

# YOUR RIGHTS...

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



Published by  
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of Aging and  
Disability Services

**This book belongs to:**

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## A note about your rights

**T**his 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 ideas about your rights:

- 1 People have rights.** Rights are what you can do and how you are treated, based on federal and state constitutions, laws and rules.
- 2 Rights are not limited without due process.** Due process is an opportunity to have a hearing or review to decide if there is a good reason to limit your rights or services.
- 3 People are free from abuse and neglect.**
- 4 People have responsibilities.** Responsibilities are your duties that you must 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 with the Americans with Disabilities Act of 1990.

## Important words and what they mean

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

**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 18 or older, or your parent if you are younger than 18. Your guardian or LAR makes certain decisions for you, 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.

**Implementation Plan** – A plan your provider develops that describes your HCS services that will be delivered to meet your needs in your person directed plan. The implementation plan is part of your service plan.

**Individual Plan of Care (IPC)** – A list of the HCS services and maximum amount of each service that you are to receive during your “plan year,” with 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 called the IPC and is based upon your Person-directed Plan and other information and assessments. The IPC is part of your service plan.

**Person-directed Plan (PDP)** – Describes goals and desired outcomes you and/or your LAR say are important to you. The PDP also describes the supports and services you need to reach your goals and outcomes, including existing services and natural supports that you may receive from other agencies or programs, or from your family, friends or groups to which you may belong. The PDP is part of your service plan.

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

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

**Service Coordinator** – The person who works at the local authority who helps you and your provider plan your HCS services to address your needs and preferences. This person will also help connect you to non-HCS services for which you are eligible.

**Service Plan** – In the HCS program, you will have three documents that make up your plan for services and supports. They are the PDP, IPC and implementation plan. This is your service plan.

**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 and outcomes. You, your LAR if you have one, and your service coordinator are required members of the team. In addition, you can include other people you want to be a member of your service planning team, such as your HCS provider.

**Services and supports** – Services and supports can include:

- **Residential assistance services**, which are supervised living, residential support services and foster/companion care. These services provide assistance in a group home or foster/companion care home.
- **Day habilitation** in which you can learn new skills in a group setting or in community activities.
- **Dental treatment**, which includes preventative, emergency, therapeutic and some orthodontic dental care performed by a qualified dentist.
- **Supported employment**, which can help you get a job and learn the skills you need to keep the job.
- **Supported home living**, which helps you live independently or with family or friends.
- **Respite care**, a service that gives your family or caretakers a break from caretaking.
- **Adaptive aids and minor home modifications** are things or changes to your home that help you do things more easily and/or independently.
- **Specialized therapies**, such as nursing, behavioral support, speech therapy, occupational therapy, physical therapy, audiology, dietary and social work services.

## Your rights

If you have an intellectual disability and live in Texas, you have the following rights under state law:

- 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 register to vote and 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 an intellectual disability or a related condition 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.

## Your responsibilities

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

- 1** You should not hurt others.
- 2** You should follow the rules of your program.
- 3** You should tell staff what you need.
- 4** You should speak up at your service planning meetings and tell your team about your preferences.
- 5** You should try your best to follow the service plan developed by you, your guardian or LAR, and those who work with you. If you do not like your service plan, you can ask that the plan be changed.

## Your guardian's rights and responsibilities

If you have a 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 receive, and
- medical treatment.

Your guardianship should be designed to encourage your self-reliance and independence as much as possible. If you feel this is not the case, you should talk to your guardian.

### Your guardian helps to protect your rights

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

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

## Your Rights in the HCS Program:

If you receive services in the HCS program, your program provider is responsible for protecting and promoting your rights in the program. You can expect the rights listed below to be followed by your program provider. You must be informed about these rights by your service coordinator.

Your Person-directed Plan and the IPC:

- 1** You and your LAR (if you have one) should participate in meetings in which your plans, services and supports are discussed, and decisions about those plans are made. You, your provider and your service coordinator will develop a service plan for you every year and change that plan when needed.
- 2** HCS supports and training programs are provided to you within program rules. These services and supports will help you do things for yourself while ensuring 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 resources. They may also prevent the need for admission to institutional services. You must be advised in writing of all the HCS services available, the requirements to enroll and participate in the program and of any changes in these. Your service coordinator will explain this information to you and your LAR, if you have one.
- 3** You must be told about your service 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, your LAR (if you have one) and your service coordinator should review your service plan as often as needed to see if it is working for you or if changes are needed.

- 4** Your rights may 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 may ask your provider for a review of any decision to restrict your rights if you do not agree with it. You may change your mind and withdraw approval at any time or your LAR (if you have one) may withdraw approval at any time.

### **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 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 is not violated by another person, including staff, unless you ask for their help; and
- 5** your personal information is not 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 restraints during the provision of HCS 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 others who are receiving HCS services 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.

### Your money

- 1** You or your LAR (if you have one) can manage your money. You can ask to 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.
- 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 Different HCS Provider

- 1** You have the right to choose another HCS program provider at any time.
- 2** Your service coordinator 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 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.

## Termination from the HCS Program

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

## Fair hearings

- 1** You can have 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 or you can call Consumer Rights and Services at 1-800-458-9858.

## How to make a complaint

You and your LAR (if you have one) must be told by your HCS provider staff 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 Consumer Rights and Services at the Texas Department of Aging and Disability Services

**1-800-458-9858**

You can report a complaint to your service coordinator.

In addition, provider staff or your service coordinator will give you the toll-free number to report abuse, neglect or exploitation and will help you make the report to the Texas Department of Family and Protective Services at 1-800-647-7418.



## State offices

If you want help with complaints or violations of your rights regarding the HCS program, you should call

**Texas Department of Aging and Disability Services (DADS)  
Consumer Rights and Services . . . . 1-800-458-9858**

You may also e-mail to report complaints or violations to your rights here:

**[crscomplaints@dads.state.tx.us](mailto:crscomplaints@dads.state.tx.us)**



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

**Texas Department of Family and Protective Services (TDFPS) . . . . 1-800-647-7418**



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

**Texas Education Agency (TEA)  
Parent Information Line . . . . . 1-800-252-9668**



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

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



## How to reach your service coordinator

Your **Service Coordinator** is:

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Your **Service Coordinator's telephone number** is:

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## How to reach your HCS provider

Your **HCS provider agency** is:

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Your **HCS provider contact** is:

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Your **HCS provider contact's telephone number** is:

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## 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**



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Department of Aging  
and Disability Services

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