuals have a secure place to store their belongings at the site. Eighty-two percent of individuals also reported having somewhere safe to store their belongings. While consistent with each other, these responses indicate an opportunity for improvement.

Out of 213 individuals responding, there were 201 responses indicating individuals would take proactive steps to tell someone if they did not like how staff were treating them. It must be noted that, while the survey tool does not allow for multiple responses to this question, it appears interviewers may have accepted more than one response per individual.

Table 8. Individuals' responses if dissatisfied with treatment at day habilitation



Conclusion- Rights and Dignity

Residential

- Survey responses related to bedroom privacy, bathroom privacy, and personal hygiene routines indicate a need for provider education and reinforcing key principles regarding privacy expectations in rule and policy. In addition speaking directly to these issues in individual rights documents will provide individuals and guardians with clear expectations regarding privacy and what must occur before restrictions in this area can be made.
- The State is developing a document that will serve the purpose of a lease and that can be used uniformly by all residential providers. This will help to ensure all providers are enforcing the same policies.

Non-Residential

- HHSC has already identified a need to re-conceptualize the day habilitation service. HHSC will continue to pursue rule and policy changes necessary to support this change, and in doing so will ensure the rights and dignity of individuals receiving the service are respected.
- Interim efforts to address immediate privacy issues will be addressed through provider education and discussion of survey results to outline areas where individuals have reported a lack of privacy while participating in day habilitation.

Individual Autonomy

Self-determination and autonomy are the foundation of independence, and are integral to service delivery in home and community-based settings. The HCBS rules related to autonomy include:

- Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. *42 CFR 441.301(c)(4)(vi)(B)(3)*
- Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. *42 CFR 441.301(c)(4)(vi)(C)*
- Individuals are able to have visitors of their choosing at any time. *42 CFR 441.301(c)(4)(vi)(D)*

- The setting is physically accessible to the individual. *42 CFR 441.301(c)(4)(vi)(E)*
- The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.*42 CFR 441.301(c)(4)(i)*
- [The setting] optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact. *42 CFR 441.301(c)(4)(iv)*

Residential

Sixty-nine percent of individuals reported no restrictions on where they can go in their home. When those who reported having restrictions were asked the reason for the restrictions the most frequent response was that others were using the space or "other". Ninety-seven percent of responding providers indicated individuals had unrestricted access to the residence unless otherwise indicated in the service plan, although sixteen percent of providers indicated they have locks or alarms preventing individuals from entering areas of the home. Inconsistencies in these responses may be related to interpretation of the questions. For example, it may be appropriate that individuals cannot enter certain parts of the home if other residents are using that space or if a closet where personal records are kept is locked. However, a blanket restriction preventing all individuals from entering the kitchen without including justification in each individual's service plan is not appropriate. It is apparent from some of the responses to the open ended questions that some individuals included appropriate limits in their reporting of restriction.

Eighty-two percent of individuals said it was not hard to get around their homes, while ninety-three percent of providers indicated residents were able to access all rooms in the home, without physical barriers. The differences in these responses indicate a potential area of improvement. Ideally, all individuals would be able to access all public areas of their home independently. For example, if an individual using a wheelchair resides in a two-story home, ideally the home would be modified to allow the individual to access both floors using the modification (chair lift, ramp, etc.), rather than having to rely on staff to help him or her get from one part of the house to another.

Seventy-seven percent of providers reported that guests of residents must either call before visiting or identify themselves to staff when arriving at the home. Out of 1,354 individuals surveyed[3], 67 percent indicated staff have to be familiar with visitors before they come to the home, 19 percent indicated visitors have to sign something when visiting, and 45 percent reported visitors have to be introduced to staff before visiting. Fifty-eight percent of individuals indicated their guests had full access to the house while visiting, and eighty-nine percent of providers reported they do not restrict the public areas where an individual may have visitors. While there is a large discrepancy between these two numbers, it may be that individuals included non-public areas of the house in their response. Some protocols around visitation may be necessary and HHSC will need to work with all stakeholders to draft rules and policy guidance that comply with federal regulations and are responsive to stakeholder concerns.

Program policy allows roommates and requires individuals to have choice in who their roommate is. Forty-three percent of individuals reported having a choice in who their roommate is, and sixty-three percent reported they can change roommates. Of those serving individuals with roommates, 72 percent of providers indicated that individuals can initially choose who they are. In a separate question, 13

[3] For this question individuals were able to choose more than one response.

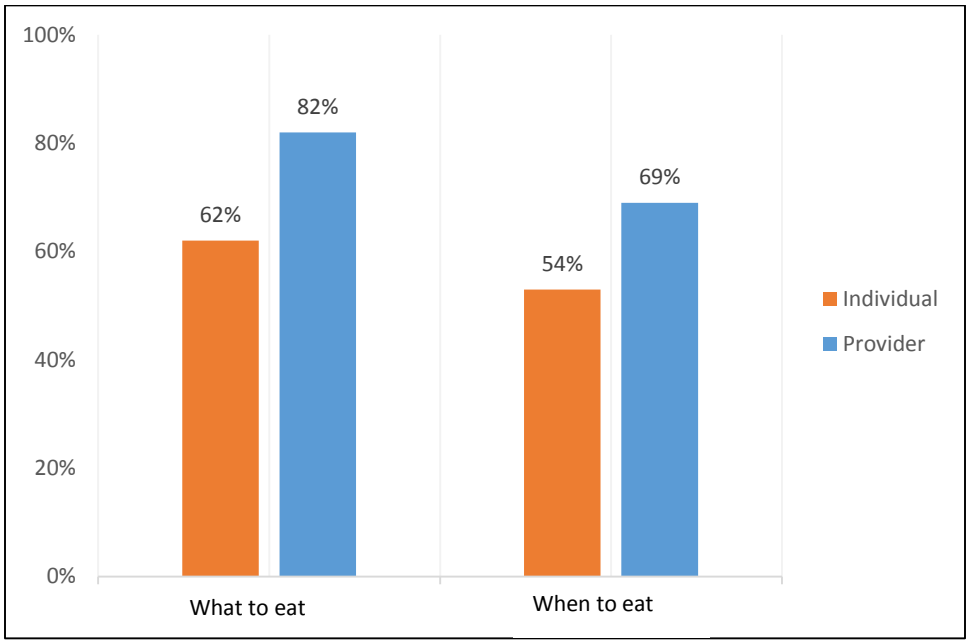
percent of providers reported individuals had roommates, and of those 89 percent reported individuals can change roommates if they request to do so, as long as both parties agree. Based on these responses it appears that provider education may be necessary related to roommate selection requirements. .

There was a dramatic difference between individual responses and provider responses to the question of whether individuals can choose their own bedroom décor. While 67 percent of individuals reported choosing their own bedroom décor and supplies, 99 percent of providers indicated individuals can decorate their own rooms. It may be that, while almost all providers do not prohibit individuals from decorating their living space, they do not necessarily facilitate the process. Conversely, providers may be willing and able to help an individual decorate their living space, but individuals may not have the resources to do so.

The individual and provider responses to questions related to curfew were all below the 86 percent threshold. Fifty-seven percent of individuals indicated they do not have to be home at a specific time. Seventy-six percent of providers reported their residents can come and go from the home at any time they choose. Eighty-three percent of providers indicated there is no curfew for residents unless otherwise indicated in the service plan. Any curfew must be included in an individual's service plan, making it subject to discussion at service planning team meetings. Rules, and policy will need to be clarified to address individual's right to leave and return to the residence as they choose unless restrictions are noted in the individual's service plan.

Communal living always requires some amount of compromise. Ideally, individuals would work out together, with the help of staff, their preferred schedules in order for all residents to meet their needs. It is not clear from the responses to this survey if the residents are developing a house schedule, which may be appropriate, or if staff are setting the schedule, which is not supported in the regulation. This is important to keep in mind when considering the responses related to daily schedules. Sixty-two percent of providers reported that individuals set their own schedules for sleeping, bathing, eating, and other routine daily activities, and sixty-six percent reported residents have different daily schedules. Seventy-two percent of individuals reported being able to choose when to go to bed and when to get up in the morning; however, almost half of responding individuals indicated everyone in their home gets up and goes to bed at the same time at least sometimes. Fifty-four percent of individuals indicated they choose when to eat their meals, while sixty-nine percent of providers responded that individuals can choose when and where they eat their meals. Rule and policy revisions will need to provide guidance related to how providers and individuals address daily routines.

Table 9. Autonomy related to meals



Regarding meal planning and menu setting, 62 percent of individuals indicated they can decide what to eat, while 82 percent of providers reported that residents can request and receive a different meal from what is served. Seventy-five percent of individuals indicated they can get a snack at any time they choose, while ninety percent of providers indicated the same. The discrepancies between provider responses and individual responses make this another area to address in rule and policy.

Eighty-one percent of individuals and eighty-nine percent of providers reported individuals decide where to sit at mealtimes. Eighty-one percent of individuals also reported they can eat alone if they prefer, while ninety-four percent of providers indicated residents can eat alone if they choose. The lower rate of individuals deciding where to eat and the difference between the numbers of individuals who can eat alone and providers stating individuals can eat alone indicates a need to address expectations in rule and policy.

The ability to control one's own finances is an important part of autonomy and independence. Ninety-two percent of individuals surveyed indicated they had money to spend, and eighty-nine percent indicated they can spend their money as they choose. Seventy-two percent of providers reported that staff or a third party maintains control over at least one individual's funds, and seventy-seven percent of providers indicated that, in all cases of individuals having less than complete control of their funds, the restriction is included in the individual's service plan. One-hundred percent of these restrictions should be included in the individual's service plan. While program policy already requires this, provider education may be necessary.

Non-Residential

There were a number of discrepancies in the non-residential assessment findings relating to individual autonomy. Thirty-six percent of individuals reported people engage in the same activities at the day habilitation site, although ninety-five percent of providers reported offering both individual and group activities. Eighty-four percent of providers reported that individuals can create their own activities at day habilitation and seventy-nine percent reported individuals have as many choices when planning

their activities at the day habilitation site as individuals do in the greater community; however, only thirty-two percent of individuals indicated they choose their activities at day habilitation.

In addition to the conflicting findings, this section had particularly low preferred responses. Eighty-one percent of providers reported individuals are supported in choosing alternative activities during day habilitation hours. This is consistent with the 83 percent of individuals reporting they can ask to do something different (15 percent of providers report that individuals either cannot do an alternative activity or have to be present for an activity even if they are not participating). Seventy-nine percent of providers reported that individuals are supported in pursuing day habilitation at locations that are not disability specific, such as the YMCA. Seventy percent of providers reported their programs allow individuals to set their own schedules.

Sixty-six percent of providers reported that individuals can decide when and where they eat their meals, and forty-six percent of individuals reported choosing their mealtime at their day program. Fifty-six percent of individuals stated that, if they bring a snack with them, they can eat that snack at any time. This is not consistent with the provider response to a similar question, to which 78 percent of providers responded individuals can eat a snack at any time unless otherwise documented in the service plan.

When asked if there were areas of the day habilitation site that the individual could not access because of an inability to climb stairs or fit a wheelchair, 84 percent said no. Eighty-nine percent of providers reported that individuals have access to all parts of the day habilitation site, but only sixty percent of individuals agreed and, in response to a different question, only sixty-eight percent of providers reported individuals can move about anywhere within the site without physical barriers or needing permission.

Conclusion- Individual Autonomy

Residential

Several areas of concern regarding individual autonomy are identified in discrepancies between individual and provider responses in a number of areas related to autonomy such as accessing areas in residential and non-residential settings, roommate selection, choices impacting what is eaten and where, and regimented daily activities. It will be important to provide more detailed guidance in rule and policy to address these issues in combination with provider education and ongoing oversight to ensure compliance with rules and policy.

Non-Residential

Day habilitation or other day programs provide an ideal opportunity to help individuals maximize their independence. However, factors such as the limitations of the current rate structure and availability of community resources create challenges for providers trying to assist individuals in achieving independence. HHSC is committed to working with stakeholders to identify creative strategies to overcome these challenges when developing the final remediation plan.

Conclusion

On May 9, 2017, CMS announced they are giving states an additional three years to come into compliance with the HCBS regulations. CMS clearly stated the intent of this extension is to allow states sufficient time to implement the transition plans that still must be completed and approved by CMS by March 17, 2019. Consistent with the most recent direction from CMS, HHSC will use this extension to continue discussions with stakeholders, revise the existing statewide transition plan and continue to seek CMS approval of the plan. Specific information from this report will enhance remediation activities identified in the Statewide Transition Plan along with a revised timeline for implementation.

Next Steps

HHSC plans for staff to visit assisted living facilities serving individuals in the DBMD program. Due to the relatively small number of providers and impacted settings, staff felt the external assessment could be completed by state staff and allow for a more focused review of the setting. Staff with direct experience working with the deafblind population with the assistance of interpreters when needed will conduct on-site reviews of each setting and interview individuals living in these settings. On-site reviews are targeted for completion in early 2018.

The findings in this report point to several areas in which Texas must improve to be in compliance with the HCBS regulations. HHSC will address these areas with the involvement of external stakeholders representing individuals, providers, and other advocates. For day habilitation, HHSC has already identified the IDD System Redesign Advisory Committee's subcommittee on day habilitation and employment services as the primary representative of external stakeholders. This group will provide ongoing input on the day habilitation remediation plan, in addition to other involved stakeholders such as provider and advocacy organizations. To address findings related to HCS three and four bed residential settings and host home settings, HHSC will partner with a stakeholder group to serve as the lead on these issues based on input from the IDD Redesign Advisory Committee as well as other interested stakeholders.

Many of the survey responses indicated areas of concern related to rules and policies currently governing the HCS program. Where individual survey responses indicate the individual experience is not consistent with state expectations there will be a multi-pronged approach to remediation. This will focus on rule and policy clarification, provider education and ongoing oversight. For areas where Texas is not compliant and does not have existing rules or policies that, if clarified, would meet the regulations, HHSC will have to develop requirements. In some instances this will require additional funding to be allocated by the state legislature. Identified funding needs include:

1. Increased funding for restructuring the delivery of day habilitation.
2. Increased resources for state-level provider oversight. Revisions to methods used for provider oversight will likely require additional resources given the complexity and breadth of HCBS requirements within the different residential and non-residential settings.

Finally, HHSC will determine which, if any, site-specific settings require submission to CMS for heightened scrutiny. Staff will be required to visit these settings to develop the necessary documentation to submit evidence to CMS for heightened scrutiny.

Short-Term Goals	Long-Term Goals
• Identify provider education opportunities (webinars, conference presentations, small workgroup meetings) • Conduct provider education regarding initial survey results and immediate remediation. • Review residential settings to determine if CMS heightened scrutiny is necessary • Identify workgroup to provide input on remediation for residential settings • Revise STP and submit for CMS approval • Obtain CMS milestone template	• Complete CMS milestone template • Clarify rules and policy through stakeholder communications • Conduct provider education on rules and policy changes to address HCBS compliance issues. • Pursue additional funding over the upcoming legislative cycles • Amend program rules in Texas Administrative Code • Amend waivers if needed

	• Augment monitoring tools already in place to ensure HCBS compliance is assessed. • Create revised monitoring protocols when necessary and when needed, seek additional resources.

Throughout the process of developing the state's remediation plan, HHSC will evaluate the ongoing guidance provided by CMS and will adjust its plan accordingly, still with the involvement of its stakeholders. HHSC will have to determine the most efficient and effective way to use existing staff resources as the project focus will be divided over multiple areas.

Attachment One- Internal Assessment Findings

Federal Rule	Community Living Assistance and Support Services (CLASS)	Deaf-Blind with Multiple Disabilities (DBMD)		Home and Community-Based Services (HCS)	
	Support/Continued Family Services	Assisted Living Facility	One- to Three-Bed Home	Three- or Four-Person Home	Host Home/ Companion Care
In-home services are not provided in institutional settings. ***42 CFR 441.301 (c)(5)***	**Rules:** Compliant **Policy Manual:** Compliant	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent
Out-of-home respite is not allowed in institutional settings. ***42 CFR 441.301 (c)(5)***	**Rules:** Non-compliant **Policy Manual:** Silent	**Rules:** Non-compliant **Policy Manual**: Silent	**Rules:** Non-compliant **Policy Manual:** Silent	**Rules:** Compliant **Policy Manual:** Silent	**Rules:** Compliant **Policy Manual:** Silent
Settings have entrance doors lockable by the individual, with only appropriate staff keys. ***42 CFR 441.301 (c)(4)(vi)(B)(1)***	**Rules:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Individuals sharing units have a choice of roommates in that setting. ***42 CFR 441.301(c) (4)(vi)(B)(2)***	**Rules**: Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual:** Silent	**Rules:** Silent **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. ***42 CFR 441.301 (c)(4)(vi)(B)(3)***	**Rules**: Silent **Policy Manual:** Partial Compliance	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time. ***42 CFR 441.301(c) (4)(vi)(C)***	**Rules:** Silent **Policy Manual**: Partial Compliance	**Rules**: Partial compliance **Policy Manual**: Silent	**Rules**: Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Individuals are able to have visitors of their choosing at any time. ***42 CFR 441.301 (c) (4)(vi)(D)***	**Rules:** Partial Compliance **Policy Manual:** Partial	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent

Federal Rule	Community Living Assistance and Support Services (CLASS)	Deaf-Blind with Multiple Disabilities (DBMD)		Home and Community-Based Services (HCS)	
	Support/Continued Family Services	Assisted Living Facility	One- to Three-Bed Home	Three- or Four-Person Home	Host Home/ Companion Care
	Compliance				
Settings are physically accessible to the individual. ***42 CFR 441.301(c)(4)(vi)(E)***	**Rules:** Silent **Policy Manual:** Partial Compliance	**Rules:** Compliant **Policy Manual**: Silent	**Rules:** Compliant **Policy Manual**: Silent	**Rules:** Compliant **Policy Manual:** Silent	**Rules:** Compliant **Policy Manual:** Silent
Any modification to privacy is supported by a specific assessed need and justified in the person-centered service plan. ***42 CFR 441.301 (c)(4)(vi)(F)***	**Rule:** Partial Compliance **Policy Manual:** Partial Compliance	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent
Modifications to individual privacy document the positive interventions and supports used prior to any modifications to the person-centered plan. ***42 CFR 441.301 (c)(4)(vi)(F)(2)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent
Modifications to individual privacy document less intrusive methods of meeting the need that have been tried but did not work. ***42 CFR 441.301 (c)(4)(vi)(F)(3)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent
Modifications to individual privacy include a clear description of the condition that is directly proportionate to the specific assessed need. ***42 CFR 441.301(c)(4)(vi)(F)(4)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent
Modifications to individual privacy include regular collection and review of data to measure the ongoing. ***42 CFR 441.301(c)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent

Federal Rule	Community Living Assistance and Support Services (CLASS)	Deaf-Blind with Multiple Disabilities (DBMD)		Home and Community-Based Services (HCS)	
	Support/Continued Family Services	Assisted Living Facility	One- to Three-Bed Home	Three- or Four-Person Home	Host Home/ Companion Care
(4)(vi)(F)(5)					
Modifications to individual privacy establish time limits for periodic reviews to determine if the modification is still necessary or can be terminated. ***42 CFR 441.301(c)(4)(vi)(F)(6)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** Partial compliance **Policy Manual:** Silent	**Rules:** Partial compliance **Policy Manual:** Silent
Modifications to individual privacy include informed consent of the individual. ***42 CFR 441.301 (c)(4)(vi)(F)(7)***	**Rule:** Compliant **Policy Manual:** Compliant	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules: C**ompliant **Policy Manual:** Silent	**Rules: C**ompliant **Policy Manual:** Silent
Modifications to individual privacy include assurances that interventions and supports will cause no harm to the individual. ***42 CFR 441.301 (c)(4)(vi)(F)(8)***	**Rule:** Silent **Policy Manual:** Partial Compliance	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules: C**ompliant **Policy Manual:** Silent	**Rules: C**ompliant **Policy Manual:** Silent
Individuals are offered choice of residential setting options (including non-disability specific settings) within waivers that offer residential services and an option for a private unit in a residential setting. ***42 CFR 441.301(c) (4)(ii)***	**Rules:** Partial Compliance **Policy Manual:** Silent	**Rules**: Partial Compliance **Policy Manual**: Silent	**Rules**: Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not	**Rules:** Partial Compliance **Policy Manual**: Partial Compliance	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent

Federal Rule	Community Living Assistance and Support Services (CLASS)	Deaf-Blind with Multiple Disabilities (DBMD)		Home and Community-Based Services (HCS)	
	Support/Continued Family Services	Assisted Living Facility	One- to Three-Bed Home	Three- or Four-Person Home	Host Home/ Companion Care
receiving HCBS services has. ***42 CFR 441.301 (c)(4)(i)***					
Settings allow individuals to engage in community life to the same degree of access as an individual not receiving HCBS services. ***42 CFR 441.301 (c)(4)(i)***	**Rules:** Partial Compliance **Policy Manual**: Partial Compliance	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Settings allow individuals to control their personal resources to the same degree of access as an individual not receiving HCBS services. ***42 CFR 441.301(c) (4)(i)***	**Rules:** Partial Compliance **Policy Manual**: Partial Compliance	**Rules:** Compliant **Policy Manual**: Silent	**Rules:** Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual :** Silent
Settings allow individual's the right to privacy, dignity, respect, and freedom from coercion and restraint. ***42 CFR 441.301 (c)(4)(iii)***	**Rule:** Partial Compliance **Policy Manual:** Partial Compliance	**Rules:** Compliant **Policy Manual**: Silent	**Rules:** Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Settings optimize individual initiative, autonomy, and independence in making life choices, (i.e. daily activities, environment and who they interact with). ***42 CFR 441.301(c) (4)(iv)***	**Rule:** Partial Compliance **Policy Manual:** Partial Compliance	**Rules**: Compliant **Policy Manual**: Silent	**Rules:** Partial Compliance **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Silent	**Rules**: Compliant **Policy Manual:** Silent
Settings facilitate individual choice regarding services and supports. ***42 CFR 441.301 (c)(4)(v)***	**Rules:** Partial Compliance **Policy Manual:** Partial Compliance	**Rules:** Partial Compliance **Policy Manual**: Silent	**Rules:** Partial Compliance **Policy Manual**: Silent	**Waiver**: Silent **Rules**: Compliant **Policy Manual:** Silent	**Waiver**: Silent **Rules**: Compliant **Policy Manual:** Silent
Settings facilitate individual choice regarding who provides services. ***42 CFR 441.301(c) (4)(v)***	**Rules:** Partial Compliance **Policy Manual:** Partial Compliance	**Rules:** Compliant **Policy Manual**: Silent	**Rules:** Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual:** Compliant	**Rules**: Compliant **Policy Manual:** Compliant

Federal Rule	Community Living Assistance and Support Services (CLASS)	Deaf-Blind with Multiple Disabilities (DBMD)		Home and Community-Based Services (HCS)	
	Support/Continued Family Services	**Assisted Living Facility**	**One- to Three-Bed Home**	**Three- or Four-Person Home**	**Host Home/ Companion Care**
Provider owned or controlled residential settings allow individuals to own/rent or occupy the unit under a legally enforceable agreement by the individual receiving services. ***42 CFR 441.301(c) (4)(vi)(A)***	**Rule:** Silent **Policy Manual:** Silent	**Rules:** Partial Compliance **Policy Manual**: Silent	NA-Service is provided in individuals own home.	**Rules**: Partial compliance **Policy Manual:** Silent	**Rules**: Partial compliance **Policy Manual:** Silent
Settings have the same responsibilities and protections against eviction. ***42 CFR 441.301 (c)(4)(vi)(A)***	**Rule:** Silent **Policy Manual:** Silent	**Rules**: Partial Compliance	NA-Service is provided in individuals own home.	**Rules**: Partial compliance **Policy Manual:** Silent	**Rules**: Partial compliance **Policy Manual:** Silent

Rule	Community Living Assistance and Support Services (CLASS)			Deaf-Blind with Multiple Disabilities (DBMD)			Home and Community-Based Services (HCS)			Texas Home Living (TxHmL)		
	Pre-Voc. Svcs.	**Supported Employ.**	**Employ. Asst.**	**Day Hab.**	**Supported Employ.**	**Employ. Asst.**	**Pre-Voc. Svcs.**	**Supported Employ.**	**Employ. Asst.**	**Day Hab.**	**Supported Employ.**	**Employ. Asst.**
441.301 (c)(5)	**Rules:** Silent **Policy Manual:** Silent	**Rules:** Compliant **Policy Manual:** Compliant	**Rules:** Compliant **Policy Manual:** Compliant	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant	**Rules**: Compliant	**Rules**: Compliant
441.301 (c)(5)	**Rules:** Silent **Policy Manual:** Non-compliant	NA	NA	**Rules**: Partially Compliant **Policy Manual**: Silent	NA	NA	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Compliant **Policy Manual**: Silent	**Rules**: Partially Compliant	**Rules**: Compliant	**Rules**: Compliant
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441.301 (c)(4)(vi)(F)(	**Rule:** Compliant **Policy Manual:** Compliant	**Rule:** Compliant **Policy Manual:** Compliant	**Rule:** Compliant **Policy Manual:** Compliant	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules:** **C**ompliant **Policy Manual:** Silent	**Rules:** **C**ompliant **Policy Manual:** Silent	**Rules:** **C**ompliant **Policy Manual:** Silent	**Rules:** Partially Compliant	**Rules:** Partially Compliant	**Rules:** Partially Compliant

441.301 (c)(4)(vi)(F)(8)	**Rule:** Silent **Policy Manual:** Partially Compliant	**Rule:** Silent **Policy Manual:** Partially Compliant	**Rule:** Silent **Policy Manual:** Partially Compliant	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules**: Silent **Policy Manual**: Silent	**Rules: C**ompliant **Policy Manual:** Silent	**Rules: C**ompliant **Policy Manual:** Silent	**Rules: C**ompliant 9 **Policy Manual:** Silent	**Rules:** Partially Compliant	**Rules:** Partially Compliant	**Rules:** Partially Compliant
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441.301 (c)(4)(v)	**Rules:** Partially Compliant **Policy Manual:** Silent	**Rules:** Partially Compliant **Policy Manual:** Silent	**Rules:** Partially Compliant **Policy Manual:** Silent	**Rules:** Partially Compliant **Policy Manual**: Silent	**Rules:** Partially Compliant **Policy Manual**: Silent	**Rules:** Partially Compliant **Policy Manual**: Silent	**Waiver**: Silent **Rules**: Compliant **Policy Manual:** Silent	**Waiver**: Silent **Rules**: Compliant **Policy Manual:** Silent	**Waiver**: Silent **Rules**: Compliant **Policy Manual:** Silent	**Rules**: Partially Compliant	**Rules**: Partially Compliant	**Rules**: Partially Compliant
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Attachment Two- Service/Setting Definitions

Residential Services

Three- and four- person homes

In the Home and Community Services (HCS) waiver, a three- or four-person home is defined as a residence that a program provider leases or owns in which at least one person but no more than three or four people receive residential support, supervised living, a non-HCS Program service similar to residential support or supervised living, or respite.

Residential support and supervised living include direct personal assistance with activities of daily living, assistance with meal planning and preparation, securing and providing transportation, housekeeping, ambulation and mobility, reinforcement of professional therapy activities, medications and the performance of tasks delegated by an RN, supervision of individuals' safety and security, facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and habilitation.

Policies and practices are established by the providers who may operate one or many homes. Providers range from large national corporations to private individuals.

Host Home/Companion Care

In the Home and Community Services (HCS) waiver, host home/companion care is provided by a host home/companion care provider who lives in a residence in which no more than three individuals or other people receiving similar services are living at any one time and in which the program provider does not hold a property interest.

Host Home/Companion Care includes direct personal assistance with activities of daily living, assistance with meal planning and preparation, securing and providing transportation, housekeeping, ambulation and mobility, reinforcement of professional therapy activities, medications and the performance of tasks delegated by an RN, supervision of individuals' safety and security, facilitating inclusion in community activities, use of natural supports, social interaction, participation in leisure activities, and development of socially valued behaviors; and habilitation.

Non-residential

Day Habilitation

Day habilitation provides individuals assistance with acquiring, retaining, or improving self-help, socialization, and adaptive skills necessary to live successfully in home and community-based settings. Day habilitation provides individualized activities in environments designed to promote the development of skills and behavior supportive of greater independence and personal choice and consistent with achieving the outcomes identified in the individual’s service plan. If the individual’s personal goals or current needs as they may relate to long term employment goals can be met through day habilitation, this choice is an option. These environments might be facilities, but if justified by the preferences of the individual, the service can be provided in a non-facility environment. The facilities are program sites operated by HCS providers or other providers under contract with HCS providers for service provision. School-aged children are given the opportunity to participate in day habilitation on days when school is not in session (holidays, summer, etc.). Individuals aged 17 or older may choose to discontinue school and participate in day habilitation. Activities are also designed to reinforce therapeutic outcomes targeted by other waiver services, school, or other support providers. Day habilitation is normally furnished in a group setting other than the individual's residence. Day habilitation includes personal assistance for individuals who cannot manage their personal care needs

during the day habilitation activity and also includes assistance with medications and the performance of tasks delegated by an RN in accordance with the Texas Board of Nursing rules as defined by Title 22 of the Texas Administrative Code, Part 11, Chapter 225. This service also provides transportation during day habilitation activities necessary for the individual's participation in those activities. Transportation required once the individual has arrived at the day habilitation service site is included in the reimbursement rate for day habilitation. Transportation to and from a day habilitation site from the individual's residence is billable as supported home living for individuals who live in their own home/family home and is included in the rate paid for the residential services. Day habilitation does not include services funded under section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

Supported Employment

Supported employment means assistance provided in order to sustain competitive employment to an individual who, because of a disability, requires intensive, ongoing support to be self-employed, work from home, or perform in a work setting at which individuals without disabilities are employed. Supported employment includes employment adaptations, supervision, and training related to an individual's assessed needs. Individuals receiving supported employment earn at least minimum wage (if not self-employed). Transporting an individual to support the individual to be self-employed, work from home, or perform in a work setting is billable within the service.

Employment Assistance

Employment assistance is assistance provided to an individual to help the individual locate paid employment in the community. Employment assistance includes identifying an individual's employment preferences, job skills, and requirements for a work setting and work conditions; locating prospective employers offering employment compatible with an individual's identified preferences, skills, and requirements; and contacting a prospective employer on behalf of an individual and negotiating the individual's employment. Transporting the individual to help the individual locate paid employment in the community is a billable activity within the service. Documentation is maintained in the individual's record that the service is not available to the individual under a program funded under section 110 of the Rehabilitation Act of 1973 or under a program funded under the Individuals with Disabilities Education Act (20 U.S.C. §1401 et seq.).

Attachment Three- Technical Reports

See separate file.

References

Public Policy Research Institute. (2016). *Assessment for Department of Aging and Disability Services Home and Community-Based Services Methodology Report*.