Consumer Directed Services Option

Employer Manual

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Chapter 1: Overview of the CDS Option

What is the CDS Option?

This manual is designed to help people who choose to use the Consumer Directed Services (CDS) option to manage their services. If you choose the CDS option, you will:

- find, screen, hire and if necessary, fire your employees;
- train and supervise your employees; and
- set the pay and benefits you will offer employees within the limits established by the state.

But you will not be alone in all this. One of your first decisions will be to pick a Financial Management Services Agency (FMSA). This agency will act as your bookkeeper and banker, taking care of payroll and the government forms on behalf of the CDS employer. The agency works with you on your budget, but does not control it. Your FMSA works for you. You decide how the money in your service plan is spent on salary and benefits for your employee(s) within the guidelines established by the CDS option rules (see Appendix A for rules). Neither your financial eligibility for services nor your personal income tax liability will be changed by participation in the CDS option.

You also have the right to name a designated representative (DR) to assist you with the employer duties. The DR is not your employee, and is not paid; a DR is a willing adult you choose to provide you with help when you need it. You decide which employer tasks your DR will help you with or conduct.

Some programs with the CDS option also allow you to budget for and pay a Support Advisor. This person helps you or your DR (if you wish) with training and advice when you need it.

Depending on your program, you will have a service planning team (SPT). This is a group of people, including you or your representative, who work together to develop your service plan.

Some things do not change. You will remain in the program that provides you with your services. Find your program in the table on the following page to see what services are available to you through the CDS option.

Programs that offer the CDS Option	
Program	**Services that can be self-directed through the CDS option**
Community Living Assistance and Support Services (CLASS)	In-home and out-of-home respite services, habilitation services, nursing, physical therapy, occupational therapy,

	speech, hearing and language services, cognitive rehabilitation therapy, employment assistance, supported employment and support consultation
Deaf Blind with Multiple Disabilities (DBMD)	Respite services, residential habilitation (less than 24 hours), intervener, support consultation, supported employment and employment assistance
Medically Dependent Children Program (MDCP) under STAR Kids (MCO)	Respite services and flexible family support services delivered by an attendant or a nurse, employment assistance, supported employment STAR Kids
Primary Home Care (PHC)	Personal assistance services and support consultation
Community Attendant Services (CAS)	Personal assistance services and support consultation
Family Care (FC)	Personal assistance services and support consultation
Consumer Managed Personal Assistance Services (CMPAS)	Personal assistance services
Home and Community Based Services (HCS)	Respite, supported home living, nursing, cognitive rehabilitation therapy and support consultation, supported employment and employment assistance
Texas Home Living (TxHmL)	All services and support consultation
Community First Choice (CFC)	Habilitation and personal assistance services
STAR+PLUS Waiver	Respite services, personal assistance services, nursing, therapies (occupational, physical and speech-language), supported employment, employment assistance, and cognitive rehabilitation therapy.
STAR+PLUS	Personal assistance services
Personal Care Services (PCS)	Personal assistance services STAR Kids

You can find the rules for the CDS option in the Texas Administrative Code, Chapter 41. It is the responsibility of the FMSA to give you these rules. The rules tell you who can be an employer in CDS, what you as a CDS employer must do, what your chosen FMSA will do for you, what your case manager or service coordinator will do for you, and what a Support Advisor can do to help if you choose to have one. See Form 1735, Service Provision Requirements Addendum to learn about requirements for your specific program.

Remember that CDS is about having more control over how services are delivered. You and your case manager or service coordinator will still follow the rules that apply for your individual program. These rules will tell you who can be hired, how to develop a service plan, what costs are allowed and your spending limits in different areas.

Roles and Responsibilities Under the CDS Option

As the CDS employer, you will need to understand both the CDS rules and the service provider qualifications, training requirements and documentation requirements for your specific program.

The CDS option is a partnership. You work with others so you can have more control and choice with your services.

This partnership consists of:

- The employer – either you or your legally authorized representative
- Your Designated Representative, if you have one
- The FMSA
- A Support Advisor (optional, and not available in all programs)
- A case manager or service coordinator
- A Service Planning Team

The most important partner is you, the employer.

In the CDS option, the employer will either be:

- The individual receiving services through a Medicaid or state funded program who is at least 18 years old and does NOT have a court appointed guardian; or
- The legally authorized representative, who is the parent of a minor, guardian of a minor, managing conservator of a minor, or the guardian of an adult. If the person receiving services – regardless of age – has a court-appointed legal guardian, then the legal guardian will be the employer.

Any of these employers may choose a DR to help. This is a voluntary, unpaid role, and the DR, if not a family member, must pass a criminal background check just like any employee you might hire. The DR can take on as much or as little of the employer's responsibilities as the employer wishes.

What Do You, the Employer, or Your DR Do?

The employer or DR must:

- Choose an FMSA and participate in a CDS orientation.
- Write and put in place a service backup plan for each critical service as identified by the Service Planning Team.
- Obtain permission for a criminal history and registry check from potential employees and request that your FMSA conduct criminal history checks and other required registry checks for people you may hire or use for services.
- Find, hire, train, manage, and fire employees and other service providers.
- Set wages and benefits for employees within funds allocated for services delivered through the CDS option.

- Train your employees when they first start working for you on your specific needs-the tasks to be accomplished, how you would like them conducted.
- Ensure employees get any additional required training.
- Document the initial training you provide your employees and any on-going training and send this information to your FMSA.
- Make sure any professionals you hire, if your program allows, have a current valid license.
- Keep track of how funds for each service are spent on wages and benefits for employees.
- Decide how well your employees do their job.
- Send completed time sheets, service delivery invoices or receipts for payment for employer-related expenses to your FMSA. Perform visit maintenance if on Option 1 of EVV.
- Keep records of service delivery, including service logs, and personnel files.
- Resolve employee and service provider concerns and complaints.
- Complete and put in place a plan to correct problems, if asked.
- Follow Form 1735, Service Provision Requirements Addendum, for your specific program and service plan.
- Hire a Support Advisor (if you want to use one and if a Support Advisor is a part of your program). Click here for more information on Support Advisors.

What Does the FMSA Do?

The FMSA will help plan the budget for your services, handle payroll and make payments to your employees. Your FMSA is your employer agent, which is the Internal Revenue Service (IRS) name for a FMSA. The FMSA will not have access to any of your personal IRS or tax information.

The FMSA will:

- Register as your employer-agent with the IRS and Texas Workforce Commission (TWC).
- Help, as needed, with your budget and approve the budget before services can begin.
- Conduct criminal background and registry checks.
- Verify potential employee credentials, such as a cardiopulmonary resuscitation (CPR) certification.
- Verify that nurses or other professional have a valid Texas license.
- Pay your employees.
- Pay and report employer taxes on your behalf.
- Collect and process invoices and receipts for payment.
- Keep records of all expenses and reimbursements.
- Provide written summaries and budget balances of payroll and other expenses, and note any areas of non-compliance with the CDS rules, at least quarterly to the employer and case manager or service coordinator.
- May request a corrective action plan from you if you are not following the CDS rules or Form 1735, Service Provision Requirements Addendum for your program.
- Must report suspected cases of Medicaid fraud.

What Does the Support Advisor Do?

In some programs, support consultation is a service you or your Service Planning Team may choose. This service is provided by a Support Advisor who has been trained to help you meet your responsibilities under the CDS option. Support Advisors do not duplicate services provided by the case manager or the FMSA, and are paid out of your budget. How much help the Support Advisor will give and for how long will depend on your needs.

The Support Advisor may help you to:

- Find and hire workers.
- Fill out forms needed to hire a worker, retain a contractor or vendor, and manage service providers.
- Work out service agreements, including wages, hours and costs.
- Build your skills as an employer, including effective communication, decision making, and problem solving.
- Find information, resources and other help.
- Talk to other partners, such as the case manager or service coordinator or your FMSA.
- Be more involved in service planning team meetings at your request.
- Help you meet the rules in the CDS option and your service plan.

If you have requested support consultation, talk to your FMSA about how to include this service in your budget. Your FMSA will also provide you a list of Support Advisors to choose from.

What Does the Case Manager or Service Coordinator Do?

Even though you have chosen CDS, your case manager or service coordinator remains the person you go to for changes in your service plan.

Your case manager or service coordinator will:

- Check in with you to see how things are going.
- Be available to you for any discussion or needs regarding your service plan.
- Talk to your FMSA about any changes in service plans or need for corrections.
- Approve service backup plans.
- Complete any paperwork needed to change your plan.

What Does the Service Planning Team Do?

The Service Planning Team is a group of people who meet to talk about your needs. The employer – either you or your DR – is a member of the Service Planning Team. In the CDS option, the Service Planning Team will:

- Decide what services you will get.
- Decide when services will start and end.
- Write the service plan (the service plan may also be called the Individual Plan of Care, Individual Service Plan or the Person Directed Plan).
- Decide with you what critical services are needed in the backup plan.
- Work on and approve corrective action plans if problems arise.
- Approve switching from the CDS option, when necessary.

It's Your Choice

Participation in the CDS option is your choice. You are free to return to the traditional agency for delivery of services at any time. If you want to switch, you will need to contact your case manager or service coordinator. If you return to the traditional agency, you must remain with the agency for at least 90 days before you can return to the CDS option.

You may also elect to transfer to another FMSA at any time. If you want to change your FMSA, let your case manager know. He or she will give you a list of other FMSAs to choose from.

NOTE: Changing FMSAs during the middle of tax quarter may lead to complications with the IRS. If possible, it is advisable, although not required, to change FMSAs after the last payroll within a quarter.

Chapter 2: Getting Started on the CDS Option

After your case manager or service coordinator has discussed how some or all of your services can be delivered through the CDS option, you can decide if this choice is right for you. If you want to go forward, the first step is to choose your FMSA. Then the FMSA will contact you to get you started. As you will see, there are many details to go over and forms to fill out, but the FMSA will be there to work through all of this with you.

Your First Meeting with Your FMSA

Your FMSA will set up a meeting with you in your home; this is called the orientation meeting. At this meeting, your FMSA will go over some important forms. You will need to sign some of these forms and send them in after your meeting. Ask questions. Your FMSA will take the time to explain.

During the initial face-to-face orientation with you and your DR the FMSA will:

- Explain the roles, rules, and responsibilities that apply to a CDS employer, provider, FMSA, and state agencies, including:
  - the employer budget based on the individual service plan;
  - the hiring process, including documents and forms to be completed for new employees; and
  - managing timesheets, due dates, payday schedules, and disbursing employee payroll checks.
- Review and leave a printed document that clearly states the FMSA's:
  - normal hours of operation;
  - key persons to contact with issues or questions and how to contact these persons; and
  - the complaint process, including how to file a complaint with, to the FMSA or about the FMSA;

    - review and leave printed information on how to report allegations of abuse, neglect and exploitation.

At the orientation, you will be asked to review and sign a service agreement with your FMSA (**Form 1735, Employer and Financial Management Services Agency Service Agreement)**. This agreement lists your responsibilities and those of the FMSA. When you sign this form you agree:

> **Remember**: the FMSA must verify applicant or service provider qualifications **before** you extend the applicant or service provider a position or allow delivery of any services through CDS

- To receive orientation, ongoing training and assistance from the FMSA.
- To set up a budget with the help of your FMSA based on your service plan for each service delivered through CDS.
- To stick to the budget and any changes made to the budget.
- To let the FMSA act as the vendor fiscal/employer agent for administrative and fiscal (payroll and employer taxes) services.
- To tell the FMSA as soon as possible of any change that might affect you and your program. This could be a change in your legal status or a financial change that might affect your program eligibility.
- To follow all applicable HHSC rules, policies and procedures.
- To tell the program case manager or service coordinator and the FMSA of each hospitalization and admission into an institution and any change of telephone number, address or residency within 24 hours.
- To make sure that program services and CDS are not used while you are in a hospital or living in an institution, no longer eligible for the services of your program, or no longer have Medicaid eligibility.
- To follow all employer and employment-related local, state and federal laws. As the employer, you agree to be responsible under these laws even when you have chosen a designated representative.
- To be an effective employer by:
    - finding, selecting and hiring employees or service providers in sufficient numbers to meet your needs;
    - having a sufficient number of employees or having other means of providing backup services in the absence of an employee or service provider;
    - managing the risk of employee work-related injury/injuries or work- related illnesses;
    - agreeing that neither HHSC nor the FMSA have or share any employment-related liability;
    - checking with the FMSA about an applicant's qualifications before offering employment through CDS;
    - being accountable for funds spent through the CDS option and understanding that a CDS employer or DR who submits false or fraudulent time sheets, or approves a time sheet of an unqualified service provider, or approves a time sheet for tasks other than those approved on the service plan or implementation plan, will be reported to the appropriate authorities for investigation and possible prosecution as Medicaid fraud;
    - following the CDS and/or employer-related rules and regulations; and
    - changing to the agency option if you cannot or are unwilling to carry out CDS employer responsibilities.

What Your FMSA Agrees To Do

- Provide face-to-face orientation to the employer in the home of the individual prior to beginning of the CDS option.

- Assist the employer to develop a budget based on the individual's authorized service plan and approve the budget when calculations are validated.
- Conduct criminal history checks and required registry checks for each potential employee and inform the employer of the results.
- Review the qualifications of applicants for employment and service providers and notify the Employer of eligibility so that the Employer knows when delivery of services to the Individual by the applicant (employee) or service provider can start.
- Deny payment to any employee or service provider that is not qualified to deliver the program service or that delivered a service prior to qualifications being verified by the FMSA.
- Adhere to all applicable HHSC rules, policies and procedures related to the Individual's program and to the CDS option.
- Act as the registered vendor/fiscal employer-agent for purposes of handling payroll and filing, depositing and reporting taxes, on behalf of the Employer, with required federal and state agencies. follow federal, state and local laws and regulations related to employer-agent and employer-representative responsibilities.
- Adhere to and accept liability for federal, state and local laws and regulations related to employer-agent and employer-representative responsibilities.
- Provide timely notification to the Employer of changes to such laws and regulations that affect employment-related responsibilities of the Employer and/or the FMSA.
- Maintain an ongoing account balance of all transactions.
- Provide budget reports of program funds to the Employer and to the program case manager or service coordinator no less than quarterly.
- Provide ongoing training and help to you as the employer. If support consultation is available in your program, your Support Advisor may provide employer-related training.

You will also be asked to review and sign the **Service Provision Requirements Addendum to Form 1735**, which details the specific employer requirements for each program that offers CDS. You will initial each section, showing that you understand and agree to program-specific requirements on hiring, training and employee qualifications.

Other forms to review and sign with your FMSA:

Form 1720, Appointment of a Designated Representative (DR): If you decide to appoint a DR or are required to appoint a DR, you need to complete Form 1720. On this form you will indicate which employer tasks you want your DR to help you with.   Remember, the DR is a voluntary position and will not be paid. The DR must be at least 18 years old. The DR cannot be the employee, the spouse of an employee or provide any other Medicaid service to you. If the DR is not a relative to the individual, then the DR must pass a background check. Your FMSA will conduct the background check. You may give this form to your FMSA at the orientation. Or you may notify your FMSA within two working days after the appointment of the DR and provide a copy of Form 1720 within five working days after the appointment.

What is an Employer-agent?

Under the Vendor Fiscal/ Employer Agent (F/EA) model, a private or public vendor, entity or authority may apply for and be approved by the IRS (under section 3504 of the IRS Code and IRS Rev. Proc. 13-39) to act as an employer agent on behalf of individuals.

The Vendor F/EA model provides people with a high level of choice and control while ensuring state programs fiscal accountability and reducing some of the fiscal burden for participants and their representatives (e.g., payroll and bill payment.)

Vendor F/EA can perform the "bank," payroll and bill payment functions for participants without being considered the common law employer of their support workers.

Form 1726, Relationship Definitions in Consumer Directed Services: This form explains who can and who cannot be the employee under the CDS option.

In no case can you as the employer be a service provider. Also, your DR, your DR's wife or husband, or court-appointed guardian cannot be a hired worker for you. If you are under age 18, your LAR or LAR's spouse cannot be your service provider. In some cases, other relatives, or even people who live with you, may not be hired.

IRS SS-4, IRS 2678, TWC C-42: The FMSA will ask you for information needed to register as your vendor fiscal/employer-agent with the Internal Revenue Service (IRS) and your agent with the Texas Workforce Commission (TWC). You need to give this information to the FMSA within five days. This allows the FMSA to take care of some employer duties like payroll and withholding without being the actual employer of your workers.

Form 1736, Documentation of Employer Orientation: You will check the topics covered and sign this form upon conclusion of the orientation.

Form 1733, Employer and Employee Exemption from Nursing License for Certain Services, if applicable and if you choose to use the exemption.

You or your DR must send the original completed forms or a copy of the forms described above within five calendar days after the date of the initial orientation. You must ensure services are not initiated until after the FMSA receives the completed forms. You must retain the original completed forms or a copy of the forms listed above in your home.

Developing Your CDS Budget

At your orientation meeting, your FMSA will explain the CDS budget. Remember that CDS is a way to deliver services in your program and not a program of actual services. The way your budget is developed will depend on your program. HHSC gives you a program-specific budget workbook for you to develop your budget.

The employer is in charge of developing the budget, but you may ask your FMSA to help. The FMSA must approve your budget before you can hire anyone and start the CDS option. The amount of money you can spend for each service is determined by multiplying the number of hours of that service allowed in your service plan by the CDS rate for that service as determined by the Texas Health and Human Service Commission (HHSC).

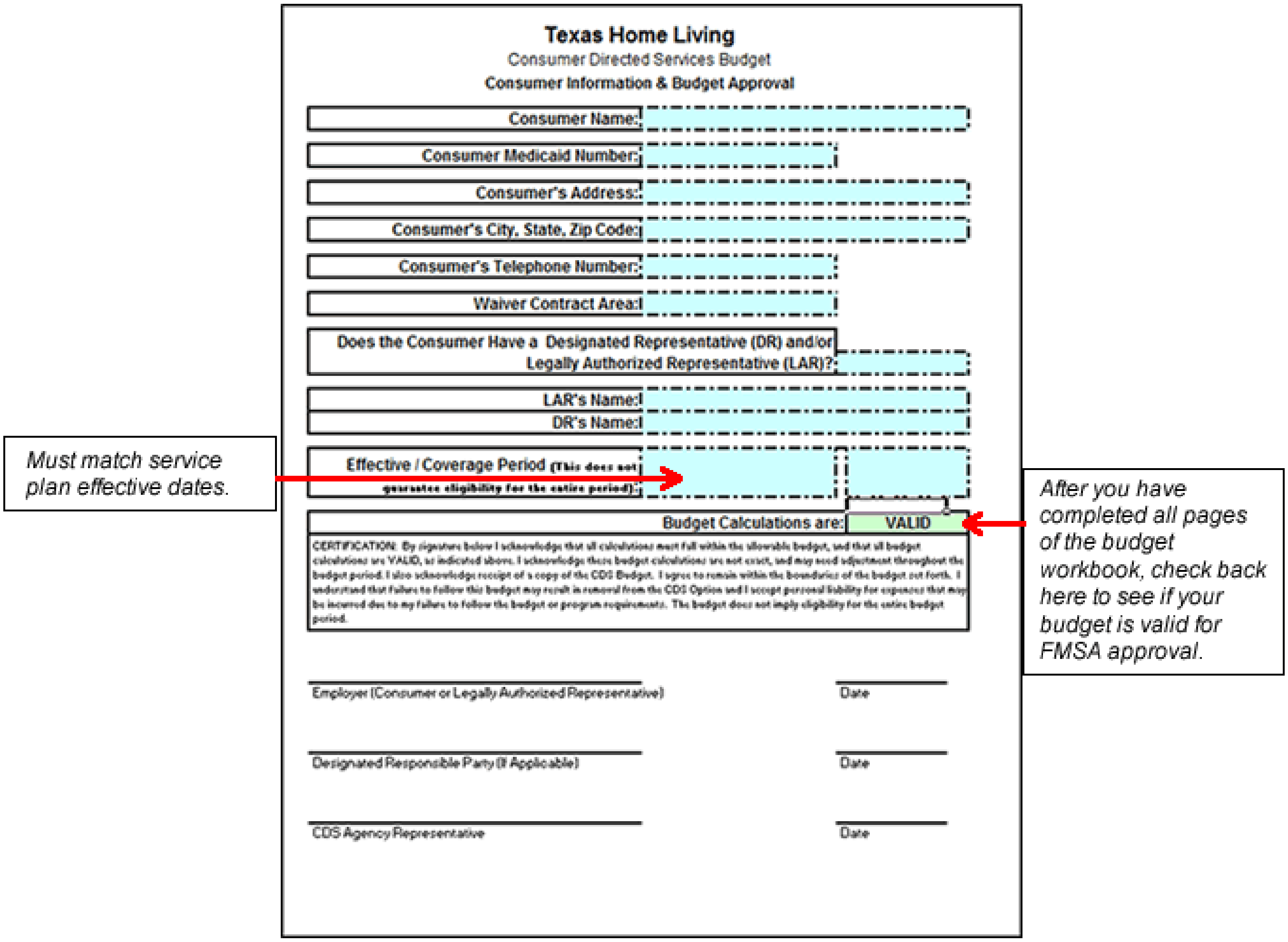
Your CDS budget is based on your authorized service plan.

Here are some questions to ask yourself about the budget:

- Do I need any of the approved supports to be the employer? For example, do I need a fax machine? Do I need to pay for training or certification for my employees?
- How much do I want to pay my employees? (In CDS, you can pay your employees a higher wage than they might receive from an agency.)
- Do I want to offer vacation or sick days?
- Do I want to offer a bonus? When? At the holidays? After six months of employment?
- The budgets are in Excel format. As an example, we will use the budget workbook for the Texas Home Living (TxHmL) program to walk you through the development of your budget.

Consumer Information and Approval (Page 1)

You fill in the information for each blue box.


Texas Home Living

Consumer Directed Services Budget

Consumer Information & Budget Approval

Consumer Name:

Consumer Medicaid Number:

Consumer's Address:

Consumer's City, State, Zip Code:

Consumer's Telephone Number:

Waiver Contract Area:

Does the Consumer Have a Designated Representative (DR) and/or Legally Authorized Representative (LAR)?:

LAR's Name:

DR's Name:

Effective / Coverage Period (This does not guarantee eligibility for the entire period):

Budget Calculations are: VALID

CERTIFICATION: By signature below I acknowledge that all calculations must fall within the allowable budget, and that all budget calculations are VALID, as indicated above. I acknowledge these budget calculations are not exact, and may need adjustment throughout the budget period. I also acknowledge receipt of a copy of the CDS Budget. I agree to remain within the boundaries of the budget set forth. I understand that failure to follow this budget may result in removal from the CDS Option and I accept personal liability for expenses that may be incurred due to my failure to follow the budget or program requirements. The budget does not imply eligibility for the entire budget period.

Employer (Consumer or Legally Authorized Representative) Date

Designated Responsible Party (If Applicable) Date

CDS Agency Representative Date

Important

It is from these CDS rates that you allocate employer expenses and determine the actual wage rate and benefits that you will pay your service provider. The FMSA monthly fee has already been deducted from this rate.

Notes, Page 2. This page is for you to document things you might want to remember about your budget.

Authorized units and budget, Page 3. This page allows you to enter the number of hours you are allowed for each service you are using through the CDS option. The hours (or units) you enter MUST match the units allowed for that particular service in your service plan. The CDS rates for each service have already been entered on each budget workbook. The purpose of this page is to let you see your total CDS budget. All of the budget allocations on the remaining pages of the workbook are based on this page.

Texas Home Living
Consumer Directed Services Budget
Authorized Units and Budget Calculations

0	0
Consumer Name	Medicaid Number

Coverage Period From: ______ To: ______

Total Annual CDS Budget $0.00

This amount must match the amount in your authorized service plan.

Service	Day Habilitation
Authorized Day Habilitation Units	
Weekly Authorized Day Habilitation Units	0.00
Daily Rate	$24.43
Total Day Habiliation Dollars	$0.00

Service	Community Supports
Authorized Community Supports Hours	
Weekly Authorized Community Supports Hours	0.00
Hourly Rate	$22.01
Total Hourly Respite Dollars	$0.00

Service	Hourly Respite
Authorized Hourly Respite Units	
Weekly Authorized Hourly Respite Units	0.00
Hourly Rate	$17.89
Total Hourly Respite Dollars	$0.00

Service	Supported Employment
Authorized Supported Employment Hours	
Weekly Authorized Supported Employment Hours	0.00
Hourly Rate	$32.10
Total Supported Employment Dollars	$0.00

Service	Employment Assistance
Authorized Employment Assistance Hours	
Weekly Authorized Employment Assistance Hours	0.00
Hourly Rate	$32.10
Total Employment Assistance Dollars	$0.00

Employer Support Services Costs and Non-taxable Benefits (Page 4)

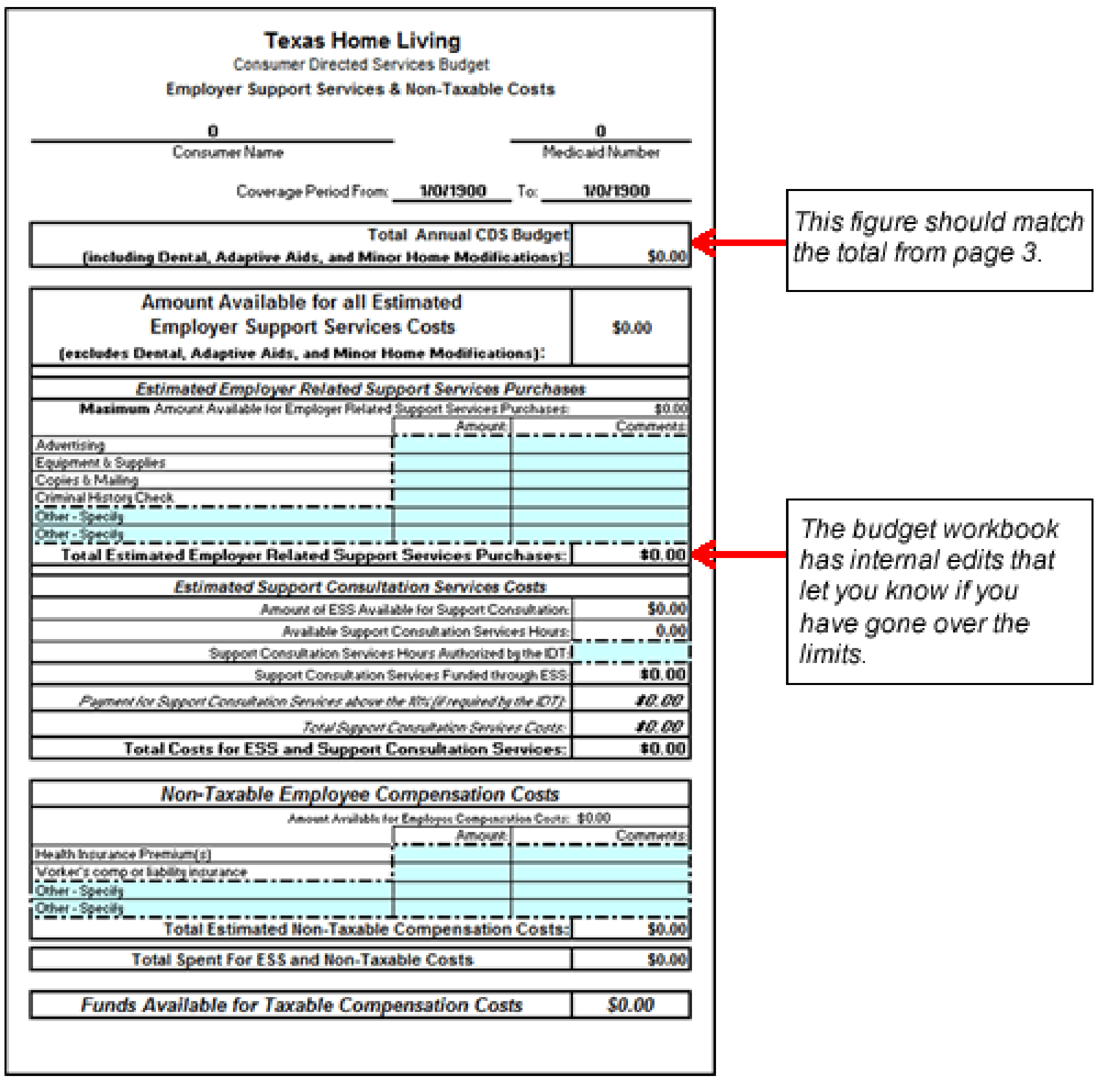
The top part of this page allows the employer to allocate up to $600 for employer support services costs. An employer or DR may budget allowable, necessary, and reasonable **employment-related** services, goods, or items, including:

- Advertising and recruiting expenses
- Criminal history checks from the Texas Department of Public Safety
- Acquiring other background checks of a potential service provider
- Purchased employee job-specific training
- Cardiopulmonary resuscitation training
- First aid training
- Hepatitis B vaccination (if elected by an employee);
- Supplies required for an employee or service provider to perform a task, if not available through the person's program or other source and the purchase is allowable through the person's program
- Non-taxable employee benefits

- Services, goods, and items specifically approved by the person's program as an employer support service or included in Appendix XI, Allowable and Non-Allowable Expenditures, in the CDS Handbook.

An employer or DR may budget **employer-related** services, goods, or items required to meet employer responsibilities, including:

- Basic office equipment, which may include a basic fax machine for the purpose of submitting documents to the FMSA
- Mailing costs
- Expenses related to making copies
- File folders and envelopes
- Services, goods, and items specifically approved by the person's program as an employer support service or included in Appendix XI, Allowable and Non-Allowable Expenditures.


Texas Home Living
Consumer Directed Services Budget
Employer Support Services & Non-Taxable Costs

0 — Consumer Name
0 — Medicaid Number

Coverage Period From: 1/0/1900 To: 1/0/1900

Total Annual CDS Budget (including Dental, Adaptive Aids, and Minor Home Modifications):	$0.00
Amount Available for all Estimated Employer Support Services Costs (excludes Dental, Adaptive Aids, and Minor Home Modifications):	$0.00

Estimated Employer Related Support Services Purchases

Maximum Amount Available for Employer Related Support Services Purchases: $0.00

	Amount:	Comments:
Advertising		
Equipment & Supplies		
Copies & Mailing		
Criminal History Check		
Other - Specify		
Other - Specify		
Total Estimated Employer Related Support Services Purchases:	$0.00	

Estimated Support Consultation Services Costs

Amount of ESS Available for Support Consultation:	$0.00
Available Support Consultation Services Hours:	0.00
Support Consultation Services Hours Authorized by the IDT:	
Support Consultation Services Funded through ESS:	$0.00
Payment for Support Consultation Services above the [illegible] (if required by the IDT):	*$0.00*
Total Support Consultation Services Costs:	*$0.00*
Total Costs for ESS and Support Consultation Services:	$0.00

Non-Taxable Employee Compensation Costs

Amount Available for Employee Compensation Costs: $0.00

	Amount:	Comments:
Health Insurance Premium(s)		
Worker's comp or liability insurance		
Other - Specify		
Other - Specify		
Total Estimated Non-Taxable Compensation Costs:	$0.00	

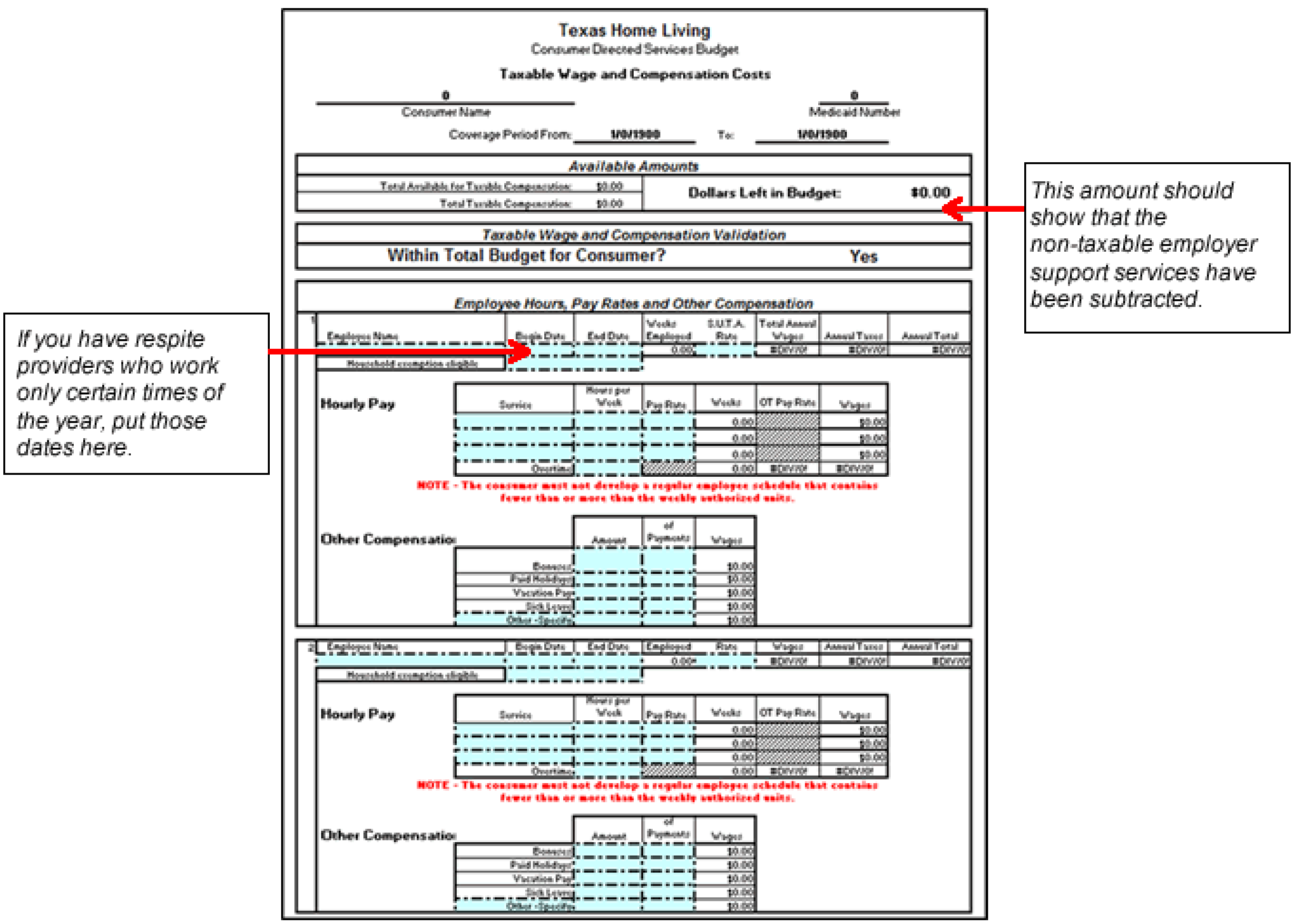
Total Spent For ESS and Non-Taxable Costs	$0.00
Funds Available for Taxable Compensation Costs	*$0.00*

Bonuses can be a hire-on benefit, or based on the employee's performance or length of service

Taxable wage and compensation (Page 5). Your next step will be to determine the wages you will pay each of your service providers and any benefits you want to include, such as bonuses, paid holidays, or paid sick days. CDS employers are required to pay the federal minimum wage and for certain services the state's minimum attendant compensation rate. A good rule of thumb for determining each service provider's wage is that at least 90 percent of the total CDS rate (see p.2 of the budget) must be spent on service provider compensation. Before you can pay a bonus, holiday or sick days, funds must be accrued in your budget to cover these expenses.

The hours need to be worked by your attendant before you can pay a bonus. Imagine that you are setting aside five cents for every hour your attendant works. After all of those hours have been worked, that creates your bonus fund for that specific attendant. **Unused hours cannot be converted into a bonus.**

After you have finished deciding the wage rate and benefits for each of your service providers, your total in the top right-hand corner should be near zero. It is very important that you allocate your entire budget at the beginning of the service year.



Check the first page of the budget to make sure that it says **VALID**. Your FMSA must approve your budget. The employer or DR and FMSA must sign the first page of the budget. Your FMSA keeps one copy of your budget and you keep a copy.

Service Backup Plans

If requested by your case manager, service coordinator or service planning team, you or your DR must develop a backup plan, using **Form 1740, CDS Service Backup Plan**, that:

- Ensures the services continue when your regular service provider is not available to deliver the service, or in an emergency.
- May include the use of paid service providers, unpaid service providers such as family members, friends, or non-program services.
- May include the use of respite, if included in the person's authorized service plan.

Informal supports are people involved in a person's life who are not necessarily connected with an agency, and are not "formal," paid service providers.

When the absence of your regular provider would place your health and/or welfare in jeopardy, you must develop a backup plan for that service.

Some examples of informal supports that may be available to you are:

- Relatives
- Friends
- Neighbors
- People who go to your church
- People in your clubs or organizations

Your case manager or service coordinator must approve each service backup plan and any revisions to plans before they are used by you or your DR. Your case manager or service coordinator will review your backup plan during monitoring and at your annual service planning meeting to determine if the plan was implemented and effective.

You or your DR must:

- Budget sufficient funds to implement a service backup plan.
- Comply with state rules on budget revisions and approval.
- Revise a service backup plan at any time, including after a review if:
  - the employer or DR determines the service backup plan was ineffective;
  - a change occurs in the availability of service backup plan resources;
  - the employer or DR redistributes funds that are not utilized in implementing a service backup plan; or
  - the case manager or service coordinator notifies the employer or DR that the service back up plan was determined ineffective and that the plan must be revised; and
  - provide a copy of the initial and revised service backup plan to the FMSA within five working days after the plan is approved by the case manager or service coordinator.

Here is an example of Form 1740.

Texas Department of Aging
and Disability Services

Consumer Directed Services
Service Backup Plan

Form 1740
October 2013-E

Name of Individual	Program	Service*
Susie Sailboat	MDCP	Flexible Family Support Services
Employer	**Designated Representative (if applicable)**	**Support Advisor (if applicable)**
Margaret Sailboat	n/a	n/a

* A service backup plan is required for each program service delivered through the CDS option that the service planning team has determined to be critical to the health and welfare of the individual. The service backup plan must be reviewed by the service planning team at least annually.

Type of Service Backup Plan	Date of Service Planning Team Meeting	Effective Plan of Service Backup Plan
☒ Initial Backup Plan ☐ Revision to Backup Plan	10/01/2014	10/15/2014

Reason(s) a Service Backup Plan is required for this service:

1. Susie requires assistance with ambulation and is a high fall risk.
2.
3.

Backup Plan Strategies and Sequence	Specific Action(s) to be Taken in Absence of Service Delivery	Resource Person, Area Code and Telephone Number
1. Susie's Aunt Lisa lives next door and will fill in as a paid back-up.	Margaret will complete new hire paperwork with Aunt Lisa and request the FMSA run background checks.	Regular employee must call Susie's Aunt Lisa at 512-555-5555, within 4 hours of scheduled shift, if cannot report to work.
2. Margaret will allocate funds in the CDS budget to purchase up to 10 hours of respite services from a licensed home health agency.	Margaret will budget the funds and has selected XYZ Home Health Agency. Margaret will obtain a provider agreement from XYZ Home Health.	XYZ Home Health contact information.
3. Margaret will carry out tasks as an informal unpaid support if Aunt Lisa not available.	Regular employee must call Margaret when they or Aunt Lisa is not available to work. Must call 4 hours before start of shift.	Margaret's contact information.
4.		
5.		
6.		

Plan Approval:

Employer Signature	Date	Service Planning Team Member Signature (as applicable)	Date
Designated Representative Signature (if applicable)	Date	Service Planning Team Member Signature (as applicable)	Date
FMSA Representative Signature	Date	Service Planning Team Member Signature (as applicable)	Date
Case Manager/Service Coordinator Signature	Date	Service Planning Team Member Signature (as applicable)	Date

Electronic Visit Verification (EVV)

As of January 1, 2021, Texas implemented Electronic Visit Verification, or EVV, for all Medicaid personal care services, including services that are managed through the CDS option.

EVV uses computer-based technology to document the time your attendant starts and stops providing EVV-required services, much like an electronic time sheet. There are three approved electronic verification methods for CDS attendants to use when providing EVV-required services. The three methods are a landline in the client's home, an alternative device (also called a token), and the EVV vendor mobile application. The mobile application is downloaded on an Apple or Android smart device. This smart device can be a phone or a tablet. The mobile application is the only method that can be used to document clock in and out when delivering services outside the client's home. Identification credentials will be needed to use all clock in and out methods. Your FMSA can provide you with all necessary information and instructions on how to use the EVV system.

CDS Employer EVV Responsibilities

EVV Visit Maintenance

As a CDS employer, you have a choice of how EVV visit maintenance responsibilities will be completed in the EVV system. Visit maintenance is the process for making corrections to your employee's clock in and out information in the EVV system to accurately reflect the delivery of services. **Form 1722, Employer's Selection for Electronic Visit Verification Responsibilities** is used to document the CDS employer's selection of how hours recorded in the EVV system will be managed.

There are three options for visit maintenance outlined on Form 1722. The three options for the CDS employer to select from are:

- **Option 1** – The CDS employer handles all visit maintenance and time approval in the EVV system. This option requires the CDS employer to log in to the EVV system to review the CDS employee's clock in and out times and the service delivered, complete visit maintenance if necessary, and submit final approval of time and service. The CDS employer needs to have access to a computer and must have an email address for this option.
- **Option 2** – Visit maintenance will be performed by the FMSA, and the CDS employer will enter final approval of hours and services within the EVV system. The CDS employer will submit paper time sheets to the FMSA. The paper time sheets serve as the CDS employer's verification of hours and services provided by the CDS employee. The FMSA uses the information on the paper time sheets to complete visit maintenance of the hours recorded by the CDS employee in the EVV system. The CDS employee has to clock in and out in the EVV system. Option 2 requires the CDS employer to log in to the EVV system to submit final approval. This option requires the CDS employer to have access to a computer and an email address.
- **Option 3** – The FMSA performs all visit maintenance and approval within the EVV system. The CDS employer submits paper time sheets to the FMSA. The paper time sheets serve as the CDS employer's verification and approval of hours and services provided by the CDS employee. The FMSA uses the information on the paper time sheets to complete visit maintenance of the hours recorded by the CDS employee in the EVV system.

Regardless of the CDS employer's selection on Form 1722, the CDS employee is required to clock in and out using an EVV method for all EVV-required services. The CDS employer must train the CDS employee on how to use the EVV system, and must make sure the employee uses an electronic verification method to clock in and out.

EVV Training Requirements

CDS Employers are [illegible] - initially and annually:

- o **EVV Policy Training** - HHSC offers various training opportunities for CDS employers on EVV Policy
- o **EVV System Training** - level of system training is based on **Form 1722** option selection
  - ❖ <u>Option 1 and Option 2</u> require CDS employers to complete system training provided by the EVV vendor in order to learn how to use the EVV system
  - ❖ <u>Option 3</u> requires CDS Employers to learn an overview of the EVV system clock in and out methods
- o **Employee Training** - CDS employers must train CDS employees on the use of EVV and how to clock in and out in the EVV system using an EVV method
  - ➢ CDS Employee training is documented on Form 1732

The CDS Employer is responsible for maintaining up to date documentation and proof of completed training. Training documents must be kept on file, and provided to the FMSA, HHSC, payer (or MCO) when requested.

Chapter 3: Being an Employer

Employer Responsibilities

You or your DR must ensure that services provided through the CDS option:

- are included on your service plan and, if required by the program rules, included on any other plan such as the habilitation plan or implementation plan;
- are budgeted;
- are provided only to you;
- are not provided if you become ineligible for program services; and
- meet requirements for payment according to program rules.

If nursing services, are included on the service plan, you or your DR must:

- Obtain a completed Form 1747, Acknowledgment of Nursing Requirements, from the RN before the RN provides services, if you or your DR hire an RN; (this includes MDCP nursing)
- Obtain a completed Form 1747-LVN, LVN Nurse Supervision Certification, from the LVN before the LVN provides services, if you or your DR hire a LVN; (this includes MDCP nursing)
- Keep completed Forms 1747 and 1747-LVN in the individual's home and send a copy of the completed forms to the FMSA before delivery of nursing services or MDCP respite or flexible family support; and
- Require that your program provider's nurse complete the initial and annual nursing assessment, if program rules apply.
  - Provide a copy of the program provider's nursing assessment, including the number of nursing hours authorized, to the CDS nurse; and
  - If the CDS nurse disagrees with the number of authorized nursing hours, ensure the CDS nurse provides justification to the Service Planning Team for consideration and a possible service plan revision.

If HHSC determines that you or your DR is not in compliance with this section, HHSC may require you to develop and implement a correction action plan.

How to Look for People to Work for You

There are many ways to find people who want to work for you and who can do a good job. Do not discount any possibility. Below are some suggestions for finding prospective employees.

Newspaper Advertisements

Classified ads in newspapers are a good way to reach many people. Neighborhood newspapers are cheaper than major citywide newspapers, and are a good way to find potential assistants who live closer to your home.

Local Newsletters

Sometimes you can put short ads in newsletters of disability groups and other community organizations such as churches.

Colleges and Universities

Colleges can be great places to find personal assistants. Many students are looking for extra income to help them through college. It is often possible to find students who are interested in a live-in arrangement. Students who have majors in the area of health and human services are often looking for work experience. To advertise a position, contact the school's career placement office, or student housing office. You might also try social, education and health-related departments, such as social work, special education, physical therapy, occupational therapy and nursing.

Following are samples of advertisements that you could use as a guide:

Personal attendant - Needed to assist male with quadriplegia with personal care, shopping, and light housekeeping. Part-time 4 days/week. Flexible schedule available. Driver's license preferred. This is an ideal position for a college student. Prime location near Rice University. $8.00/hr. Call (212) 111-1111 evenings for more information.

Personal assistant - Female, nonsmoker, needed to live-in with person with disabilities to assist with personal care, housekeeping. Free rent, hours and days negotiable, salary included. At least 6 months experience preferred Call (555) 555-1212 to leave a message.

Word of Mouth

Don't forget to ask family, friends and neighbors if they know of anyone who would make a good assistant for you. Let them know just what you are looking for, and ask them to tell others about the job too.

Local Agencies

Social service organizations, such as independent living centers or disability organizations, often keep a registry or list of assistants who may have already completed some basic training or have work experience.

Bulletin Boards in High-traffic Areas

Hang flyers on bulletin boards in high-traffic areas, such as grocery stores, banks, apartment buildings, restaurants, community centers, churches and laundromats.

Local Employment Offices/Rehabilitation Agencies

Two sources often overlooked are the Texas Workforce Commission and the Texas Department of Assistive and Rehabilitation Services. Some colleges have rehabilitation and disability offices on campus.

Networking

Exchange of information, names, resources, and services between individuals.

Other

Locate eligible service providers through the Yellow Pages, newspaper advertising, social media websites, and state and local professional organizations, etc.

If you decide to run an ad, below are some suggestions of what to include. The more complete the information, the better your chances of finding applicants who are truly interested and potentially qualified for the job. It is a good idea to include:

- Your first name (it is recommended that you not use your last name).
- Job title and a short description of the job.
- Phone number.
- Hours (Is the job hourly or live-in?).
- Qualifications required - must show a current license (if you are
- looking for a professional). Must have experience with people with disabilities or particular condition.
- Wages and benefits offered.
- General location (e.g., southwest Houston).

Do NOT include your address or other private information in the ad.

You may want to do a phone interview before meeting the applicant face to face.
You may want to have your first meeting with an applicant in a public place rather than in your home.

On-the-phone Interview

1. Give a brief description of the duties of the position, number of hours the job requires, and the hourly pay and any benefits you will provide.
2. Talk about the services needed and ask about the applicant's experience with providing home health services.
3. Ask about the applicant's experience in working with people who have disabilities.
4. If the applicant is interested, ask your questions, and record answers.
    a. Will you give me your name, address, and phone where you can be reached?
    b. What days/hours are you available to work? Are there days you cannot work?
    c. Have you ever assisted or worked for a person with disabilities before? If yes, tell me a little about the kinds of tasks you performed.
    d. Do you have reliable transportation?
    e. Are you at least 18 years of age?
    f. Do you have a valid Social Security number?
    g. Do you smoke?
    h. Are you allergic to pets? (if you have a pet in your home)
    i. Are there tasks you do not want to perform? (e.g., bathing, toileting, and dressing)
    j. Do you have any experience in transferring and positioning? Do you have any physical limitations that would prevent you from transferring and positioning?
    k. Can you cook and would you mind doing housework?
5. If you are interested in a face-to-face interview, tell the applicant you will call back to make an appointment for an interview (consider meeting outside of your home for safety purposes). Ask the applicant to bring a Texas identification card or driver's license and proof of their address when they come for an interview. If you are hiring a professional, ask him or her to bring a copy of a current professional license. If you are hiring a licensed vocational nurse (LVN), inform the

applicant that he or she will need to get their own supervision based on Texas Board of Nursing rules.

6. Even if the person is not right for the job, always thank them for their interest.

.

> **Important: Good screening and evaluations can reduce employee turnover, which will keep your paperwork and unemployment rate low.**

In-person Interview

- If hiring a professional, such as a nurse, ask the applicant to bring a copy of a current license.
- Inform the applicant the FMSA will run a criminal background check and check the Nurse Aide Registry and Employee Misconduct Registry. Explain these checks are required in order to be hired.

Tips for Interviewing

- Ask the applicant to fill out an application. Applications are a good way to keep track of the people you have interviewed and make record-keeping simple. They provide quick access to the information you will need to make a final decision. They will give you ideas about questions to ask during the interview and will also be a resource for backup or substitute attendants.
- Take notes during the interview, or have someone help you remember what is said.
- Introduce yourself.
- Explain that you will be the employer.
- Tell the applicant about the services you need (based on your service plan) and give the applicant a copy of the job description. Ask if he or she can safely perform the duties of the job. (i.e., lifting, transferring, etc.).

- Discuss the days and the times of the day you need help.
- Explain how the FMSA will be handling payroll, writing the checks, and withholding taxes. Successful applicants, including professionals such as nurses, will be hired as employees, not as independent contractors. This means that taxes will be taken out of their paychecks. Talk about what the job pays and any benefits you will offer.
- Ask applicants why they want to work with you.
  Be sure to ask questions about work history, their reasons for leaving other jobs, any experience with personal assistance and why they are interested in this position.
- Ask them why they think they would be good at working with you.
- Tell them you are required to do a background check. Ensure that their date of birth, Social Security number and full name are accurate for criminal history results. If any of their documents do not match, find out why.
- Ask them if there are situations that would prevent them from coming to work and how they would handle those situations. How often do they think this might happen?
- Ask them how they might handle a situation in your daily life that is important to you.
- Give the applicant an opportunity to ask questions.

- Tell the applicant you will call as soon as you make a decision. Be sure to contact the applicant even if you decide not to hire him or her. Thank them for their interest and time.

IMPORTANT: When interviewing applicants, use the same standards in your job applications–ask only about things that are directly related to the job requirements. Do not ask personal questions that do not apply directly to the job. You cannot discriminate against or turn down an applicant because of things like race, age, or religion. For example, it is illegal to ask:

- someone's age;
- someone's gender;
- someone's race or national origin;
- someone's religion;
- if the applicant is pregnant, or
- if the applicant has children.

Additional information about discrimination is available from the U.S. Equal Employment Opportunity Commission.

Checking References

Before you decide who to hire, check the work and personal references. Some people present themselves very well in an interview, but you always want to find out how they can do the job.

Questions for checking references:

- What are the applicant's strengths?
- What are the applicant's weaknesses?
- Would the reference recommend the applicant to work with you?

Hiring Your Provider

It is important that you understand:

- which HHSC forms need to be completed;
- when the forms need to be completed;
  and
- who needs a copy of each form.

At the initial orientation meeting, the FMSA will provide the employer a "New Employee Packet Cover Sheet" (Form 1724), a checklist of activities and forms that need to be completed. Form 1724 tells you how many copies of each form are needed and which forms need to be sent to the FMSA. Use this form as a guide during the hiring process.

Before an applicant can be hired, the following forms need to be completed. One copy must be sent to the FMSA and you keep the other.

- HHSC Form 1725 – Criminal Conviction History and Registry Checks (the FMSA will run these checks)
- HHSC Form 1729 – Applicant Verification for Employees
- HHSC Form 1734 – Service Provider and Employer Certification of Relationship Status for CDS

- Citizenship verification, including Form I-9
- HHSC Form 1728 – Liability Acknowledgment
- License verification (if hiring a professional). In other words, make sure they have a current license. You may have to call the licensing board for that profession.

Let's review each of these forms.

To be Completed Before the CDS Employer Hires a Provider

Criminal History and Registry Check – Form 1725

- People who might become employees must be checked against the Texas Department of Public Safety criminal history conviction website, the Nurse Aide Registry, the Employee Misconduct Registry, and the state and federal Office of Inspector General List of Excluded Individuals/Entities.
- The applicant must sign Form 1725, giving permission for a criminal conviction and registry check.
- The criminal history check is run by the FMSA using the secure site and will provide arrest information as well as convictions, which will allow CDS employers to make an informed decision about hiring a particular applicant. This covers criminal history in Texas only.

- 40 TAC, §41.225 allows that the cost of criminal history checks are to be allocated in the CDS employer's budget, except for applicants or current employees in Community First Choice Personal Assistance Service/Habilitation (CFC PAS/HAB).
- The FMSA can verbally provide you with the criminal history check results, or can send the original criminal history check by certified mail or secured e-mail for the sole purpose of making a hiring decision.
- Criminal history results are privileged information. Sharing this information is a Class A misdemeanor. **The CDS employer must not show the criminal history results to anyone**, including applicants, family members, friends, case managers, or utilization review staff.
- If the CDS employer requests the criminal history results, the CDS employer must destroy the criminal history results within five calendar days after making a hiring decision, whether hired or not. Paper records should be destroyed by shredding, pulping, or burning. Electronic records should be destroyed by destroying the media or using specialized software to copy over the data.

If an applicant has been convicted of an offense that would legally prevent him or her from being hired, as defined in the Texas Health and Safety Code Chapter 250, the applicant cannot be hired, even if he or she is a family member. There are no exceptions. To find the list of these offenses, see Appendix II, List of Excluded Individuals and Entities.

Applicant Verification – Form 1729

- For any person you want to hire, you MUST submit this form and the accompanying documents to the FMSA so that the FMSA can make sure that the person can be hired.
- All applicants must be at least 18 years old to be hired as an employee in the CDS Option.

- Depending on the specific program, certain family members and other people cannot be hired.
- The employer cannot offer employment until the FMSA indicates on Form 1729 that the person can be hired.

Service Provider and Employee Certification of Relationship – Form 1734

This form documents the service provider's and CDS employer's acknowledgment of the relationship criteria for employers and service providers in the CDS option. If any criterion is marked "Yes" on this form, the CDS employer must not hire the service provider.

Employment Eligibility Verification – Form I-9

This form verifies U.S. citizenship requirements for employees.

Liability Acknowledgment – Form 1728

This form acknowledges that, as the employer, you alone are responsible for any negligent acts committed by you, your employee, or your designated representative. You will tell the applicant of any subscription to workers' compensation insurance, homeowner's insurance, or other insurance.

Current License

If your program allows you to hire a nurse or professional therapist, his or her license must be current.

Forms to Be Completed When the CDS Employer Hires a Provider (At Time of Hire)

IRS Form W-4

This is an employee's withholding allowance certificate. It is due before the first payroll check is calculated and must be provided to the FMSA on the date of hire.

Texas Employer New Hiring Reporting Form

CDS employers are required to report new hires within 20 calendar days of their being hired. The Texas Employer New Hire Report Form can be found in PDF format on the Office of the Attorney General website.

> **Remember:** The FMSA must approve the service provider's eligibility, in writing, to you. Services provided before the service provider's eligibility is approved will not be paid for. The FMSA must not pay for eligible services delivered by an eligible service provider until after the service provider (employee, contractor, , entity or vendor) has signed the service provider agreement and the FMSA has a signed service provider agreement.

Wage and Benefit Plan – Form 1730

You must get the new employee's signature on Form 1730, Wage and Benefit Plan. The information on this form must match the approved CDS employer's budget workbook.

This form:

- is your primary document to record the employee's hourly pay, hourly overtime rate (if necessary), benefits, payroll deductions and the payroll process/distribution policy;
- lets the FMSA know of the optional benefits the employee will have for payroll;
- documents that your employee is aware of his/her Wage and Benefits Plan; and
- lets the FMSA and the employee know of changes to the Wage and Benefits Plan for each employee.

Employee Work Schedule and Assigned Tasks – Form 1731

This is your primary document to record your employee's daily work schedule and assigned tasks. Note: tasks or activities that your employee does MUST match those listed on your approved service plan. You will also use it to note changes to the employee's work schedule or to the employee's assigned tasks, or both.

Programs, especially those for children, may require two different schedules (e.g., summer or holidays).

Employer and Employee Service Agreement – Form 1737

- This form is the agreement between you and your employee. It outlines employer responsibilities, employee responsibilities, and responsibilities that both the employer and the employee agree to.
- The employee cannot provide services before this form is signed.

Service Provider Agreement – Form 1739

This form is used to record the service provider agreement between the FMSA on behalf of HHSC (the state Medicaid agency), HHSC (the state operating agency), and a service provider (employee, contractor, entity, vendor) providing services through the CDS option. The FMSA must not make payment to a service provider until the service provider agreement is signed and received.

Employer and Entity Service Agreement – Form 1749

This form is used to document the service agreement between a CDS employer and an entity providing services to an individual. Examples of agreements with entities include purchasing day habilitation in the HCS program.

CPR, Driver's License, Auto Insurance

If applicable, verify licensure before service delivery.

Exposure to Bloodborne Pathogens – HHSC Form 1727

This form is used to document the employee's acknowledgment of federal Occupational Safety and Health Administration (OSHA) standards related to the Hepatitis B vaccination as well as their choice to receive or decline the Hepatitis B vaccination.

Notice Concerning Workers Compensation in Texas (Texas Workers Compensation Notice #5)

The Texas Department of Insurance requires all potential employees to sign this form.

Acknowledgment of Nursing Requirements – Form 1747

This form is completed by a registered nurse (RN) hired by an employer using the CDS option to provide skilled nursing, or respite or flexible family support in the Medically Dependent Children Program (MDCP). The form must be completed before the RN can provide services.

LVN Supervision – Form 1747

If you are hiring a Licensed Vocational Nurse (LVN), the LVN must be supervised by a RN, an advanced practice registered nurse, a physician's assistant, or a physician.

Hiring a Professional Provider

How to Look for a Nurse or Therapist

- Ask someone you know
- Call a local disability organization
- Advertise in the newspaper or Craig's list
- What to include:
    - Must provide a current license
    - Have experience with individuals with disabilities or particular condition
- What days and times to deliver services
    - Contact phone number
- What not to include:
    - Address or that you live alone

Supervision, as Defined by Licensing Boards
The professional you hire must understand and practice the supervision requirements of his or her respective profession.

For example, it is important to remember that an LVN cannot work without the supervision of an RN and there are certain tasks that only an RN can perform.

Documentation of Supervision
Your LVN MUST complete HHSC 1747 before payment can be made.

Licensing Boards

- Texas Board of Nursing
- Executive Council of Physical Therapy and Occupational Therapy Examiners
- State Board of Examiners for Speech – Language Pathology and Audiology

The Recruitment and Hiring Process
The nurse or therapist you hire will be hired as your employee and will have unemployment taxes taken out of his/her paycheck.

Nurses must be hired as employees. If you want to hire your physical, occupational or speech therapist as a contractor, you will need to review and adhere to guidelines related to contractors vs. employees in on the Texas Workforce Commission (TWC) website.

You can find a nursing toolkit, which was developed for the Home and Community-based Services program, in Appendix B of this manual. This was developed for a CDS employer to give to their CDS nurse for assessment.

Remember…
Your FMSA must notify you that they have verified the license and that the applicant has passed all background checks BEFORE you sign the Employer-Employee Agreement.

Verifying Continued Eligibility
Provide documentation to the FMSA within 30 calendar days after the renewal date of the service provider's license, certification or other permission.

Documenting Service Delivery
You must use either Form 1745 Service Delivery Log with Written Narrative/Written Summary or a timesheet to document service delivery. This gives you documentation of what occurred.

Your nurse or therapist records the time of the visit.

Your nurse of therapist records what occurred during the visit.

Activities must match the plan of care. Send the Form 1745 or timesheet to your FMSA for payment to your nurse or therapist.

Service Delivery Notes
Ensure that your nurse keeps the original nursing notes in the home for access to any other health care professionals to review as well. Each profession is required to write these in a certain way.

Your case manager or service coordinator may ask to review these notes or your plan of care when they visit to ensure that you are receiving your services according to program rules.

Ongoing Evaluation and Management of Your Provider

- Management of Service Provider – Form 1732
- Time sheets or Form 1745

Management and Training of Service Provider – Form 1732

This form documents the initial training required by the individual's program, evaluations, conflict resolutions, warnings and anything else that occurs while managing and supervising service providers (service provider or contractor) in CDS.

An employer or DR must use Form 1732 to document:

- initial training provided to a new employee including:
- training related to the individual's condition;
- tasks the service provider will perform; and
- any required training described in an applicable addendum to Form 1735, Employer and Financial Management Services Agency Service Agreement;
- on-going training of a service provider;
- on-going management of a service provider; and
- an evaluation of the service provider's performance at least annually after the date of hire.

An employer or DR must mail or fax a copy of the completed Form 1732 to the FMSA within 30 calendar days after:

- hiring a service provider; and
- each annual evaluation of the service provider.

A Word about Required Training

Each program has its unique training requirements.

To see the requirements for each program, see Service Provision Requirement Addendum to Form 1735. You, as the employer, or your DR, are responsible for training. If you want to allow your current provider or someone else to do the training, you may.

Management and Training of Service Provider Addendum – Form 1732-EMR

This form documents the employee's acknowledgment of the Employee Misconduct Registry (EMR) and must be completed within five days of employee's first day of work.

Documentation of Hours Worked

Most services require the employee to clock in/out using an approved EVV method. See section covering electronic visit verification in this handbook. As the employer, you must choose one of the 3 methods for approving time:

- Option 1: you electronically approve your employee time-sheets for EVV services
- Option 2: both you and the FMSA participate in the verification and approval of hours worked
- Option 3: your employee clocks in/out, while you record time worked on the time-sheets provided to you
- Non-EVV: Non-EVV hours will be recorded on the time-sheet which has been provided to you

Texas Department of Aging and Disability Services

Consumer Directed Services

Service Delivery Log with Written Narrative/Written Summary

Form 1745
August 2014
Page 1 of 2

Program	Participant Name
Pay Period	Employer Name
Service Provider Name	Service Type ☐ PAS ☐ SHL ☐ Respite ☐ Community Support ☐ Residential Habilitation ☐ Other

Service Date	Time In (AM or PM)	Time Out (AM or PM)	Time In (AM or PM)	Time Out (AM or PM)	Total Hours	Place of Service	Written Narrative Continue narrative on next page, if needed.

The employer cannot submit a timesheet to the FMSA for time worked by the employee while the individual was in the hospital
The employee and employer certify that the information provided above is complete and accurate and understand that submitting a false or fraudulent time sheet could result in a Medicaid fraud referral.

Signature - Service Provider ________ Date ________ Signature - Employer or DR ________ Date ________

Service Type:
______ Hours Reg at ______ per hour ______ Hours Sick
______ Hours OT at ______ per hour ______ Hours Holiday
______ Hours Vacation ______ Bonus
☐ Other

FMSA Use Only

Timesheet: ☐ Acceptable ☐ Unacceptable ☐ Return to employer

Notes: ________ **FMSA:** ________

Corrective Action Plans - Form 1741

- A corrective action plan may be requested by your FMSA (related to employer responsibilities), your case manager or service coordinator (related to program issues), or HHSC staff (related to CDS or program).
- The Employer/DR must develop and implement a required corrective action plan to correct any non-compliance with either the CDS rules (e.g., not sending your timesheets to the FMSA on time) or program rules (e.g., wanting to hire a relative who is prohibited from employment by program rules). Your Service Planning Team may intervene to consider the employer's ability to manage the CDS option when corrective action plans are not implemented.
- The Support Advisor may help develop and implement the corrective action plan.

Here is a sample Corrective Action Plan, Form 1741:

Texas Department of Aging and Disability Services	Consumer Directed Services **Corrective Action Plan**	**Form 1741** November 2013-E

Name of Individual	Program
Mary Rosemary	MDCP

Employer	Designated Representative	Support Advisor (if applicable)
Mary Rosemary	n/a	

Corrective Action Plan Requested by
FMSA

Position	Agency

Date of Request	Due Date (10 Calendar Days)
04/19/2014	04/29/2014

Reason(s) for Requested Corrective Actions:

1. Mary routinely turns in time sheets late to FMSA.
2.
3.

Corrective Action Plan	Specific Action(s) to be Taken	Responsible Person	Due Date
1. Mary will appoint her Aunt Kim as her Designated Representative to help with submitting time sheets.	Mary and Kim will approve time sheets every week and Aunt Kim will submit time sheets every two weeks to the FMSA.	Mary and Aunt Kim	04/29/2014
2.			
3.			
4.			
5.			
6.			

Plan Approval:

Employer Signature	Date	Designated Representative Signature (if applicable)	Date
Case Manager/Service Coordinator Signature	Date	Service Planning Team Member Signature (as applicable)	Date
FMSA Representative Signature	Date	Service Planning Team Member Signature (as applicable)	Date
DADS Representative Signature	Date	Service Planning Team Member Signature (as applicable)	Date

Completion of Corrective Action Plan (CAP):

Due Date	Corrective Due Date was ☐ Met ☐ Not Met	Corrective Actions Completed ☐ Yes ☐ No

Comments

Approved/Completed:	Person Requesting Plan	Position/Agency	Date

Chapter 4: Communicating Your Expectations to Your Employee

Communication is the main ingredient in a successful partnership between you and your employee.

- **Clearly state expectations.** Before you can state your expectations, you must know what they are.
- **Listen for understanding**. You may want to ask an employee to restate in his or her own words what they understand.
- **Do not assume everyone is like you.** Be sensitive to differences in communication styles.

Keep in mind that it is easier to talk about things the employer is not satisfied with if it is done promptly. The longer you wait, the bigger the problem becomes.

Training

- Training your employees about the way you want things done will help ensure satisfaction with services. Some things must be done a certain way, but you may prefer to have other things done differently. Remind experienced providers that, while some things are required to be done the same way, you may ask them to do other things differently than a previous employer did.
- The training required will depend on the difficulty of the job and the worker's experience.
- Be clear and direct about your expectations.
- Focus on things that mean the most to you. If you want or need something done in a specific way, explain to your employee why it is important that it be done that way.
- Explain a task, and then show your employee how to do it.
- More challenging tasks, such as transferring you, may take some coaching for the employee to learn to do it safely and comfortably.
- You may have to tell the employee more than once how to do something. It may be helpful to have a family member or friend who has been helping you to demonstrate a procedure for the new employee.
- If you will need a current employee to assist in training a new employee, call your FMSA, as the training costs will need to be added to your budget.
- Talk to the employee as he or she is performing the task and don't be afraid to tell the employee when he or she is doing something
- incorrectly. Conversely, be sure to tell the employee when he or she is performing a task correctly, and thank him or her.
- You may have to provide "refresher" training later.

Scheduling

- You decide the importance of a schedule – some things may be more important than others.
- Flexibility may be a determining factor for employment.

- Employer and employees must agree on the schedule - otherwise, the employee may not be the best match for the job.
- Respect the employee's departure time and time off.

Providing Feedback to Your Staff

- Do not assume your employee has understood the job description or instructions.
- Be patient. Do not expect your employee to get everything right the first time (or even the second).
- Assume your employee wants to do a good job. Your role is to provide the information needed to do the job right.
- Let your employee know how he or she is doing. Remember to use HHSC Form 1732 to document feedback.

Supervising

- Be clear, be respectful – remember that employees are people.
- Patience is a necessity – everyone learns at their own speed.
- Be quick to praise or correct – and remember to correct the mistake, not the person.

Evaluating your Employee

- Evaluate an employee on quantity, quality, time and rules.
- Set a regular schedule for evaluations.
- Discuss what works and what doesn't and document results on HHSC Form 1732.
- Use evaluations as opportunities for training.

Conflict Resolution

As with any job, there will be some areas of conflict between you and your employee. Sometimes conflict is due to poor job performance. If you suspect the training your employee has received did not address procedures and techniques that you need the employee to use, re-train your employee on the aspects of the job that are causing difficulty. Many times this "refresher course" will solve what seems to be a serious problem. Document the training on HHSC Form 1732.

Tardiness is a frequent problem for some. If a pattern develops, confront the employee as soon as possible. Convey the importance of punctuality.

Get the employee to agree to a time frame. If the employee continues to violate that time frame, let him or her go. You can document problems and conversations about problems on HHSC Form 1732.

Sometimes, an employee and the employer simply do not get along. Document problems, conversations, training and other steps used on HHSC Form 1732. Before you give up completely, here are a few suggestions to try to solve the problem:

- Keep the lines of communication open. When a conflict arises, do not shut down. Keep talking, and try to find out the reasons behind misconduct. The problem will not go away by ignoring it.
- Bring in a third person to help settle the conflict. Another person who can look at both sides can often find a resolution that all can live with.
- Look to your written contract for resolution. A written contract helps prevent or clear up disagreements about duties, salary, time off and benefits. This is another good reason to have a complete and clearly written contract between you and your employee.
- In genuine differences of opinion, look for compromise.

Termination of Employment

If all else fails, then you must take the responsibility of firing or dismissing the employee. Letting someone go may not be easy, but it is sometimes necessary. The exact method you use is up to you. You should consult with your FMSA representative or Support Advisor (if available) to be sure the situation is documented correctly. It is recommended that you make arrangements for backup coverage before terminating an employee.

Below are suggested ways to handle the difficult task of terminating an employee.

1. Do it in person, or do it over the phone if you feel more comfortable with this approach. Depending on the circumstances (abuse, neglect or exploitation), the employee may need to be dismissed over the phone. You may want to have someone else with you when you terminate an employee.
2. It is your choice as to whether or not you give the traditional two-week notice.
3. Do not drag it out – be direct, and come straight to the point.
4. Some suggested methods of communicating the termination are: “I am sorry, but I do not feel you are appropriate for this job,” or “You are not fulfilling your job obligations,” or “I won’t be needing your services anymore.”
5. Be sure to have the employee sign his or her current time sheet before leaving. Send the time sheet to the FMSA with termination information. When the employer terminates an employee, the FMSA must process the final paycheck within a certain number of days.
6. If the employee has any of your belongings – a house key, credit cards, ATM card, etc. – they must be returned to you. Be sure to collect the items before the final paycheck is delivered.
7. Watch what you say to others about the situation, especially to other employees. It is best to maintain confidentiality related to employee issues.
8. Analyze what went wrong to avoid similar situations with other employees.
9. Initiate your backup plan while you are looking for a new provider.
10. Ensure that you have documented counseling on the HHSC Form 1732. This may help protect you from an unemployment claim.

Chapter 5: Staying Safe

Theft Prevention

You can prevent theft by:

- Checking references
- Paying attention to background checks
- Keeping track of money and valuables
- Being careful with checks and credit cards
- Keeping track of medications
- Being careful about the use of your car
- Being careful with house and car keys

Abuse, Neglect and Exploitation

It is important to recognize the signs of abuse, neglect, and exploitation and avoid these problems whenever possible.

It is important to report abuse, neglect, and exploitation immediately. Suspected cases of abuse, neglect, or exploitation of an elderly person or an adult with a disability must be reported immediately to DFPS.

How to Recognize Abuse, Neglect and Exploitation

Physical signs

- Injury that has not been cared for properly
- Injury that is inconsistent with explanation for its cause
- Pain from touching
- Cuts, puncture wounds, burns, bruises, welts
- Dehydration or malnutrition without illness-related cause
- Poor coloration
- Sunken eyes or cheeks
- Inappropriate administration of medication
- Soiled clothing or bedding
- Frequent use of hospital or health care/doctor-shopping
- Lack of necessities such as food, water, or utilities
- Lack of personal effects, pleasant living environment, personal items
- Forced isolation

Report abuse
1-800-252-5400
www.txabusehotline.org

Behavioral Signs

- Fear
- Anxiety, agitation
- Anger
- Isolation, withdrawal
- Depression
- Non-responsiveness, resignation, ambivalence
- Contradictory statements, implausible stories
- Hesitation to talk openly
- Confusion or disorientation

Signs by Caregiver

- Prevents contact with friends or family
- Anger, indifference, aggressive behavior
- History of substance abuse, mental illness, criminal behavior, or family violence
- Lack of affection
- Flirtation or coyness as possible indicator of inappropriate sexual relationship
- Conflicting accounts of incidents
- Withholds affection
- Talks of caregiving as a burden

Signs of Financial Abuse

- Frequent expensive gifts from individual to caregiver
- Missing personal belongings, papers, credit cards
- Numerous unpaid bills
- A recent will when individual seems incapable of writing will
- Caregiver’s name added to bank account
- Individual unaware of own monthly income
- Individual signs on loan
- Frequent checks made out to “cash”
- Unusual activity in bank account
- Irregularities on tax return
- Individual unaware of reason for appointment with banker or attorney
- Caregiver’s refusal to spend money on individual
- Signatures on checks or legal documents that do not resemble individual’s

If you suspect that you are being abused, neglected or exploited by your provider, call your case manager or service coordinator immediately and call the DFPS Hotline at **1-800-252-5400.**

Chapter 6: Fraud Prevention

As a CDS employer, you are accountable for the public Medicaid funds spent through the CDS option. You must understand that if you submit false or fraudulent time sheets, you will be reported to the appropriate authorities for investigation and possible prosecution of Medicaid fraud.

What is Medicaid Recipient Fraud?

Intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person.

Examples of Medicaid fraud may include:

- Falsifying time sheets
  - Submitting a time sheet with extra hours that were not worked
  - Employee signs for work not provided and employer approves time sheet with knowledge that employee did not provide services
  - Falsifying employee signature on timesheets
  - Approving a timesheet for a service provider who worked at another job or was out of state during that time period.
- Employer and employee splitting payroll checks
- Hiring a person not eligible to provide services because they do not meet program requirements or have not passed criminal history checks.
- Requiring a service provider to provide tasks not approved on the service plan
- Submitting a timesheet for a service provider while the individual is hospitalized.

Who Can Report Fraud?

Anyone can report fraud, waste or abuse, including FMSAs, case managers, service coordinators, service providers, or family members. The Texas Health and Human Services Commission (HHSC) is required by law to refer suspected provider fraud to the Office of Inspector General.

How Can I Report Suspected Fraud?

Call the Texas Health and Human Services Commission Office of Inspector General at 1-800-436-6184 or visit https://oig.hhsc.state.tx.us/wafrep/ to file an online report.

ADDITIONAL INFORMATION

This Employer Handbook is available online at:
http://www.hhs.texas.gov/laws-regulations/handbooks/cds/consumer-directed-services-handbook
The Texas Administrative Code in pdf format is available by using Google and entering your search as "chapter 41 Texas Administrative Code." (or request from your FMSA)

Or by chapters at:
http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=41&rl=Y

The HCS or TxHmL Nursing toolkit is available at:
https://www.hhs.texas.gov/doing-business-hhs/provider-portals/long-term-care-providers/resources/nursing-service-changes/hcs-txhml-nursing-services-changes/hcs-txhml-forms-tools

The forms in this toolkit include a daily nursing assessment, nursing shift note, a medication profile and sample "verbal/ phone orders form. These forms may be used by any RN or LVN in any of the CDS options.