

Your Rights

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

Learn about the rights and privileges you have when you receive services through the HCS program.

TEXAS
Health and Human Services

This book belongs to:

_____

_____

_____

Table of contents

A Note About Your Rights 2

Important Words and What They Mean 3

Your Rights Under Texas Law 6

Your Responsibilities 7

Your Guardian's Rights and Responsibilities 8

Your Rights in the HCS Program 9

Requesting a Different HCS Provider 13

Termination from the HCS Program 14

How to Make a Complaint 14

Contacts 16

How to Reach Your Service Coordinator 16

How to Reach Your Local Intellectual and Developmental Disability Authority Rights Officer 16

How to Reach Your HCS Provider 17

Notes 18

A Note About Your Rights

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

Here are some basic ideas about your rights:

- **People have rights.** Rights are what you can do and how you are treated, based on federal and state constitutions, laws and rules.
- **Rights are not limited without due process.** Due process is a chance to have a hearing or review to decide if there is a good reason to limit your rights or services.
- **People are free from abuse and neglect.**
- **People have responsibilities**. Responsibilities are your duties that you must try to do, if you can.

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 with the Americans with Disabilities Act of 1990.

Important Words and What They Mean

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

Consent (informed consent) – When you agree to do something or give someone else permission to do something. You must understand what you are agreeing to, be 18 or older, 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 – Your parent if you are 17 or younger, or somebody appointed by the courts (often your parent or another adult family member). Your guardian might also be called your legally authorized representative or LAR.

Implementation plan – A plan describing the HCS services that will be delivered to meet your needs in your person-directed plan. Your HCS provider develops the implementation plan. It is also part of your service plan.

Individual Plan of Care – A list of the HCS services and maximum amount of each service you get during your "plan year." Medical and other services and supports will be provided by resources outside of the HCS program. These services and supports don't replace existing natural supports such as your family, friends or groups you belong to. This plan is called the IPC and is based upon your person-directed plan and other information and assessments. It is also part of your service plan.

Person-Directed Plan – Describes goals and desired outcomes you and your guardian, if you have one, say are important to you. This plan describes the supports and services you need to reach your goals and outcomes. It also includes existing services and natural supports you might get from other agencies or programs, or from your family, friends or groups you belong to. The person-directed plan is called the PDP and is part of your service plan.

Planning meeting – A meeting with your service-planning team to work on a service plan to help you reach your goals. This is sometimes called a "staffing."

Responsibilities – The things you need to do to have your rights and to continue your services.

Rights – The things you can do and how you should be treated.

Service coordinator – The staff member who works at the local intellectual and developmental disability authority and helps you choose the services you need. The service coordinator also helps you get other services you might qualify for that you can't get through the HCS program.

Service plan – The plan for your services and supports, which is made up of three documents: your person-directed plan, individual plan of care and implementation plan.

Service planning team – People who help you decide which services and supports will help you reach your goals and desired outcomes. You, your guardian if you have one, and your service coordinator must be on this team. You can include other people you want on your service-planning team, such as your HCS provider.

HCS Services and Supports

Your service coordinator will help you understand the rules for these services.

- **Residential assistance services** – Supervised living, residential support services and host home or companion care. These services provide help in a group home or a home with host home or companion care services.
- **Day habilitation** – Activities that help you learn new skills and might happen in the community or a group setting.
- **Dental treatment** – Services and care provided by a qualified dentist.
- **Employment services** – Help you get a job and learn the skills you need to keep the job.
- **Community First Choice and supported home living** – Help you live on your own or with family or friends.
- **Respite care** – Gives your family or caretakers a break from caretaking.
- **Adaptive aids and minor home modifications** – Supplies, devices or changes to your home that help you do things by yourself.
- **Specialized therapies** – Nursing, behavioral support, speech therapy, occupational therapy, physical therapy, audiology, dietary, cognitive rehabilitation therapy and social work services.

- **Transition assistance services** – Things to help you set up your home when you move out of certain types of facilities and enroll in the HCS program.

Your Rights Under Texas Law

If you have an intellectual or developmental disability and live in Texas, you have the same rights as all other citizens have, unless some of these rights have been taken away by a judge. You can't be treated differently because of your disability.

You have these rights under state law:

1. You have the right to register to vote and to vote, practice a religion of your choice, keep your own possessions, sign a contract for something, such as buying a house, and get married.
2. You have the right to not let anyone hurt you, take advantage of you or ignore your needs.
3. You have the right to live and get services where you can make as many of your own decisions as possible. This might be with your family, 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. You have the right to get a determination of eligibility for services from the local intellectual and developmental disability authority. The local intellectual and developmental disability authority will explain the results of your determination of eligibility and what they mean.

You can ask for a meeting to review your results. If you don't agree with the determination, you can ask for an administrative hearing to review it. You can also get a second opinion from another agency or organization that you would pay for with your own money.

6. For issues needing consent, you have the right to have the issues explained to you in a way you can best understand. If you have a guardian, he or she may make decisions for you.

7. You have the right to a hearing with a judge before getting a guardian. The guardian may be your parent or another adult. Only a judge can give you a court-appointed guardian who can make decisions for you. This hearing is considered due process.

8. You have the right to work and be paid fairly. If you're looking for a job and have the skills needed, you can't be denied the job because of your disability.

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 get.

Your Responsibilities

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

Your responsibilities are:

1. You should not hurt others.
2. You should follow the rules of your program.
3. You should tell staff what you need.
4. You should speak up at your planning meetings and tell your team about your preferences.
5. You should try your best to follow the service plan developed by you, your guardian, if you have one, and those who work with you. If you don't like your service plan, you can ask for it to be changed.

Your Guardian's Rights and Responsibilities

If you have a court-appointed guardian, there are certain decisions he or she can make for you.

Your guardian might make decisions about:

- Your money
- Where you live
- What services you will get
- Medical treatment you get

Your guardianship should be designed to encourage your self-reliance and independence as much as possible. If you

have a guardian, you have rights outlined in the Texas Bill of Rights for Wards. If you can make a choice about something, your guardian should let you. If you feel this isn't the case, you should talk to your guardian.

Your Guardian Helps to Protect Your Rights

Your guardian should participate in planning meetings with you. He or she has the right to look at your records, talk with staff about you and file complaints for you.

Your guardian must tell the court every year about how you're doing. For the guardian of the estate, this is called an "annual accounting." For the guardian of the person, it is known as an "annual report." The law requires all guardians to complete an annual accounting or report to the court no matter how long they have been a guardian. When your guardian files the annual accounting or report, he or she is given letters from the court to show the guardianship is current. Your guardian needs to share this letter with your service coordinator.

Your Rights in the HCS Program

If you receive services in the HCS program, your HCS provider must protect and promote your rights. You can expect your HCS provider to follow the rights listed below. Your service coordinator must tell you about these rights.

Person-Directed Plan and Individual Plan of Care

1. You and your guardian, if you have one, should go to meetings and talk about your plans, services and supports. You should take part in all decisions about your service plan. You, your HCS provider and your service coordinator will develop a service plan for you every year and change the plan when needed.

2. HCS supports and training programs are provided to you within program rules. These services and supports help you do things for yourself while ensuring your health and welfare in the community. They will add to your natural supports but will not replace them. Natural supports might be family, friends and other resources not provided by the HCS program. HCS services and supports might also prevent the need to be admitted to institutional services. Your service coordinator must tell you about all the HCS services available, what you need to sign up and participate in the program, and of any changes in these.

3. Your service coordinator must tell you which parts of your service plan are going well and which areas might need to improve or change. You, your guardian if you have one, and your service coordinator should review your service plan as often as needed to see if it should be changed.

4. Your rights might be restricted only to address your needs. You must be told of any restrictions that are part of your implementation plan. There should be good reasons for any restrictions. You can ask your HCS provider for a

review of any decision to restrict your rights if you don't agree. You can change your mind and take back approval at any time. Or your guardian, if you have one, can take back approval at any time.

Privacy and Confidentiality

Your HCS provider must ensure that:

1. You can meet and talk with people in private, use the phone in private, and 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 others who receive HCS services, 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 isn't violated by another person, including staff, unless you ask for their help.
5. Your personal information isn't shared without your knowledge and permission unless the law says it can be.

Service Delivery

Your HCS provider must help ensure that:

1. You have help using public accommodations or services available to all citizens and attending religious activities

you or your guardian chooses. You should also be given help that meets your needs for rights and self-advocacy. Examples include registering to vote and getting citizenship information and training, advocacy information and services, and information about legal guardianship.

2. If you ask, your HCS provider must tell you 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 you can choose from available service providers, and you should get help to do this.

3. You are free from unnecessary restraints when you receive HCS services.

4. You are free from abuse, neglect or exploitation by HCS provider staff.

5. You or your guardian are able to get program records about your services, including financial records if that applies.

6. If you live with others who are receiving HCS services in a home with staff, you can help make decisions about your home. This includes decisions about location or moves, furnishings and who you live with. You shouldn't have to do things staff are paid to do in the home.

Your Money

1. You or your guardian can manage your money. You can ask for training or get help to do this. You can ask staff if you need help or have questions.
2. If you or your guardian wants the HCS provider to help you manage your money or do it for you, ask your HCS provider for this help in writing.
3. You or your guardian must agree in writing to all amounts of your money that the HCS provider uses before your money is used, including for room and board, if that applies. Amounts billed or charged to you for room and board, services or other items must be reasonable and about the same as would be charged or billed by other businesses in the community.
4. Your HCS provider must let you or your guardian look at your financial records.
5. Your HCS provider must not charge you or your guardian for any HCS services.

Requesting a Different HCS Provider

You have the right to choose another HCS provider at any time. Your service coordinator will tell you or your legally authorized representative about your choices. They will give you a list of providers in the area where you want to live.

Your HCS provider must cooperate and help you with your move to another HCS provider, including any needed changes to your plan.

Termination from the HCS Program

- You might have to stop receiving services and supports from the HCS program if you are no longer eligible or if you or your guardian asks to leave the program. Before you leave the program, you will be told of your option to transfer to another HCS provider, if eligible. You will be also be told of what may happen if you will no longer be receiving HCS services.
- A discharge plan must be written if you will no longer get HCS services and you can help write that plan. It should include non-HCS services and supports that you want and are eligible for.

Fair Hearings

You can ask for a special review of a decision about eligibility for the HCS program if you disagree with that decision, or if your HCS services are reduced or ended. Your service coordinator can help you request a fair hearing.

How to Make a Complaint

Your HCS provider and service coordinator must tell you and your guardian, if you have one, how to make a complaint about your HCS services. Staff will help you make a complaint if you need help.

You can also report a complaint to the HHS Intellectual and Developmental Disabilities Ombudsman at **800-252-8154**.

Your HCS provider or your service coordinator will also give you the toll-free number to report abuse, neglect or exploitation. They will help you make the report to the Texas Abuse Hotline at **800-647-7418**.

State Offices

- To get help with complaints or violations of your rights in the HCS program, call

  Texas Health and Human Services Intellectual and Developmental Disabilities Ombudsman
  800-252-8154

You can also report complaints or violations of your rights by emailing **OmbudsmanIDD@hhs.texas.gov**.

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

  Texas Abuse Hotline
  800-647-7418.

- If you need to make a complaint about a public school, call

  Texas Education Agency
  800-252-9668.

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

  Relay Texas
  Voice: 800-735-2988
  TDD: 800-735-2989

Contacts

How to Reach Your Service Coordinator

Your service coordinator is:

_____

Your service coordinator's telephone number is:

_____

How to Reach Your Local Intellectual and Developmental Disability Authority Rights Officer

Your local intellectual and developmental disability authority rights officer is:

_____

_____

Your local intellectual and developmental disability authority rights officer's phone number is:

_____

How to Reach Your HCS Provider

Your HCS provider agency is:

_____

Your HCS provider contact is:

_____

Your HCS provider contact's phone number is:

_____

Notes

Notes

Notes

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 **877-787-8999**.

For additional copies of this publication, contact the Intellectual and Developmental Disabilities Ombudsman at **OmbudsmanIDD@hhs.texas.gov**

TEXAS
Health and Human Services

21D0383 • July 2021 • **PRODUCT ID: OM-12**