

Texas Statewide Transition Plan

Version submitted to CMS November 2016

Texas is undergoing a change to the health and human services system structure. Day-to-day Medicaid operations, contract oversight, performance measurement, and utilization review functions transferred to the Health and Human Services Commission (HHSC) for all 1915(c) waivers effective September 1, 2016. All Medicaid services previously performed by the Department of Aging and Disability Services (DADS) and the Department of State Health Services (DSHS) are now performed by HHSC, and references to DADS and DSHS in this document should, except where specified, be read as HHSC. The DADS regulatory services, which issues licenses and regulates licensed facilities, will transfer to HHSC on September 1, 2017.

Rule Overview

Effective March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule under which states may provide home and community-based long term services and supports. Under 42 CFR §441.301, states must meet the new requirements for home and community-based long term services and supports by March 17, 2019. The new rule requires the state to ensure all settings in which home and community based services (HCBS) are provided comply with the federal requirements to ensure that individuals receiving HCBS services and supports are integrated in and have full access to their communities, including engagement in community life, integrated work environments, and control of personal resources. In addition, the new rule defines requirements for the person-centered planning process; person-centered service plan; review of the person-centered service plan; qualities for home and community-based settings; assurances of compliance with the requirements; and transition plans to achieve compliance with the requirements. The rule also identifies settings that are not home and community-based, such as nursing facilities; institutions for mental disease; intermediate care facilities for individuals with intellectual disabilities; hospitals; and locations that have the qualities of an institutional setting. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS will be presumed to be a setting that has the qualities of an institution. However, the State has the opportunity through a heightened scrutiny process, to show that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

Each state that operates a waiver under 1915(c) or a State Plan Amendment (SPA) under 1915(i) of the Social Security Act that was in effect on or before March 17, 2014, was required to file a Statewide Transition Plan. The Statewide Transition Plan was required to be filed within 120 days of the first waiver renewal or amendment submitted to CMS after the effective date of the rule (March 17, 2014), but not later than March 17, 2015. The Statewide Transition Plan must either provide assurances of compliance with 42 CFR §441.301 or set forth the actions that the State will take to bring each 1915(c) Home and Community-Based Service (HCBS) waiver and 1915(i) SPA into compliance, and detail how the State will continue to operate all 1915(c) HCBS waivers and 1915(i) SPAs in accordance with the new requirements. CMS also requires the State to provide the same information for any 1115 demonstration waiver in effect on or before March 17, 2014.

The Statewide Transition Plan is composed of the following three main components: (1) Public Input, (2) Assessment Process, and (3) Remedial Strategy. The Statewide Transition Plan includes a timeframe and milestones for State actions, such as the various assessment and remedial actions.

The new regulations and additional related information may be found on the CMS website at:

www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

Information specific to the Statewide Transition Plan may be found on the following state agency websites:

<https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>

<https://hhs.texas.gov/doing-business-hhs/provider-portals/resources/home-and-community-based-services-hcbs/hcbs-rules-statewide-transition-plan>

<http://www.dshs.texas.gov/mhsa/yes/Centers-for-Medicare-and-Medicaid-Services-HCBS-Rules.aspx>

The State administers the following HCBS programs:

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 intermediate care facility for individuals with intellectual disabilities. 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.

A comprehensive list of settings in which CLASS Waiver services are provided is as follows:

- waiver individual's own home or family home;
- residence of the Support Family Services (SFS) provider or Continued Family Services (CFS) provider, which are foster homes verified by a Department of Family and Protective Services (DFPS) licensed Child Placing Agency or licensed directly through DFPS;
- non-residential settings open to the public (including shopping areas, schools, offices and settings where the waiver participant is employed);
- day habilitation settings where prevocational services may be provided;
- private residence of the in-home respite care provider, if that provider is a friend or relative of the waiver individual;
- day or overnight camp open to the public and accredited by the American Camping Association (for the provision of out-of-home respite);
- adult foster care home licensed by DADS (for the provision of out-of-home respite);

- licensed nursing facility (for the provision of out-of-home respite);
- assisted living facility (for the provision of out-of-home respite);
- intermediate care facility for individuals with an intellectual disability (ICF/IID) (for the provision of out-of-home respite); and
- residence of another person receiving a Medicaid waiver service (for the provision of out-of-home respite).

Deaf Blind with Multiple Disabilities (DBMD) provides home and community-based services to individuals with deaf-blindness or a condition that will result in deaf-blindness as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients may live in their own home, their family's home or in a small (4-6 bed) assisted living facility.

A comprehensive list of settings in which DBMD waiver services are provided is as follows:

- waiver recipient's own home or family's home;
- one to three person home is defined as a licensed home health assisted living. The licensed home health assisted living is a service provided by a program provider licensed per Texas law and in a residence for no more than three individuals, of which at least one of whom owns or leases the residence.;
- small (4-6 bed) assisted living facility;
- non-residential settings open to the public (including shopping areas, schools, offices and settings where the waiver participant is employed); and,
- day habilitation setting.

Home and Community-based Services (HCS) provides home and community-based services to individuals with an intellectual disability as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. 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. HCS rules require providers to justify any restriction of rights and support the principles set forth in the new HCBS regulations.

A comprehensive list of settings in which HCS waiver services are provided is as follows:

- waiver participant's own home or family home;
- provider owned or operated residences (host home/companion care setting or 3-person or 4-person residences in which residential support services and supervised living are provided);
- day habilitation settings; and
- non-residential settings open to the public (including libraries, parks, shopping centers, and offices).

Medically Dependent Children Program (MDCP) provides home and community-based services to support families caring for children who are medically dependent as an alternative to institutional care in Medicaid-certified nursing facilities. Recipients must live in their own home, their family's home or a foster care home.

A comprehensive list of settings in which MDCP Waiver services are provided is follows:

- waiver recipient's own home or family home;
- foster home setting (for the provision of in-home respite services);
- host home setting (a home licensed as a foster home that contracts with DADS as a temporary own home/family home for a MDCP individual);
- community settings open to the public, including a park;
- a DADS contracted hospital, special care facility, licensed nursing facility or child day care facility (for the provision of out-of-home respite services ordered by the individual's practitioner).
- non-residential settings open to the public (including libraries, parks, shopping centers, and offices).

Texas Home Living (TxHmL) provides essential services and supports for people with intellectual disabilities as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients must live in their own home or their family's home.

A comprehensive list of settings in which TxHmL Waiver services are provided is as follows:

- waiver recipient's own home or family home;
- non-residential community settings open to the public (including shopping areas, schools, offices and settings where the waiver participant is employed); or,
- day habilitation settings where prevocational services may be provided;
- private residence of the in-home respite care provider;
- adult foster care home licensed by DADS (for the provision of out-of-home respite);
- residence of another person receiving a Medicaid waiver service (for the provision of out-of-home respite)
- camp accredited by the American Camp Association (for the provision of out-of-home respite);
- Home and Community-based Services waiver group home (for the provision of out-of-home respite); or,
- group respite facility operated by a certified waiver program provider (for the provision of out-of-home-respite).

Youth Empowerment Services (YES) waiver is operated by the Texas Department of State Health Services (DSHS) and provides home and community-based services to children and youth age three through age 18 with serious emotional disturbance who reside in a non-institutional setting with the individual's legally authorized representative (LAR) or in the youth's own home, if legally emancipated.

A comprehensive list of settings in which YES Waiver services are provided is as follows:

- waiver participant's own home or family home;
- non-residential community settings open to the public (including libraries, city pools, schools, and offices);
- foster home verified by DFPS licensed Child Placing Agency (in the instance of services provided to individuals receiving Supportive Family-based Alternatives);
- private residence of the respite care provider, if that provider is the relative of the waiver participant, other than the parents, spouse,

- legal guardian, or LAR;
- day or overnight camps open to the public and accredited by the American Camping Association;
- day or overnight camps open to the public and licensed by DSHS;
- General Residential Operation (GRO) licensed by DFPS for the provision of out-of-home respite; and
- child care centers licensed by DFPS or TRSP Certified (Texas Rising Star Provider) for the provision of out-of-home respite.

Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration waiver provides home and community-based services under the HCBS STAR+PLUS waiver program as an alternative to institutional care in Medicaid-certified nursing facilities. Individuals who meet this level of care have access to the following waiver services: adaptive aids and medical supplies, adult foster care, assisted living, dental, emergency response services, employment assistance, supported employment, cognitive rehabilitation therapy, home delivered meals, minor home modifications, nursing services, occupational therapy, personal assistance services, physical therapy, respite care, speech therapy, and transition assistance. Assisted Living (AL) services provide a 24-hour living arrangement for persons who, because of physical or mental limitation, are unable to continue independently functioning in their own homes. All Medicaid covered services are provided in a managed care service delivery model. See additional information under Community-Based Alternatives below.

A comprehensive list of settings in which HCBS STAR+PLUS Waiver services are provided is as follows:

- member's own home or family home;
- non-residential community setting open to the public;
- nursing facility for out-of-home respite, occupational therapy, speech therapy, or physical therapy (Out-of-home respite is available only in a nursing facility for persons who, because of the unavailability of their primary caregiver, have no one to meet their needs on a short-term basis).
- assisted living facility¹; and
- adult foster care home (the AFC home provider must be the primary caregiver, may be the member's relative (non-spouse), and must live in the home and share a common living area with the member(s). The AFC home provider can serve up to three residents before an assisted living facility license is required).

Community Based Alternatives (CBA) provided services to individuals who met medical necessity level of care for nursing facilities. The CBA waiver terminated on August 31, 2014 and effective September 1, 2014, the participants in the CBA program were moved into the 1115 Demonstration waiver. HCBS setting requirements will be addressed in the 1115 Demonstration waiver.

Home and Community-Based Services - Adult Mental Health Program ((HCBS-AMH) 1915(i) SPA) is intended to provide home and community-based services to adults with extended tenure in state mental health facilities in lieu of them remaining as long term residents of those facilities. The HCBS-AMH program provides an array of services appropriate to each individual's needs, to enable

¹ For more details on assisted living facility types within the 1115 Demonstration waiver, please see <https://hhs.texas.gov/laws-regulations/handbooks/starplus-handbook/section-7000-sph-waiver-program-services>

these individuals to live and experience successful tenure in their community. The State submitted the SPA on July 22, 2014, after the March 17, 2015 effective date of the new HCBS settings requirements under 42 CFR §441.301. Accordingly, the submission of a transition plan does not apply to this program. CMS approved this SPA on October 13, 2015, and noted in its approval letter that the state's description of the settings and the state's process for assuring that HCBS requirements would be met "were satisfactory."

Federal Requirements for the Public Input and Notice Activity

Prior to filing with CMS, the State must seek input from the public for the proposed Statewide Transition Plan and any amendments, preferably from a wide range of stakeholders representing consumers, providers, advocates, families and others.

The public input process requires the State to provide at least a 30-day public notice and comment period regarding the Statewide Transition Plan that the State intends to submit to CMS for review and consideration. The State must provide a minimum of two statements of public notice and public input procedures. The State must ensure the Statewide Transition Plan is available to the public for public comment. The State must consider and modify the Statewide Transition Plan, as the State deems appropriate, to account for public comment. Upon submission of the Statewide Transition Plan to CMS, the State must include evidence of compliance with the public notice requirements and a summary of the comments received during the public notice period, why comments were not adopted, and any modifications to the Statewide Transition Plan based upon those comments.

The process for submitting public comment must be convenient and accessible. The Statewide Transition Plan must be posted on the State's website and include a website address for comments. In addition, the State must have at least one additional option for public input, such as a public forum. The Statewide Transition Plan must include a description of the public input process.

State Activity

The State intends to reach out throughout the transition to State staff, providers, MCOs, advocates, and individuals receiving services and their families. Through various venues, the State plans to educate providers and MCOs about their responsibilities, help individuals understand their rights under the new HCBS requirements, and solicit input.

Based on public input in all phases of the transition process, HHSC, DADS, and DSHS are committed to using feedback to guide remediation and assessment strategies until the transition is complete. HHSC, DADS and DSHS continue to work with internal and external stakeholders through existing statutorily mandated committees, workgroups and stakeholder meetings. The State continues to refine remediation activities in response to public input where possible.

For any amendments made to the Statewide Transition plan, HHSC will distribute Tribal Notification to the tribal representatives in compliance with the 60 day federal and state requirements. The Tribal Notification will include contact information to request copies of the amendment provide comments and/or request information from the State via email, mail, or telephone. The State provides copies free of charge.

The Public Notice of Intent (PNI) will be published in the Texas Register, allowing a 30 day comment period in compliance with federal and state requirements. The Texas Register is published weekly and is the journal of state agency rulemaking for Texas. In addition to activities related to rules, the Texas Register publishes various public notices including attorney general opinions, gubernatorial appointments, state agency requests for proposals and other documents, and it is used regularly by stakeholders. HHSC publishes all Medicaid waiver submissions in the Texas Register in addition to many other notices. The publication is available online and in hard copy at the Texas State Library and Archives Commission, the State Law Library, the Legislative Reference Library located in the State Capitol building, and the University of North Texas libraries. All of these sites are located in Austin, except for the University of North Texas, which is located in Denton. Printed copies of the Texas Register are also available through paid subscription; subscribers include cities, counties and public libraries throughout the state. The PNI provided contact information to request copies of the amendment provide comments and/or request information from the State via email, mail, or telephone. The State provides copies free of charge.

The Texas Register is located at the following website:

<http://www.sos.state.tx.us/texreg/index.shtml>

HHSC posted amendment(s) to the Statewide Transition Plan on the HHSC, DADS, and DSHS websites at the following webpages:

<https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>

<https://hhs.texas.gov/doing-business-hhs/provider-portals/resources/home-and-community-based-services-hcbs/hcbs-rules-statewide-transition-plan>

<http://www.dshs.texas.gov/mhhsa/yes/Centers-for-Medicare-and-Medicaid-Services-HCBS-Rules.aspx>

The websites include mailing addresses and an electronic mailbox for comments and questions. HHSC sent a request to the HHSC Office of Social Services to distribute notice of the amendment of the Statewide Transition Plan to 290 local eligibility offices with instructions to post the notice in public areas.

Due to the change in the Health and Human Services structure, future amendments and revisions will be posted to the HHSC webpage:

<https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>

Submission of waiver specific plans, the Statewide Transition Plan and any amendments

On August 22, 2014, the State submitted an amendment to the Community Based Alternatives (CBA) waiver which started the 120 day clock for submission of the Statewide Setting Transition Plan. Initially, the State was required to submit waiver specific plans with all waiver submissions after March 17, 2014. Some of those waiver specific plans were submitted prior to the submission of the Statewide Transition Plan (the plan for all of the programs) and all of the waiver specific plans were submitted before approval of the Statewide Transition Plan. However, the State was instructed by CMS, in a SOTA call held on May 14, 2015, to await approval on the Statewide Transition Plan before submitting any more waiver specific plans or amendments to waiver specific plans. When the State receives approval for the Statewide Settings Transition Plan, it will pull out those portions relevant to each specific waiver and submit a waiver specific plan for each waiver. However, please note that the State provided public notice and an opportunity for public input through

waiver amendments to all 1915(c) waivers for these waiver specific plans. The State took these comments into consideration and made changes accordingly. The State also provided the comments and responses to CMS when the State submitted a waiver amendment that included a waiver specific plan.

In December 2014, the State submitted its first Statewide Transition plan to CMS for approval, and provided the appropriate tribal notice and public notice in the two months prior to the submission. The State considered and modified the Statewide Transition Plan, as the State deemed appropriate, to account for public comment, prior to submission of the plan to CMS. The State provided the comments and responses to CMS when the State submitted the Statewide Transition Plan to CMS.

In March 2015, the State submitted its first amendment to the Statewide Transition plan and provided the appropriate tribal notice and public notice in the two months prior to the submission. The purpose of the amendment to the Statewide Transition Plan was to include the HCBS settings for services provided through the Texas Healthcare Transformation Quality Improvement Program (THTQIP) 1115 Demonstration Waiver (to be referenced as the 1115 Demonstration waiver in this document going forward). The State considered and modified the Statewide Transition Plan, as the State deemed appropriate, to account for public comment, prior to submission of the amended plan to CMS. The State provided the comments and responses to CMS when the State submitted a waiver amendment that included a waiver specific plan.

In September 2015, HHSC received initial feedback from CMS regarding the STP. The feedback received from CMS is available at <http://medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/statewide-transition-plans.html>. As a result of the CMS feedback, HHSC submitted an amendment to the STP to CMS in February 2016. HHSC posted a notice to the tribes on September 29, 2015, to inform them that an upcoming amendment to the original plan would be posted.

In June 2016, HHSC received feedback from CMS regarding the STP. CMS clarified an STP revised for the purpose of responding to CMS' feedback does not have to be posted for public comment. However, at request of stakeholders and to be transparent, the revised STP submitted to CMS in November 2016 was posted for a short review period allowing for public comment at <https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>. No public comments were received.

In addition, the State has implemented the following public input strategy, aimed at achieving optimum public input throughout the transition process:

- Stakeholder education webinars: DADS conducted two webinars on September 11 and September 14, 2014, to provide all stakeholders an opportunity to learn about the new regulations.
- Conference calls: Beginning January 2015 the State started holding regular conference calls with MCOs to discuss the Statewide Transition Plan as it relates to the HCBS services delivered under the 1115 Demonstration waiver. The same educational content of a webinar will be provided in these calls. These calls will continue throughout the process.
- Stakeholder meetings: On **October 13, 2014**, the State held an open stakeholder meeting in Austin providing all 1915(c) stakeholders the opportunity to provide input on the new regulations. In addition, a meeting specifically for YES stakeholders was held by the Hogg Foundation for Mental Health in Austin on **December 2, 2014**. The settings assessment and the new HCBS

rules impact on the YES waiver were included as topics of discussion. An open stakeholder meeting was held on **February 11, 2015** to provide all stakeholders with the opportunity to provide input on the addition of the 1115 Demonstration waiver specific portion to the Statewide Transition Plan. In the **fall of 2015 (October 22, 2015 - November 9, 2015)**, the state conducted twelve public forums in six different cities throughout the state. There were afternoon sessions and evening sessions for each location. These forums provided education regarding the HCBS federal regulations and sought public input related to the provider self-assessment and participant surveys, and notified stakeholders of the upcoming STP amendment.

- **Electronic notices:** The State posted the Statewide Transition Plan on agency websites and in the *Texas Register* in **November 2014**. The DADS and DSHS internal (systemic) assessments were also posted on the agency websites. The waiver specific transition plans for several of the waivers were posted in the *Texas Register* and on the agency websites. The amended Statewide Transition Plan, which incorporated the 1115 Demonstration waiver specific portion of the plan, was posted on the HHSC, DADS, and DSHS websites on **January 30, 2015**.
- **Feedback mechanism:** Dedicated electronic mail boxes and websites for HHSC, DADS, and DSHS are available to provide information about the new rules and accept feedback. The websites and the option to make comments will remain active throughout the transition and the State will take any comments received into consideration until the State completes the transition. State websites are located at the following hyperlinks:
 - <https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>
 - <https://hhs.texas.gov/doing-business-hhs/provider-portals/resources/home-and-community-based-services-hcbs>
 - <http://www.dshs.texas.gov/mhsa/yes/Centers-for-Medicare-and-Medicaid-Services-HCBS-Rules.aspx>
- **Presentations at advisory committees and stakeholder meetings:** The State regularly provides updates to the following groups and offers them opportunities to comment on ongoing assessment and remediation activities:
 - **Promoting Independence Advisory Committee:** comprised of individuals receiving services, advocacy organizations, and providers across target populations. State staff provided an update on the Statewide Transition Plan to this group on October 15, 2015, January 21, 2016, July 21, 2016, and October 20, 2016.
 - **Employment First Task Force:** comprised of advocates and providers interested in employment issues. Updates on HCBS rules were provided on February 29, 2016.
 - **Texas Council on Autism and Pervasive Developmental Disorders:** comprised of parents of individuals with autism and professionals.
 - **IDD System Redesign Advisory Committee:** comprised of individuals receiving services, advocacy organization representatives and providers. State staff provided an update on the Statewide Transition Plan to this group on July 30, 2015, April 28, 2016, and July 28, 2016. Updates were also provided to the day habilitation/employment subcommittee on April 7, 2016, June 16, 2016, August 23, 2016, and October 4, 2016.
 - **STAR+PLUS Quality Council:** comprised of managed care organization representatives, individuals receiving services and their representatives, advocacy organization representatives, and providers. Due to legislative direction to redesign the advisory committees, this is now a subcommittee of the State Medicaid Managed Care Advisory Committee.
 - **State Medicaid Managed Care Advisory Committee:** comprised of managed care organization representatives, individuals receiving services and their representatives, advocacy organization representatives, and providers.

- **STAR+PLUS stakeholder meetings:** attendees include managed care organization representatives, individuals receiving services, advocacy organization representatives, and providers.
- **IDD System Improvement workgroup:** comprised of state agency staff, providers, and advocates. State staff provided an update on the Statewide Transition Plan to this group on May 20, 2015, June 5, 2015, August 14, 2015, December 4, 2015, January 29, 2016, February 29, 2016, and March 11, 2016.
- **IDD Directors Consortium:** composed of IDD directors and attended by state agency staff. State staff provided an update on the Statewide Transition Plan to this group on September 11, 2015 and January 14, 2016
- **Consumer Directed Workgroup:** comprised of state agency staff, providers, advocates and individuals utilizing consumer directed services. State staff provided an update on the Statewide Transition Plan to this group on October 23, 2015.
- **Tribal stakeholder conference call meetings:** comprised of designees of federally recognized tribes. On January 27, 2015, the State conducted a tribal notice stakeholder conference call. During the call, the State gave an overview of the new CMS HCBS rules and of the State's Statewide Transition Plan. The State also provided information on how to access the full transition plan and submit comments, and on future public hearings; and the State solicited questions and feedback on the plan during the meeting. The State holds regularly scheduled conference calls with the tribes which will provide additional opportunities for stakeholder input. The State most recently provided updates related to the status of the Statewide Transition Plan to the tribal stakeholders on calls held on October 14, 2015, November 17, 2015, and December 16, 2015.
- Presentations at agency workgroups: The agencies also have agency-established workgroups comprised of advocates and providers whose purpose is to examine ongoing rule and policy issues. Staff will continue to provide updates on HCBS transition activities and provide the workgroup members the opportunity to provide comments.
- Presentations at conferences: Provider associations hold annual conferences and State staff have been invited to speak at these conferences. This provides access to a large number of providers for purposes of education, coordination and input regarding changes being made to rules and policy. State staff provided an update on the Statewide Transition Plan to the Private Providers Association of Texas at their annual conference on November 12, 2015. HHSC does not control the agendas of these conferences, but staff remain available to make presentations if requested.
- Provider self-assessment surveys and participant surveys: Provider self-assessment and participant surveys for stakeholders were posted on the appropriate HHSC and DADS website. Providers and participants who are not a part of the multi-stage random sample used during the assessment phase, can still obtain and complete a self-assessment survey on the agency websites and provide data that will be considered as the State moves forward. The self-assessment and participant survey tools were posted on the agency websites in November 2015. A 30 day public comment period allowed for stakeholder feedback on the survey tools.

An individual may obtain a free copy of the amendment to the Statewide Transition Plan, ask questions, request additional information, or submit comments regarding this amendment to the STP by contacting Angie Clouch by mail at Texas Health and Human Services Commission, PO Box 13247, Mail Code H-600, Austin, Texas 78711-3247, by fax at (512) 730-7477, or by email at Medicaid_HCBS_Rule@hhsc.state.tx.us. In accordance with 42 CFR §441.301, the State is required to consider and modify the Statewide Transition Plan, as the State deems appropriate, to account for public comment.

The State will continue to rely on existing mechanisms for sharing information with the public and stakeholders, including advisory committees, MCO communications, and other communications methods.

Public Input Activity and Notice Milestones

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Presentations to advisory committees, other HHS Enterprise committees, stakeholder meetings, and workgroups that have provider and advocate membership will continue throughout the assessment process.	July 2014	Continuing through the end of the transition period.	
Presentations at provider association annual conferences.	August 2014	Continuing through the end of the transition period.	
HHSC, DADS and DSHS HCBS websites and electronic mailboxes are available to collect stakeholder input and allow public comment on the State's activities toward compliance with federal regulations	September 2014	Continuing through the end of the transition period	
Stakeholder meetings and webinars providing individuals receiving services, legally authorized representatives, families, advocates, other interested persons and program providers an opportunity to provide input on the assessment phases and Statewide Transition Plan and amendments.	October 2014	Continuing through the transition period	
A public stakeholder meeting providing individuals with an opportunity to contribute feedback on the assessment process, the waiver specific plans posted thus far, and implementation of the settings transition plans to all of the 1915(c) waivers.	October 2014	October 2014	✓
Waiver specific transition plans are available for ongoing public comment on HHSC, DADS and DSHS websites	September 2014	Ongoing throughout the transition period	

The Statewide Transition Plan posted for public comment.	November 2014	December 2014	✓
Initial submission of Statewide Transition Plan to CMS	December 2014	December 2014	✓
A public stakeholder meeting held for input on the first amendment to the STP to include the 1115 Demonstration waiver.	February 2015	February 2015	✓
Submission of first amendment to the statewide transition plan (to CMS including 1115 Demonstration Project)	March 2015	March 2015	✓
Held six stakeholder meetings across the state to inform stakeholders on the HCBS regulations, survey assessment tools and revised STP	October 2015	November 2015	✓
The second amendment to the Statewide Transition Plan posted for public comment.	December 2015	January 2016	✓
Submission to CMS of the second amendment to the Statewide Transition Plan (in response to CMS' request to provide more information)	February 2016	February 2016	✓
Submission to CMS of the revisions to the Statewide Transition Plan (in response to CMS's request to provide more information).	June 2016	October 2016	
Review and include appropriate revisions to the Statewide Transition Plan.	September 2018	September 2018	
Public notice and public comment for review of the amendment to the Statewide Transition Plan	October 2018	November 2018	

Submit final amendment to the Statewide Transition Plan	December 2018	December 2018	
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Texas Statewide Transition Plan Comments Summary

Public notice for the amendment to the statewide transition plan was given in the *Texas Register* and on the HHSC, DADS and DSHS websites. The Texas Register is published weekly and is the journal of state agency rulemaking for Texas. In addition to activities related to rules, the Texas Register publishes various public notices including attorney general opinions, gubernatorial appointments, state agency requests for proposals and other documents. HHSC publishes all Medicaid waiver submissions in the Texas Register in addition to many other notices. The publication is available online and in hard copy at the Texas State Library and Archives Commission, the State Law Library, the Legislative Reference Library located in the State Capitol building, and the University of North Texas libraries. All of these sites are located in Austin, except for the University of North Texas, which is located in Denton. The Texas Register is also available through paid subscription. The State provided public notice of the amendment to the statewide transition plan in the Texas Register (40 TexReg 9372) at the following hyperlink: <http://www.sos.state.tx.us/texreg/pdf/backview/1218/1218is.pdf>

The amended statewide transition plan was posted in its entirety for public comment on the HHSC, DADS, and DSHS websites at the following hyperlinks:

- <https://hhs.texas.gov/services/health/medicaid-and-chip/about-medicaid/homecommunity-based-services>
- <https://hhs.texas.gov/doing-business-hhs/provider-portals/resources/home-and-community-based-services-hcbs/hcbs-rules-statewide-transition-plan>
- <http://www.dshs.texas.gov/mhsa/yes/Centers-for-Medicare-and-Medicaid-Services-HCBS-Rules.aspx>

In addition, a webinar was held for stakeholders on January 11, 2016 detailing the changes made to the statewide transition plan and providing information on where the amended statewide transition plan could be accessed and how to submit comments

During the December 2015-January 2016 public comment period for the amendment to the statewide transition plan, the State received written comments from Disability Rights Texas, Texas Council for Developmental Disabilities, Every Child, Inc., the Arc of Texas, Texas Council of Community Centers, United Healthcare, and Caregiver Homes of Texas. Any comments completely outside the scope of the settings requirements imposed under 42 CFR §441.301, will not be addressed.

A summary of the comments received during the public notice period, reasons why comments were not adopted, and any modifications to the statewide transition plan based upon those comments follows. Please note that the STP also contained the following two appendices: (1) the State's internal (systemic) assessment of whether the settings in which these services are provided comport with the HCBS settings requirements and (2) an explanation of the State's external assessment methodology. As of the October 2016 revision, the STP contains a STAR+PLUS member assessment methodology appendix.

- 1) Commenters: Commenters suggested that stakeholders should be involved in requests for additional legislative funding and rate increases to ensure compliance with HCBS regulations. Providers expressed rates may need to increase in order to ensure the capacity and appropriate resources to serve individuals with complex medical and behavioral needs.

State Response: The State recognizes that changes to the delivery system as a result of the HCBS regulations may impact provider rates. The state is committed to working with stakeholders in all phases of the HCBS implementation. The state does provide opportunities for stakeholders to comment on the legislative appropriations request. Although the comment only references the 1915(c) waivers only, the State has added clarification to the STP to also address that funding that may be needed for the 1115 waiver. Stakeholders are invited to comment on proposed rate changes in accordance with state law.

- 2) Commenters: With regard to assessing the availability of choice, Commenters encourage HHSC, DADS, and DSHS expand the assessment of choice from just service coordinators and case managers to include providers as well.

State Response: Participants in the Youth Empowerment Services (YES) Waiver operated by DSHS currently have availability of choice of comprehensive waiver providers, case managers, and direct service providers. With respect to other HCBS programs, the State appreciates these comments and will consider these comments when finalizing the provider surveys. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The YES Waiver has implemented "Freedom of Choice" and "Provider Choice" forms that are to be signed by the participant and the LAR to ensure choices are given to YES Waiver participants.

It is the responsibility of service coordinators/case managers to work with the individual to choose providers, specific living locations, and specific services to be included on the Individual Service Plan (ISP). Broadening the external assessment to include these staff was a strategic decision on the part of HHSC and DADS to ensure the information obtained through the assessment would be the most meaningful. The STP was not revised in response to this comment.

- 3) Commenters: With regard to Assisted Living Facilities (ALFs), beyond the Assisted Living Centers Bill of Rights, rules and policies should be updated to address how assisted living centers provide access to food at any time, privacy, engagement in the community, control of personal finances and protections against ejection, including posting any rights and rights limitations (if any) in the facility and providing this information in writing when a person signs an agreement for facility services, including room and board. Involuntary ALF discharges should be followed up with a survey to the resident to determine the level of choice and satisfaction with the discharging facility.

State Response: The State appreciates these comments related to ALFs and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: This feedback will be important to the development of the remediation strategy, but is not part of the STP at this time.

- 4) Commenters: With regard to day habilitation/pre-vocational/employment assistance, rules and policies need to be revised to require routine opportunities for community participation, with an initial goal of at least 51 percent of an individual's services being in settings where individuals without disabilities are participating and according to preferred interests of individuals receiving these services.

State Response: The State appreciates these comments related to day habilitation/pre-vocational/employment assistance and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: These comments will be considered during the 1915(c) rule making and policy revision process. Because employment services provided through STAR+PLUS are not permitted to be provided at an institution, they are not included in the STAR+PLUS component of this project.

- 5) Commenters: Establishing credentialing standards for day habilitation programs that focus on increasing person centered, individualized meaningful day activities and how and where those services occur (including providing or arranging for transportation through a transportation plan) is critically needed. Expectations for day habilitation services through standards and credentialing should begin to be developed immediately, with stakeholder input. Program and rule changes should support an individual's ability to decline day habilitation and access other waiver and non-waiver services during the day according to personal preferences, including no services or set daily schedule and/or control of one's own schedule.

State Response: The State appreciates these comments and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: The state agrees and is working to accomplish these changes during the upcoming 2017 legislative session.

- 6) Commenters: Access to and control of an appropriate personal spending allowance is needed. HHSC and DADS should provide oversight and remediation policies to ensure individuals are receiving a personal needs allowance, understand how much they are paying for room and board, what they are able to receive each month, how they can access their available funds and what their money is being spent on.

State Response: The State appreciates these comments related to the personal spending allowance, and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: The State supports the premise of this comment. The external assessment includes questions related to financial management, both on the member survey and the provider survey. Changes to policy will be made as necessary depending on the outcome of the assessments.

- 7) Commenters: It would be helpful if providers were required to get State approval of their lease agreement templates.

State Response: The State appreciates this comment and will consider this comment during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: This suggestion may be useful for the development of the remediation strategy, but is not part of the STP at this time.

- 8) Commenters: Commenters were concerned that individuals do not engage in choice of staff, especially in residential settings.

State Response: The State appreciates these comments and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

- 9) Commenters: The State should consider adding a participant direction option called Service Responsibility Option (SRO) to all HCBS services in Texas that currently do not include that option now.

State Response: The state appreciates the suggestion regarding the SRO option; however no changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The STP was not revised in response to this comment as this issue is outside the scope of the project.

- 10) Commenters: Choice of provider of day habilitation, supported employment and employment assistance should allow for a consumer directed option (regardless of an individual's living arrangement). The extent to which an individual had choice of day program, supported employment and employment assistance should be incorporated into regulatory reviews.

State Response: During the remediation process, the State will consider rule and policy changes that facilitate individual choice regarding services, supports and who provides them. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The STP was not revised in response to this comment as this issue is outside the scope of the project.

- 11) Commenters: Any change of residential setting or day habilitation (or switch from employment to day habilitation) should trigger heightened review by a service coordinator and involve the service planning team, consumer rights or regulatory services to ensure that the changes are participant driven and to monitor for outcomes such as choice, stability and satisfaction.

State Response: The State appreciates this comment and will consider this comment during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The STP was not revised in response to this comment as this issue is outside the scope of the project.

- 12) Commenters: Individuals with limited skills should select what they want to eat, not just when they want access to food. There should be an initiative to change the current practices that limit participant involvement in choice of food, meal planning, grocery shopping, paying for groceries with SNAP or personal funds and the use of food restrictions in residential settings. Medical contraindications for food access and choice, when necessary, should be well documented.

State Response: The State appreciates these comments and will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: The State supports the premise of this comment. The external assessment includes questions related to meal selection, both on the member survey and the provider survey. Changes to policy will be made as necessary depending on the outcome of the assessments.

- 13) Commenters: Commenters suggested that developing a bill of rights for community based services that incorporates HCBS settings requirements and that it should go beyond the right to protection from abuse, exploitation and incorporate rights related to choice and control, privacy, choice of staff, control of personal funds and other rights consistent with the aims of HCBS settings requirements.

State Response: The State will consider these comments during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of these comments.

Additional clarification: The State supports the premise of this comment. This suggestion may be useful for the development of the remediation strategy, but is not part of the STP at this time.

- 14) Commenters: CMS and the State should re-assess respite services and the settings where respite is offered now or is proposed to be offered in the future, including institutional settings such as nursing facilities (NFs), ALFs, and intermediate care facilities (ICFs). Greater effort should be made to develop and require respite options that are community-based.

State Response: CMS has indicated that it intends to permit states to use institutional settings for the provision of respite services on a short-term basis. The state appreciates the suggestion; however, no changes are necessary and none were made to the STP as a result of this comment.

Additional clarification: The STP was not revised in response to this comment as this issue is outside the scope of the project.

- 15) Commenters: The State should continue all possible efforts to support individuals to access housing that is not provider controlled so that housing and services are not connected to the degree that if you want to make a choice or change it impacts housing options or access to preferred providers.

State Response: In compliance with the HCBS rules, the State is using the person-centered planning process to support individual's choosing the housing option that is best suited to their needs. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The state supports individual choice of where an individual would most like to live. However, the STP was not revised in response to this comment as the State believes this issue to be outside the scope of the project.

- 16) Commenters: The STP does not provide information on how the State plans to bring providers into compliance if they are found to be noncompliant or partially noncompliant with the new HCBS rules. HHSC and DADS have identified settings that are not compliant or partially compliant. For each instance, they should identify how they plan to bring those settings into compliance or if those settings are not able to comply. While the updated plan includes the results from the 1115 systemic survey, it does not provide estimates of the number of settings that fully comply, do not comply but will with modifications, cannot comply with the federal settings requirements, or are presumed to have institutional characteristics.

State Response: The State STP addresses compliance in the remediation section through remedial actions such as rule and policy

changes, in combination with revisions to our current oversight process. Examples of current methods for ongoing oversight would be contract monitoring and enforcement of requirements via corrective action plan or assessment of other contract remedies. At this time, the State is not able to identify a specific number of settings that are non-compliant because the State is still completing the assessment process. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: Until the State has sufficient survey results from the external assessment process, it cannot identify this level of specificity. Changes to rule and/or policy will be made as necessary depending on the outcome of the assessments.

- 17) Commenters: The STP does not explain the validation method that will be used to link the provider and participant surveys.

State Response: The State explains the validation method in Appendix II of the STP. Appendix II outlines the State's use of management information systems to link the provider to a particular individual. The multi-stage random sampling methodology takes into account provider settings and individuals served within those settings to ensure individual surveys are linked to providers. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: With updates to the October 2016 submission of the revised STP, Appendix III was added outlining the 1115 HCBS methodology.

- 18) Commenters: While the STP recognizes that the State will develop remedial actions if they find compliance issues, the STP does not provide a detailed explanation of remedial action.

State Response: The State is still assessing the settings and therefore, specific remedial actions are still under discussion. The survey results will inform the State of specific remedial actions (e.g. changes to rule, policy and contract monitoring). No changes to the STP will be made at this time based on this comment.

Additional clarification: Until the State has sufficient survey results from the external assessment process, it cannot identify this level of specificity. Changes to rule and/or policy will be made as necessary depending on the outcome of the assessments.

- 19) Commenters: The updated STP does not identify how the State will include the individual who is being relocated in the relocation planning process. The STP should detail in full how the State will implement a person-centered plan to relocate the individual to a residence of their choice. It also does not explain how choice will be provided to the individuals.

State Response: As referenced in the STP, the relocation process is driven by person-centered planning (described by the HCBS regulations). The STP outlines that information will be provided to the individual, including what will happen if the individual chooses to remain in a non-compliant setting. If relocation becomes necessary, the individual will indicate his or her choice of a new setting. The current plan will be revised in this amendment to provide greater clarification in the 1115 demonstration waiver section of the STP.

- 20) Commenters: With regard to day habilitation and pre vocational programs, new licensure and credentialing oversight from HHSC and DADS can be implemented to ensure these programs are individualized based on person-centered plans, fully integrated in community life where individuals are learning from and meeting people without disabilities, and are not scheduled around group activities and outings where individuals do not have choice of participation. A new licensure and credentialing process would also

allow HHSC and DADS to identify all of the programs that are providing services to individuals through state funding. HHSC and DADS cannot ensure compliance if they are not able to identify all existing programs.

State Response: The State appreciates the suggestion, however although licensing could be used with some entities to ensure compliance, it is not appropriate for all entities. All licensed entities serve both Medicaid and non-Medicaid populations, thus in many instances specific HCBS requirements are more appropriately applied through contracting requirements targeted at individuals receiving Medicaid in HCBS programs. For the above reasons, no changes to the STP will be made as a result of these comments.

Additional clarification: This feedback will be important to the development of the remediation strategy, but is not part of the STP at this time.

- 21) Commenters: Outcome based employment services that link success to the individual’s person directed plan, trains consumers in settings that are not facility-based, and secures employment for at least minimum wage are all ways HHSC and DADS can update policies to ensure employment services are compliant with HCBS rules.

State Response: The State appreciates these comments and will consider this comment during the rule making and policy revision process outlined in the remediation sections of the STP. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: This feedback will be important to the development of the remediation strategy, but is not part of the STP at this time.

- 22) Commenters: Commenters suggested use of the NCI to the greatest extent possible during the assessment phase to help benchmark lack of, partial, or full compliance with HCBS requirements. The State should consider using relevant National Core Indicators (NCI) questions that are more oriented to self-determination and accessible to individuals with cognitive limitations. We strongly encourage DADS and HHSC, if using NCI is not feasible, to re-write the participant surveys so that people with IDD can understand them and provide meaningful feedback. It is our understanding that based on stakeholder feedback; certain modifications (including limited open ended questions) may be incorporated in the final participant surveys.

State Response: The State used the NCI as the basis for some of the survey questions developed for the participant and provider surveys. The actual NCI questions do not mirror all of the requirements in the settings rule and therefore, could not be used verbatim in the survey. The State did receive comments on the survey from stakeholders and used this stakeholder feedback to revise the questions. No changes to the STP were necessary and none were made as a result of this comment.

Additional clarification: According to the CMS document entitled, "CMS Assessment of State Systems for Compliance with the HCBS Settings Rule", “The NCI should only be used for examining trends in state systems over time. NCI is not site-specific.”

- 23) Commenters: The participant surveys seem to assume that the questions are to address the current “place” where services are being provided now. We believe that the surveys and required service delivery settings improvements need to align with the aspirations of choice, control and integration and not an endorsement of current settings or a narrow focus on what happens in current settings.

State Response: The State received comments on the survey and used stakeholder feedback to revise the questions. No changes

to the STP were necessary and none were made as a result of this comment.

Additional clarification: The purpose of the surveys is to obtain information on how compliant the relevant settings are currently. This is why the assessments focus on the physical location operations and structure. The STP was not revised in response to this comment.

- 24) Commenters: Commenters encourage DADS and HHSC to contract with an entity that understands and has experience supporting people with IDD and have participated in a person-centered thinking training.

State Response: The State appreciates the commenters concerns and is contracting with entities that have experience working with individuals with cognitive disabilities. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: The State has contracted with the Texas A&M University which received Institutional Review Board approval.

- 25) Commenters: Commenters hope that the individuals filling out the “Provider Self-Assessments” will have worked directly with the individuals supported by the services they are reporting on.

State Response: The State recognizes the benefits of specific provider staff completing the surveys and will include that in guidance given to providers during the assessment process. No changes were necessary and none were made to the STP as a result of this comment.

Additional clarification: All assessments for the 1915(c) programs were sent to direct service providers. HHSC did not make this a specific requirement of the survey but is collecting the names of individuals completing the survey. It is important to note that the member surveys will be used to validate the provider surveys, so regardless of who completes a provider assessment the State will, for a sample, have corroborating member responses.

Assessment Process:

The Assessment process includes (1) a systemic/internal review which includes the state’s assessment of the extent to which its regulations, standards, policies, licensing requirements, and other provider requirements ensure settings comport with the regulation, (2) an external assessment which includes provider self-assessments and participant surveys, (3) identification of any settings presumed not to be home and community-based, and (4) determination of need for relocation of beneficiaries. Site-specific assessments will be utilized in the process of identification of any setting presumed not to be home and community-based and in the determination of need for relocation of beneficiaries.

Regarding settings presumed not to be home and community-based, where the State bases its assessment on federal standards, the State will provide its best estimate of the number of settings that (1) fully align with the federal requirements, (2) do not comply with the federal requirements and will require modifications, (3) cannot meet the federal requirements and require removal from the program and/or relocation of the individuals, and (4) are presumptively non-home and community-based but for which the State will provide evidence to show that those settings do not have the characteristics of an institution and do have the qualities of home and community-

based settings. The State presumes individual private homes are not institutional in nature. Should any homes come to the State's attention that happen to be adjacent to an institution or have other characteristics of an institution, the State will initiate the heightened scrutiny process.

For the 1915(c) waiver population, a sample of 5311 HCBS participants was identified as statistically representative (using the methodology outlined in Appendix II). These individuals were associated with 2068 residential service locations that were sent provider self-assessments. In addition, 1000 nonresidential providers and 823 service coordinators were sent provider self-assessments in order to glean where remediation will be required. At this time, prior to analyzing the results of the external assessment, the State believes each type of setting will need a plan including education, outreach, and rule promulgation. After rolling out the new plan with education and outreach activities, each site will be assessed annually. The State expects the plan to be rolled out in January 2017 allowing for two years for site assessments prior to the March 2019 deadline. See Appendix II for details.

Once the assessment phases of the transition are completed, the State will revise or develop additional remedial strategies for providers who are not fully compliant with the federal regulations. This will include provider education, enhanced monitoring activities, and supports. Should the relocation of beneficiaries be needed, the State will outline specific steps to ensure the individuals and their families or legally authorized representatives are fully informed and provided opportunities for choice in transition to providers that are compliant. In addition, the State will develop remedial strategies to bring each waiver setting, rule, policy and procedure into compliance. These remedial action items will also focus on ensuring processes are in place to maintain compliance with the federal regulations.

Assessment Phases (Internal & External)

The Systemic/Internal Assessment [March 2014 - December 2016 for 1915(c) waivers and March 2015 - December 2015 for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver]

Initially, the State completed an internal review of the extent to which its rules, regulations, standards, policies, licensing requirements, and other provider requirements ensure settings comport with the HCBS federal regulations. However, in September 2015 the State received additional guidance from CMS and a request to add to the internal assessment. The State has now assessed and described each setting type, status of compliance, non-compliance or silence. In addition, the State's has provided additional information regarding its oversight process to ensure continuous compliance. The State will amend those rules, regulations, standards, policies, licensing requirements, or other provider requirements found non-compliant or silent during the remediation phase. Specific information regarding the current status of the internal review is outlined in the attached crosswalks. Estimates of the number of settings that fully comply, do not comply but will with modifications, cannot comply or are presumed to have institutional characteristics cannot be provided at this time but will be provided after the assessment phase is completed. Once the external assessment phase is completed, the State will amend the Statewide Transition Plan and include the number of settings that are in the aforementioned categories. The State will also amend the remediation strategies as needed to ensure that settings are compliant with the HCBS federal regulations by March 17, 2019.

Assumptions

The internal assessment was conducted under the following assumptions: Texas presumes the provision of HCBS settings consisting of

the individual's own home, family home, or a non-disability specific location open to the public (such as libraries, shopping malls, and non-disability specific camps) comply with the settings requirements. In addition, CMS has indicated that it intends to permit states to use institutional settings for the provision of respite services on a short-term basis. States will not be required to assess their settings that are exclusively used for respite services for compliance with home and community based settings requirements. Thus, the State will not assess a NF, ICF, or General Residential Operation or child-care center in which out-of-home respite care is provided on a short-term basis. Finally, the external assessment tools developed by the State include questions designed to obtain information on whether all individuals are being provided a choice of location that include a non-disability specific setting.

Systemic/Internal Assessment Phase Timeline

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Initial systemic internal review of rules, policies, and oversight processes governing the 1915(c) waivers to determine areas of compliance, non-compliance or silence.	March 2014	September 2014	✓
Initial systemic/internal review of rules, policies, and oversight processes governing the 1115 Demonstration waiver to determine areas of compliance, non-compliance or silence.	March 2015	September 2015	✓
Per CMS guidance received in September 2015, revision of the state systemic internal review (crosswalks) of rules, policies, and oversight processes governing the 1915(c) and 1115 Demonstration waiver. Please refer to Appendix I for revised crosswalks.	September 2015	December 2015	✓

Systemic/Internal Assessment for the YES Waiver

DSHS conducted a systemic/internal assessment of YES settings, which included a review of the settings requirements language in the waiver itself and a crosswalk of state rules; program rules; internal policies; provider policies; and forms, documents, and publications. DSHS determined existing state standards meet the Federal settings requirement, the state's oversight process is adequate to ensure

compliance, and, therefore, any settings currently approved under the state's standards meet the Federal settings requirement.

Based on the systemic/internal assessment and by virtue of the fact that the YES Waiver is a home and community-based services waiver in which the settings for services are either the participant's own home, a foster home, or a public place, DSHS determined that an external assessment is not warranted.

One YES Waiver service is provided in a home other than that of the waiver participant: Supportive Family-Based Alternatives. Supportive Family-Based Alternatives service provides a model for appropriate behaviors for a waiver participant's family, with an objective of the waiver participant returning to live with his or her own family and community. The participant temporarily (for less than 90 days) leaves the participant's own home to live in a foster home. Setting for the service is a foster home verified by a DFPS licensed child placing agency. The service must be pre-authorized by DSHS prior to the provision of the service and can be authorized only for a maximum of 90 consecutive or cumulative days, per year. The settings requirements in the waiver specify that the foster home must be located in a typical residence in the community and the environment must assure the community integration of the waiver participant. The waiver also requires that the service include facilitation of inclusion in community activities, participation in leisure activities, and development of socially valued behaviors. As of November 2015, no waiver participant has ever utilized Supportive Family-Based Alternatives, thus the State has neither providers nor participants to assess as part of an external assessment. If and when this service is utilized in the future, DSHS will require that pre-authorization requests for Supportive Family-Based Alternatives include an affirmative statement that the setting meets all federal HCBS, waiver, and program setting requirements. In addition, as part of the audit process for the waiver, DSHS Quality Management staff will monitor compliance by reviewing documentation of the provision of the service. The provision of service documentation requirements are: the service name and description, the service location, waiver participant's response to the service, waiver participant's progress, and a summary of activities, meals, and behaviors during the service.

The External Phase of Assessment [September 2014-December 2016 for 1915(c) waivers and September 2015- December 2016 for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver]:

With the exception of the 1915(c) YES waiver, the systemic/internal assessment of 1915(c) waivers and the 1115 Demonstration waiver indicated the need for an external assessment. As a result, the State is conducting external assessment activities for the 1915(c) waivers and the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver. The State will incorporate assessment requirements, as appropriate, into revisions to contracts as part of the remediation process. In developing the survey instruments, staff ensured all aspects of the HCBS Settings Rule were included.

External assessment activities for the 1915(c) waivers and the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver include the following:

Provider self-assessment surveys:

1915(c) waivers: In order to validate the results of the systemic/internal assessment, DADS released a provider self-assessment to a representative sample of residential and non-residential providers. The sample was drawn using a multi-stage random sample. A multi-stage random sample is constructed by taking a series of simple random samples in stages. This type of sampling is often more practical than simple random sampling for studies requiring "on location" analysis, such as door-to-door surveys. In a multi-stage random sample,

a large area, such as a country, is first divided into smaller regions (such as states), and a random sample of these regions is collected. In the second stage, a random sample of smaller areas (such as counties) is taken from within each of the regions chosen in the first stage. Then, in the third stage, a random sample of even smaller areas (such as neighborhoods) is taken from within each of the areas chosen in the second stage. The provider self-assessment was based on the exploratory questions provided by CMS with input from external stakeholders and was developed in conjunction with providers, provider associations and advocacy organizations to ensure a comprehensive approach. Providers who were not drawn to be part of the representative sample can still obtain and complete a self-assessment survey on the agency website or request a copy be mailed; however, their responses will not be analyzed with required outcomes to CMS as the survey is designed for randomization. All responses will be considered for changes to the programs as the State moves forward in efforts to comply with the federal regulations. Based on the results of the self-assessment and participant validation of those results, ongoing remediation strategies and the DADS systemic/internal assessment crosswalk will be updated.

The sampling methodology for the 1915(c) waivers is in Appendix II of the STP. The provider assessment was ongoing through mid-July 2016 and Texas A & M University is conducting participant assessments through November 2016. The state contracted with Texas A & M University to assess individuals to evaluate Conflict of Interest and obtain Institutional Review Board approval on the assessment process. After receipt of all assessments, contracted researchers who are well versed in the HCBS Final Rule will run reports flagging each question on the assessment answered in a way that indicates a potentially isolating setting. The researchers will then review provider policies, procedures, and individual assessments to determine if the setting could overcome the presumption of non-compliance through remediation or heightened scrutiny processes. The reports will be run again at the end to determine any lingering issues of non-compliance by location and program provider. The State will use these results to recommend certain settings for 'Heightened Scrutiny' or 'Remediation' as defined by CMS. The State's remediation plan is yet to be finalized until the State has data to present to the Texas Legislature to request funding for the remediation activities.

1115 HCBS: In order to validate the results of the systemic/internal assessment phase of the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC released a provider self-assessment survey based on CMS exploratory questions and input from external stakeholders. Based on the results of the self-assessment results and participant validation of those results, ongoing remediation strategies and the 1115 Demonstration waiver systemic/internal assessment crosswalk will be updated.

The provider self-assessment validation process involves State staff or contractors comparing the individual assessment findings to the appropriate provider assessment results. Non-responsive providers will be considered noncompliant and as such will be subject to remediation.

Participant surveys:

1915(c) waivers: In order to validate the provider self-assessment surveys, DADS is conducting a participant survey to a multi-stage random sample of individuals receiving services. The survey is based on the questions asked in the provider self-assessment. The survey will be administered in face to face interviews by third party reviewers. Participants who are not drawn to be part of the representative sample can still obtain and complete a self-assessment survey on the agency website or request a copy be mailed; however, their responses will not be analyzed together with required outcomes to CMS as it is designed for randomization. All participant surveys will be considered for changes to the programs as the State moves forward in efforts to comply with the federal regulations. Unlike providers, program

participants may refuse to participate in the survey. In order to ensure statistically appropriate responses, over sampling will be employed. Based on the results of the provider self-assessment and participant surveys, ongoing remediation strategies and the DADS systemic/internal assessment crosswalk will be updated.

1115 HCBS: In order to validate the provider self-assessment for the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC has contracted with the Texas external quality review organization to survey a representative sample of individuals receiving services and in addition, HHSC may also utilize collected quality survey data. The survey is based on the questions asked in the provider self-assessment. The survey will be administered in face-to-face interviews similar to the process used to conduct the National Core Indicators and Participant Experience Surveys. Based on the results of the provider self-assessment and participant surveys, ongoing remediation strategies and the 1115 Demonstration waiver systemic/internal assessment crosswalk will be updated.

Site-specific assessments:

The State will conduct site-specific evaluations through standard processes, such as licensing reviews, provider qualifications reviews, or service coordination visit reports. The state will engage individuals receiving services and representatives of consumer advocacy entities in the assessment process. Evaluations may be conducted by entities such as state personnel, case managers that are not associated with the operating agency, licensing entities, or managed care organizations. DSHS already conducts at least annual site reviews of all providers and reviews 100 percent of charts. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC or its designee will conduct site visits for a sample of providers that may be subject to heightened scrutiny. The types of providers visited will be based on the results of the first phase assessment and determined through discussions between managed care organizations and HHSC.

Service Coordinator/Case Manager survey:

1915(c) waivers: In order to ensure program participants are provided opportunities for choice in the selection of services and supports, DADS released a Service Coordinator/Case Manager survey. These professionals are the staff primarily responsible for providing information and assistance in choosing needed services and supports. The survey is based on the exploratory questions provided by CMS. The state included all service coordinators and case managers currently working with program participants. Service Coordinators and/or Case Managers who were not drawn to be part of the representative sample can still obtain and complete a self-assessment survey on the agency website or request a copy be mailed; however, their responses will not be analyzed together with required outcomes to CMS as it is designed for randomization. All responses will be considered for changes to the programs as the State moves forward in efforts to comply with the federal regulations.

1115 HCBS: HHSC also released a self-assessment tool for managed care organization service coordinators. All service coordinators are required to respond.

External Assessment Timeline Milestones (All Programs)

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Develop residential and non-residential provider self-assessments and program participant surveys for 1915(c) and 1115 Demonstration waivers	April 2016	December 2016	1115 - ✓ 1915(c) - ✓
Survey representative sample of 1915(c) residential and non-residential providers using a self-assessment tool based on the exploratory questions provided by CMS	April 2016	August 2016	1915(c) - ✓
Survey representative sample of 1915(c) waiver participants to validate provider self-assessments.	May 2016	November 2016	In progress
Survey representative sample of 1115 Demonstration waiver providers using a self-assessment tool based on the new HCBS requirements.	March 2016	August 2016	In progress
Survey representative sample of 1115 Demonstration waiver participants to validate provider self-assessments.	March 2016	August 2016	In progress
Complete analysis of provider and participant surveys identifying areas of non-compliance, including those requiring heightened scrutiny and/or relocation of beneficiaries.	September 2016	December 2016	In progress

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
If as a result of the external assessment phase findings, the State determines a need for additional remedial action and milestones, the State will submit an amendment or modification to the transition plan, after the required public notice and comment period.	January 2017	February 2017	
The State will continue to refine the Statewide Transition Plan and settings assessment based on public input.	Ongoing	Ongoing	

Federal Requirements for the Remediation Activity:

The Remedial Strategy describes the actions the State proposes to assure initial and on-going compliance with the HCBS settings requirements, including timelines, milestones, and monitoring processes. State level remedial actions may include new requirements promulgated in statute, licensing standards or provider qualifications; revised service definitions and standards; revised training requirements or programs; or plans to relocate individuals to settings that are compliant with the regulations. Provider level remediation actions might include changes to the facility or program operation to assure that the Medicaid beneficiary has greater control over critical activities like access to meals, engagement with friends and family, choice of roommate, or access to activities of his/her choosing in the larger community, including the opportunity to seek and maintain competitive employment. If relocation of beneficiaries is required as part of the remediation strategy, the Statewide Transition Plan will be amended to assure the following: (1) reasonable notice and due process to those individuals; (2) description of the timeline for the relocation process; (3) the number of beneficiaries impacted; (4) a description of the State's process to ensure beneficiaries, through a person-centered planning process, have the opportunity, information, and supports to make an informed choice of an alternate setting that aligns, or will align with, the regulations and that critical services and supports are in place prior to the individual's transition.

If the State determines it will submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-based, the Statewide Transition Plan will be amended to include evidence sufficient to demonstrate that the setting does not have the characteristics of an institution and does meet the HCB settings requirement.

State Activity

The State has included the following in its Statewide Transition Plan: (1) remedial action(s) to come into compliance, such as proposing new state regulations or revising existing ones, revising provider requirements, conducting statewide provider training on the new state standards; and (2) a timeframe for completing these actions. As a part of the State remediation activities, the State will also develop (as

necessary) or revise compliance monitoring processes and tools. It is the State's intent to utilize existing agency regulatory processes to address all applicable HCBS federal regulations to ensure ongoing compliance.

Texas has identified a number of remediation strategies to address issues of potential non-compliance:

- **Rule and policy revisions under 1915(c) waivers:** State rule revisions require extensive input from stakeholders including providers, advocates, individuals receiving services, legally authorized representatives and other interested parties. Stakeholders are given the following opportunities to review draft rule language and provide comments prior to rules becoming effective: (1) through email announcing that rule drafts are available for public comment on agency websites (Based on written comments, stakeholders may be contacted by agency staff for additional dialogue regarding proposed rule language.); (2) through public testimony before the Medical Care Advisory Committee, which meets four times a year; (3) through public testimony before the DADS Council; which meets four times a year; and (4) during the formal 30-day public comment process outlined in statute. Policy manual revisions are also shared externally and stakeholders are asked to provide comments on drafts of the policy before it becomes effective.
- **Rule and policy revisions under the 1115 Demonstration waiver:** State rule revisions require extensive input from stakeholders including providers, advocates, individuals receiving services, MCOs, and other interested parties. Stakeholders are given the following opportunities to review draft rule language and provide comments prior to rules becoming effective: (1) through public testimony before the Medical Care Advisory Committee, which meets four times a year; (2) through public testimony before the HHSC Council, which meets four times a year; and (3) during the formal 30-day public comment process outlined in statute. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, revisions may be needed for the STAR+PLUS Handbook and the Uniform Managed Care Manual in addition to managed care-related state administrative rules.
- **Contract changes:** For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, managed care contract updates may be necessary. The contract change process takes approximately six months to complete and includes a CMS review. HHSC will consider stakeholder input prior to making contract changes. Managed care contracts are updated twice a year. Once the contract is final, it is posted to HHSC's website.
- **Revisions to processes used for provider oversight:** All of the DADS 1915(c) waiver programs have oversight processes administered by regulatory (Waiver, Survey and Certification) or contract monitoring staff. Applicable tools will be revised to reflect changes in rule and policy to ensure ongoing provider assessment will include compliance with HCBS regulations to the greatest extent. MCOs provide oversight for STAR+PLUS providers under the 1115 waiver. Providers contracted with MCOs are informed of any changes through updates to the MCO's provider manuals and provider contracts.
- **Individuals' Rights:** Written guidance concerning rights and responsibilities for 1915(c) programs and STAR+PLUS HCBS services will be revised to ensure individuals receiving services understand their rights and know how to file a complaint with the appropriate state agency if there are restrictions being imposed on rights without adequate discussion and documentation through the person-centered planning process.
- **MCO education:** For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, HHSC will educate MCOs on contract and policy changes. HHSC will have regular conference calls and in-person meetings with MCOs. MCOs will have the opportunity to submit questions. HHSC will keep a question and answer log to document and ensure all MCO questions are answered.
- **Provider education:** Providers will have multiple opportunities to learn about the new regulations and understand rule and policy

changes. With regard to the 1915(c) waivers, the State will offer webinars as a main source for provider education in addition to revising new provider orientation curriculum. Public forums will also be held in an effort to educate stakeholders and provide opportunities for public input. DSHS conducts bi-weekly conference calls with providers for the YES 1915(c) waiver. For the STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver, MCOs will update any relevant manuals and provider training materials and HHSC may also offer webinars for MCOs and providers.

Monitoring

DADS 1915(c) waivers

Community Living Assistance Supports and Services (CLASS): Contract staff conduct on-site contract monitoring to determine whether a contractor is in compliance with the terms of the contract, which requires compliance with applicable federal and state laws, rules, and regulations, provider manuals and handbooks, billing guidelines, and communications promulgated by DADS such as information letters; program requirements; and requires service delivery documentation to support the contractor's reimbursement. The State office is responsible for developing and maintaining a monitoring schedule that ensures monitoring activities are conducted in accordance with the required monitoring frequency.

Please refer to the following link for complete details of program monitoring:

<https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

Deaf Blind Multiple Disabilities (DBMD): Contract staff conduct on-site contract monitoring to determine whether a contractor is in compliance with the terms of the contract, which requires compliance with applicable federal and state laws, rules, and regulations, provider manuals and handbooks, billing guidelines, and communications promulgated by DADS such as information letters; program requirements; and whether service delivery documentation supports the contractor's reimbursement. The State office is responsible for developing and maintaining a monitoring schedule that ensures monitoring activities are conducted in accordance with the required monitoring frequency. Please refer to the following link for complete details of program monitoring:

<https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

Home and Community-based Services (HCS) and Texas Home Living (TxHmL): DADS Waiver Survey and Certification Unit is responsible for conducting on-site certification reviews of each HCS and TxHmL program provider, at least annually, to evaluate evidence of the program provider's compliance with the certification principles. DADS may also conduct reviews on receipt of a complaint, death, report of abuse, neglect, or exploitation, or for monitoring visits to any location in that contract. DADS completes onsite surveys for each residence in the HCS program providing Supervised Living, Residential Support Services and Host Home/Companion Care, at least annually, to ensure the health, safety and welfare of the individuals. The Risk Assessment Coordinators (RACs) conduct desk reviews of all deaths and will follow up on all DFPS investigations of abuse, neglect and exploitation. Additionally, if there are concerns about a death or DFPS report, the RAC team will write an on-site survey so that DADS WSC surveyors can gather additional information and ensure the health and safety of the individuals in that contract.

Medically Dependent Children Program (MDCP): DADS conducts contract and fiscal monitoring to determine if: a contractor is in compliance with its contract, which requires compliance with applicable federal and state laws, rules, and regulations, provider manuals and handbooks, billing guidelines, and communications promulgated by DADS, such as information letters.

Contract staff conduct on-site contract monitoring which may include reviewing the contractor's records; reviewing the contractor's policies and procedures; reviewing consumer satisfaction surveys; interviewing a person with knowledge relevant to the contract, including an individual receiving services or the contractor's employee; and observing an individual receiving services. Please refer to the following for complete details of program monitoring: [40 TAC §49.411](#).

National Core Indicators (NCI): DADS is participating in three nationally recognized survey instruments designed for measuring specific consumer indicators – National Core Indicators Adult Consumer and National Core Indicators Child and Family Survey for the IDD population, and the Participant Experience Survey Elderly/Disabled (PES) version for the older adults and those with physical disabilities. These surveys have been conducted since 2005 and continue to be conducted in Texas every two years. The purpose is to describe the perceived quality and adequacy of long-term services and supports, consumer quality of life, and trends in long-term services and supports over time. This process is not regulatory in nature, but rather a discovery method to identify areas of need and for programmatic improvement. The survey descriptions are noted below:

- The ***NCI Adult Consumer survey*** is administered to DADS adult IDD services and supports recipients. Section I can be answered only by the consumer in a face-to-face interview. Section II contains questions that can be answered by the consumer or, if needed, by someone who knows the person well, such as a family member, friend, guardian, or advocate.
- The ***NCI Child Family survey*** evaluates DADS Medicaid waiver programs serving children with disabilities. Since these individuals are younger than 21 years, a caregiver is asked to provide information regarding overall experiences with the services and supports received. These surveys are administered by mail.
- The ***Participant Experience Survey Elderly/Disable (PES)*** evaluates the experiences and satisfaction of older adults and adults with physical disabilities. In developing the survey, DADS collaborated with Thomson/Reuters, which developed the PES for CMS. The PES captures participant experiences using face-to-face interviews.
- Collection for all surveys focus on the following broad domains:
 - Services Satisfaction/Quality of Life,
 - Systems Performance,
 - Health and Safety,
 - Individual Choice and Respect, and
 - Work and Community Inclusion.

Youth Empowerment Services (YES) Waiver: DSHS Quality Management staff is responsible for conducting on-site reviews of each comprehensive waiver provider, at least annually, to evaluate evidence of the program provider's compliance with YES program requirements. DSHS may also conduct reviews on receipt of a complaint, death, report of abuse, neglect, or exploitation, or for monitoring visits to any location in that contract.

1115 HCBS

MCOs are responsible for ongoing monitoring of providers settings to ensure compliance with the regulations. The State monitors the MCOs when new regulations, services, or programs come under the contractual obligation of the MCO and also conducts ongoing monitoring of the MCOs' compliance with the contract through a variety of means. Upon implementation of a new regulation, service, or program, the State: meets with the MCOs regularly to educate, answer questions, and ensure a common understanding of what is expected; requires deliverables and assurances that the MCO will be in compliance with the contractual obligation by the implementation date;

conducts reviews of any MCO materials that may change as a result of implementation (e.g., provider manuals, member handbooks); and conducts onsite reviews of the MCOs (as needed). Ongoing monitoring of the MCOs include: frequent communication via conference calls, emails, meetings; quarterly reporting; onsite reviews (as needed); and assessment of corrective action plans or liquidated damages. The State is developing a monitoring tool that the MCOs may use to assure their contracted providers are compliant with HCBS rules.

Utilization management review is conducted through onsite reviews of the MCO's records related to HCBS STAR+PLUS Waiver assessments, service coordination planning, and timeliness. The State also documents living arrangements, looks at service provision, and refer non-compliance issues to the appropriate entity.

National Core Indicators-Aging and Disabilities (NCI-AD)

Texas is participating in the National Association of States United for Aging and Disabilities (NASUAD) and Human Services Research Institute (HSRI) NCI-AD survey. The NCI-AD survey is intended to collect data that will allow the State to understand, from the member's perspective, how their long-term services and supports (LTSS) impact their quality of life and health outcomes. The survey will be conducted annually through in-person member surveys administered by HHSC or its contractor. Included in the survey sample will be STAR+PLUS members receiving LTSS through STAR+PLUS HCBS. The first year of surveys will be complete by June 2016, and Texas intends to participate on an annual basis. The 2015-2016 survey domains are:

Community Participation
Choice and Decision-Making
Relationships
Satisfaction
Service/Care Coordination
Access
Safety
Health care
Wellness

Medication
Rights and Respect
Self-Direction
Work
Everyday Living
Affordability
Planning for Future
Functional Competence

1115 HCBS Performance Measures

The STAR+PLUS HCBS component is no longer provided under the authority of a 1915(c) waiver; however, CMS has directed HHSC to maintain performance measures that comply with the 1915(c) assurances and subassurances. The CMS-approved measures are listed in Attachment E of the 1115 waiver. The CMS subassurances most relevant to the HCBS rule include:

- Participants are afforded choice between/among Demonstration services and providers.
- Service plans address all participants' assessed needs (including health and safety risk factors) and personal goals, either by the provision of Demonstration HCBS services or through other means.
- Service plans are updated or revised at least annually or when warranted by changes in the Demonstration participant's needs.

Heightened Scrutiny Process

Settings in the current 1915(c) waivers or STAR+PLUS HCBS services delivered under the 1115 Demonstration waiver are presumed to be community-based settings according to the regulations. Possible exceptions may include day habilitation sites for 1915(c) waivers

and assisted living facilities (ALFs) under the HCBS services delivered under the 1115 Demonstration waiver and the DBMD waiver. Texas is conducting an assessment of settings to determine if a setting falls into any of the three categories for heightened scrutiny. The assessment will include the collection of data through provider and participant surveys for both 1915(c) and STAR+PLUS HCBS 1115 Demonstration waiver programs. State staff or contractors will assess the survey responses and supporting documentation to make recommendations for settings presumed institutional by December 2016. Based on findings of the provider and participant surveys, Texas will then perform site-specific surveys to identify and categorize- based on CMS guidance- settings that may be subject to heightened scrutiny.

If the State determines the need to submit evidence to CMS for the application of heightened scrutiny for settings that are presumed not to be home and community-based, the Statewide Transition Plan will be amended to include information that demonstrates that the setting does not have the characteristics of an institution and meets the HCBS regulations. The State does not anticipate encountering this situation, but should it occur as evidenced by the outcome of the provider self-assessment and participant survey results, the State will update the Statewide Transition Plan, including necessary remedial actions and timeline accordingly. Estimates of the number of settings impacted by the need for heightened scrutiny review will be provided following the completion of the external assessment phase and in an amended Statewide Transition Plan.

Texas will submit: 1) a list of settings, 2) evidence that focuses on how the qualities are integrated in and support full access to the community, 3) evidence the setting is not operationally interconnected with any other facility setting, 4) evidence validating the setting does not have the effect of isolating individuals from their broader community including types and frequency of participation in typical community activities, which fosters relationships with other community members not associated with the provider, services and activities are engaged in the broader community, and evidence of information received through public input process. If Texas identifies settings needing to go through this process, the State will submit evidence to CMS no later than spring 2017.

Relocation of Beneficiaries

Based on the results of the assessment phase, the State will re-evaluate the need for relocation of beneficiaries and update the Statewide Transition Plan accordingly.

DADS 1915 (c) waivers

Following the outcome of the assessment phase and any submission to CMS of information requesting settings to fall under heightened scrutiny, the State will determine the need for the relocation of beneficiaries. As part of the remediation strategy the State will develop a process for relocation and amend the Statewide Transition Plan to include this process. The plan will include: (1) provision of reasonable notice and due process to individuals; (2) a description of the timeline for the relocation process; (3) the number of beneficiaries impacted; (4) a description of the State's process to ensure beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate settings that align, or will align with, the regulations and that critical services and supports are in place prior to the individual's transition. Information will be provided to individuals, their legally authorized representatives and others regarding the need for relocation and the retention of Medicaid waiver services. Also provided, will be information specific for those individuals who chose to remain in non-compliant settings and the impact that will have on service types and availability. 1915(c) waiver providers will be required to submit a relocation work plan at least 90 days prior to the compliance effective date, no later than December 2018.

1115 HCBS

Following the outcome of the external assessment phase and any submission to CMS of information requesting settings to fall under heightened scrutiny, the State will determine the need for the relocation of beneficiaries. As part of this process, the State will amend the Statewide Transition Plan. Once it is determined if and how many individuals will require relocation, an amendment to the plan will include: (1) provision of reasonable notice and due process to individuals; (2) a description of the timeline for the relocation process; (3) the number of beneficiaries impacted; (4) a description of the State's process to ensure beneficiaries, through the person-centered planning process, are given the opportunity, information, and supports to make an informed choice of alternate settings. The State or its designee will provide information to individuals, their legally authorized representatives and others regarding the need for relocation and the retention of Medicaid HCBS waiver services. The State or its designee will also provide information specific for those individuals who chose to remain in non-compliant settings and the impact that will have on service types and availability.

The State requires MCOs to maintain a provider network sufficient to provide all members with access to the full range of covered services. The MCO's network must include all of the provider types in sufficient numbers, and with sufficient capacity, to provide timely access to all covered services to all members. MCOs are contractually required to be in compliance with all state and federal laws, rules, and regulations governing Medicaid.

In the event a provider is terminated and individuals need to be relocated to another facility or home the State requires the MCOs to identify all affected members and submit a work plan to the State that outlines the MCO's plan for relocating the members, including: where members are being relocated, any new or additional services being put into place, and any other steps taken to ensure the member's health, safety, continuity of care, and choice of provider. The State handles this kind of scenario on a per member, census basis until all members are accounted for and successfully relocated. This approach would also be used in the event an individual(s) needed to be relocated, but the provider was not being terminated. MCOs will be required to submit a relocation work plan at least 90 days prior to the compliance effective date, no later than December 2018.

Texas will provide information to individuals who choose to remain in non-compliant settings, informing them that any setting that is not compliant with HCBS settings rule after March 19, 2019, will no longer be eligible to serve Medicaid recipients, and choosing to remain in a non-compliant setting after this date will impact their ability to receive Medicaid services in this setting.

Remediation Timeline Milestones

DADS 1915(c) Waivers (All DADS 1915(c) waivers and rule amendments will be on the same timeline)

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Amend program rules in Texas Administrative Code Title 40, Part 1, Chapters 9, 42, 45, 49, and 50.	September 2016	December 2017	

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Amend waivers to include all applicable HCBS federal regulations and any needed rate adjustment to ensure compliance with regulations.	December 2016	June 2017	
Revise waiver policy manuals to include all applicable HCBS federal regulations	June 2017	March 2018	
Augment contract monitoring tools already in place to incorporate HCBS federal regulations.	October 2015	December 2017	
Develop educational webinars for 1915(c) providers about HCBS federal regulations	November 2014	Ongoing through transition period	
Seek legislative funding during 2017 state legislative session to implement HCBS regulations	June 2016	May 2017	

DSHS YES waiver remediation milestones

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
If determined necessary, amend YES program rules and other necessary rules and policies to ensure the services comply with the new HCBS guidelines.	January 2017	January 2018	
If determined necessary, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements.	January 2017	January 2018	

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
If determined necessary, revise the YES policy manual, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements for non-residential settings.	January 2017	January 2018	

1115 Demonstration Waiver Remediation Milestones

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
Amend Uniform Managed Care Contract, Uniform Managed Care Manual, STAR+PLUS Handbook, and STAR+PLUS managed care administrative rules as needed to ensure the services comply with the new HCBS guidelines.	September 2017	September 2018	
Develop new and amend existing operational guidance and oversight tools	September 2017	September 2018	
Monitor MCOs to ensure they revise manuals, including rights and responsibilities forms/publications and billing guidelines to further outline HCBS requirements and ensure any needed guidance for delivery of services, including submission of a beneficiary relocation work plan and successful relocation if needed.	June 2018	March 2019	

Action Items	Proposed Initiation	Proposed Completion	COMPLETE
MCOs will be required to submit a relocation work plan at least 90 days prior to the compliance effective date, no later than December 2018 with the expectation that members are relocated by March 2019.	December 2018	March 2019	
If necessary, seek legislative funding during 2017 state legislative session to implement HCBS regulations	June 2016	May 2017	

APPENDICES

APPENDIX I:
Systemic/Internal Assessment Crosswalks
DADS 1915(c) Waivers
CLASS
DBMD
HCS
MDCP
TxHmL
DSHS 1915(c) Waiver
YES
HHSC 1115 Demonstration Waiver
STAR+PLUS HCBS

DADS 1915(c) Waivers Systemic/Internal Assessments

The Department of Aging and Disability Services (DADS) operates five 1915(c) waivers to provide a full array of Medicaid services and supports to individual with intellectual and developmental disabilities (IDD). It is the responsibility of DADS to ensure all program providers are in compliance with all applicable state and federal statutes, rules and regulations. This is accomplished through the contractual agreements between the State and program providers. To ensure compliance with the HCBS federal regulations, DADS conducted an internal assessment of all applicable statutes, rules and regulations and created a crosswalk to demonstrate how they currently meet compliance (compliant, partial compliance, silent). A summary of each waiver program is provided below followed by the results of the waiver specific systemic/internal assessment crosswalks.

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 intermediate care facility for individuals with intellectual disabilities. 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.

Deaf Blind with Multiple Disabilities (DBMD) provides home and community-based services to individuals with deaf-blindness or a condition that will result in deaf-blindness as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients may live in their own home, their family's home or in a small (4-6 bed) assisted living facility.

Home and Community-based Services (HCS) provides home and community-based services to individuals with an intellectual disability as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients can live in their own homes, their family's homes, in host home/companion care settings, or in residences with no more than three others who receive similar services. HCS rules require providers to justify any restriction of rights and support the principles set forth in the new HCBS regulations.

Medically Dependent Children Program (MDCP) provides home and community-based services to support families caring for children who are medically dependent as an alternative to institutional care in Medicaid-certified nursing facilities. Recipients must live in their own home, their family's home or a foster care home.

Texas Home Living (TxHmL) provides essential services and supports for people with intellectual disabilities as an alternative to living in an intermediate care facility for individuals with intellectual disabilities. Recipients must live in their own home or their family's home.

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)	<p>Rules: Compliant 45.531, Subchapter E, Division 3, Support Family Services Subchapter E, Division 3</p> <p>DFPS Minimum Standards for Child Placing Agencies; Children's Rights 749.1003(b)(1), Subchapter G Subchapter G</p> <p>Policy Manual: Compliant Section 1300 CLASS Program Eligibility Section 1000</p>	<p>Rules: Silent Policy Manual: Silent</p>	<p>Rules: Compliant §45.103 (104), Subchapter A, Definitions Subchapter A.</p> <p>Policy Manual: Compliant 7241 Supported Employment Section 7000</p>	<p>Rules: Compliant §45.103(38), Subchapter A, Definitions Subchapter A</p> <p>Policy Manual: Compliant 7243 Employment Assistance Section 7000</p>
Out-of-home respite is not allowed in institutional settings (i.e. NF, hospitals and ICFs). 42 CFR 441.301 (c)(5)	<p>Rules: Non-compliant Policy Manual: Silent</p> <p>NA--In-home respite is not provided in this setting; however, the waiver and rules provide for out-of-home respite in institutional settings.</p>	NA	NA	NA
Day habilitation is not allowed to be provided in settings that have institutional qualities.(includes pre-vocational services in CLASS)	NA	<p>Rules: Silent Policy Manual: Non-compliant 7242 Prevocational Services</p>	NA	NA

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
<i>42 CFR 441.301 (c)(5)</i>		Section 7000		
Texas HCBS settings have entrance doors lockable by the individual, with only appropriate staff keys. <i>42 CFR 441.301 (c)(4)(vi)(B)(1)</i>	Rules: Silent Policy Manual: Silent	NA	NA	NA
Individuals sharing units in Texas HCBS settings have a choice of roommates in that setting. <i>42 CFR 441.301(c)(4)(vi)(B)(2)</i>	Rules: Silent Policy Manual: Silent	NA	NA	NA
Individuals in Texas HCBS settings have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. <i>42 CFR 441.301 (c)(4)(vi)(B)(3)</i>	Rules: Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	NA	NA	NA
Individuals in Texas HCBS settings have the freedom and support to control their own schedules and activities, and have access to food at any time. <i>42 CFR 441.301(c)(4)(vi)(C)</i>	Rules: Silent Policy Manual: Partial Compliance: Section 1000:Introduction and Case Management Agency (CMA) Section 1000 2100 Case Management Section 2000	Rules: Silent Policy Manual: Partial Compliance: Section 1000:Introduction and Case Management Agency (CMA) Section 1000 2100 Case Management Section 2000	Rules: Silent Policy Manual: Partial Compliance: Section 1000:Introduction and Case Management Agency (CMA) Section 1000 2100 Case Management Section 2000	Rules: Silent Policy Manual: Partial Compliance: Section 1000:Introduction and Case Management Agency (CMA) Section 1000 2100 Case Management Section 2000
Individuals in Texas HCBS settings are able to have visitors	Rules: Partial Compliance 45.533, Subchapter E,	NA	NA	NA

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Division 3, Support Family Duties Subchapter E, Division 3 Policy Manual: Partial Compliance Section 1000: Introduction and Case Management Agency (CMA) Section 1000 2100 Case Management Section 2000			
Texas HCBS settings are physically accessible to the individual. 42 CFR 441.301(c) (4)(vi)(E)	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000
Any modifications to privacy in Texas HCBS settings 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: DFPS Minimum Standards-Children's Rights-749.1003(b)(8),(16),(21), Subchapter G Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

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If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
In Texas, 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:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:
In Texas, 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:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:
In Texas, 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:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing. 42 CFR 441.301(c)(4)(vi)(F)(5)	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:
In Texas, 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:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:	Rule: Silent Policy Manual: Silent:
In Texas, modifications to	Rule: Compliant:	Rule: Compliant:	Rule: Compliant:	Rule: Compliant:

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
individual privacy include informed consent of the individual. 42 CFR 441.301 (c)(4)(vi)(F)(Z)	45.214(c)- Development of Enrollment IPC and 45.223 Renewal and Revision of IPC Subchapter B, Division 2 DFPS Minimum Standards-Children's Rights-749.1003(b)(26) Subchapter G Policy Manual: Compliant 2300 Service Planning Section 2000	45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 and 45.223 Renewal and Revision of IPC Subchapter B, Division 3 DFPS Minimum Standards-Children's Rights-749.1003(b)(26) Subchapter G Policy Manual: Compliant 2300 Service Planning Section 2000	45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 and 45.223 Renewal and Revision of IPC Subchapter B, Division 3 DFPS Minimum Standards-Children's Rights-749.1003(b)(26) Subchapter G Policy Manual: Compliant Section 2300 Service Planning Section 2000	45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 and 45.223 Renewal and Revision of IPC Subchapter B, Division 3 DFPS Minimum Standards-Children's Rights-749.1003(b)(26) Subchapter G Policy Manual: Compliant Section 2300 Service Planning Section 2000
In Texas, 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 Section 1000: Introduction Section 1000	Rule: Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rule: Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rule: Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000
Individuals are offered choice of residential setting options (including non-disability specific settings) within Texas waivers that offer residential services and an option for a	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Silent	NA	NA	NA

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
private unit in a residential setting. 42 CFR 441.301(c)(4)(ii)				
Texas HCBS settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301 (c)(4)(i)	<p>Rules: Partial Compliance 45.531(c) and (d) -Support Families, Subchapter E, Division 3</p> <p>DFPS Minimum Standards- 749.1003(b)(1),(3) (9)(11)(B)- Children's Rights, Subchapter G</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>
Texas HCBS 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)	<p>Rules: Partial Compliance 45.531(c) and (d) -Support Families and 45.533(a)(9)- Support Family Duties, Subchapter E, Division 3</p> <p>DFPS Minimum Standards- 749.1003(b)(1),(3) (9)(11)(B)- Children's Rights, Subchapter G</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>	<p>Rules: Silent</p> <p>Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000</p>

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Section 1000			
Texas HCBS 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 DFPS Minimum Standards-749.1003(b)(19) Children's Rights, Subchapter G Policy Manual: Partial Compliance: Section 1000:Introduction Section 1000	NA	NA	NA
Texas HCBS 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: DFPS Minimum Standards-Children's Rights-749.1003(b)(8),(16),(21), Subchapter G Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance Section 1000: Introduction Section 1000
Texas HCBS settings optimize individual initiative, autonomy, and independence in making life choices, (i.e. daily activities, environment and who they interact with). 42 CFR	Rule: Partial Compliance: DFPS Minimum Standards-Children's Rights-749.1003(b), Subchapter G Policy Manual: Partial	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules:- Silent Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
441.301(c) (4)(iv)	Compliance: Section 1000: Introduction Section 1000			
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC, Subchapter B, Division 2 Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c) (4)(v)	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC, Subchapter B, Division 2 Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000	Rules: Partial Compliance 45.214(c)-Development of Enrollment IPC Subchapter B, Division 2 Policy Manual: Partial Compliance: Section 1000: Introduction Section 1000
Texas 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.	Rule: Silent Policy Manual: Silent	NA	NA	NA

Community Living Assistance and Support Services (CLASS) Waiver-Systemic/Internal Assessment

All state rule citations for the CLASS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=45) &

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749)

CLASS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/community-living-assistance-and-support-services-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Support/Continued Family Services (Residential)	Pre-Vocational Services (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
42 CFR 441.301(c) (4)(vi)(A)				
Individuals receiving services in Texas HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301 (c)(4)(vi)(A)	Rule: Silent Policy Manual: Silent	NA	NA	NA

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)	<p>Rules: Compliant – 42.630(b)(1) and (c)(1)- Residential Services, Subchapter F, Division 3</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant – 42.630(b)(1) and (c)(1) Subchapter F, Division 3</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant: 42.626(b)-Habilitation, Subchapter F, Division 3</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant: 42.625-Employment Services, Subchapter F, Division 3</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant: 42.625-Employment Services Subchapter F, Division 3</p> <p>Policy Manual: Silent</p>
Out-of-home respite is not allowed in institutional settings (i.e. NF, hospitals and ICFs). 42 CFR 441.301 (c)(5)	<p>Rules: Non-compliant Policy Manual: Silent</p> <p>NA--Out-of-home respite is provided in this setting; however, the waiver and rules provide for out-of-home respite in institutional settings.</p> <p>§42.631 (a) (2) A program provider must not: (A) bill DADS for more than 30 calendar days or 720 hours of respite per IPC period (B) provide respite to an individual receiving licensed assisted living or licensed home health assisted living.</p> <p>Subchapter F, Division 3</p>	<p>Rules: Non-compliant Policy Manual: Silent</p> <p>NA--Out-of-home respite is provided in this setting; however, the waiver and rules provide for out-of-home respite in institutional settings.</p> <p>§42.631 (a)(2) A program provider must not: (A) bill DADS for more than 30 calendar days or 720 hours of respite per IPC period.</p> <p>Subchapter F, Division 3</p>	NA	NA	NA

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

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Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
Day habilitation is not allowed to be provided in settings that have institutional qualities. 42 CFR 441.301 (c)(5)	NA	NA	Rules: Partial Compliance: 42.626(b)-Habilitation, Subchapter F, Division 3 Policy Manual: Silent	NA	NA
Texas HCBS 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	NA	NA	NA
Individuals sharing units in Texas HCBS settings 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	NA	NA	NA
Individuals in Texas HCBS settings 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: Compliant – 92.125(S) and (U)- Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Partial Compliance 42.630-(a)(13)(C)- Residential Services, Subchapter F, Division 3 Policy Manual: Silent	NA	NA	NA
Individuals in Texas HCBS settings have the freedom and support to control their own	Rules: Partial compliance- 42.404(g)- Service Delivery, Subchapter D	Rules: Partial Compliance 42.630-(a)(13)(C)- Residential Services,	Rules: Partial Compliance- 42.626(4)- Habilitation, Subchapter F, Division 3	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

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Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
schedules and activities, and have access to food at any time. 42 CFR 441.301(c) (4)(vi)(C)	Policy Manual: Silent	Subchapter F, Division 3 Policy Manual: Silent	Policy Manual: Silent		
Individuals in Texas HCBS settings are able to have visitors of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Rules: Compliant – 92.125(J); Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Partial Compliance 42.630-(a)(13)(C)- Residential Services, Subchapter F, Division 3 Policy Manual: Silent	NA	NA	NA
Texas HCBS settings are physically accessible to the individual. 42 CFR 441.301(c) (4)(vi)(E)	Rules: Compliant - 92.61(b)(8)- Introduction and Modification Subchapter D and 42.630(c)(4)(a)- Residential Services Subchapter F Policy Manual: Silent	Rules: Compliant - 42.630-(c)(4)(A)- Residential Services, Subchapter F, Division 3 Policy Manual: Silent	Rules: Compliant 42.626(b)(1)(A)(i)- Habilitation, Subchapter F, Division 3 Policy Manual: Silent	Rules: Compliant- 42.625(c)(1)(A)- Employment Services, Subchapter F, Division 3 Policy Manual: Silent	Rules: Compliant- 42.625(e)(1)(A)- Employment Services Subchapter F, Division 3 Policy Manual: Silent
Any modifications to privacy in Texas HCBS settings is supported by a specific assessed need and justified in the person-centered service plan. 42 CFR 441.301 (c)(4)(vi)(F)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, modifications	Rules: Silent	Rules: Silent	Rules: Silent	Rules: Silent	Rules: Silent

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
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)	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing effectiveness. 42 CFR 441.301(c)(4)(vi)(F)(5)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, modifications	Rules: Silent	Rules: Silent	Rules: Silent	Rules: Silent	Rules: Silent

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
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)	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent
In Texas, modifications to individual privacy include informed consent of the individual. 42 CFR 441.301 (c)(4)(vi)(F)(7)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
Individuals are offered choice of residential setting options (including non-disability specific settings) within Texas 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: 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 Policy Manual: Silent	NA	NA	NA

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
Texas HCBS settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301 (c)(4)(i)	Rules: Compliant-42.404(g) Service Delivery, Subchapter D and 92.125(a)(3)(B) and (K)- Resident's Bill of Rights and Provider Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery, Subchapter D and 42.630-(a)(13)(D) and (E)-Residential Services, Subchapter F, Division 3 Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery, Subchapter D Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D Policy Manual: Silent
Texas HCBS 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: Compliant-42.404(g) Service Delivery, Subchapter D and 92.125(a)(3)(B) and (K)- Resident's Bill of Rights and Provider Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D and 42.630-(a)(13)(D) and (E)-Residential Services, Subchapter F, Division 3 Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D Policy Manual: Silent	Rules: Compliant-42.404(g) Service Delivery Subchapter D Policy Manual: Silent
Texas HCBS 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: Compliant: 92.125(a)(3)(L)- Resident's Bill of Rights and Provider Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Compliant-42.630-(a)(13)(C)- Residential Services, Subchapter F, Division 3 and 42.501-Request for Assistance with Personal Funds Management	Rules: Compliant: 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 and 42.501-Request for Assistance with Personal Funds	Rules: Compliant: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.501-Request for Assistance with Personal Funds	Rules: Compliant: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.501-Request for Assistance with Personal Funds

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

DBMD Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/deaf-blind-multiple-disabilities-dbmd-program-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
		Subchapter E Policy Manual: Silent	Management, Subchapter E Policy Manual: Silent	Management Subchapter E Policy Manual: Silent	Management Subchapter E Policy Manual: Silent
Texas HCBS settings allow individual’s the right to privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR 441.301 (c)(4)(iii)	Rules: Compliant - 92.125 Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G . . 42.406-Quality Assurance, 42.408(b) Protective Devices, and 42.409(d)(1)-Restraints, Subchapter D Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 and 42.406-Quality Assurance, and 42.408(b) Protective Devices, Subchapter D Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.406-Quality Assurance, 42.408(b) and Protective Devices, Subchapter D Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.406-Quality Assurance, and 42.408(b) Protective Devices, Subchapter D Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.406-Quality Assurance, and 42.408(b) Protective Devices Subchapter D Policy Manual: Silent
Texas HCBS 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)	Rules: Compliant - 92.125- Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 and 42.630-(a)(13)(C)-Residential Services, Subchapter F, Division 3	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

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Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
		Policy Manual: Silent			
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	Rules: Partial Compliance- 92.125(E)- Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G and 42.215(3)(A): Development of Enrollment IPP, Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 and 42.630(a)(13)- Residential Services, Subchapter F, Division 3 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance: 42.215(3)(A): Development of Enrollment IPP Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c) (4)(v)	Rules: Compliant 42.212(a) Process for Enrollment of an Individual, Subchapter B, Division 2 42.215(3)(A)- Development of Enrollment IPP, and 42.223(b)(2)(B)(iii) and (iv)- Periodic Review and Update of IPC and IPP, Subchapter B, Division 2	Rules: Compliant 42.212(a) Process for Enrollment of an Individual, 42.215(3)(A)- Development of Enrollment IPP, Subchapter B, Division 2 and 42.223(b)(2)(B)(iii) and (iv)- Periodic Review and Update of IPC and IPP Subchapter B, Division 2	Rules: Partial Compliance 42.212(a) Process for Enrollment of an Individual, 42.215(3)(A)- Development of Enrollment IPP, Subchapter B, Division 2 and 42.223(b)(2)(B)(iii) and (iv)- Periodic Review and Update of IPC and IPP	Rules: Partial Compliance 42.212(a) Process for Enrollment of an Individual, 42.215(3)(A)- Development of Enrollment IPP, Subchapter B, Division 2 and 42.223(b)(2)(B)(iii) and (iv)- Periodic Review and Update of IPC and IPP	Rules: Partial Compliance 42.212(a) Process for Enrollment of an Individual, 42.215(3)(A)- Development of Enrollment IPP, Subchapter B, Division 2 and 42.223(b)(2)(B)(iii) and (iv)- Periodic Review and Update of IPC and IPP

Deaf Blind Multiple Disabilities (DBMD) Waiver-Systemic/Internal Assessment

All state rule citations for the DBMD systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=42)

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If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facility (Residential)	1-3 Bed (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Policy Manual: Silent	<u>2</u> Policy Manual: Silent	<u>Subchapter B, Division 2</u> Policy Manual: Silent	<u>Subchapter B, Division 2</u> Policy Manual: Silent	<u>Subchapter B, Division 2</u> Policy Manual: Silent
Texas 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)	Rules: Partial Compliance 92.125(a)(3)(X) and (Y) Resident’s Bill of Rights and Provider’s Bill of Rights, Subchapter G and 42.630(a)(9)-Residential Services, \ Subchapter F, Division 3 Policy Manual: Silent	NA-Service is provided in individuals own home.	NA	NA	NA
Individuals receiving services in Texas HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301 (c)(4)(vi)(A)	Rules: Partial Compliance 92.125(Y)-Resident’s Bill of Rights and Provider’s Bill of Rights Subchapter G	NA-Service is provided in individuals own home.	NA	NA	NA

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y)

HCS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/home-and-community-based-services-handbook>

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Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)	<p>Rules: Compliant §9.155(a)(5) (related to the Eligibility Criteria) §9.174(a)(23) Certification Principles: Service Delivery, Subchapter D</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant §9.155(a)(5) (related to the Eligibility Criteria) and §9.174(a)(23) Certification Principles: Service Delivery, Subchapter D</p> <p>Policy Manual: Silent</p>	<p>Rules: Silent Policy Manual: Silent</p>	<p>Rules: Compliant 9.174 (a)(45) Certification Principles: Service Delivery Subchapter D</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant 9.174 (a)(44) Certification Principles: Service Delivery Subchapter D</p> <p>Policy Manual: Silent</p>
Out-of-home respite is not allowed in institutional settings (i.e. NF, hospitals and ICFs). 42 CFR 441.301 (c)(5)	<p>Rules: Compliant 9.174 Certification Principles: Service Delivery 9.174 (a)(42) 9.174(a)(43), Subchapter D</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant 9.174 Certification Principles: Service Delivery 9.174 (a)(42) 9.174(a)(43), Subchapter D</p> <p>Policy Manual: Silent</p>	NA	NA	NA
Day habilitation is not allowed to be provided in settings that have institutional qualities. 42 CFR 441.301 (c)(5)	NA	NA	<p>Rules: Silent Policy Manual: silent</p>	<p>Rules: Compliant 9.174 (a)(45) Certification Principles: Service Delivery supports delivery of service in competitive employment for persons without disabilities. Subchapter D</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant 9.174 (a)(44) Certification Principles: Service Delivery supports assisting individuals to locate competitive employment in the community. Subchapter D</p> <p>Policy Manual: Silent</p>

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y)

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Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
Texas HCBS settings have entrance doors lockable by the individual, with only appropriate staff keys. 42 CFR 441.301 (c)(4)(vi)(B)(1)	Rules: Compliant 9.173(a)(1) and 9.173 (b) (44) Certification Principles: Rights of Individuals §9.174(a) (23) Certification Principles: Service Delivery, Subchapter D Policy Manual Silent	Rules: Compliant 9.173(a)(1) and 9.173 (b) (44) Certification Principles: Rights of Individuals §9.174(a) (23) Certification Principles: Service Delivery. Subchapter D Policy Manual Silent	NA	NA	NA
Individuals sharing units in Texas HCBS settings have a choice of roommates in that setting. 42 CFR 441.301(c) (4)(vi)(B)(2)	Rules: Compliant 9.173(a)(1) and 9.173(b)(27) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	Rules: Compliant 9.173(a)(1) and 9.173(b)(27) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	NA	NA	NA
Individuals in Texas HCBS settings 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: Compliant 9.173(a)(1) and 9.173(b)(16) and (27) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	Rules: Compliant 9.173(a)(1) and 9.173(b)(16) and (27) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	NA	NA	NA
Individuals in Texas HCBS settings have the freedom and support to control their own	Rules: Compliant 9.173(a) and (b) Certification Principles: Rights of Individuals	Rules: Compliant 9.173(a) and (b) Certification Principles: Rights of Individuals	Rules: Partial Compliance References in 9.173(a) and (b) Certification Principles:	Rules: Compliant References in 9.173(a) and (b) Certification Principles: Rights of	Rules: Compliant References in 9.173(a) and (b) Certification Principles: Rights of

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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HCS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/home-and-community-based-services-handbook>

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Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
schedules and activities, and have access to food at any time. 42 CFR 441.301(c) (4)(vi)(C)	and 9.178(b) Certification Principles: Quality Assurance, Subchapter D Policy Manual Silent	Subchapter D Policy Manual Silent	Rights of Individuals support this in all HCS services. Subchapter D Policy Manual Silent	Individuals support this in all HCS services. Subchapter D Policy Manual Silent	Individuals support this in all HCS services. Subchapter D Policy Manual Silent
Individuals in Texas HCBS settings are able to have visitors of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Rules: Compliant 9.173(a) and (b) Certification Principles: Rights of Individuals, Subchapter D Policy Manual Silent	Rules: Compliant 9.173(a) and (b) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	Rules: Partial Compliance References in 9.173(a) and (b) Certification Principles: Rights of Individuals support this in all HCS services. Subchapter D Policy Manual Silent	Rules: Compliant References in 9.173(a) and (b) Certification Principles: Rights of Individuals support this in all HCS services. Subchapter D Policy Manual Silent	Rules: Compliant References in 9.173(a) and (b) Certification Principles: Rights of Individuals support this in all HCS services. Subchapter D Policy Manual Silent
Texas HCBS settings are physically accessible to the individual. 42 CFR 441.301(c) (4)(vi)(E)	Rules: Compliant 9.173 (b)(2) Certification Principles: Rights of Individuals and 9.178(c) Certification Principles: Quality Assurance, Subchapter D Policy Manual Silent	Rules: Compliant 9.173 (b)(2) Certification Principles: Rights of Individuals and 9.178(c) Certification Principles: Quality Assurance Subchapter D Policy Manual Silent	Rules: Compliant 9.173 (b)(2) Certification Principles: Rights of Individuals and 9.178(c) Certification Principles: Quality Assurance Subchapter D Policy Manual Silent	Rules: Compliant 9.173 (b)(2) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent	Rules: Compliant 9.173 (b)(2) Certification Principles: Rights of Individuals Subchapter D Policy Manual Silent
Any modifications to privacy in Texas HCBS settings is supported by a specific assessed need and justified in the	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals,	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y)

HCS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/home-and-community-based-services-handbook>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
person-centered service plan. 42 CFR 441.301 (c)(4)(vi)(F)	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent
In Texas, 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)	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, 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)	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4),(5) and (6) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, modifications to individual privacy include a clear description of the condition that is directly	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y)

HCS Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/home-and-community-based-services-handbook>

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
proportionate to the specific assessed need. 42 CFR 441.301(c)(4)(vi)(F)(4)	and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing. 42 CFR 441.301(c)(4)(vi)(F)(5)	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, 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)	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rules: Partial compliance 9.173 (b)(4), (5), (6), and (7) Certification Principles: Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, modifications to individual privacy include informed	Rules: Compliant 9.173 (b)(4),(5) (6) and (7) Certification Principles:	Rules: Compliant 9.173 (b)(4),(5) (6) and (7) Certification Principles:	Rules: Compliant 9.173 (b)(4),(5) (6) and (7) Certification Principles:	Rules: Compliant 9.173 (b)(4),(5) (6) and (7) Certification Principles:	Rules: Compliant 9.173 (b)(4),(5) (6) and (7) Certification Principles:

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
consent of the individual. 42 CFR 441.301 (c)(4)(vi)(F)(Z)	Rights of Individuals and 9.174(13) Certification Principles: Service Delivery, Subchapter D Policy Manual: Silent	Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent	Rights of Individuals and 9.174(13) Certification Principles: Service Delivery Subchapter D Policy Manual: Silent
In Texas, 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)	Rules: Compliant 9.173 (26) Certification Principles: Rights of Individuals, Subchapter D Policy Manual: Silent	Rules: Compliant 9.173 (26) Certification Principles: Rights of Individuals Subchapter D Policy Manual: Silent	Rules: Compliant 9.173 (26) Certification Principles: Rights of Individuals Subchapter D Policy Manual: Silent	Rules: Compliant 9.173 (26) Certification Principles: Rights of Individuals Subchapter D Policy Manual: Silent	Rules: Compliant 9.173 (26) Certification Principles: Rights of Individuals Subchapter D Policy Manual: Silent
Individuals are offered choice of residential setting options (including non-disability specific settings) within Texas waivers that offer residential services and an option for a private unit in a residential setting. 42 CFR 441.301(c) (4)(ii)	Rules: Compliant Certification principles rights of individuals 9.173(b)(16)(22) 9.174 Certification Principles Service Delivery 9.174(a)(4), Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(b)(16)(22) 9.174 Certification Principles Service Delivery 9.174(a)(4) Subchapter D Policy Manual: Silent	NA	NA	NA
Texas HCBS settings are integrated and support full access to the greater community	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22),	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22)	Rules: Partial Compliance Certification principles rights of individuals	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22)	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22)

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=D&rl=Y)

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
(including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301 (c)(4)(i)	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	9.173(a)(1) and (b)(22) Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent
Texas HCBS 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: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22), Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22) Subchapter D Policy Manual: Silent	Rules: Partial Compliance Certification principles rights of individuals 9.173(a)(1) and (b)(22) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a)(1) and (b)(22) Subchapter D Policy Manual: Silent
Texas HCBS 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: Compliant Certification principles rights of individuals 9.173(b)(1),(31), and (32), Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(b)(1),(31), and (32) Subchapter D Policy Manual : Silent	Rules: Compliant Certification principles rights of individuals 9.173(b)(1),(31), and (32) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(b)(1),(31), and (32) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(b)(1),(31), and (32) Subchapter D Policy Manual: Silent
Texas HCBS settings allow individual’s the right to privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR 441.301 (c)(4)(iii)	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b), Subchapter D Certification principles mission, development, and philosophy 9.172	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Certification principles mission, development, and philosophy 9.172	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Certification principles mission, development, and philosophy 9.172	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Certification principles mission, development, and philosophy 9.172	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Certification principles mission, development, and philosophy 9.172

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent	Subchapter D Policy Manual: Silent
Texas HCBS 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)	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b), Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Policy Manual: Silent	Rules: Compliant Certification principles rights of individuals 9.173(a) and (b) Subchapter D Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	Waiver: Silent Rules: Compliant Certification principles: rights of individuals 9.173(b)(6) 9.173(b) (20), Subchapter D Policy Manual: Silent	Waiver: Silent Rules: Compliant Certification principles: rights of individuals 9.173(b)(6) 9.173(b) (20) Subchapter D Policy Manual: Silent	Waiver: Silent Rules: Compliant Certification principles: rights of individuals 9.173(b)(6) 9.173(b) (20) Subchapter D Policy Manual: Silent	Waiver: Silent Rules: Compliant Certification principles: rights of individuals 9.173(b)(6) 9.173(b) (20) Subchapter D Policy Manual: Silent	Waiver: Silent Rules: Compliant Certification principles: rights of individuals 9.173(b)(6) 9.173(b) (20) Subchapter D Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c) (4)(v)	Rules: Compliant Certification Principles: Staff Member and Service Provider Requirements 9.177(b)(1), Subchapter D Policy Manual: Compliant	Rules: Compliant Certification Principles: Staff Member and Service Provider Requirements 9.177(b)(1) Subchapter D Policy Manual: Compliant	Rules: Compliant Certification Principles: Staff Member and Service Provider Requirements 9.177(b)(1) Subchapter D Policy Manual: Compliant	Rules: Compliant Certification Principles: Staff Member and Service Provider Requirements 9.177(b)(1) Subchapter D Policy Manual: Compliant	Rules: Compliant Certification Principles: Staff Member and Service Provider Requirements 9.177(b)(1) Subchapter D Policy Manual: Compliant

Home and Community-based Services (HCS) Waiver-Systemic/Internal Assessment

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	3-Person Home/4-Person Home (Residential)	Host Home/Companion Care (Residential)	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Section 4000 Person Directed Plan states the plan identifies the individual's preferences for service delivery options Section 4000	Section 4000 Person Directed Plan states the plan identifies the individual's preferences for service delivery options Section 4000	Section 4000 Person Directed Plan states the plan identifies the individual's preferences for service delivery options Section 4000	Section 4000 Person Directed Plan states the plan identifies the individual's preferences for service delivery options Section 4000	Section 4000 Person Directed Plan states the plan identifies the individual's preferences for service delivery options Section 4000
Texas 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)	Rules: Partial compliance- Certification Principles- Quality Assurance- 9.178(r)(1),(2) and (3), Subchapter D Policy Manual: Silent	Rules: Partial compliance- Certification Principles- Quality Assurance- 9.178(r)(1),(2) and (3) Subchapter D Policy Manual: Silent	NA	NA	NA
Individuals receiving services in Texas HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301 (c)(4)(vi)(A)	Rules: Partial compliance- Certification Principles- Quality Assurance- 9.178(r)(1),(2) and (3), Subchapter D Policy Manual: Silent	Rules: Partial compliance- Certification Principles- Quality Assurance- 9.178(r)(1),(2) and (3) Subchapter D Policy Manual: Silent	NA	NA	NA

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

MDCP Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/medically-dependent-children-program-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
<p>In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)</p>	<p>Rules: Compliant §51.431(c)-Host Family Requirements, Subchapter D, Division 4</p> <p>Policy Manual: Silent</p>	<p>Rules: Compliant §51.483 (3)(A)-Supported Employment Subchapter D, Division 9</p> <p>Policy Manual: 7164 Supported Employment Section 7000</p>	<p>Rules: Compliant §51.481 (1)-Employment Assistance Subchapter D, Division 9</p> <p>Policy Manual: 7161 Employment Assistance Section 7000</p>
<p>Out-of-home respite is not allowed in institutional settings (i.e. NF, hospitals and ICFs). 42 CFR 441.301 (c)(5)</p>	<p>Rules: Non-compliant Policy Manual: Silent</p> <p>MDCP allows out-of-home respite in several settings.</p> <p>§51.231(b)(2) - An individual may be admitted to a facility-based respite for a maximum of 29 days during an IPC year unless the individual requests and exception to the 29-day limit and the case manager grants the request. The amount of respite other than facility-based respite is subject to the IPC cost limit as described in §51.203(b)(6) of this subchapter (related to eligibility requirements).</p> <p>Subchapter B, Division 3</p>	<p>NA</p>	<p>NA</p>
<p>Day habilitation is not allowed to be</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

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*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
provided in settings that have institutional qualities. 42 CFR 441.301 (c)(5)			
Texas HCBS 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	NA	NA
Individuals sharing units in Texas HCBS settings have a choice of roommates in that setting. 42 CFR 441.301(c) (4)(vi)(B)(2)	Rules: Silent Policy Manual: Silent	NA	NA
Individuals in Texas HCBS settings 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: Silent	NA	NA
Individuals in Texas HCBS settings 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: Partial Compliance 51.433(a)(9) and b(1)-(3)-Host Family Responsibilities, \ Subchapter D, Division 4 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent
Individuals in Texas HCBS settings are able to have visitors of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Rules: Compliant 51.433(b)(1)-Host Family Responsibilities, Subchapter D, Division 4 Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
Texas HCBS settings are physically accessible to the individual. 42 CFR	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

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[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

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*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
441.301(c) (4)(vi)(E)			
Any modifications to privacy in Texas HCBS settings is supported by a specific assessed need and justified in the person-centered service plan. 42 CFR 441.301 (c)(4)(vi)(F)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing effectiveness. 42 CFR 441.301(c) (4)(vi)(F)(5)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, modifications to individual privacy establish time limits for periodic reviews to determine if the modification is still necessary or can	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

All state rule citations for the MDCP systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

MDCP Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/medically-dependent-children-program-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
be terminated. 42 CFR 441.301(c)(4)(vi)(F)(6)			
In Texas, modifications to individual privacy include informed consent of the individual. 42 CFR 441.301(c)(4)(vi)(F)(7)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
In Texas, 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)	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent	Rules: Silent Policy Manual: Silent
Individuals are offered choice of residential setting options (including non-disability specific settings) within Texas waivers that offer residential services and an option for a private unit in a residential setting. 42 CFR 441.301(c)(4)(ii)	Rules: Compliant 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	NA	NA
Texas HCBS settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301(c)(4)(i)	Rules: Compliant 51.433(a)(9) and b(1)-(3)-Host Family Responsibilities, Subchapter D, Division 4 Policy Manual: Silent	Rules: Compliant 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS 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: Compliant 51.433(a)(9) and b(1)-(3)-Host Family Responsibilities, Subchapter D, Division 4	Rules: Compliant 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

All state rule citations for the MDCP systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

MDCP Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/medically-dependent-children-program-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Policy Manual: Silent		
Texas HCBS 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: Silent Provider Manual: Silent	Rules: Silent Provider Manual: Silent	Rules: Silent Provider Manual: Silent
Texas HCBS settings allow individual’s the right to privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR 441.301 (c)(4)(iii)	Rules: Partial Compliance 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS 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)	Rules: Partial Compliance 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent	Rules: Partial Compliance 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	Rules: Compliant 51.217(a) Individual Plan of Care, Subchapter B, Division 2 Policy Manual: Silent	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2 Policy Manual: Silent
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c)(4)(v)	Rules: Compliant 51.217(a) Individual Plan of Care, Subchapter B, Division 2	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2	Rules: Compliant 51.217(a) Individual Plan of Care Subchapter B, Division 2

Medically Dependent Children Program (MDCP) Waiver-Systemic/Internal Assessment

All state rule citations for the MDCP systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=51)

MDCP Policy Manual can be found at: <https://hhs.texas.gov/laws-regulations/handbooks/medically-dependent-children-program-provider-manual>

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

*Host families/home service is available, however no waiver participants are using this service.

Federal Rule	Host Families/Home* (Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Policy Manual: Silent	Policy Manual: Silent	Policy Manual: Silent
Texas 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)	Rules: Silent Provider Manual: Silent	NA	NA
Individuals receiving services in Texas HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301 (c)(4)(vi)(A)	Rules: Silent Policy Manual: Silent	NA	NA

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

There is no separate policy manual for TxHmL.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)	Rules: Compliant §9.554 (a) Description, Subchapter N of TxHmL Program Subchapter N	Rules: Compliant §9.554 (a) Description of TxHmL Program Subchapter N	Rules: Compliant §9.554 (a) Description of TxHmL Program Subchapter N
Out-of-home respite is not allowed in institutional settings (i.e. NF, hospitals and ICFs). 42 CFR 441.301 (c)(5)	NA	NA	NA
Day habilitation is not allowed to be provided in settings that have institutional qualities. 42 CFR 441.301 (c)(5)	Rules: Partial Compliance- §9.555 (b) Description of TxHmL Program Services, Subchapter N	Rules: Compliant 9.555 (e) Description of TxHmL Program Services Subchapter N	Rules: Compliant 9.555 (d) Description of TxHmL Program Services Subchapter N
Texas HCBS settings have entrance doors lockable by the individual, with only appropriate staff keys. 42 CFR 441.301 (c)(4)(vi)(B)(1)	NA	NA	NA
Individuals sharing units in Texas HCBS settings have a choice of roommates in that setting. 42 CFR 441.301(c) (4)(vi)(B)(2)	NA	NA	NA
Individuals in Texas HCBS settings 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)	NA	NA	NA
Individuals in Texas HCBS settings have the freedom and support to control their own schedules and	Rules: Partial Compliance §9.580 (a) Certification Principles:	Rules: Partial Compliance §9.580 (a) Certification Principles:	Rules: Partial Compliance §9.580 (a) Certification Principles:

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

There is no separate policy manual for TxHmL.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
activities, and have access to food at any time. 42 CFR 441.301(c) (4)(vi)(C)	Quality Assurance, Subchapter N	Quality Assurance Subchapter N	Quality Assurance Subchapter N
Individuals in Texas HCBS settings are able to have visitors of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Rules: Partial Compliance- §9.580 (a) Certification Principles: Quality Assurance Subchapter N	Rules: Partial Compliance- §9.580 (a) Certification Principles: Quality Assurance Subchapter N	Rules: Partial Compliance- §9.580 (a) Certification Principles: Quality Assurance Subchapter N
Texas HCBS settings are physically accessible to the individual. 42 CFR 441.301(c) (4)(vi)(E)	Rules: Partial Compliance- §9.555 (h) Description of TxHmL Program Services, Subchapter N	Rules: Partial Compliance- §9.555 (e)(2)(A) Description of TxHmL Program Services Subchapter N	Rules: Partial Compliance- §9.555 (h) Description of TxHmL Program Services Subchapter N
Any modifications to privacy in Texas HCBS settings is supported by a specific assessed need and justified in the person-centered service plan. 42 CFR 441.301 (c)(4)(vi)(F)	Rules: Partial Compliance- §9.555 (b) Description of TxHmL Program Services §9.567 (k) Process for Enrollment, §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals, Subchapter N §9.580 (a)(16) Certification Principles: Quality Assurance, Subchapter N	Rules: Partial Compliance §9.567 (k) Process for Enrollment §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N §9.580 (a)(16) Certification Principles: Quality Assurance Subchapter N	Rules: Partial Compliance §9.567 (k) Process for Enrollment §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N §9.580 (a)(16) Certification Principles: Quality Assurance Subchapter N
In Texas, modifications to individual privacy document the positive	Rules: Partial Compliance §9.568 (a),(a)(1) Revisions and	Rules: Partial Compliance §9.568 (a),(a)(1) Revisions and	Rules: Partial Compliance §9.568 (a),(a)(1) Revisions and

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

There is no separate policy manual for TxHmL.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
interventions and supports used prior to any modifications to the person-centered plan. 42 CFR 441.301 (c)(4)(vi)(F)(2)	Renewals of Individual IPC, LOC, LON for Enrolled Individuals, Subchapter N	Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N	Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N
In Texas, 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)	Rules: Compliant §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals, Subchapter N §9.580 (p) (1-11) Certification Principles: Quality Assurance Subchapter N	Rules: Compliant §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N §9.580 (p) (1-11) Certification Principles: Quality Assurance Subchapter N	Rules: Compliant §9.568 (a),(a)(1) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N §9.580 (p) (1-11) Certification Principles: Quality Assurance Subchapter N
In Texas, 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)	Rules: Partial Compliance §9.568 (a),(a)(1),(c)(1)(B) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals, Subchapter N	Rules: Partial Compliance §9.568 (a),(a)(1),(c)(1)(B) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N	Rules: Partial Compliance §9.568 (a),(a)(1), (c)(1)(B) Revisions and Renewals of Individual IPC, LOC, LON for Enrolled Individuals Subchapter N
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing effectiveness. 42 CFR 441.301(c)(4)(vi)(F)(5)	Rules: Partial Compliance §9.582(a), (b) Compliance with TxHmL Program Principles for LIDDAs, Subchapter N §9.583 (e),(h), (j) TxHmL Program	Rules: Partial Compliance §9.582(a), (b) Compliance with TxHmL Program Principles for LIDDAs Subchapter N §9.583 (e),(h), (j) TxHmL Program	Rules: Partial Compliance §9.582(a), (b) Compliance with TxHmL Program Principles for LIDDAs Subchapter N

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

There is no separate policy manual for TxHmL.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service.

Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
	Principles for LIDDAS, Subchapter N Subchapter N	Principles for LIDDAS Subchapter N	§9.583 (e),(h), (j) TxHmL Program Principles for LIDDAS Subchapter N
In Texas, 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)	Rules: Partial Compliance §9.576 (b) DADS Review of a program provider, Subchapter N	Rules: Partial Compliance §9.576 (b) DADS Review of a program provider Subchapter N	Rules: Partial Compliance §9.576 (b) DADS Review of a program provider Subchapter N
In Texas, modifications to individual privacy include informed consent of the individual. 42 CFR 441.301(c)(4)(vi)(F)(7)	Rules: Partial Compliance §9.580 (a)(5) Certification Principles Quality Assurance, Subchapter N	Rules: Partial Compliance §9.580 (a)(5) Certification Principles Quality Assurance Subchapter N	Rules: Partial Compliance §9.580 (a)(5) Certification Principles Quality Assurance Subchapter N
In Texas, 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)	Rules: Partial Compliance §9.580 (a)(14) Certification Principles: Quality Assurance, Subchapter N §9.579 (f) Certification Principles: Qualified Personnel, Subchapter N	Rules: Partial Compliance §9.580 (a)(14) Certification Principles: Quality Assurance Subchapter N §9.579 (f) Certification Principles: Qualified Personnel Subchapter N	Rules: Partial Compliance §9.580 (a)(14) Certification Principles: Quality Assurance Subchapter N §9.579 (f) Certification Principles: Qualified Personnel Subchapter N
Individuals are offered choice of residential setting options (including non-disability specific settings)	NA	NA	NA

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
within Texas waivers that offer residential services and an option for a private unit in a residential setting. 42 CFR 441.301(c) (4)(ii)			
Texas HCBS settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301 (c)(4)(i)	<p>Rules: Compliant §9.555 (b) Description of TxHmL Program Services, Subchapter N</p> <p>§9.578 (k),(l), (m) Program Provider Certification, Subchapter N, Principles: Service Delivery Subchapter N</p>	<p>Rules: Compliant §9.555 (e) Description of TxHmL Program Services Subchapter N</p> <p>§9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N</p>	<p>Rules: Compliant §9.555 (d) Description of TxHmL Program Services Subchapter N</p> <p>§9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N</p>
Texas HCBS 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)	<p>Rules: Compliant §9.555 (b) Description of TxHmL Program Services, Subchapter N</p> <p>§9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N</p>	<p>Rules: Compliant §9.555 (e) Description of TxHmL Program Services Subchapter N</p> <p>§9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N</p>	<p>Rules: Compliant §9.555 (d) Description of TxHmL Program Services Subchapter N</p> <p>9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N</p>
Texas HCBS 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)	<p>Rules: Partial Compliance §9.580 (a)(4), (a)(8) Certification Principles: Quality Assurance, Subchapter N</p>	<p>Rules: Partial Compliance §9.580 (a)(4), (a)(8) Certification Principles: Quality Assurance Subchapter N</p>	<p>Rules: Partial Compliance §9.580 (a)(4), (a)(8) Certification Principles: Quality Assurance Subchapter N</p>

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
Texas HCBS settings allow individual’s the right to privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR 441.301 (c)(4)(iii)	Rules: Partial Compliance §9.580 (a)(3), (11), (14), (15), (16), Subchapter N, Certification Principles: Quality Assurance Subchapter N	Rules: Partial Compliance §9.580 (a)(3), (11), (14), (15), (16) Certification Principles: Quality Assurance Subchapter N	Rules: Partial Compliance §9.580 (a)(3), (11), (14), (15), (16) Certification Principles: Quality Assurance Subchapter N
Texas HCBS 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)	Rules: Partial Compliance §9.555 (b) Description of TxHmL Program Services, Subchapter N §9.580 (a)(3), (11), (14), (15), (16) Certification Principles: Quality Assurance Subchapter N §9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N	Rules: Partial Compliance §9.555 (e) Description of TxHmL Program Services Subchapter N §9.580 (a)(3), (11), (14), (15), (16) Certification Principles: Quality Assurance Subchapter N §9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N	Rules: Partial Compliance §9.555 (d) Description of TxHmL Program Services Subchapter N §9.580 (a)(3), (11), (14), (15), (16) Certification Principles: Quality Assurance Subchapter N §9.578 (k),(l), (m) Program Provider Certification Principles: Service Delivery Subchapter N
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	Rules: Partial Compliance §9.567 (n) Process for Enrollment, Subchapter N §9.578 (k), (l),(m) Program Provider Certification Principles: Service Delivery Subchapter N	Rules: Partial Compliance §9.567 (n) Process for Enrollment Subchapter N §9.578 (k),(l),(m) Program Provider Certification Principles: Service Delivery Subchapter N	Rules: Partial Compliance §9.567 (n) Process for Enrollment Subchapter N §9.578 (k),(l),(m) Program Provider Certification Principles: Service Delivery Subchapter N

Texas Home Living (TxHmL) Waiver-Systemic/Internal Assessment

All state rule citations for the HCS systemic/internal assessment can be found at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=1&ch=9&sch=N&rl=Y)

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Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Day Habilitation (Non-Residential)	Supported Employment (Non-Residential)	Employment Assistance (Non-Residential)
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c)(4)(v)	Rules: Partial Compliance §9.567 (n) Process for Enrollment, Subchapter N	Rules: Partial Compliance §9.567 (n) Process for Enrollment Subchapter N	Rules: Partial Compliance §9.567 (n) Process for Enrollment Subchapter N
Texas 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)	NA	NA	NA
Individuals receiving services in Texas HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301(c)(4)(vi)(A)	NA	NA	NA

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

The Youth Empowerment Services (YES) Waiver program provides home and community-based services to children ages 3–18 with serious emotional disturbance who reside in a non-institutional setting with the individual’s legally authorized representative (LAR), or in the child’s own home, if legally emancipated. Oversight of the YES Waiver and determination of provider rates are the responsibility of the Health and Human Services Commission. The Department of State Health Services (DSHS) acts as the operating agency of the YES Waiver. Local mental health authorities (LMHA) and local behavioral health authorities (LBHA) contract directly with DSHS to perform care coordination functions for waiver participants. A LMHA/LBHA may also choose to contract with DSHS as a YES Waiver comprehensive waiver provider, which means it performs the care coordination functions and provides the services offered in the waiver service array. Private entities contract directly with DSHS to be comprehensive waiver providers, but do not perform care coordination functions – the private entity provides the waiver services while care is coordinated through the LMHA/LBHA. A comprehensive waiver provider may either provide all waiver services, or provide some waiver services and subcontract for the provision of other waiver services. It is the responsibility of comprehensive waiver providers to ensure that subcontracted waiver providers are in compliance with all federal and state statutes, rules, and regulations, including the HCBS settings federal regulations. It is DSHS’ responsibility to provide oversight of the comprehensive waiver providers’ ability and plan to ensure compliance. DSHS accomplishes this by outlining contractual requirements in its contract with the comprehensive waiver providers and corresponding contractually required policy manual. DSHS reviewed these documents, in addition to the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services (CMS), various forms, and administrative rules, to conduct the internal assessment of its policies and procedures to determine compliance with the HCBS settings federal regulations. The following is an overview of each of the documents reviewed:

- Youth Empowerment Services (YES) 1915(c) Waiver. The YES Waiver is operated under approval from CMS. Descriptions of each waiver service, service settings, and provider requirements are detailed in the waiver. The original approved 1915(c) waiver and subsequent amendments can be found at: <http://www.dshs.texas.gov/mhsa/yes>
- Texas Administrative Code (TAC): State agency rules are adopted in the TAC. Rules for licensed child placing agencies and foster homes verified by child placing agencies can be found at: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=40&pt=19](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=40&pt=19)
- YES Waiver Policy Manual: The YES Waiver policy manual outlines operational guidance, requirements, and specific procedures local mental health authorities and comprehensive waiver providers must follow to operate under the YES Waiver, and can be found at: <http://www.dshs.texas.gov/mhsa/yes> [Section 2200, Local Mental Health Authorities Responsibilities](#).
In left navigation, click on Yes Provider Resources, then click on Policy Manual July 2016.

DSHS has determined that all YES Waiver services are compliant with the HCBS settings regulations as they are only offered in a waiver participant’s private home or in public places. To confirm even further, staff reviewed all of the services and the settings that they are provided in, referring to all rules, policies, and other forms of documentation and found those settings to be compliant. One YES Waiver service is provided in a home other than that of the waiver participant: Supportive Family-Based Alternatives. Supportive

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

Family-Based Alternatives service provides a model for appropriate behaviors for a waiver participant’s family, with an objective of the waiver participant returning to live with his or her own family and community. The participant temporarily (less than 90 days) leaves the participants own home to live in a foster home. The setting for the service is a foster home verified by a DFPS licensed child placing agency. The service must be pre-authorized by DSHS prior to the provision of the service and can be authorized for a maximum of only 90 consecutive or cumulative days, per year. The settings requirements in the waiver specify that the foster home must be located in a typical residence in the community and the environment must assure the community integration of the waiver participant. The waiver also requires that the service include facilitation of inclusion in community activities, participation in leisure activities, and development of socially valued behaviors. The following is the result of DSHS’ internal assessment of compliance with the HCBS settings federal regulations for the YES Waiver, specific to the service and setting referenced above.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. Please see pages 27-36 of the statewide transition plan for remediation activities.

Federal Rule	Supportive Family-Based Alternatives (Home and Community-Based Service provided in a YES contracted foster care home)
<p><i>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 HCB. 42 CFR 441.301(c)(4)(i)</i></p>	<p>Rules: Compliant</p> <p>Rules- 40 (TAC) Chapter 749, Subchapters A and O: §749.3; §749.3021-§749.3041 Subchapter A Subchapter O</p> <p>40 TAC Chapter 750 Subchapter A: §750.3 Subchapter A</p> <p>Policy Manual: Compliant Reflects settings requirements of the waiver; Section 2400, beginning on page 58.</p> <p>The YES Waiver policy handbook is a PDF electronic version. Following is the link to the webpage where the PDF version is posted: http://www.dshs.texas.gov/mhsa/yes/</p> <p>In left navigation, click on Yes Provider Resources; then click on Policy Manual July 2016.</p>

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

Federal Rule	Supportive Family-Based Alternatives (Home and Community-Based Service provided in a YES contracted foster care home)
<p><i>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)</i></p>	<p>Rules: Compliant</p> <p>Rules- 40 (TAC) Chapter 749, Subchapter A and O: §749.3; §749.3021-§749.3041 Subchapter A Subchapter O</p> <p>40 TAC Chapter 750, Subchapter A: §750.3 Subchapter A</p> <p>Policy Manual: Compliant Reflects settings requirements of the waiver; need for service determined by wraparound team, which includes waiver participant; wraparound team determines best setting option for participant.</p> <p>Section 2400-General Considerations, page 58; 2300.3 Comprehensive Waiver Provider General Responsibilities, page 49; 2200.4-Local Mental Health Authority Responsibilities – Service Authorization Requests, page 28; 2200.3- Local Mental Health Authority Intensive Case Management, Wraparound – page 26.</p> <p>The YES Waiver policy handbook is a PDF electronic version. Following is the link to the webpage where the PDF version is posted: http://www.dshs.texas.gov/mhsa/yes/</p> <p>In left navigation, click on Yes Provider Resources; then click on Policy Manual July 2016.</p>
<p><i>Setting ensures an individual's rights of privacy, dignity, and respect, and freedom from coercion and restraint. 42 CFR 441.301(c)(4)(iii)</i></p>	<p>Rules: Compliant</p> <p>Rules- 40 (TAC) Chapter 749, Subchapters A and O: §749.3; §749.3021-§749.3041 Subchapter A Subchapter O</p> <p>40 TAC Chapter 750, Subchapter A: §750.3 Subchapter A</p> <p>Policy Manual: Compliant</p>

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

Federal Rule	Supportive Family-Based Alternatives (Home and Community-Based Service provided in a YES contracted foster care home)
	<p>Reflects settings requirements of the waiver; need for service determined by wraparound team, which includes waiver participant; wraparound team determines best setting option for participant.</p> <p>Section 2400-General Considerations, page 58; 2300.3 Comprehensive Waiver Provider General Responsibilities, page 49; 2200.4-Local Mental Health Authority Responsibilities – Service Authorization Requests, page 28; 2200.3- Local Mental Health Authority Intensive Case Management, Wraparound – page 26.</p> <p>The YES Waiver policy handbook is a PDF electronic version. Following is the link to the webpage where the PDF version is posted: http://www.dshs.texas.gov/mhsa/yes/</p> <p>In left navigation, click on Yes Provider Resources; then click on Policy Manual July 2016.</p>

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

Federal Rule	Supportive Family-Based Alternatives (Home and Community-Based Service provided in a YES contracted foster care home)
<p><i>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)</i></p>	<p>Rules: Compliant</p> <p>Rules- 40 (TAC) Chapter 749, Subchapters A and O: §749.3; §749.3021-§749.3041 Subchapter A Subchapter O</p> <p>40 TAC Chapter 750, Subchapter A: §750.3 Subchapter A</p> <p>Policy Manual: Compliant Reflects settings requirements of the waiver; need for service determined by wraparound team, which includes waiver participant; wraparound team determines best setting option for participant.</p> <p>Section 2400-General Considerations, page 58; 2300.3 Comprehensive Waiver Provider General Responsibilities, page 49; 2200.4-Local Mental Health Authority Responsibilities – Service Authorization Requests, page 28; 2200.3- Local Mental Health Authority Intensive Case Management, Wraparound – page 26.</p> <p>The YES Waiver policy handbook is a PDF electronic version. Following is the link to the webpage where the PDF version is posted: http://www.dshs.texas.gov/mhsa/yes/</p> <p>In left navigation, click on Yes Provider Resources; then click on Policy Manual July 2016.</p>
<p><i>Setting facilitates individual choice regarding services and supports, and who provides them. 42 CFR 441.301(c)(4)(v) 441.710(a)(1)(v)</i></p>	<p>Rules: Compliant</p> <p>Rules- 40 (TAC) Chapter 749, Subchapters A and O: §749.3; §749.3021-§749.3041 Subchapter A Subchapter O</p> <p>40 TAC Chapter 750, Subchapter A: §750.3 Subchapter A</p> <p>Policy Manual: Compliant Child and Family Team meeting monthly to discuss effectiveness of waiver services, participant</p>

YOUTH EMPOWERMENT SERVICES (YES) WAIVER

SYSTEMIC/INTERNAL ASSESSMENT

Federal Rule	Supportive Family-Based Alternatives (Home and Community-Based Service provided in a YES contracted foster care home)
	<p>response, and to determine whether a change in services and/or provider is needed.</p> <p>Section 2200.3- Local Mental Health Authority Intensive Case Management, Wraparound – page 26.</p> <p>The YES Waiver policy handbook is a PDF electronic version. Following is the link to the webpage where the PDF version is posted: http://www.dshs.texas.gov/mhsa/yes/</p> <p>In left navigation, click on Yes Provider Resources; then click on Policy Manual July 2016.</p>

Home and Community Based Services STAR+PLUS Waiver Program *Systemic/Internal Assessment*

The Home and Community-Based Services (HCBS) STAR+PLUS Waiver program operates under a managed care service delivery model under the authority of the Texas Healthcare Transformation and Quality Improvement Program 1115 Waiver. In this model, the State contracts with managed care organizations (MCOs) to provide the full array of Medicaid and HCBS STAR+PLUS Waiver program services and service coordination to elderly and disabled adults who meet a nursing facility level of care. MCOs negotiate rates and contract directly with providers to be part of their network of providers. Providers bill and are paid by the MCOs for the provision of services. It is the responsibility of the MCOs to ensure network providers are in compliance with all state and federal statutes, rules, and regulations, including the HCBS settings federal regulations. It is the State's responsibility to provide oversight of the MCO's ability and plan to ensure compliance. Texas does this by outlining contractual requirements in its contract with the MCOs and corresponding contractually required handbook and manual. Texas reviewed these documents in addition to related administrative rules to conduct its internal assessment of the State's policies and procedures to determine compliance with the HCBS Settings federal regulations. The following is an overview of each of the documents reviewed:

Texas Healthcare Transformation and Quality Improvement Program 1115 Waiver ("1115 waiver"). Texas operates three of its Medicaid managed care programs under the authority of an 1115 waiver. This is the State's agreement with the Centers for Medicare and Medicaid Services (CMS) regarding how it will operate STAR, STAR+PLUS, and the Children's Medicaid Dental Services programs. The originally approved 1115 waiver can be found here:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Downloads/TexasHealthcareTransformationandQualityImprovementProgramCurrentApprovalDocuments.pdf>.

Several amendments have been made to the 1115 waiver since it was originally approved in December 2011. Some of those changes help to provide evidence of compliance with the HCBS settings regulations.

Texas Administrative Code (TAC). State agency rules are adopted in the TAC. Medicaid managed care TAC rules can be found in 1 TAC Chapter 353: [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=15&ch=353](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=15&ch=353). State licensure rules for assisted living facilities can be found here in 40 TAC Chapter 92:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=92](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=92).

Managed care contracts. Texas utilizes a uniform contract that includes standard language across contracts with all MCOs and service delivery areas. Contract language for each managed care program is consistent across contracts. For purposes of the internal assessment, staff reviewed the Uniform Managed Care Contract (UMCC), which can be found here:

Home and Community Based Services STAR+PLUS Waiver Program *Systemic/Internal Assessment*

<https://hhs.texas.gov/sites/hhs/files/documents/services/health/medicaid-chip/programs/contracts/uniform-managed-care-contract.pdf>

STAR+PLUS Handbook. Texas outlines operational guidance, requirements and specific processes MCOs and HHSC staff will follow to operate the STAR+PLUS Waiver program in the STAR+PLUS Handbook. The handbook details guidance specific to the HCBS services offered in STAR+PLUS. The State requires by contract and administrative rule that MCOs comply with requirements outlined in this handbook, which can be found here: <https://hhs.texas.gov/laws-regulations/handbooks/starplus-handbook>.

Uniform Managed Care Manual (UMCM). Texas outlines operational guidance, requirements, and specific processes MCOs across all managed care programs must follow to operate Medicaid or CHIP managed care. For example, the UMCM includes direction for what MCOs must have in their member handbooks and provider manuals; templates that must be used to report certain information to HHSC; and provider billing and encounter submission processes. The State requires by contract that MCOs comply with requirements outlined in the UMCM, which can be found here: <https://hhs.texas.gov/laws-regulations/legal-information/texas-medicaid-and-chip-uniform-managed-care-manual>

Texas has determined that the following services are exempt from the regulations as they are offered only in a member's private residence, family's own home, in the community, or exempt due to other CMS guidance: personal assistance services, nursing services, physical therapy, occupational therapy, speech pathology services, adaptive aids, medical supplies, dental services, minor home modifications, emergency response systems, home delivered meals, transition assistance services, financial management services, cognitive rehabilitation therapy, supported employment, employment assistance and respite.

The following are the results of Texas's internal assessment of compliance with the HCBS settings federal regulations for the HCBS STAR+PLUS Waiver program that operates under the 1115 waiver. If an item is noted as "silent" or "partial compliance," it means the State will need to update its policies to reflect the new requirement as part of remediation to come into compliance with the federal regulations. New requirements will primarily be added to the contractually required STAR+PLUS Handbook or UMCM related to MCO's requirements for contracting with or credentialing providers or ensuring member rights, as applicable.

If rules or policy manuals are silent or partially compliant, the state intends to amend them during the remediation phase. The State indicates partially compliant for rule and policy manual for areas the State is found to be partially in compliance with the HCBS Final Rules. The State indicates NA for areas where HCBS final rule is not applicable within the specified waiver service. Please see pages 27-36 of the statewide transition plan for remediation activities.

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

The extent of remediation and the specific activities that will be necessary cannot be known until the external assessment is complete. While these are shortcomings identified during the internal assessment, understanding how providers have operationalized the current policy is critical in revising the policy. Please see pages 28-37 of the statewide transition plan for remediation activities.

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
In home services are not provided in institutional settings 42 CFR 441.301 (c)(5)	Policy Manual: Compliant: STAR+PLUS handbook - Section 6111, "Service Introduction" Section 6000	Policy Manual: Compliant: STAR+PLUS handbook - Section 6111, "Service Introduction" Section 6000
Out-of-home respite is not allowed in institutional settings. 42 CFR 441.301 (c)(5)	Policy Manual: Compliant STAR+PLUS Handbook - Section 7310 ("Service Coordination Duties Related to Respite Care") 7330 "Out-of-Home Respite Services" 7333 "Description of Services" for out-of-home respite Section 7000	Policy Manual: Compliant STAR+PLUS Handbook - Section 7310 ("Service Coordination Duties Related to Respite Care") 7330 "Out-of-Home Respite Services" 7333 "Description of Services" for out-of-home respite Section 7000
Day habilitation is not allowed to be provided in settings that have institutional qualities. 42 CFR 441.301 (c)(5)	N/A: Day habilitation is not a service of SPW.	N/A: Day habilitation is not a service of SPW.
Texas HCBS settings have entrance doors lockable by the individual, with only appropriate staff keys. 42 CFR 441.301 (c)(4)(vi)(B)(1)	Silent	Silent
Individuals sharing units in Texas HCBS settings have a choice of roommates in that setting. 42 CFR 441.301(c)(4)(vi)(B)(2)	Silent -	Silent
Individuals in Texas HCBS settings have the freedom to furnish and	Rule: Compliant ALF Licensure Standards, 40 TAC 92.125, related to	Silent

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
decorate their sleeping or living units within the lease or other agreement. 42 CFR 441.301 (c)(4)(vi)(B)(3)	resident's bill of rights and provider bill of rights Subchapter G	
Individuals in Texas HCBS settings 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)	Rule: Partial compliance In compliance for activities: ALF Licensure Standards, 40 TAC 92.125(a)(3)(B) and 40 TAC 92.125(a)(3)(E)(i), , related to resident's bill of rights and provider bill of rights Subchapter G Not in compliance for schedules or access to food at any time.	Silent
Individuals in Texas HCBS settings are able to have visitors of their choosing at any time. 42 CFR 441.301 (c) (4)(vi)(D)	Rule: Partial compliance ALF Licensure Standards 40 TAC 92.125(a)(3)(J), Subchapter G, related to resident's bill of rights and provider bill of rights states member can have visitors, but only "at any reasonable hour." Subchapter G	Silent
Texas HCBS settings are physically accessible to the individual. 42 CFR 441.301(c) (4)(vi)(E)	Rule: Compliant ALF Licensing Standards 40 TAC 92.61 (b)(8), Subchapter D, related to assisted living facility construction Subchapter D	Policy Manual: Partial compliance: STAR+PLUS Waiver Handbook, Appendix XXIV, "Minimum Standards for STAR+PLUS AFC Home and Home Providers" Appendix XXIV AFC home and AFC home providers must comply with all applicable fire, health, and safety laws, ordinances and regulations along with necessary fire and safety health inspections. Rule: 40 TAC Part 1, Chapter 48, Subchapter K, Minimum Standards for Adult Foster Care. Subchapter K

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
Any modifications to privacy in Texas HCBS settings is supported by a specific assessed need and justified in the person-centered service plan. 42 CFR 441.301 (c)(4)(vi)(F)	Silent	Silent
In Texas, modifications to individual privacy are identified in the person-centered plan and specify the individualized need. 42 CFR 441.301(c) (4)(vi)(F)(1)	Silent	Silent
In Texas, 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)	Silent	Silent
In Texas, 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)	Silent	Silent
In Texas, 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)	Silent	Silent
In Texas, modifications to individual privacy include regular collection and review of data to measure the ongoing effectiveness of the modification. 42 CFR 441.301(c) (4)(vi)(F)(5)	Silent	Silent
In Texas, modifications to individual privacy establish time limits for periodic reviews to determine if the modification is still necessary or can be	Silent	Silent

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
terminated. 42 CFR 441.301(c)(4)(vi)(F)(6)		
In Texas, modifications to individual privacy include informed consent of the individual. 42 CFR 441.301(c)(4)(vi)(F)(7)	Silent	Silent
In Texas, 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)	Silent	Silent
Individuals are offered choice of residential setting options (including non-disability specific settings) within Texas waivers that offer residential services and an option for a private unit in a residential setting. 42 CFR 441.301(c)(4)(ii)	<p>Contract: Compliant UMCC: 8.3.2.8 related to Texas' Section 811 rental assistance project</p> <p>UMCC</p> <p>Policy Manual: Compliant STAR+PLUS Handbook - Section 7250, "Standards for Operation" related to assisted living services</p> <p>Section 7000</p>	<p>Contract: Compliant UMCC: 8.3.2.8 related to Texas' Section 811 rental assistance project</p> <p>UMCC</p> <p>Policy Manual: Compliant STAR+PLUS Handbook - Section 7123, MCO Responsibilities</p> <p>Section 7000</p>
Texas HCBS settings are integrated and support full access to the greater community (including employment/work) to the same degree of access an individual not receiving HCBS services has. 42 CFR 441.301(c)(4)(i)	<p>Contract: Compliant UMCC: 8.3.1.2, "HCBS STAR+PLUS Waiver Services Available to Qualified Members"</p> <p>UMCC 8.3.2.2 "Service Coordination Structure"</p> <p>UMCC</p>	<p>Contract: Compliant UMCC 8.3.2.2 "Service Coordination Structure"</p> <p>UMCC</p>
Texas HCBS settings allow individuals to engage in community life to the same degree of access as an individual not receiving HCBS services. 42 CFR	<p>Rule: Compliant ALF Licensure Standards: 40 TAC 92.125(a)(2), "Resident's Bill of Rights and Provider Bill of Rights" related to assisted living facilities</p>	<p>Contract : Compliant UMCC 8.3.2.2 "Service Coordination Structure"</p>

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
<i>441.301 (c)(4)(i)</i>	Subchapter G	UMCC
Texas HCBS 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)	Policy Manual: Compliant STAR+PLUS Handbook - Section 7250, "Assisted Living Services" Section 7000	Policy Manual: Compliant STAR+PLUS Handbook - Appendix XXIV, "Minimum Standards for STAR+PLUS AFC Homes and Home Providers" Appendix XXIV
Texas HCBS settings allow individual's the right to privacy, dignity, respect, and freedom from coercion and restraint. 42 CFR 441.301 (c)(4)(iii)	Rules: Compliant ALF Licensure Standards: 40 TAC 92.125(a)(2), "Resident's Bill of Rights and Provider Bill of Rights", Subchapter G, related to assisted living facilities 40 TAC 92.125(a)(E)(3) states that the resident has the right to be treated with respect, consideration, and recognition of his or her dignity and individuality. Subchapter G Policy Manual: Compliant STAR+PLUS Handbook Section 7210 "Introduction" related to assisted living services Section 7000	Policy Manual: Compliant STAR+PLUS Handbook - Appendix XXIV, "Minimum Standards for STAR+PLUS AFC Homes and Home Providers" Appendix XXIV
Texas HCBS 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)	Policy Manual: Compliant STAR+PLUS Handbook - Section 1120, "Values" related to operation of the STAR+PLUS program STAR+PLUS Handbook Section 7210, "Introduction" related to assisted living services	Policy Manual: Compliant STAR+PLUS Handbook - Section 7111, "Purpose" related to adult foster care Section 7000

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
	Section 7000	
Texas HCBS settings facilitate individual choice regarding services and supports. 42 CFR 441.301 (c)(4)(v)	<p>Rule: Compliant ALF Licensure Standards: 40 TAC 92.125, "Resident's Bill of Rights and Provider Bill of Rights", Subchapter G, related to assisted living facilities</p> <p>Subchapter G</p> <p>Contract: Compliant UMCC 8.3.2.2 "Service Coordination Structure"</p> <p>UMCC</p>	<p>Contract: Compliant</p> <p>UMCC 8.3.2.2 "Service Coordination Structure"</p> <p>UMCC</p>
Texas HCBS settings facilitate individual choice regarding who provides services. 42 CFR 441.301(c)(4)(v)	<p>Policy Manual: Compliant STAR+PLUS Handbook - Section 7222, "Initial Responsibilities for Members Residing in AL Facilities"</p> <p>Section 7000</p>	<p>Policy Manual: Compliant STAR+PLUS Handbook - Section 7223, "MCO Responsibilities"</p> <p>Section 7000</p>
Texas 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)	<p>Rule: Compliant ALF Licensure Standards: 40 TAC 92.125, "Resident's Bill of Rights and Provider Bill of Rights" related to assisted living facilities</p> <p>Subchapter G</p> <p>Policy Manual: Compliant STAR+PLUS handbook - Section 7241 "Room and Board Requirements"</p> <p>Section 7000</p>	<p>Policy Manual: Compliant STAR+PLUS handbook - Section 7151 "Member and AFC Home Provider Agreement"</p> <p>Section 7000</p>
Individuals receiving services in Texas	Rule: Compliant	Policy Manual: Compliant

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

Federal Rule	Assisted Living Facilities (Residential)	Adult Foster Care (Residential)
<p>HCBS settings have the same responsibilities and protections against eviction. 42 CFR 441.301 (c)(4)(vi)(A)</p>	<p>ALF Licensure Standards: 40 TAC 92.125, "Resident's Bill of Rights and Provider Bill of Rights" related to assisted living facilities</p> <p>Subchapter G</p> <p>STAR+PLUS Handbook - Section 7246, "Termination Due to Failure to Pay the Required Contribution to the Cost of Care" related to assisted living services</p> <p>Policy Manual: Compliant STAR+PLUS handbook - Section 7241, "Room and Board Requirements"</p> <p>Section 7000</p>	<p>STAR+PLUS handbook - Section 7151, "Member and AFC Home Provider Agreement"</p> <p>Section 7000</p>

Assumptions:

1. Texas assumes that a service available to anyone in the community, at a nursing facility, like PT, OT, and ST, is in compliance with the HCBS setting regulations. This is pertinent to the following services in the HCBS STAR+PLUS program: physical therapy, occupational therapy, and speech pathology services.
2. CMS confirmed that as long as provisions exist in the waiver for use of respite out of the home, use of ICF, NF, or large ALF for respite is in compliance with the regulations.

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

APPENDIX II:
HCBS External Assessment Methodology

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

HCBS External Assessment Methodology

Project Overview

Effective March 17, 2014, the Centers for Medicare & Medicaid Services (CMS) issued a final rule under which states may provide home and community-based long term services and supports. Under 42 CFR§441.301, states must meet new requirements for home and community-based long term services and supports by March 17, 2019. Each state that operates a waiver under 1915(c) or a State Plan Amendment (SPA) under 1915(i) of the Social Security Act that was in effect on or before March 17, 2014, is required to file a Statewide Transition Plan. The Statewide Transition Plan must either provide assurances of compliance with 42 CFR §441.301 or set forth the actions that the State will take to bring each 1915(c) Home and Community-Based Service (HCBS) waiver and 1915(i) State Plan Amendment into compliance. CMS also requires the State to provide the same information for any 1115 demonstration waiver in effect on or before March 17, 2014.

Overall Goals

The purposes of the assessment are to determine:

- The extent to which Texas HCBS programs are consistent with the new federal HCBS regulations;
- Identify areas, if any, where Texas programs are not consistent with the new regulations; and
- Provide guidance for compliance with the new regulations.

Overall Evaluation Goals

The assessment will evaluate whether:

1. Experiences of individuals participating in Texas programs are consistent with what is required under the new federal regulations.
2. Providers and other key actors (e.g., Local Authorities and managed care organizations) have policies and practices consistent with the requirements of the new federal regulations.
3. From the perspective of individuals receiving services, providers appear to offer a participant experience that is consistent with the new regulations.

The Service Delivery Environment

The DADS/HHSC approach to self-assessment and validation for this initiative reflects the service delivery environment and the variety

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

of organizations that control or influence the extent to which services comply with the new regulations. Generally, the approach is as follows:

- Conduct self-assessments of the organizations or businesses that provide services.
- Conduct surveys of individuals who receive services.
- Identify the extent to which services are in compliance, and where heightened scrutiny or remedial action is needed.

For each program, a representative sample of providers was identified to participate in the self-assessment. For this evaluation, providers are defined as legal entities that provide services within a service setting/location. In addition to provider self-assessments, participants will also be asked to complete a survey for validation purposes.

Residential Settings Assessment (1915(c) waivers)

For the 1915(c) waivers, approximately 2000 direct service locations were sent self-assessments in April 2016. The assessments were completed in June 2016. The review of these assessments and supporting documentation from providers and participants is ongoing through December 2016.

Residence of a Support Family

In the Community Living and Support Services (**CLASS**) waiver, *support family services* are provided to an individual under 18 years of age who resides with a support family, that allow the individual to reside successfully in a community setting by supporting the individual to acquire, maintain, and improve self-help, socialization, and daily living skills or assisting the individual with ADLs.

Support family services includes direct personal assistance with activities of daily living, meal planning and preparation, securing and providing transportation, housekeeping, ambulation and mobility, reinforcement of counseling, therapy and educational 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.

Assisted Living Facility

In the Deaf Blind and Multiple Disabilities (**DBMD**) waiver, a one to three person home is defined as a licensed home health assisted living. The licensed home health assisted living is a service provided by a program provider licensed per Texas law and in a residence

Home and Community Based Services STAR+PLUS Waiver Program *Systemic/Internal Assessment*

for no more than three individuals, of which at least one of whom owns or leases the residence.

In the Deaf Blind and Multiple Disabilities (**DBMD**) waiver, a four to six-person home is defined as a licensed assisted living. The licensed assisted living is a service provided by a program provider licensed per Texas law under the licensing standards for assisted living facilities and in a residence for no more than six individuals.

Assisted living is not part of the YES waiver service array.

Three bed homes

In the Home and Community Services (**HCS**) waiver, a three-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 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 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.

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

Four-bed homes

In the Home and Community Services (**HCS**) waiver, a 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 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 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.

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

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 residence

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.

Residential Settings Assessment (STAR+PLUS)

STAR+PLUS Assisted Living Services

STAR+PLUS assisted living services are personal care, homemaker, and chore services; medication oversight; and therapeutic, social and recreational programming provided in a homelike environment in a licensed community facility in conjunction with residing in the facility. This service includes 24-hour on-site response staff to meet scheduled or unpredictable needs in a way that promotes maximum dignity and independence, and to provide supervision, safety, and security. Other individuals or agencies may also furnish care directly, or under arrangement with the community facility, but the services provided by these other entities supplement that provided by the community facility and do not supplant those of the community facility. Nursing and skilled therapy services (except periodic nursing evaluations) are incidental, rather than integral to the provision of assisted living services. Payment will not be made for 24-hour skilled care or supervision. Federal financial participation is not available in the cost of room and board furnished in conjunction with residing in an assisted living facility.

STAR+PLUS Adult Foster Care

Adult foster care services provided in STAR+PLUS are personal care services, homemaker, chore, and companion services, and medication oversight provided in a licensed (where applicable) private home by an adult foster care provider who lives in the home. Adult foster care services are furnished to adults who receive these services in conjunction with residing in the home. The total number of individuals (including persons served in the waiver) living in the home cannot exceed three, without appropriate licensure. Payments

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

for adult foster care services are not made for room and board, items of comfort or convenience, or the costs of facility maintenance, upkeep, and improvement.

Non-residential Settings assessment

The non-residential settings were sent assessments in June of 2016 and were completed in August of 2016. Analysis of the results of these assessments is ongoing through December 2016.

Day Habilitation Settings

In the Community Living and Support Services (**CLASS**) waiver, a program provider may bill for activities that are authorized in their Individualized Plan of Care (IPC) that include time spent in direct contact with the individual that includes time spent by the habilitation service provider delivering services according to the Individual Program Plan (IPP), IPC and habilitation plan or habilitation training plan, time spent by the service provider with the individual reinforcing how to properly use an adaptive aid, time spent by the service provider with the individual reinforcing therapy goals, time spent participating on the Service Planning Team (SPT) as the appropriate Direct Service Agency representative, if the person attending meets the qualifications as the official representative of the DSA, time spent performing health-related tasks delegated by an RN, and time spent by a habilitation trainer in assisting the individual to supervise or manage their service provider if addressed in the individual's IPC and Individual Program Plan (IPP).

In the Deaf Blind and Multiple Disability (**DBMD**) waiver, habilitation services are services known to assist an individual in acquiring, retaining, and improving socialization and adaptive skills related to activities of daily living to enable the individual to live successfully in the community and participate in home and community life, including day habilitation and residential habilitation.

In DBMD a program provider may deliver habilitation as day habilitation; or residential habilitation. Day habilitation is provided in a non-residential setting separate from the individual's own or family home or the residence in which the individual receives licensed assisted living or licensed home health assisted living that. A program provider may bill for time spent by a day habilitation or residential habilitation service provider in direct contact with an individual, participating as a member of an individual's service planning team, or performing tasks delegated by a physician or RN.

In the Home and Community Services (**HCS**) waiver, day habilitation includes assisting individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in the community, providing individuals with age-appropriate activities that enhance self-esteem and maximize functional level, complementing any professional therapies listed in the IPC, reinforcing skills or lessons taught in school, therapy, or other settings, training and support activities that promote the individual's integration and participation in the community, providing assistance for the individual who cannot manage personal care

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

needs during day habilitation activities; and providing transportation during day habilitation activities as necessary for the individual's participation in day habilitation activities.

Supported Employment

In the Community Living and Support Services (**CLASS**) waiver, supported employment is defined as assistance provided 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 is a service that assists an individual to sustain competitive, integrated employment.

Competitive employment is employment that pays an individual at or above the greater of the applicable minimum wage or the prevailing wage paid to individuals without disabilities for performing the same or similar work.

A program provider must ensure a supported employment service provider provides ongoing individualized supports needed by an individual to sustain paid work in an integrated work setting, ensures employment is provided to an individual in a setting other than the individual's place of residence, includes transportation necessary for the individual's participation in supported employment, and provides ongoing supervision and monitoring of the individual's satisfaction and performance on the job.

In the Home and Community Services (**HCS**) waiver, supported employment is assistance provided 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 persons without disabilities are employed, in order for the individual to sustain competitive employment; and in accordance with the individual's Person Directed Planning, Individualized Plan of Care, and implementation plan.

Employment Assistance Services

In the Home and Community Services (**HCS**) waiver, employment assistance is assistance provided to an individual to help the individual locate competitive employment in the community. A program provider must ensure that employment assistance consists of a service provider 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, contacting a prospective employer on behalf of an individual and negotiating the individual's employment, transporting an individual to help the individual locate competitive employment in the community; and participating in service planning team meetings.

In the Deaf Blind and Multiple Disability (**DBMD**) waiver, a program provider must ensure that employment assistance consists of a

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

service provider 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, contacting a prospective employer on behalf of an individual and negotiating the individual's employment, transporting the individual to help the individual locate competitive employment in the community, and participating in service planning team meetings.

In Community Living and Support Services (CLASS) waiver, employment assistance is defined as assistance provided to an individual to help the individual locate competitive employment in the community. CLASS provides prevocational services that are not job-task oriented and are provided to an individual who the service planning team does not expect to be employed (without receiving supported employment) within one year after prevocational services are to begin, to prepare the individual for employment. Prevocational services consist of assessment of vocational skills an individual needs to develop or improve upon, individual and group instruction regarding barriers to employment, training in skills, training in the use of adaptive equipment necessary to obtain and retain employment; and transportation between the individual's place of residence and prevocational services work site when other forms of transportation are unavailable or inaccessible.

Validation

Service Coordination

Providers of residential and day program services have little influence or control over 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 Developmental Disability Authorities (LIDDA), managed care organizations (MCOs), and case managers employed by the DBMD provider agency or CLASS case management agency. Each of these entities serves a specific geographic area, providing among other services eligibility, program enrollment, and service planning (including updates and revisions to existing service plans). The service coordinators/case managers, who are in the best position to know the extent to which individuals have choices, completed a self-assessment. The results of these assessments are in the analysis phase and the state expects to complete analysis by December 2016. ***Program Participants***

DADS/HHSC will survey individual participants to validate the findings of the provider self-assessments. For 1915(c) waivers, interviews will be conducted with individuals receiving at least one of the relevant services based on the multi-stage sampling methodology spelled out in the methodology section below. The member survey methodology for the STAR+PLUS program is outlined in Appendix III.

Home and Community Based Services STAR+PLUS Waiver Program *Systemic/Internal Assessment*

The self-assessment instruments for providers and interview instruments for individuals have been constructed in parallel. For each point of the new regulations and for each type of service DADS/HHSC will be able to identify:

- Whether providers report they are in compliance
- Whether individual experiences indicate compliance
- Where specific strengths or weaknesses should be addressed through heightened scrutiny or remedial action

Sampling and Interview Methodology (1915(c) Waivers)

Multi-Stage Sampling

A ***multistage random sample*** is constructed by taking a series of simple random samples in stages. This type of sampling is often more practical than simple random sampling for studies requiring "on location" analysis, such as door-to-door surveys. In a multistage random sample, a large area, such as a country, is first divided into smaller regions (such as states), and a random sample of these regions is collected. In the second stage, a random sample of smaller areas (such as counties) is taken from within each of the regions chosen in the first stage. Then, in the third stage, a random sample of even smaller areas (such as neighborhoods) is taken from within each of the areas chosen in the second stage.

Methodology for Residential Provider Self-Assessment

URBANIZATION & SERVICE TYPE

For the purpose of the HCBS survey, due to the large area coverage in the State of Texas the areas been divided into smaller geographic regions (urban and rural). In the first stage, the service area of the provider setting will be grouped into urban and rural areas based on the US Department of Agriculture Rural-Urban Continuum Codes (RUCC)². Next, a sample of the type of service (3-bed, 4-bed, or host/companion home [HCS] or assisted living or foster care [STAR+PLUS]) is selected from each region. In the third stage, a random sample of the individuals will be selected represented by each type of Level of Need and from each type of service³. The face-to-face survey is administered to these individuals. Given the small number of providers for Assisted Living and Support Family Services DADS will survey all of them. DADS will select homes where the services are provided and survey the program providers who operate those homes.

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>

³ This stage will not apply to STAR+PLUS.

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

LINKING THE LEGAL ENTITIES

To assign a random sample to the legal entities, a random sample will be selected from the designated number of provider settings and all these designated provider settings will be surveyed. Linking the legal entities responses to those of the individuals in these settings will provide a validation process between provider and participant responses. Providers/legal entities will be surveyed via Survey Gizmo and provided an electronic copy of the survey for printing, if needed. A list of non-responding providers will be contacted by DADS/HHSC or their contractors directly.

The table below is an example of the stages for service selection:

Type of home	Location
3-person	Rural
4-person	Rural
HHCC	Rural
ALF	Rural
AFC	Rural
Total	Rural
3-person	Urban
4-person	Urban
HHCC	Urban

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

ALF	Urban
AFC	Urban
Total	Urban

PARTICIPANT ASSESSMENT (1915(c) Waivers)

DADS contracted with Texas A&M University which received Institutional Review Board approval. The approval included an evaluation of Conflict Of Interest to conduct the survey for the IDD population. The contractor will conduct regular Quality Assurance (QA) activities to ensure that interviewers are completing all fields, using skip patterns correctly, recording responses correctly, and conducting the interviews with the correct respondents. The contractors will be responsible for training the interviewers to properly interact with individuals with intellectual and developmental disabilities. Texas A & M University is completing the participant assessments through November 2016.

Non-Residential Provider Self-Assessment (1915(c) Waivers)

The state sampled 100 percent of the non-residential direct service locations reported as sub-contractors from the program providers with whom the state contracts. Program providers were asked to provide contact information for any location providing day habilitation, supported employment and/or employment assistance. All of these service locations were sent a self-assessment.

DADS emailed a link to an online survey from Survey Gizmo and notified the selected day program providers with instructions on how to complete it. The results of the analysis will indicate the extent the providers are compliant with the new regulations. This will help identify any shortfalls in compliance and provide guidance for remedial action.

PARTICIPANT ASSESSMENT (1915(c) Waivers)

DADS contracted with Texas A& M University to conduct the survey. The contractor will conduct regular Quality Assurance (QA) activities to ensure that interviewers are completing all fields, using skip patterns correctly, recording responses correctly, and conducting the interviews with the correct respondents. The contractors will be responsible for training the interviewers to properly interact with individuals with Intellectual and Developmental Disabilities. This assessment is ongoing through November 2016.

Home and Community Based Services STAR+PLUS Waiver Program *Systemic/Internal Assessment*

Data Weighting (1915(c) Waivers)

For participants assessments, the data will be weighted for each location type – urban and rural based on the number of individuals being served in that location by facility type.

For residential programs the data will be weighted by 3-bed, 4-bed, host/companion home, assisted living facility, and adult foster care residences in the geographical location.

For day program participants the data will be weighted by program type, SE, SW, or EA in that geographical location. This will ensure that the data closely represents all individuals in all facilities in the selected location.

For provider/business entity surveys the facility type will be weighted by location. This will ensure that the surveyed providers closely represent all providers of the facility type at that location.

Data Analysis (1915(c) Waivers)

The data is being analyzed using Access 2013 reports. After receipt of all assessments, contracted researchers who are well versed in the HCBS Final Rule will run reports flagging each question on the assessment answered in a way that indicates a potentially isolating setting. The researchers will then review provider policies, procedures, and individual assessments to determine if the setting could overcome the presumption of non-compliance through remediation or heightened scrutiny processes. The reports will be run again at the end to determine any lingering issues of non-compliance by location and program provider. The state will use these results to recommend certain settings for ‘Heightened Scrutiny’ or ‘Remediation’ as defined by CMS. The State’s remediation plan is yet to be finalized until we have data to present to the Texas Legislature to request funding for remediation activities.

Service Coordination Validation

All participant surveys included questions about choice of service and provider. These questions provide validation for the self-assessments by LIDDA and MCO service coordinators.

Endnotes

For RUCC designation, see:

<http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

The 2013 RUCC describes the following types of counties as metropolitan or non-metropolitan.

Metropolitan Counties*

Code	Description
1	Counties in metro areas of 1 million population or more
2	Counties in metro areas of 250,000 to 1 million population
3	Counties in metro areas of fewer than 250,000 population

Nonmetropolitan Counties

- 4 Urban population of 20,000 or more, adjacent to a metro area
- 5 Urban population of 20,000 or more, not adjacent to a metro area
- 6 Urban population of 2,500 to 19,999, adjacent to a metro area
- 7 Urban population of 2,500 to 19,999, not adjacent to a metro area
- 8 Completely rural or less than 2,500 urban population, adjacent to a metro area
- 9 Completely rural or less than 2,500 urban population, not adjacent to a metro area

For the DADS/HHSC analysis we have combined counties 1 through 3 as “urban” and 4-9 as “rural.”

Home and Community Based Services STAR+PLUS Waiver Program
Systemic/Internal Assessment

APPENDIX III:
STAR+PLUS Member Assessment Methodology

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

Appendix III - STAR+PLUS Member Assessment Methodology

2016 STAR+PLUS HCBS Settings Survey – Methodology

Purpose

To assist the Texas Health and Human Services Commission (HHSC) in meeting new requirements for home- and community-based services (HCBS) set forth by the Centers for Medicare & Medicaid Services (CMS), the Institute for Child Health Policy (ICHP) is conducting a survey of STAR+PLUS members who reside in assisted living facilities (ALF) and adult foster care (AFC) homes through the STAR+PLUS HCBS Waiver program. Member survey responses will be used to validate responses to a separate survey of ALF and AFC providers, which is to be conducted by HHSC.

Study design

Surveys will be conducted with STAR+PLUS members living in ALFs and AFCs in an in-person interview format, to be administered by trained interviewers from NORC at the University of Chicago – one of ICHP’s preferred survey vendors for the Texas external quality review organization (EQRO) contract. Participants for the survey will be selected from among members in STAR+PLUS or a Medicare-Medicaid Plan (MMP) who receive 24-hour residential services in an ALF or AFC. To be considered for inclusion, a member must have been continuously enrolled in STAR+PLUS or an MMP (regardless of health plan) from July 1, 2015, through December 1, 2015,⁴ and either: (1) received assisted living services (service code T2031) in the same facility during each month of the enrollment period; or (2) received adult foster care services (service code S5140) in the same facility during each month of the enrollment period. A member must be confirmed to be living in the facility of record at the time of recruitment. The total number of target completed interviews for this study is 350, stratified into four quotas by type of service (ALF or AFC) and geographical region (**Table 1**).

⁴ Both enrollment and claims/encounter data are necessary to identify eligible members for this study. The enrollment period of July to December 2015 allows for use of complete claims/encounter data, accounting for an expected claims lag of up to three months.

Home and Community Based Services STAR+PLUS Waiver Program Systemic/Internal Assessment

Table 1. Survey Quotas, Target Completes, and Expected Margins of Error ⁵

Setting	Urban Quota			Rural Quota			Total		
	Population Size	Target Completes	Margin of Error	Population Size	Target Completes	Margin of Error	Population Size	Target Completes	Margin of Error
ALF	2,370	181	+/-7.0%	413	125	+/-7.3%	2,783	306	+/-5.3%
AFC	94	38	+/-12.3%	6	6	+/-0.0%	100	44	+/-11.1%
Total	2,464	219	+/-6.3%	419	131	+/-7.1%	2,883	350	+/-4.9%

Advance letters will be sent to all members in the study population at least three days before interviewers begin making recruitment calls. The advance letters explain the purpose of the study and notify members that they will receive a telephone call from researchers working with Texas HHSC; the letters include a statement that participation in the study is voluntary.

Data collection and management

The survey tool, which was developed by HHSC with assistance from ICHP, assesses the experiences of members (or their proxies) with residential services using a structured interview format. The interview is divided into six sets of related questions – *Choice of Home; Employment; Service Plans and Options; Respect, Dignity, and Privacy; Community Integration; and Choice, Control, and Rights*. The tool includes a total of 100 closed-ended questions and 2 open-ended questions; several closed-ended questions have an “other” response category that includes the option for respondents to specify their answers in an open-ended format. The tool concludes with an interviewer feedback section to collect information on interview context (e.g., location, persons present, number of interviewers, mode of administration), interview duration, problems with survey items, and any factors that may affect the validity of responses (e.g., prior knowledge of respondent, hostility of respondent, potential coercion of respondent by others).

Web tool and pilot testing

The English-language tool will be programmed for web-based data collection using the REDCap application^{6,7} and pilot-tested by ICHP

⁵ Margins of error are calculated for a population estimate of 50 percent with a 95 percent confidence interval.

⁶ <https://www.ctsi.ufl.edu/research/research-support/redcap/>.

⁷ Project-specific URL: <https://redcap.ctsi.ufl.edu/redcap/surveys/?s=8WPNWWTTRX>.

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

researchers with up to ten members prior to the official start of data collection. Texas HHSC will develop a Spanish-language version of the tool, which is to be pilot-tested by NORC interviewers with up to 10 Spanish-speaking members when this version of the tool becomes available. In both cases, pilot testing will occur in a single community appropriate to the English-speaking population (Austin, Texas) and Spanish-speaking population (San Antonio, Texas). Interviewers will conduct pilot tests in assisted living facilities only, reserving the small sampling frame of adult foster care homes for the official study. The pilot interviews will focus on the performance of survey items from the participant's perspective (including clarity, cultural sensitivity, and perceived relevance of survey items; perceived comprehensiveness of response options; and comprehension of item and response wording) and ease of use from the interviewer's perspective (including clarity of interviewer notes, performance of skip patterns, and overall duration of interview). Any issues with the tool(s) that are identified during pilot-testing will be corrected prior to the start of official data collection.

Interviewers

Texas HHSC and ICHP will hold a half-day training for NORC interviewers in Austin during the week prior to the start of data collection. The training will include: (1) a description of the purpose of the study and characteristics of the study population; (2) discussion of protocols for participant recruitment, obtaining consent, and scheduling interviews; (3) a review of the interview tool content, including protocols for asking questions, coding responses, and using interviewer notes; (4) discussion of protocols for data security and transfer; (5) discussion of protocols for reporting suspected abuse or neglect of ALF/AFC residents; and (6) a review of the REDCap application.

Five NORC interviewers – one English-speaking only (in Houston) and four bilingual in English and Spanish (in Houston, Dallas, Fort Worth, and San Antonio) – and one NORC field manager have been assigned to this project. The NORC field manager will receive the member sample file from ICHP via a secure FTP site and distribute the sample to interviewers according to location. NORC interviewers will recruit participants for the study by telephone using the sample file provided to them and other tools to be developed by ICHP and NORC (including a recruitment script and background information form).

Interview types

The recruitment script allows for scheduling three types of interviews: (1) resident interviews (to be conducted with the sampled member); (2) resident/interpreter interviews (to be conducted with the sampled member and with the assistance of an interpreter); and (3) proxy interviews (to be conducted with a proxy respondent).⁸ An interview is classified as needing an interpreter if the following

⁸ A **proxy respondent** is identified as "the person who is most knowledgeable about the resident's health and living situation." Acceptable proxies include family members or friends of the resident (excluding those who are paid to serve as ALF/AFC providers for the resident or who are other residents in the same facility) and staff who are not employed by the ALF, AFC, or the MCO serving the resident. It is not acceptable for the resident's case manager, service coordinator, or any other paid staff of the resident's ALF, AFC, or MCO to serve as a proxy. The proxy may or may not be the resident's legal guardian; the respondent's status as legal guardian is recorded during the in-person consent process.

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

conditions are met:

- The resident is not physically or mentally able to speak on the phone (and therefore cannot provide direct verbal consent for interviewers to meet him or her in person).
- The resident is able to communicate non-verbally or by other means in person (and therefore could participate in an in-person interview with the assistance of an interpreter).
- An interpreter is available to verbally communicate the resident's consent on the phone for interviewers to meet with him or her AND is available to be present to provide interpretation during the in-person interview.

Interpreters and interview language

For interviews classified as resident/interpreter, at the time of recruitment the interviewer will collect more specific information on the resident's communication needs. This study allows for resident/interpreter interviews in cases where the resident communicates using American Sign Language, home signs (non-standard sign language), or a communication board. The study does not allow for resident/interpreter interviews in languages other than English or Spanish; without an official translation of the interview tool into other spoken languages, unscripted interpretation would introduce threats to the validity and reliability of responses.

For respondents whose primary language is either English or Spanish, an interviewer fluent in the specified language will conduct the interview. For respondents whose primary language is a language other than English or Spanish, the interviewer will collect information regarding the respondent's level of English and Spanish. Respondents who are fluent or conversational in either language will be considered eligible, and will be scheduled for either an English-language or Spanish-language interview (depending on the language in which the respondent has greater mastery). Respondents whose level of English and Spanish is basic or lower are not eligible to participate.

Background information

Interviewers will collect background information at the time of recruitment, using information from the sample file (e.g., resident's name and contact information) and information collected from study participants on the phone (e.g., names of proxies or interpreters, respondent's language and special communication needs). NORC has developed a database for the purpose of storing and accessing background information, which will be shared with interviewers. The background information is intended as a scheduling and interviewing aid, and interviewers should bring the information with them to their interviews – either in the NORC database or in hard copy format (using a form developed by ICHP). The background information form contains fields for the study (respondent) ID and interviewer ID, as well as several fields for personally identifiable information. Background information should therefore not be entered into the REDCap application (which will not include any personal identifiers), and there is no page in the REDCap application that allows for entry of background information. On a regular basis (e.g., once per week), the interviewer will securely share the background

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

information database with the field manager, who in turn will share the database with ICHP using a secure FTP site. Two weeks following the interview, the interviewer will destroy any paper copy of the completed background form.

Interview setting and format

Interviews will be conducted at the resident's home (i.e., the ALF or AFC) or at another location requested by the participant. If possible, the interview should be conducted in private. For resident interviews, other people may be present if the resident requests (or if another person is needed for interpretation purposes). Provider staff members must not be present. If facility staff believe that a private survey may pose risks to the interviewers, then a third party should be present who meets the proxy criteria shown above. If others provide assistance during a resident interview, interviewers will elicit final responses from the resident.

For proxy interviews, the resident will have the option to be present, although his or her presence is not mandatory. In cases where both the resident and proxy are present during a proxy interview, the resident may provide (or express an interest in providing) input when answering the questions. This may occur in the form of communication between the resident and the proxy, or between the resident and the interviewer. In this event, interviewers will allow the resident and proxy time to discuss the appropriate response, and then elicit the final response from the proxy. If the resident and proxy cannot agree to an answer (e.g., if the resident objects to the proxy's final response), then interviewers will mark the response to the question as "No Response/Refusal".

Interviewers will bring a Wi-Fi-enabled device (either a laptop or a tablet) for data collection, as well as a mobile Wi-Fi hotspot device (e.g., "Mi-Fi") that can be used to establish a wireless connection in places where there otherwise are no wireless connection options. In most cases, interviewers will obtain consent, collect survey responses, and complete the interviewer feedback form in real time using the REDCap tool. Interviewers will also bring blank hard copies of the interview consent forms, interview tool, and interviewer feedback form to use in the event that Wi-Fi is not available at the interview site and the Wi-Fi hotspot device does not function.

For Spanish-language interviews, the consent, interview tool, and interviewer feedback will all be completed on paper (using Spanish-language tools developed for this purpose). At the end of a Spanish-language interview, or after returning from the interview, the interviewer will enter all information collected on paper into the equivalent English fields of the REDCap tool. Interviewers are to securely store completed paper tools for two weeks *after the data have been transcribed into REDCap*, at which point the completed paper tools should be destroyed.

Consent

The participant's consent to be visited by interviewers for the study is obtained on the telephone at the time of recruitment. The participant's consent to participate in the interview is obtained in-person immediately prior to the interview. This consent language –

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

provided separately for resident and proxy interviews – should be read directly from the hard copy consent form. The participant’s consent to be interviewed is recorded in the REDCap tool.

Interview data collection

When asking most questions, interviewers are encouraged to use an open-ended style and then check the answer that best represents the resident’s response. Probing or examples may be used as needed to clarify or better specify responses. In cases where the respondent’s answer does not match the response option verbatim, interviewers will read the elected response option back to the respondent aloud to confirm. Certain types of questions have response sets that *should* be read to the respondent. These include questions that assess frequency (e.g., “never”... “always”) and amounts (e.g., “a lot”... “none”). Interviewers may help respondents with any words that are not understood and repeat questions to improve understanding.

All closed-ended questions have “Don’t Know” and “No Response/Refused” response options. The “Don’t Know” response option is used to indicate that the respondent does not have information on the subject. The “No Response/Refused” option is used if the respondent does not have an opinion, does not want to talk about the question, or gives an unclear response despite efforts by the interviewer to seek clarification. Respondents will be instructed that they may skip any question, in which case interviewers should specify the “No Response/Refused” option.

In the event that the respondent must discontinue an interview, the REDCap tool has a function that permits interviewers to stop the interview and return to it at a later time (“Save & Return Later”). Using this function generates an 8-digit return code, which the interviewer should record on the respondent’s background information sheet or other documentation specific to the respondent. When resuming a discontinued interview, the interviewer must go to the project-specific URL, select the “Returning?” function, and enter the applicable return code.

In the event that web-based data collection is interrupted due to failure of Internet service, a return code is also generated and can be accessed by ICHP through the REDCap administrative interface. If this occurs, the interviewer should continue and complete the interview using the paper tool. After the interview, the interviewer must contact the field manager to inform her of the interruption. The field manager can then obtain the applicable return code from ICHP and communicate the return code to the interviewer. The interviewer must then use this return code to input any responses that were collected on paper.

Data monitoring

Researchers from ICHP will extract full survey datasets from the REDCap application on a weekly basis to assess data quality and monitor survey productivity. An interview will be considered complete if, at minimum, the *Choice of Home* section is completed. On a weekly basis, ICHP and NORC will hold conference calls to discuss recruitment call dispositions, survey productivity, and any other issues that may arise during the course of data collection. Conference calls with ICHP, NORC, and HHSC will be held as needed to resolve any issues that arise during data collection.

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

In addition, NORC will implement ongoing quality assurance protocols to monitor the quality of data collected by interviewers. Quality monitoring will begin after one month of data collection. NORC will randomly select an interview completed by each interviewer and the field manager will attempt to reach these respondents by phone to ask questions about the interviewer and the overall interview experience. NORC will share the data collected with ICHP. The field manager, who will meet with all interviewers weekly via telephone, will provide feedback from the interviews directly to the interviewers. If there are indications that an interviewer requires additional quality monitoring, NORC will contact additional respondents with whom the interviewer has completed an interview.

Data analysis and reporting

After survey fielding is complete, ICHP will extract the full dataset from REDCap, clean and recode data as appropriate, and import into SPSS format for analysis. To facilitate inferences to ALF, AFC, and combined member populations, ICHP will develop a separate base survey weight for each of the four study quotas. Base survey weights represent the inverse probability of inclusion in the final data, and are calculated as N_x/n_x , where x represents the quota, N represents the study-eligible population for that quota, and n represents the number of completed interviews in that quota. Using information on member sex, age, and race/ethnicity available from the sample files, ICHP will conduct a non-respondent analysis to determine whether response rates differed significantly according to these demographic characteristics. In cases where statistically and practically significant differences are observed in response rates for a particular demographic characteristic, ICHP will develop a weighting correction factor to help correct for potential non-response bias.

In consultation with HHSC and ICHP statistical faculty, additional weight corrections may be developed to account for differences in facility capacity (measured by number of beds). These weight corrections will allow for member responses in higher-capacity facilities to have greater weight than member responses in lower-capacity facilities. Without these weight corrections, for example, responses of a member in a 4-bed ALF would have an equal bearing on overall ALF results as responses of a member in a 20-bed ALF.

Descriptive results for each individual survey item will be reported separately for each of the four quotas, and for ALFs combined (urban and rural) and AFCs combined (urban and rural). As determined appropriate by HHSC, results may also be reported for urban facilities combined (ALFs and AFCs), rural facilities combined (ALFs and AFCs), and all facilities combined (all quotas). Reported results will exclude “Don’t know” and “No Response/Refusal” responses from the denominator. Responses to open-ended questions will be compiled, grouped, and reported following standards for reporting of qualitative data.⁹ Certain completed records may be excluded from analysis if information in the interviewer feedback section suggests that responses may have been biased (e.g., due to coercion by others present during the interview).

⁹ Open-ended items include: HOME_4, HOME_6, HOME_9_other, ISP_3_other, ISP_5_other, DIG_3a, CI_3_other, CI_4_other, CI_8_other, and CCR_18_other.

Home and Community Based Services STAR+PLUS Waiver Program

Systemic/Internal Assessment

Deliverables:

ICHP will provide a technical appendix of survey results in Excel format. One week prior to the end of data collection, ICHP will submit a proposed reporting layout for HHSC review and approval.

Project timeline:

Milestone	Date
ICHP (Renaissance) mails advance letters to all sampled members (English pilot and full study combined)	June 13, 2016
NORC contract work period begins	June 13, 2016
ICHP begins recruitment calls for English pilot study	June 17, 2016
ICHP conducts interviews with participants for English pilot study	June 27 – June 30, 2016
NORC interviewer training, to be held by ICHP and HHSC	June 29, 2016
NORC conducts Spanish-language pilot	TBD – depending on availability of final Spanish-language tool
HCBS Settings Survey fielding ¹⁰	July 1, 2016 – September 30, 2016
ICHP submits proposed reporting layout to HHSC	September 23, 2016
HHSC review/approval of reporting layout	October 7, 2016
NORC contract work period ends	October 10, 2016
ICHP submits technical appendix of survey results to HHSC	November 11, 2016
HHSC review/approval of technical appendix	December 2, 2016

¹⁰ Note: The actual start date for English-language interviews may be delayed until the week of July 4 to allow time for tool corrections necessitated by the pilot study. Spanish-language interviews will be deferred until after completion of the Spanish-language tool pilot.