

YOUR RIGHTS...



In a
Home and
Community-
Based Services
(HCS) Program



TEXAS
Department of Aging
and Disability Services

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

DADS Media Services 7P050 • February 2007 • Publication 109

Published by
Texas Department
of Aging and
Disability Services

2007



This book belongs to:

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A special note about your rights

This handbook tells you about the rights and privileges you have if you are receiving services offered through the Home and Community-based Services (HCS) program.

There are some basic things that guide your rights.

- 1 People have rights.** Rights are what you are allowed to do and how you should be treated.
- 2 Rights are not limited without due process.** Due process is a review process that makes sure your rights are not taken away from you without a good reason.
- 3 People are free from abuse and neglect.**
- 4 People have responsibilities with the exercise of rights.** Responsibilities are your duties that you need to try to do, if you are able.

Staff can help you learn about your rights and responsibilities.

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

Important words and what they mean

Advocate – A person who helps you make decisions and looks out for your best interests.

Case manager – The person who helps you get the services and community supports identified in your person-directed plan as needed to help you achieve your goals. Sometimes this person is known as your individual plan coordinator or care/service coordinator.

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

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

Guardian or Legally Authorized Representative (LAR)

– Somebody appointed by the courts (often your parent or other adult family member) if you are age 18 or over, or your parent if you are under age 18. Your guardian or LAR makes certain decisions, as outlined in the court papers. These decisions may be about your money, your rights, and/or your physical needs.

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





Individual Plan of Care (IPC) – A list of HCS Program services and maximum amount of each service that you are to receive over your “plan year,” and medical and other services and supports to be provided by resources other than the HCS program. These services and supports are not meant to replace existing natural supports such as your family, friends or groups to which you may belong. This plan is also known as the IPC, and is based upon your Person-directed Plan and other information and assessments.

Person-directed Plan (PDP) – Describes the supports and services needed to reach the goals and desired outcomes you and/or your legally authorized representative (LAR), say are important to you. These services and supports are not meant to replace existing supports you may receive from other agencies or programs, or from your family, friends or groups to which you may belong. This plan may also be called your service plan.

Planning meeting – A meeting with your team to develop service plans that will help you meet your goals. (This is sometimes called a “staffing.”)

Responsibilities – What you need to do in order to have your rights and to continue your services

Rights – What you are allowed to do and how you should be treated.

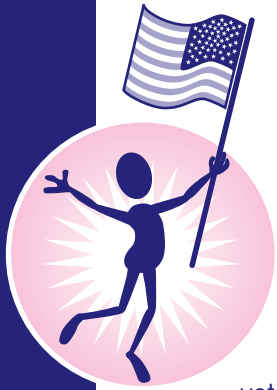
Service Planning Team – A group of people who help you decide what services and supports can be provided that will help you meet your goals or dreams. You, your LAR

if you have one, and the case manager are members of the team. In addition, you can have other people you want to help you with your plan.

Services and supports – Services and supports can include:

- **Residential services, including companion/foster care and supported home living.** These services include residential supports such as group homes, or assisting you to live independently or with family or friends.
- **Day habilitation** in which you can learn new skills in a day habilitation setting or in community activities.
- **Supported employment**, which can help you get a job and learn the skills you need to keep the job.
- **Respite care**, which gives your family or caretakers the opportunity to attend to interests and responsibilities in which you are not or cannot be involved.
- **Adaptive aids and minor home modifications** to help you do things more easily and/or independently.
- **Professional services** such as nursing, psychological and behavioral support, counseling and other specialized therapies such as speech therapy, occupational therapy and physical therapy, and dental services. Your service coordinator will help you understand the rules for these services.





Your rights under the Persons with Mental Retardation Act

If you are a person with mental retardation living in Texas, you have the following rights:

- 1 You have the same rights all citizens have, unless some of these rights have been taken away by a judge. These rights include the right to vote, to practice a religion, to keep your own possessions, to contract for something such as buying a house, and to get married. You cannot be treated differently because of your disability.
- 2 No one has the right to hurt you, take advantage of you, or ignore your needs.
- 3 You have the right to live and receive services where you can make as many of your own decisions as possible. This may be with your family, with your friends, alone, or where there are people trained to help you.
- 4 You have the right to go to public school until age 22.
- 5 Before you receive services, a doctor or a psychologist must determine that you have mental retardation and explain to you what that means. If you do not agree with them, you can also ask for a meeting to review your case. You can ask for a second opinion that you would pay for with your own money. You can ask for services from other agencies and organizations.
- 6 For issues needing consent, you should be able to understand what you agree to. If you have a guardian, he or she may make decisions for you.

- 7 Before a guardian is named, you will have a hearing in court with a judge. Only a judge can give you a guardian. That guardian may be a parent or another adult. This hearing is considered due process.
- 8 If you are looking for a job and have the skills to do the job, you cannot be denied it just because of your disability. If you have a job, you have the right to be paid fairly like everyone else.
- 9 You have the right to have treatment and services that are best for you. You can change your mind about any or all of the services you receive.



The Home and Community-based Services Program principles

If you receive services in the Home and Community-based Services (HCS) program you have all the rights listed in this handbook under the Persons With Mental Retardation Act. In addition, you can expect the rights and rules listed below to be followed, including the rules to participate in this program. You must be informed of these rights by the program provider/case manager.



Your Person-directed Plan and the IPC:

- 1 You, and your LAR if you have one, should participate in meetings in which your plans, and your services and supports, are discussed and decisions are made about those plans. You and your team will develop a plan for you every year, or more often if needed.



- 2** You can receive HCS Program supports and training programs, within program rules. These services and supports will help you do things for yourself while making sure of your health and welfare in the community. They will supplement rather than replace your natural supports, such as family and friends, and other non-HCS Program resources. They may also prevent the need for admission to institutional services. You must be advised in writing of all the HCS Program services available, the rules to enroll and participate, and of any changes in these that occur. Your case manager will explain this information to you, and your LAR if you have one.
- 3** You must be told about your plan, including what areas of your plan are going well and what areas may need to be better, or may need to be changed. You and your case manager should review your plan often to see if it is working for you or if changes are needed.
- 4** You must be told of any restrictions that may be placed on you. This should only be done for good reasons and with the approval of your service-planning team. You may ask your case manager for a review of any decision to restrict your rights if you do not agree with it.
- 5** If you have a behavioral support plan that is restrictive, your service-planning team must approve it and you, or your LAR if you have one, must agree in writing. You may change your mind, or your LAR if you have one may change his/her mind, and refuse to give approval at any time.

Permanent discharge from the HCS Program

- 1** You may have to stop receiving services and supports from the HCS Program if you are no longer eligible or if you, or your LAR if you have one, request permanent discharge.
- 2** You will be advised of your option to transfer to another program provider, if eligible, and will be advised of the results of discharge if you or your LAR are requesting discharge.
- 3** A plan, called a discharge plan, must be written if you will no longer be receiving HCS Program services, and you can help write that plan. It should include non-HCS Program services and supports that you want and for which you are eligible.

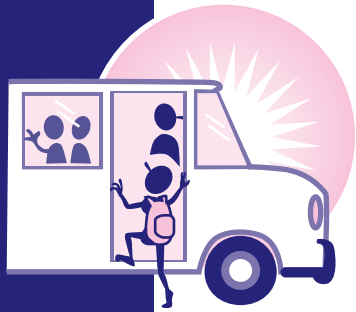


Privacy and confidentiality

Your program provider must help make sure that:

- 1** you are allowed to meet and talk with people in private, use the telephone in private and to send and receive mail without anybody opening it.
- 2** you have privacy during services and care of personal needs.
- 3** if you are married and live in a home with other HCS consumers, you and your spouse can share a room. If you and your spouse live in different homes, you can have privacy when your spouse visits.
- 4** your privacy is not violated by another person, including staff, unless you ask for their help.





5 your personal information, must not be shared without your knowledge and permission.

Service delivery

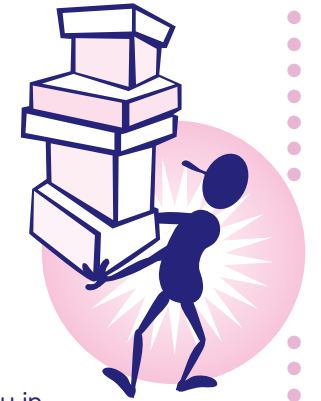
Your program provider must help make sure that:

- 1** you are helped to use public accommodations or services available to all citizens, and to attend religious activities you or your LAR choose. You should be given help that meets your needs in areas of your rights and self-advocacy such as registering to vote, getting citizenship information and training, getting advocacy information and services, and getting information about legal guardianship.
- 2** if you want to know, you will be told the name of staff who work with you and what they know, have learned, or have done in the past that helps them be able to do a good job for you. You should also be told that you may choose from available service providers and helped to do this.
- 3** you are free from unnecessary or unauthorized restraints and free from the use of seclusion during the provision of HCS Program services.
- 4** you are free from abuse, neglect, or exploitation by program provider staff.
- 5** you, or your LAR if you have one, are provided access to program records about your services, including, if applicable, financial records.
- 6** if you live with other HCS consumers in a home with staff, you can help make decisions about your home,

including location and/ or moves, furnishings, and who you live with. You should not have to do things staff are paid to do in the home or with the other consumers in your home.

Your money

- 1** You, or your LAR if you have one, can manage your money, receive training to manage your money, or receive help in managing your money. You can ask staff if you need help or need questions answered. If you, or your LAR if you have one, want the provider to assist you in managing your money, or want them to manage your money for you, you should ask them in writing.
- 2** If you, or your LAR if you have one, want the HCS provider to help you manage your money or to manage your money for you, you should ask for this help in writing.
- 3** You or your LAR if you have one, must agree in writing to all amounts of your money that the provider uses before your money is used, including for room and board, if applicable. Amounts billed or charged to you for room and board, if applicable, for services or for other items must be reasonable and about the same as would be charged or billed by other businesses in the community.
- 4** Your program provider must let you look at your financial records.
- 5** Your program provider must not charge you or your LAR for any services that the HCS Program pays for.





Requesting a new provider

- 1 You have the right to choose another HCS program provider.
- 2 Your case manager will inform you, or your LAR if you have one, about your choices and will provide you with a list of providers who have been approved to serve the area(s) in which you want to live.
- 3 Your HCS Program provider must assist and cooperate with your request to move to another HCS Program provider, including any changes to your plan that are needed.

Fair hearings

- 1 You can have a special review of a decision about admitting you to the HCS Program if you disagree with that decision, if that decision takes too long, or if your HCS Program services are reduced or ended for any length of time. Your case manager can help you request a fair hearing or you can call Consumer Rights and Services at 1-800-252-8154.

How to make a complaint

You, and your LAR if you have one, must be told by provider staff how to make a complaint. Staff will help you make a complaint if you need their help.

You can also report a complaint to your case manager or the Consumer Rights and Services at the Texas Department of Aging and Disability Services, 1-800-252-8154.

In addition, staff or your case manager will give you the toll free number to report abuse, neglect or exploitation to the Texas Department of Family and Protective Services, 1-800-647-7418, and will help you make the report if you want their help.

State offices

If you want help with complaints or violations to your rights regarding the Home and Community-based Services program, you should call Austin, Texas:

Consumer Rights and Services

Texas Department of Aging and Disability Services (DADS) 1-800-458-9858

If you think staff have abused you, neglected you, or taken advantage of you, you should call and report this to:

Texas Department of Family

and Protective Services (TDFPS) 1-800-647-7418



You can call DADS Consumer Rights and Services at 1-800-458-9858

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

**Texas Education
Agency (TEA) 1-800-252-9668**



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

Advocacy, Inc. 1-800-252-9108

**Parent Association for the
Retarded of Texas, Inc. (PART) (512) 453-7145**



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

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

Your Case Manager is:



Your Case Manager's telephone number is:

Notes:

Notes:

Texas Department of Aging and Disability Services

DADS toll-free Consumer Rights and Services number:

1-800-458-9858

Attention Medicaid Recipients

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

For more information call 1-800-458-9858

