

ACA SECTION 2401, COMMUNITY FIRST CHOICE OPTION (Section 1915(k) of the Social Security Act); **TEXAS** STATE PLAN AMENDMENT SUMMARY

OVERVIEW

Texas is the fifth state to implement the Community First Choice Option, Section 2401 of the Affordable Care Act and Section 1915(k) of the Social Security Act. The Texas Medicaid State Plan Amendment to add Community First Choice services was approved on April 2, 2015, with an effective date of June 1, 2015. As specified in the ACA and regulations, the Texas program covers: home and community-based attendant services and supports to assist individuals with activities of daily living (ADLs), instrumental activities of daily living (IADLs), health-related related tasks, voluntary management training, emergency response services, and related support services.

By implementing CFC, Texas is able to cover some of the HCBS services under its State Plan which were previously covered through 1915(c) waivers and other State Plan options. Texas retained the existing State Plan personal care services to serve individuals who need assistance with activities of daily living but do not meet the institutional level of care. Texas retained its existing 1915(c) waivers for individuals with intellectual and developmental disabilities (IDD) to cover services that are not permissible for coverage under CFC. Older adults and individuals with physical disabilities receive HCBS waiver services through STAR+PLUS, a statewide managed care program under an 1115 waiver. Some STAR+PLUS waiver participants are excluded from CFC because they are eligible for Medicaid under the 1115 waiver rather than under the State Plan.¹

ELIGIBILITY

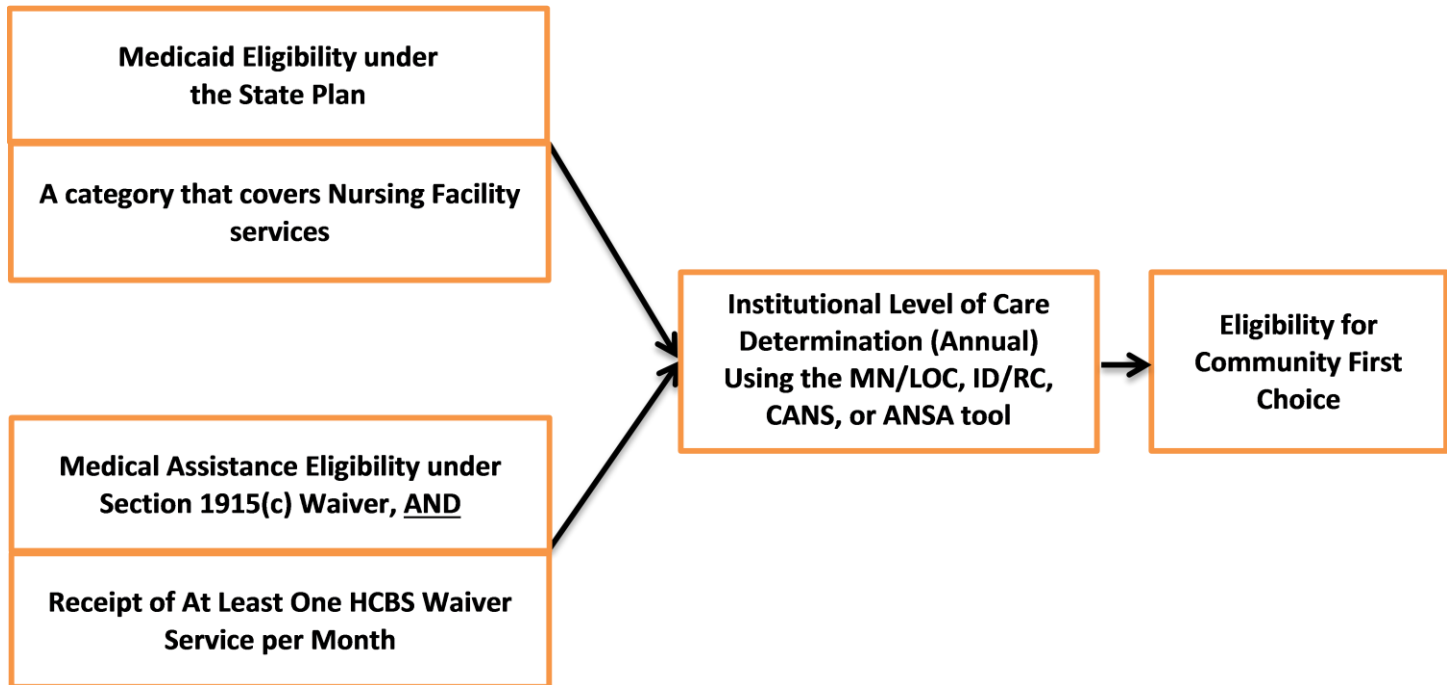
Medicaid beneficiaries must be eligible for medical assistance and in an eligibility group under the State Plan whose benefits include nursing facility services. All individuals must meet an institutional level of care to qualify for CFC

¹ STAR+PLUS enrollees in the SSI category or another category under the State Plan are eligible for CFC.

Individuals who qualify under the 1115 waiver, such as HCBS waiver participants with incomes exceeding the SSI limit, are not eligible for CFC because they are not in an eligibility group under the State Plan.

services. HCBS waivers remain an important Medicaid eligibility pathway for individuals who meet an institutional level of care but have too much income to qualify for Medicaid in the community. Individuals who qualify for Medicaid through the special HCBS waiver eligibility group must continue to meet all 1915(c) waiver criteria and receive at least one waiver service per month to receive CFC services.

Exhibit 1. Texas Community First Choice Eligibility Pathways



The State determines initially, and at least annually, that individuals require the level of care provided in a hospital, a nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/IID), an institution providing psychiatric services for individuals under 21, or an institution for mental diseases for individuals age 65 and older.

SERVICE DELIVERY MODELS

Texas is using three models of service delivery. In the Agency-Provider Model, services are delivered by provider agencies under contract with the State. Under the Service Responsibility Option, the individual is responsible for selecting and managing their attendant, while the provider agency is the employer of record. Under the Consumer-Directed Services Model, individuals or legally authorized representatives hire, train, manage, and fire attendants, and have budget authority over the consumer-directed services. Financial Management Service Agencies support consumer-direction by processing timesheets and payroll for attendants, managing tax and insurance requirements, paying invoices for other services in the person-centered service plan, tracking individuals’ funds and expenditures, and providing periodic reports to the individuals and the State.

SERVICE PACKAGE

The statute and regulations require states to provide community-based attendant services and supports to assist in accomplishing ADLs, IADLs, and health-related tasks, through cueing and supervision, as well as hands-on assistance. In addition, supports must include acquisition, maintenance and enhancement of self-care skills, back-up systems to

ensure continuity of services and supports, and voluntary training on selecting, managing and dismissing attendants. Texas also opted to allow expenditures for services substituting for human assistance.

CFC services defined in the Texas SPA are:

- ▶ **CFC Personal Assistance Services.** Assistance with ADLs and IADLs through hands-on assistance, supervision and/or cueing, provided to an individual based on a person-centered service plan. Components of the service include: (p.3)
 - Non-skilled assistance with ADLs and IADLs.
 - Household chores to maintain a safe and sanitary home environment.
 - Escort services to assist individuals with accessing service and activities in the community by accompanying them; transportation is not included.
 - Assistance with health-related tasks, including tasks delegated by a registered nurse, health maintenance activities, and extension of therapy activities as a follow-up to therapy sessions.
 - Individuals using the consumer-directed services model determine health-related tasks without a nurse assessment under state law.
- ▶ **CFC Habilitation.** Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks. Training may cover activities such as self-care, personal hygiene, mobility, money management, community integration, household tasks, use of adaptive equipment, self-administration of medications, reduction of challenging behaviors, and personal decision-making. For some individuals, personal assistance may be a component of the service.
- ▶ **CFC Emergency Response Services.** Reimbursement for electronic devices to ensure continuity of services and supports. These back-up systems provide support for individuals who live alone or are alone for extended periods of time.
- ▶ **CFC Support Management.** Voluntary training on how to select, manage, and dismiss attendants.
- ▶ **Support System.** Depending on an individual's disability and whether services are financed through managed care or fee-for-service, various entities provide service coordination, case management, and other supports for CFC participants. The support system ensures that:
 - Individuals receive appropriate assessment and counseling before receiving services,
 - Appropriate information, counseling, training and assistance are provided to enable individuals to manage their services,
 - Conflict of interest standards are applied to functional needs assessments and service plan development, and
 - Responsibilities for assessment of functional need and person-centered service plans development are identified.

Permissible CFC Services. There are two categories of permissible services which states may cover under CFC. In the category of goods and services that substitute for human assistance, Texas covers Employer Supports. Individuals who use the consumer-directed services model may allocate a portion of their budgets for expenses related to their employer role, such as recruiting, employee training not available from the State, and Support Consultation from a certified support advisor. Texas does not cover the other category of permissible CFC services, transition costs for individuals transitioning from institutions to community settings.

Service Limits. No service limits are stated in the SPA.

Use of Direct Cash Payments. Texas does not make direct cash payments prospectively to CFC participants.

ASSESSMENT AND SERVICE PLAN

Responsibility for assessments and person-centered planning is divided between state and local entities and managed care organizations which administer and coordinate community services in different delivery systems.

- ▶ Individuals receive assessments for institutional level of care and functional needs initially and on an annual basis. Four different assessment tools are used to determine level of care and two tools are used to assess functional needs.
- ▶ Functional needs assessments include strengths, preferences, and goals for CFC services and supports, as well as an evaluation of functional needs.
- ▶ The person-centered service plan is developed at the same time as the functional needs assessment as part of a person-centered planning process that may include other providers or advocates selected by the individual.
- ▶ Every plan facilitator is required to complete person-centered facilitation training. Facilitators are responsible for identifying risks associated with living in the community and ensure that a back-up plan is developed for critical services.
- ▶ The service plan documents the individual's choice of service delivery model and the individual's choice of service setting.

HOME AND COMMUNITY-BASED SETTING

Section 2401 of the ACA requires that CFC services are delivered “in the most integrated setting appropriate to the individual's needs.” The Texas SPA states that CFC services are provided in a home or community setting, which includes “individual homes, apartment buildings, and non-residential settings that meet the settings criteria in 42 CFR §441.530.” CFC services may not be provided in institutions, settings with the characteristics of an institution, or in provider-owned or controlled residential settings.

QUALIFICATIONS OF PROVIDERS OF CFC SERVICES

Agencies providing CFC services are licensed or certified under procedures established for other HCBS. Attendants and other providers delivering CFC services must be at least 18 years old and have a high school diploma or equivalent, or documentation of proficiency to perform job tasks, plus written personal references. Individuals may request that attendants employed by agencies meet qualifications based on their needs and preferences. Individuals have the option of training their attendants in the specific assistance they need. Parents of a service-recipient under age 18 or a service-recipient's spouse may not provide personal assistance or habilitation services in the agency models. For the consumer-directed services model, an individual's appointed representative or the representative's spouse may not provide personal assistance or habilitation services.

QUALITY ASSURANCE AND IMPROVEMENT PLAN

Texas has separate quality improvement strategies for fee-for-service and managed care. The managed care quality improvement strategy uses HEDIS, CAHPS, and other measure sets. MCOs must operate Quality Assessment and Performance Improvement Programs, and implement performance improvement projects. Quality initiatives for MCOs include a pay-for-quality program, performance indicator dashboards, and MCO report cards that allow beneficiaries to compare MCOs. The quality improvement strategy for FFS is the Quality Oversight Plan. A Quality Review Team of health

and human services agency representatives establishes priorities, directs improvement activities, and oversees plan implementation. Quality indicators are tracked from multiple automated systems.

State agencies, provider agencies, and managed care organizations all play roles in monitoring the health and welfare of individuals who receive CFC services, as well as screen workers who provide services. The State monitors licensed or certified providers, and they are required to have written policies regarding reporting of abuse, neglect, and exploitation to the State. Managed care organizations must monitor contract performance and report any suspected abuse or neglect. For LTSS providers not licensed or certified by the State prior to contracting, MCOs must check for criminal convictions and listings in the employee misconduct registry or the nurse aide registry for abuse, neglect, mistreatment or misappropriation of property. Licensed and certified provider agencies have similar responsibility for screening workers they employ.

Texas uses different approaches to measuring individual outcomes. The State collects data on individuals receiving LTSS through in-person National Core Indicators – Aging and Disabilities (NCI-AD) surveys of a sample of individuals receiving services in managed care. For individuals served under FFS, Texas uses performance measures that address level of care, service planning, and health and safety. These measures ensure needs and preferences are met and services are delivered in accordance with the service plan.

The State's primary mechanism for stakeholder feedback on CFC implementation is the Promoting Independence Advisory Committee (PIAC). Members of the PIAC include individuals with disabilities, advocates of individuals with disabilities, representatives of long-term care service providers who serve individuals with disabilities (including individuals who are older) and representatives of Texas health and human services agencies.

. Other channels for feedback are the CFC website and email box, public meetings, and training sessions.

MATRIX OF SERVICES

Exhibit 2. Matrix of Texas Community First Choice SPA

Service Delivery Model		
Agency Model	X	In the Agency-Provider Model, services and supports are provided by provider agencies under contract with the State. Individuals may also select the Service Responsibility Option, which gives the individual responsibility for day-to-day management of the attendant, while the agency is the attendant’s employer of record.
Self-Directed Model	Direct Cash	The Consumer-Directed Services Model allows individuals to hire, train, manage and fire their attendants, and have budget authority over the consumer-directed services. Financial Management Services Agencies support consumer-direction by providing payroll and financial management services.
	Vouchers	
	Financial Management Services	
State elects to disburse cash prospectively		

Service Package	Claiming Service Match	Service Type
ADLs, IADLs, health-related tasks	X	CFC Personal Assistance Services include: <ul style="list-style-type: none"> • Non-skilled assistance with ADLs and IADLs • Household chores to maintain a safe and sanitary home environment • Escort services to accompany individuals while accessing services and activities in the community. Transportation is not included • Assistance with health-related tasks, including tasks delegated by a registered nurse, health maintenance activities, and extension of therapy activities as a follow-up to therapy sessions
Acquisition, maintenance and enhancement of skills	X	CFC Habilitation is face-to-face training on self-care to allow an individual to live successfully in a community setting. Personal assistance may be a component of the service. Training may cover activities such as personal hygiene, mobility, household tasks, use of adaptive equipment, self-administration of medications, and community integration, which includes how to get around in the community.
Development of back-up systems	X	CFC Emergency Response Services provides reimbursement for electronic devices to ensure continuity of services and supports for individuals who live alone or are alone for extended periods of time
Voluntary training	X	CFC Support Management is voluntary training on selecting, managing, and dismissing attendants. Also called Support Consultation.

Service Package	Claiming Service Match	Service Type
Support System	X	<p>Different entities play roles in providing a support system for CFC participants, depending on an individual’s disability and whether services are financed through managed care or fee-for-service.</p> <p>Support systems ensure that individuals receive an appropriate assessment and counseling before receiving services, and that appropriate information, counseling, training and assistance are provided to enable individuals to manage their services. Support activities are an administrative function rather than a CFC service.</p>
Permissible CFC services provided by State:		
Expenditures for services substituting for human assistance	X	Individuals who use the consumer-directed model may allocate a portion of their budgets for Employer Supports such as recruiting, employee training not available from the State, and Support Consultation from a certified support advisor
Expenditures for transition costs		Texas does not cover transition costs under CFC

Assessment and Service Plan		
Participants can appoint a representative to direct services	X	
Uniform assessments		Individuals’ level of care and functional needs are assessed initially and on an annual basis. The level of care assessment instrument used depends on the type of services. One assessment is used for nursing facility/hospital LOC and another for ICF/IID LOC. For psychiatric institutions, different assessments are used for individuals under 21 and for those aged 65 and older.

CFCO Provider Qualifications	
Service providers	Individuals may request that attendants employed by agencies meet certain qualifications based on their needs and preference. Individuals have the option of training their own attendants in the specific assistance they need. The individual’s spouse and the parents of an individual under age 18 may not provide personal assistance or habilitation services in the agency-provider models. If an individual’s services are directed by a designated representative, the representative and his/her spouse may not provide services in the consumer-directed model.

Quality Assurance and Improvement Plan	
Participating entities	The State Medicaid agency, State agencies which operate HCBS programs, provider agencies, managed care organizations, and the Promoting Independence Advisory Committee.
Activities	Each MCO operates a Quality Assessment and Performance Improvement Program. The State monitors MCOs through contract monitoring, quality measures, and external quality review. For FFS services, the state agencies managed quality assurance through the Quality Review Team. State agencies, MCOs and provider agencies all play roles in monitoring the health and welfare of individuals who use CFC services.
Data Sources	MCO performance is monitored through encounter data, quality measures such as HEDIS and CAPHS, and reports submitted by the MCOs and EQRO. For FFS, the Quality Review Team receives data compiled from multiple systems, on topics ranging from service utilization to provider compliance and oversight and critical incidents.

Stakeholder Involvement	
CFC Consumers and Representatives	<ul style="list-style-type: none"> • Participate in developing service plans that incorporate their preferences, including setting, service delivery model, and provider qualifications • May direct their own services, manage their budgets, and train their attendants
Promoting Independence Advisory Committee (stakeholders including consumers and advocates)	<ul style="list-style-type: none"> • Provide input to the state on CFC program design, as well as other LTSS programs and initiatives • Monitor and provide feedback on CFC implementation
Qualified assessors	<ul style="list-style-type: none"> • Conduct level of care assessments to determine eligibility • Conduct functional assessments to identify needs and inform service planning
Person-centered plan facilitators	<ul style="list-style-type: none"> • Facilitate the person-centered planning process • Develop service plans that incorporate individuals’ choices, goals, preferences, and needs identified through the functional assessment • Provide information and support to empower consumers
Provider Agencies	<ul style="list-style-type: none"> • Provide CFC services • Monitor the health and welfare of individuals
Managed Care Organizations	<ul style="list-style-type: none"> • Provide service coordination and monitoring for enrollees • Contract with and monitor provider agencies • Submit encounters and other data to State • Plan and implement quality management
Health and Human Services Commission (Medicaid single state agency)	<ul style="list-style-type: none"> • CFC program administration • Managed care contracting and compliance monitoring • Participate in other quality management activities

Stakeholder Involvement	
Quality Review Team (State health and human services agencies)	<ul style="list-style-type: none"> • Oversee quality management planning and implementation for Medicaid FFS
Department of Aging and Disability Services (State IID agency, administers HCBS waivers)	<ul style="list-style-type: none"> • Confirm LOC for IID • Participate in quality management activities • Enroll and monitor providers
Department of State Health Services (State BH agency, administers HCBS waivers)	<ul style="list-style-type: none"> • Service coordination for some HCBS waivers • Participate in quality management activities