



~ Community First Choice ~

Amendments to CLASS &

DBMD Program Rules

March 17, 2016

CFC Rules Webinar – CLASS and DBMD

- Welcome
- Overview of Topics
- Specific Rule Changes
- Questions

Statutory Authority

- HB 3523, (84th Legislature) amended Texas Government Code, §534.152(g) to provide DADS regulatory and oversight authority concerning providers participating in the HCS, TxHmL, CLASS, and DBMD Programs for the delivery of CFC services.

Overview

- Title 40, Part 1 Chapter 42, Deaf Blind with Multiple Disabilities (DBMD) Program and Community First Choice (CFC).
- Title 40, Part 1 Chapter 45, Community Living Assistance and Support Services (CLASS) and Community First Choice (CFC).

Rule Topics Affected by CFC

- Definitions
- Program Descriptions
- Eligibility
- Service Planning
- Termination
- Fair Hearing
- Staff Training

New Rules Related to CFC

- Emergency Response Services;
- Person-Centered Planning Training Requirements;
- Transportation as an activity of habilitation and residential habilitation; and
- Adds the qualifications and training requirements for a service provider of CFC PAS/HAB.

Information Letters to be Retired

- The new rules replace the following CLASS/DBMD information letters:
 - IL 2015-53 Providing Transportation in CLASS and DBMD;
 - IL 2015-31 Implementation of CFC Through the CDS Option for CLASS and DBMD; and
 - IL 2015-30 Implementation of CFC in CLASS and DBMD.

Timeline

- Published as proposed in the *Texas Register* on November 27, 2015.
- Adopted rules were published in the *Texas Register* on March 11, 2016.
- Effective as of March 20, 2016 -
 - Adopted rules can be reviewed on the Texas Register website until Friday, March 18, 2016. After that, they will be in the March 11, 2016 issue on the Texas Register archive page.

Definitions §42.103 & §45.103

- Adds definitions to address the addition of CFC services to these Chapters (i.e. alarm call, managed care organization, MAO Medicaid).
- Amends definitions to address CFC (i.e. activities of daily living, IPP, service provider).

Definitions

- Deletes the definitions of "MR/RC assessment" and the definition of "CDSA" because the chapter uses the terms "ID/RC" and "FMSA" respectively.
- Makes a minor editorial change to the definition of "contract".

Definitions

- Health maintenance activities, as defined in 22 TAC §225.4 (Texas Board of Nursing), may be exempt from delegation or may require delegation, depending on an assessment by a registered nurse.

Description of the CLASS and DBMD Programs

Adds CFC services which consist of:

- CFC personal assistance services/habilitation (CFC PAS/HAB), which replaces DBMD residential habilitation and CLASS habilitation, except transportation services provided as residential habilitation or habilitation;
- CFC emergency response services (CFC ERS), which is provided as a distinct CFC service instead of as an adaptive aid; and
- CFC support management.

Description of the CLASS and DBMD Programs - §42.630 & §45.201

CFC PAS/HAB is not provided at the same time as:

- day habilitation;
- residential habilitation;
- habilitation;
- respite;
- support family services;
- continued family services;
- licensed assisted living;
- licensed home health;
- employment assistance with the individual present;
- assisted living; and
- supported employment with the individual present is provided.

Description of the CLASS and DBMD Programs - §42.217 & §45.217

- An individual has the option to receive CFC PAS/HAB through a program provider or the consumer directed services (CDS) option.

Eligibility: §42.201 & §45.201

For consistency with the DBMD and CLASS waiver applications, added to the eligibility criteria for DBMD and CLASS Program services that an individual must require the provision of at least one DBMD or CLASS Program service per month, or a monthly monitoring visit by a case manager, and at least one DBMD or CLASS Program service per IPC year.

Eligibility

- An individual is eligible for a CFC service if the individual meets the criteria for DBMD or CLASS Program services and requires the provision of the CFC service.
- In addition to these criteria, an individual receiving MAO Medicaid, must receive a DBMD or CLASS Program service at least monthly, as required by 42 CFR §441.510(d).

Residential Habilitation for DBMD

- Clarifies that residential habilitation is not provided to an individual receiving licensed assisted living or licensed home health assisted living.
- Allows a program provider to bill for time spent by a residential habilitation service provider transporting an individual and deletes general restrictions on reimbursement for residential habilitation because most services will be provided through CFC PAS/HAB instead of residential habilitation.

Habilitation for CLASS

- Clarifies that transportation as a habilitation activity is not provided to an individual receiving support family services or continued family services.
- Allows a program provider to bill for time spent by a habilitation service provider transporting an individual and deletes general restrictions on reimbursement for habilitation because most services will be provided through CFC PAS/HAB instead of residential habilitation.

Consumer Directed Services

- Establish that FMS and support consultation are services available under the DBMD and CLASS Program only if the individual's IPC includes at least one DBMD or CLASS Program service to be delivered through the CDS option.
- If an individual's IPC includes only CFC PAS/HAB to be delivered through the CDS option, include on the IPC (1) CFC FMS instead of FMS; and (2) if the individual will receive support consultation, CFC support consultation instead of support consultation.

Case Manager Contact: §42.404 and §45.705

Requires a case manager, for a month in which the case manager does not meet with an individual or LAR as required to have a face-to-face or telephone contact with the individual or LAR or other persons acting on behalf of the individual, (such as an advocate or family member) to provide case management to help ensure the individual's continued eligibility for the DBMD or CLASS Program.

Case Management: §42.212 and §45.212

Clarifies the information a case manager must provide to an individual or LAR, orally and in writing, including an explanation of DBMD or CLASS Program services and CFC services, eligibility requirements for the services, and reasons the services may be terminated.

Service Planning

- An IPC must specify the type and amount of each CFC service to be provided and must meet the same specified criteria as each DBMD or CLASS Program service. CFC services are subject to utilization review.
- A case manager must develop an IPP for each CFC service, except for CFC support management.
- A backup plan is required for critical CFC services.

Service Planning

- CFC services authorized in the individual's IPC must be provided to the individual in accordance with the individual's IPC, IPP, and 40 TAC Chapters 42 and 45 for DBMD and CLASS, respectively.
- A program provider may refuse to provide CFC services, for health and welfare reasons, to an individual.

Termination Procedures

- Adds CFC through a managed care organization as a long-term service and support in the community about which a case manager must inform an individual when DADS terminates the individual's DBMD or CLASS and CFC services

Transportation: §42.223 & §45.223

- Requires a case manager to ensure that the service planning team develops a transportation plan when an individual's IPC includes transportation as a residential habilitation or habilitation activity or as an adaptive aid.
- Requires the case manager to submit to DADS and the FMSA, along with a proposed renewal IPC or proposed revised IPC, any required transportation plan

Transportation

- The proposed amendment also removes CLASS habilitation as a service that may be provided under "immediate jeopardy" circumstances because it is unlikely that transportation as a habilitation activity would be needed under such circumstances.

Transportation

- Transporting the individual means “driving the individual from one location to another”.
- Changes were made at adoption to distinguish “transportation” from “assistance in securing transportation”.

Fair Hearing: §45.301 & §42.251

An individual whose CFC services have been denied, suspended, reduced, or terminated by DADS is entitled to a fair hearing in accordance with TAC, Title 1, Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules).

Emergency Response Services

- The new rules at §42.651 and §45.621 establish the requirements for the provision of CFC ERS, including;
 - Criteria to receive the service;
 - CFC ERS provider qualifications; and
 - Requirements (i.e. installing equipment, obtaining responders, conducting system checks, responding to alarm calls, replacing equipment, and documenting information).

Emergency Response Services

- The adopted rules delete the reference to licensure, as a personal emergency response system provider is no longer a requirement.

Person Centered Planning Training in DBMD, §42.403

- Requires a staff member responsible for completing the IPP completes person-centered service planning training approved by HHSC by June 1, 2017, if the staff person was hired on or before June 1, 2015; or within two years after hire, if the staff person was hired after June 1, 2015.

Person Centered Planning Training

CLASS Rules:

§45.804 DSA and §45.704 CMA

- Requires a CMA staff person who is responsible for completing the IPP and DSA staff person who is responsible for completing the PAS/HAB plan completes person-centered service planning training approved by HHSC by June 1, 2017, if the staff person was hired on or before June 1, 2015; or within two years after hire, if the staff person was hired after June 1, 2015.

Miscellaneous Changes

- DBMD - a case manager may now use e-mail, phone calls, and text messages to perform the listed case management activities (§42.623).
- CLASS - a service provider of respite who is hired on or after July 1, 2015, must have (1) a high school diploma or equivalent of a high school diploma; or (2) a successfully completed written competency-based assessment and at least three written personal references (§45.803).

All DBMD Sections with Changes

- §42.101, §42.102, §42.103, §42.104, §42.105, §42.201, §42.212, §42.213, §42.214, §42.215, §42.216, §42.217, §42.221, §42.222, §42.223, §42.231, §42.241, §42.242, §42.243, §42.244, §42.245, §42.246, §42.247, §42.248, §42.251, §42.252, §42.402, §42.403, §42.404, §42.405, §42.407, §42.621, §42.623, §42.625, §42.626, §42.628, §42.630, §42.631, §42.632, §42.641, and §42.651.

All CLASS Sections with Changes

- §45.101, §45.103, §45.104, §45.201, §45.212, §45.213, §45.214, §45.215, §45.216, §45.217, §45.221, §45.223, §45.224, §45.225, §45.231, §45.301, §45.302, §45.402, §45.403, §45.404, §45.405, §45.406, §45.407, §45.408, §45.409, §45.505, §45.621, §45.702, §45.704, §45.705, §45.803, §45.804, §45.805, §45.807, §45.808, and §45.902.

Implementing the New Rules

- Share key changes with all staff.
- Ensure all staff have a copy or know where to access a copy of the new rules:
 - <http://www.sos.state.tx.us/texreg/index.shtml>
 - <http://www.sos.state.tx.us/texreg/archive/index.shtml>
- Replace any copies of previous rules in internal manuals with the new rules.

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QUESTIONS?