



COMMISSIONER
Jon Weizenbaum

December 3, 2014

To: Home and Community-based Services Providers
Local Authorities

Subject: Information Letter No. 14-79
Clarification of Home and Community Services Program Billing Guidelines, Host Home/Companion Care and Day Habilitation

This letter provides clarification of the requirements for provision of Day Habilitation (DH) services in the host home and for provision of DH services by a Host Home/Companion Care (HHCC) provider, in accordance with Section 4320 and Section 3710 of the Home and Community Services (HCS) Program Billing Guidelines. DADS enforcement of Section 3710 as described in this letter will be effective January 1, 2015. DADS enforcement of Section 4320 will continue to be cited in accordance with the billing guidelines.

Provision of Day Habilitation Services in the Host Home:

Section 4320, Requirements of Setting, of the HCS Program Billing Guidelines (Guidelines) provides:

“Day habilitation may be provided to an individual only in a setting that is not the residence of the individual, unless the provision of day habilitation in a residence is justified because of the individual's medical condition or behavioral issues or because the individual is of retirement age, and such justification is documented in the individual's record.” Medical or behavioral justification may include: physician statements, behavior plans, authorization from the service planning team and/or similar documentation.

A violation of Section 4320 occurs when DH services are provided in the residence of the individual and there is no medical or behavioral justification for provision of the services in the home.

When there is justification for the provision of DH services in the individual's residence, the HHCC service provider may not be the service provider of DH in that setting. Section 3710, One Service Provider, of the HCS Program Billing Guidelines states “one service provider may not provide different service components or subcomponents at the same time to the same individual”. This provision has been in effect since October 1, 2009 and applies to all services provided in the HCS Program.

Provision of Day Habilitation Services at a Location other than the Host Home:

A HHCC service provider who owns or works at a DH site location separate from the individual's HHCC home may provide DH services to an individual for whom they are also providing HHCC services. The following conditions must be met:

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- The HHCC service provider must own a day habilitation program outside of the host home or work for a separate person or business entity that provides DH services;
- The services must begin and end at the DH location or in the community and must be provided at the DH location or in the community. The services may not be provided in the individual's host home.
- The individual receiving services must be given the opportunity to choose the type of activities and the service provider of DH in the service planning process and the provision of choice must be documented.
- The program provider must meet all other applicable requirements in the Guidelines.

A host home service provider is paid a daily rate for providing HHCC. Section 4550 (5) of the Guidelines states the provider may not bill for a day "if, during any part of the day for which the service claim was submitted, host home/companion care was not provided to an individual when needed." If the HHCC service provider owns or is employed by a DH company that provides DH services, the HHCC service provider must be available as needed by the recipient of HHCC services. For example, if the individual receiving services become ill, the HHCC provider must be available to return the individual to their home and care for him or must have alternative arrangements for the individual's care.

Provision of Day Habilitation Services by Residential Support or Supervised Living Shift Staff:

In situations where an individual receives Supervised Living (SL) or Residential Support (RS), a SL or RS service provider may also provide DH services on the same day to the same individual. However, the following conditions must be met:

- SL or RS service provider is not providing DH services to the individual at the same time the service provider is providing SL or RS;
- The service provider documents an end time for the provision of SL or RS and start time for the provision of DH services; and
- The program provider must meet all other applicable requirements in the Guidelines

Individual choice is an important part of the service planning process and fundamental to service delivery in the HCS program. Individuals must be afforded a variety of choices regarding their services and be offered services that are mutually exclusive from each other. Individuals should have the opportunity to socialize and interact with different people in the community throughout the course of their day depending on their preferences.

Failure of a program provider to comply with the Guidelines may result in recoupment of payments from a program provider in accordance with DADS rule at 40 TAC §9.170(4). The Local Authorities are receiving this letter for informational purposes.

Information Letter No 14-79
December 3, 2014
Page 3

If you have questions about this letter, please contact the Billing and Payment Hotline at 512- 438-5359 or via email at:

HCS.TxHmL.bpr@dads.state.tx.us

HCS Program Billing Guidelines may be found at:

<http://www.dads.state.tx.us/handbooks/hcsbg/howtoprint/index.asp>

Sincerely,

[signature on file]

Donna Jessee
Director
Center for Policy and Innovation

[signature on file]

Elisa J. Garza
Assistant Commissioner
Access and Intake

**Host Home/Companion Care (HHCC) and Day Habilitation (DH)
Information Letter 14-79
Frequently Asked Questions**

- 1) What is the difference between a service provider and a program provider?
Section 2000 of the Home and Community-based Services Billing Guidelines
(Guidelines) provides the following definitions of program and service provider:**

Program provider — *An entity that provides HCS Program services under a Medicaid Provider Agreement for the Provision of HCS Program Services with DADS.*

Service provider — *A staff member or contractor of the program provider who performs billable activity.*

- 2) Does Section 3710 of the Guidelines prohibit an HCS program provider from providing HHCC and DH services to the same individual at the same time?**

No. Section 3710 of the Guidelines provides that “one service provider may not provide different service components or subcomponents at the same time to the same individual”.

Different service providers employed or contracted by one program provider may provide HHCC and DH services to the same individual at the same time.

Different service providers employed or contracted by one program provider may provide HHCC and DH services to the same individual in the individual’s residence if the individual has been qualified to receive DH services in the home in accordance with Section 4320.

- 3) Is there any circumstance when an HHCC service provider may provide DH services to the same individual in the individual’s home?**

No. Section 3710 prohibits an individual’s HHCC service provider from providing DH services to the same individual on the same day. DADS has provided an exception for certain circumstances where the HHCC service provider is providing the DH service outside the individual’s home.

- 4) Please clarify what the IL means when it says that the HHCC service provider must own a separate day habilitation program or work for a separate person or business entity that provides DH services in order to provide DH services on the same day to the same individual in a location outside the home.**

Following are examples of circumstances where an HHCC service provider could provide DH services on the same day to the same individual:

- The HHCC service provider owns a separate business with a separate contract to provide DH services. In that instance, the program provider is paying one individual or entity to provide HHCC services and a different individual or entity to provide DH services.

- The HHCC service provider is employed by a separate business which contracts with the program provider to provide DH services. In that instance, the program provider is paying one individual or entity to provide HHCC services and a different individual or entity to provide DH services.

5) Section 4550 (5) states that the provider may not bill for a day “if, during any part of the day for which the service claim was submitted, host home/companion care was not provided to an individual when needed.” If the HHCC service provider also provides DH services as allowed by the IL, will the HHCC program provider be prohibited from billing for the HHCC service?

Any HHCC service provider who has activities or employment that make them unavailable to provide HHCC services during part of the day must have alternative arrangements for providing those services. For example, if the individual receives DH services at a location other than the home and the HHCC service provider has employment outside the home during that time period, the HHCC service provider must have arrangements in place to provide services to the individual if services are needed. This is also required if the HHCC service provider owns a business that provides DH services or works for a business that provides DH services. The HHCC service provider must have arrangements in place for the care of the individual should the individual become ill or otherwise need HHCC services.

6) Can an HHCC service provider who is working or otherwise unavailable for a period of time during the day have someone else substitute for them if the individual receiving HHCC services needs assistance during that time?

Yes. The alternate person providing HHCC services must be qualified as a service provider.

7) What is expected of the HHCC program provider if DH is listed on the person’s Individual Plan of Care (IPC) but DH services are unavailable?

Program providers are not cited for not providing a service on the IPC if the program provider consistently and routinely documents an attempt to gain services or locate a qualified service provider. If a program provider does not provide a service that is listed on the IPC, the provider will be cited in accordance with TAC 9.174 (a) if the effort to obtain the service or locate a qualified provider is not documented. A provider could also be cited for a delay of services if the provider is not consistently and regularly making efforts to locate a qualified service provider. DADS recognizes that every person and situation is unique; program provider’s efforts to locate a qualified provider or provide DH services will be evaluated on a case by case basis. All aspects of the person’s life will be considered. DADS can give technical assistance regarding specific situations.

8) What are DADS requirements regarding individuals participating in Day Activities and Community Activities?

Title 40 Texas Administrative Code (TAC) Chapter 9, Section 9.190(e)(29) requires a Person Directed Plan (PDP) for adult individuals under retirement age include a plan for “participating in a day activity of the individual’s choice that promotes achievement of PDP outcomes for at least six hours per day, five days per week” unless contraindications are documented with justification by the service planning team.

For individuals who are retirement age, Title 40 TAC 9.174(a)(20) requires that program providers ensure that the individual has opportunities to participate in day activities appropriate to individuals of the same age and consistent with the individual’s or legally authorized representative’s choice.

DADS recognizes that every individual situation is different and includes many different factors. Day activities can mean different things depending on the individual. Surveyors will look at each situation independently and consider all aspects of the person’s life and how it is reflected in the, person centered plan, implementation plan and IPC. It is important for providers to have justification documents when needed. Surveyors will evaluate all justification documents during reviews.

Title 40 TAC 9.174(a)(21) provides that program providers “ensure that each individual is offered choices and opportunities for accessing and participating in community activities and experiences available to peers without disabilities” unless contraindications are documented with justification by the service planning team.

Day activities may or may not be provided through DH in the service plan. The individual may choose any applicable HCS service option or natural/community supports to help them participate in day activities.

9) What services are allowable in situations where an individual is living with two parents and receives Host Home/Companion Care?

It is allowable for one parent to be the primary Host Home/Companion Care service provider for their adult child and the other parent to provide Day Habilitation if all other billing guidelines requirements are met. In addition, it is allowable for both parents to provide either Host Home or Day Habilitation, however if one parent provides Host Home services on any given day, the same parent could not also provide day habilitation services on the same day.

