Financial Management Services Agency (FMSA) Quarterly Technical Assistance Webinar

January 31, 2014
FMSA TA Webinar

• Consumer Directed Services (CDS) policy, operations and contract monitoring staff will conduct quarterly conference calls with FMSAs to offer technical assistance and provide CDS updates.

• FMSAs will have an opportunity to ask questions or seek clarification/guidance from CDS staff during the webinar. Please keep phone on mute until question and answer period.

• Participate is mandatory.

• FMSA will be notified by a DADS alert of the date and time of the next scheduled call.

• The TA webinars will not be recorded.
FMSA TA Webinar

TA Participants:
Laurie Hernandez- DADS CDS Operations

Elizabeth Jones- DADS CDS Policy

Velma Gonzales- DSHS PCS Case Manager Branch

Shelly Robichaux- HHSC Medicaid/CHIP Policy
FMSA TA Webinar

Agenda:

- IRS and TWC Changes- Elizabeth Jones
- HCS Service Expansion- Elizabeth Jones
- Personal Care Services (PCS) program requirements- Velma Gonzales
IRS Changes

Revenue Procedure 2013-39 and Section 3504 Final Regulations, Effective December 12, 2013

Material from National Center for Participant Directed Services
FMSA Responsibility for Staying Up to Date on Tax Regulations

• §41.309. Financial Management Services and Employer-Agent Responsibilities.

• (a) An FMSA must provide FMS to an employer or DR, including:

• (7) complying with applicable government regulations concerning employee withholdings, garnishments, mandated withholdings, and benefits.
Purpose of Changes

- Describes and updates the procedure for requesting the IRS to authorize an agent under Section 3504 of the Internal Revenue Code.

- Updates and consolidates previously issued guidance and incorporates recently finalized rules related to homecare service recipients (HCSRs) (26 CFR part 31 under section 3504 of the Internal Revenue Code).

- Many of these changes “reflect changes already implemented in IRS administrative processes.”
  - FUTA obligations on IRS Form 2678
  - instructions on forms on the 940 and 941, 940R and 941R
  - less formal guidance provided by the IRS
Vendor vs. Government Fiscal Agent

- Many of the 2013 changes are related to government fiscal employer agents.
- Texas uses a VENDOR fiscal employer agent model rather than a GOVERNMENT fiscal employer agent model. (40, TAC, Chapter 41)
- Rev. Proc. 70-6
  - File 2678 to execute as agent
  - Agent files one return for all employers served
  - EIN required for employers
Sub-agents

• Many of the changes relate to sub-agents, including liability

• Texas does not allow the use of sub-agents (third party who executes IRS Form 2678)
Key Changes

- Process to mark “some employees” on Form 2678 is formalized

- Notices of appointment of agent for HHCSR employers are only sent to the agent, rather than to the agent and the employer

- IRS may independently revoke an agent authorization
Form 2678: Formalizes “Some employees”

- If the employer pays wages to his/her employees either through another business or the employer will supplement the program wages, “the employer must indicate on Form 2678 that the appointment of the agent is only for some of its employees.”

- Employers must also file federal taxes for the wages paid from own funds to CDS employees and discuss with FMSA how to handle TWC, a single report is required.

- If the CDS employer is using the EIN for an existing sole proprietorship, the IRS will issue a second EIN for HCSR.
Employers who have paid wages on an existing EIN

If the CDS employer has previously used the EIN, that will be used for the CDS option, to pay wages, Revenue Procedure 2013 – 39 requires that the employer file a final return for any forms (940, 941) the agent is now authorized to file.

The employer must “enter its name and EIN in the spaces provided for the employer and indicate that it is a final return in the manner provided in the form instructions.”

This does not apply to employers who will continue to pay employees out of own funds. Those employers must also file federal taxes for the wages paid from own funds and discuss with FMSA how to handle TWC, a single report is required.
Notice of Appointment of Agent

• FMSAs need to send to CDS employer.

• DADS will be providing a formal policy clarification.
IRS Revocation of Agent Status

- IRS may independently revoke an agent’s status, if facts and circumstances indicate it is warranted. IRS will notify both the FMSA and the employer.

- DADS is reviewing the impact of this change on FMSA contracts and will consider any IRS revocations on a case-by-case basis until additional guidance is provided.
Procedures for Filing Returns

• Agent (FMSAs) files one return for each tax-return period to report wages and employment taxes paid by the agent on behalf of CDS employers. Called in Rev. Proc. “aggregate return”

• FMSA’s name and EIN are entered on the returns and executed per form instructions

• FMSAs must complete an allocation schedule and attach it to each aggregate return as described in form instructions - Schedule R for Forms 941 and 940
General Procedures for Filing for Agents with a 2678

• FMSA is responsible for maintaining records that show wages paid by the FMSA to each employee on behalf of and identified by each employer.

• The employer is responsible for maintaining records that show the wages paid by the FMSA to the employer’s employees.
General Procedures for Filing for Agents with a 2678

• Wages paid to an employee are considered for each employer separately for purposes of dollar threshold or wage base applicable in determining employment tax liability.

• For purposes of FICA and FUTA tax, the wages paid from one employer to a single employee are counted to see if wages paid to the employee are taxable. The wages paid by another employer represented by the agent to the same employee are not counted.
General Procedures for Deposits Agents with a 2678

For Non-Government Agents (Vendor Fiscal/Employer Agents):

The deposit rules apply to the agent based on the total employer taxes accumulated by the agent on behalf of all employers for whom agent is authorized to act. In other words, agent is likely to deposit more frequently than if abided by deposit rules for any single employer represented by the agent.
Agents Filing W2’s

• Generally agent furnishes one Form W-2, Wage and Tax Statement, for each employee

• Agent’s EIN is entered in spaces provided for the EIN

• Name of agent, followed by “Agent for (name of employer)” is entered in the space provided for the employer

• Form W-2 is issued and filed for each employee unless the compensation is exempted from both federal income tax withholding and FICA tax
Wage Corrections by Agents

• Wages erroneously reported by the agent must be corrected by the agent on behalf of the employer using the form that corresponds to the return being corrected e.g. a Form 941 filed by an agent is corrected using Form 941-X

• Agent’s name and EIN are entered in the spaces provided for the employer as it appeared on the form being corrected

• Generally, an agent’s obligation to make the correction is not affected by the subsequent revocation of the authorization (e.g. just because you’re not the agent now doesn’t mean you don’t have to correct the return from when you were the agent. You do.)

• Agent cannot make corrections if the IRS decided to revoke the authorization of the agent
Revocation of 2678

- Form 2678 is filed to revoke an authorization if there is no longer an agency relationship, e.g.
  - Employer or agent goes out of business
  - Employer is deceased
  - Employer appoints another agent on Form 2678 to act as agent for the same acts the agent is authorized to perform (included in CDS rules)

- If agent authorization is revoked because a new agent is appointed: Old agent is liable to report, deposit and pay taxes on behalf of the employer for wages it paid during periods it was authorized
  - Remains liable even after the authorization is revoked. New agent does not take on employer’s old liabilities
New TWC Rule UI Wage Reporting

• Effective 1st quarter of 2014, employers or their representatives will be required to report wages electronically.

• TWC offers two free methods for electronic reporting:
  • Unemployment Tax Services; or
  • Quickfile

For more information, see TWC letter posted as an alert on the DADS website.
New TWC Rule UI Payments

• Effective 1st quarter of 2014, all employers or representatives will be required to pay UI taxes electronically.

• TWC offers three methods for electronic payment:
  • ACH debit from a bank account;
  • Electronic funds transfer; or
  • Credit card

For more information, see TWC letter posted as an alert on the DADS website.
EXPANSION OF THE CDS OPTION IN THE HOME AND COMMUNITY-BASED SERVICES PROGRAM
HCS CDS Expansion

• Effective April 1, 2014, the following HCS services will become available through the CDS option:
  • Supported Employment
  • Employment Assistance
  • Cognitive Rehabilitation Therapy
HCS Expansion Preparation: IPC

- February 3, 2014- the revised IPC Form 3608 and the new CARE IPC screen will be released so that service plans that have an April 1 date can incorporate those services.

- **Note:** Supported Employment, Employment Assistance, and Cognitive Rehabilitation Therapy cannot be authorized, initiated or billed for until April 1, 2014!
DADS webinars

- DADS is also providing webinars on Employment Assistance and Cognitive Rehabilitation Therapy.

- Check DADS website for registration information.
HCS Expansion Preparation: Form Revisions

• To be posted by February 28, 2014:
  • Revised HCS budget workbook
  • Revised Form 1735 Employer and Financial Management Services Agreement HCS Addendum includes the definitions of the new services, service provider qualifications and documentation requirements
  • New Agreement between the Employer and an entity
Definition: Cognitive Rehabilitation Therapy

Cognitive rehabilitation therapy--A service that:

- assists an individual in learning or relearning cognitive skills that have been lost or altered as a result of damage to brain cells or brain chemistry in order to enable the individual to compensate for lost cognitive functions; and

- includes reinforcing, strengthening, or reestablishing previously learned patterns of behavior, or establishing new patterns of cognitive activity or compensatory mechanisms for impaired neurological systems.
Service Delivery: CRT

The program provider or CDS employer must ensure that:

- Cognitive rehabilitation therapy is provided in accordance with the individual's PDP, IPC, implementation plan, and with Appendix C of the HCS Program waiver application approved by CMS and found at www.dads.state.tx.us

- If the service planning team determines that an individual may need cognitive rehabilitation therapy, the service planning team:
  - assists the individual in obtaining an assessment and plan of care for the cognitive rehabilitation therapy from a qualified professional in accordance with the Medicaid State Plan; and
  - For CDS will authorize services for a qualified professional provide and monitor the provision of cognitive rehabilitation therapy to the individual in accordance with the plan of care
Provider Requirements: CRT

The program provider or CDS employer must ensure that a service provider of cognitive rehabilitation therapy is:

- a **psychologist** licensed in accordance with Texas Occupations Code, Chapter 501;
- a **speech-language pathologist** licensed in accordance with Texas Occupations Code, Chapter 401; or
- an **occupational therapist** licensed in accordance with Texas Occupations Code, Chapter 454.
Personal Care Services

PCS Training for FMSAs
January 2014
Agenda

• What is PCS?
• Utilization
• Eligibility
• Assessment Process
• Authorization Process
• PCS Rules and Reminders
• Billing
• Procedure Codes and Modifiers
• FMSA Enrollment for PCS
• TMHP Links
• DSHS Regions
What is PCS?

• Personal care services are support services provided to clients who meet the definition of medical necessity and require assistance with Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) due to a physical, cognitive, or behavioral limitation related to a client’s disability or chronic health condition.

• PCS is provided by someone other than the responsible adult of the client who is a minor, or the legal spouse of a client.

• PCS is provided by unlicensed/unskilled attendants.
## ADLs and IADLs

<table>
<thead>
<tr>
<th>ADLs</th>
<th>IADLs</th>
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<tbody>
<tr>
<td>Bed mobility</td>
<td>Meal preparation</td>
</tr>
<tr>
<td>Positioning</td>
<td>Medication assistance</td>
</tr>
<tr>
<td>Eating</td>
<td>Telephone use</td>
</tr>
<tr>
<td>Transfers</td>
<td>Escort to medical appointments</td>
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<tr>
<td>Locomotion inside the home</td>
<td>Laundry</td>
</tr>
<tr>
<td>Locomotion outside the home</td>
<td>Ordinary/light housework</td>
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<tr>
<td>Toileting</td>
<td>Grocery shopping</td>
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<tr>
<td>Dressing</td>
<td></td>
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<tr>
<td>Bathing</td>
<td></td>
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<td>Personal hygiene</td>
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</table>
PCS Does **NOT** Include

- ADLs or IADLs that a typically developing child of the same chronological age could not safely and independently perform without adult supervision.
- Duplication of Medicaid services.
- Nursing care
- Respite
- Child care
- Monitoring / Supervision
Utilization

Total PCS Clients: 8500-9000
PCS Clients using CDS: ~ 2000
Eligibility

The PCS benefit is available to Texas Medicaid clients who:

• Are younger than 21 years of age;

• Are enrolled with Texas Medicaid as THSteps clients; and

• Have physical, cognitive, or behavioral limitations related to a disability, or chronic health condition that inhibits the client’s ability to accomplish ADLs or IADLs.
Assessment Process

- DSHS Case Managers are licensed social workers.
- An assessment is completed in the home with the client and responsible adult to determine eligibility and the number of hours of service per week to be authorized.

- Eligibility and hours are determined by:
  - Presence of a Physician Statement of Need
  - Client’s diagnosis
  - Reviewing the client’s limitations and need for assistance
  - Reviewing the client’s needs for each day/night of the week
  - Presence of Parental Barriers
Authorization Process

- DSHS case manager will confirm with the provider that they are able to serve the client and will negotiate a start date.
- DSHS case manager will send a Communication Tool to the provider with the approved ADLs and IADLs, the start date, and the number of hours authorized per week.
- The provider must notify the DSHS case manager of any corrections needed within 3 working days.
- DSHS case manager will submit an authorization to TMHP
- TMHP will send a notification letter to the client or responsible adult and to the provider.
- The provider’s notification letter will include the prior authorization number, the procedure code and modifier, the start and end dates of the authorization, and the approved level of service.
PCS Rules and Reminders

• Responsible Adult CANNOT be the attendant

• Only the tasks that are approved on the Communication Tool may be provided by the attendant and billed for by the FMSA

• Families may only use the number of hours per week indicated on the Communication Tool
  – Unless approved for tasks that do not occur weekly, this will be indicated on the Communication Tool

• Hours per week are determined by:
  – when a client has a need for assistance
  – how long each task takes to complete, and
  – the presence of a parental barrier
PCS Rules and Reminders

• **PCS hours CANNOT be “banked” and used at a later date or all on one day of the week**

• If a client needs an increase in hours or has a change in their condition – they need to contact their DSHS Case Manager for a reassessment and increase in hours (Case Manager’s information is found on the Communication Tool)

• Since PCS is approved based on the need for assistance with a specific task, attendants should document what time that task occurred and how long it took to complete the task.

• PCS does not pay for “blocks of time” (i.e., 4-10pm), it pays for the time it takes to complete a task.
Billing

Claims must be submitted to the appropriate location, which is dependent on the client’s Medicaid Plan.

<table>
<thead>
<tr>
<th>Medicaid Plan</th>
<th>Claims</th>
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</thead>
<tbody>
<tr>
<td>Traditional Medicaid (Fee for Service)</td>
<td>TMHP</td>
</tr>
<tr>
<td>STAR</td>
<td>TMHP</td>
</tr>
<tr>
<td>STAR Health</td>
<td>MCO</td>
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<tr>
<td>STAR+PLUS</td>
<td>MCO</td>
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</tbody>
</table>
Claims for Texas Medicaid PCS must be billed using

1. Procedure Code T1019 AND

2. Appropriate Modifier.

The table below provides the modifiers that may be authorized for PCS clients and a description of each modifier.
### Procedure Codes and Modifiers

<table>
<thead>
<tr>
<th>Modifier</th>
<th>Provider Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>U6</td>
<td>All PCS providers (except FMSA)</td>
<td>Attendant fee each 15 minutes</td>
</tr>
<tr>
<td>UA</td>
<td>All PCS providers (except FMSA)</td>
<td>Behavioral enhanced rate attendant fee each 15 minutes</td>
</tr>
<tr>
<td>U7</td>
<td>FMSA under the CDS option</td>
<td>Attendant fee each 15 minutes</td>
</tr>
<tr>
<td>UB</td>
<td>FMSA under the CDS option</td>
<td>Behavioral enhanced rate attendant fee each 15 minutes</td>
</tr>
</tbody>
</table>
| U8       | FMSA under the CDS option | Administrative fee once a month  
*(U8 will not be authorized through PCS if the client is using the CDS option for PCS AND for services through a waiver program)*
FMSA Enrollment

• There are three types of PCS providers:
  – Agencies (home health and personal attendant only providers)
  – Financial Management Services Agencies (FMSAs)
  – Service Responsibility Option (SRO) providers

• To enroll as an FMSA for PCS, providers must:
  – First attend the CDS training with DADS AND
  – Then enroll as a Medicaid Provider.

• Enrollment for PCS occurs through the Texas Medicaid and Healthcare Partnership (TMHP)
TMHP Links and Contacts

• TMHP PCS Client Line at 1-888-276-0702, option 2
  – PCS Referrals

• TMHP Contact Center at 1-800-925-9126
  – Enrollment Questions and Assistance
  – Billing Questions

• PCS Provider Inquiry Line at 1-888-648-1517
  – Questions regarding the status of an authorization or to request a copy of the authorization.

• TMHP website: [www.tmhp.com](http://www.tmhp.com)

• Find your TMHP Provider Relations Representative: [http://www.tmhp.com/Pages/SupportServices/PSS_Reg_Support.aspx](http://www.tmhp.com/Pages/SupportServices/PSS_Reg_Support.aspx)
DSHS Regions

- Region 1  806-655-7151
- Region 2/3  817-264-4627
- Region 4/5N  903-533-5231
- Region 6/5S  713-767-3111
- Region 7  254-778-6744
- Region 8  210-949-2155
- Region 9/10  915-834-7682
- Region 11  956-423-0130
Questions?