Helpful links and resources:

- Texas Administrative Code (TAC): Consumer Directed Services (CDS) Option
- Handbooks: Click on your specific program
- Forms: Click on specific number of Form

Overview:

1. **Q: Is CDS an option at the initial visit?**
   A: Yes, ALL service delivery options are presented at initial enrollment, annual reassessment and or whenever the individual receiving services requests a change of service delivery option. Individuals can start on the CDS option at any point in time, after eligibility has been determined.

2. **Q: Is Form 1582, Consumer Directed Services Responsibilities, required during the initial assessment even though the client has chosen neither the agency option nor the CDS yet?**
   A: The Forms series 1581-1584 are to be presented at the initial assessment as a set of forms. Form 1582 is presented if the individual wants to learn more about the CDS option. After discussing form 1581, Consumer Directed Services Overview, if the person indicates that he or she is not interested in learning more about the CDS option, then the case manager moves on to Form 1584, Consumer Participation Choice, to select the agency option.

3. **Q: Is Form 1581-SRO, Service Responsibility Option (SRO) Overview, one that we need to present to consumers?**
   A: Form 1581-SRO is to be used only in Region 1 and only for Primary Home Care Services. For all other services and regional areas, Form 1581 is to be used.

4. **Q: What is a designated representative (DR)?**
   A: A DR is a willing adult and volunteer appointed by an individual or a legally authorized representative (LAR) to assist with employer responsibilities.
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5. **Q: What is a Legally Authorized Representative (LAR)?**
   A: A LAR is a legal definition and includes a parent, guardian, managing conservator or step-parent of a minor-age individual or the guardian of an individual of any age.

6. **Q: If an individual wants the case manager to complete Form 1582, is this acceptable?**
   A: It is an individual's responsibility to complete the form or to appoint a designated representative to assist with the task.

7. **Q: If an individual cannot complete Form 1582 at the initial visit and there is no other person available at that time, who completes the form?**
   A: In general, case managers are responsible to assist individuals in understanding forms, and to assist individuals in completing forms at the initial visit. If the individual wants to use the CDS option, the individual must ask a DR to complete the assessment. The assessment may need to be completed and sent to the case manager after the initial visit.

8. **Q: What happens when a child with a severe intellectual disability turns 18 and the parent or Legally Authorized Representative (LAR) does not obtain guardianship?**
   A: When the individual turns 18, he or she becomes the employer of record. A parent, or another individual, can be appointed the designated representative to carry out employer responsibilities.

9. **Q: Can the LAR be a person with Power of Attorney?**
   A: There is no need for a LAR to have Power of Attorney. The LAR has more legal authority than a power of attorney.

10. **Q: Can a parent be the LAR or a DR, specifically if one of the parents is the paid attendant for Community Based Alternatives (CBA) CDS option?**
    A: If there is an LAR, that person is required to be the employer of record in the
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CDS option and cannot be the employee or paid attendant. The LAR’s spouse also cannot be the employee or paid attendant. The DR, if there is one, as defined in the CDS rules cannot be the paid attendant. The DR’s spouse cannot be the paid attendant in any DADS program.

11. **Q:** If an individual does not think the CDS option is right for him or her, is the individual allowed to change his or her mind? Is it difficult to transfer to the agency option?  
**A:** The individual is able to transfer to any service delivery option at any time. The individual will need to select an agency for services and the case manager handles the transfer.

12. **Q:** Why are the administrative costs for CDS less than agency provided services?  
**A:** The individual or CDS employer accepts employer responsibilities. CDS employers do not have the same administrative costs, such as office rent, as agencies do; therefore, administrative costs are lower.

13. **Q:** What happens if the funds run out before the service plan year ends?  
**A:** In general, if an individual uses all the funding before the end of the year, he or she will not receive additional funding. If the individual experiences a change in condition or the primary caregiver’s need for services increase, then case managers follow service plan change procedures. It is essential that case managers and employers review quarterly reports to prevent under or over-utilization of the CDS budget. A Consumer Directed Services Agency (CDSA) and/or case manager may request a corrective action plan from the employer to prevent under or over-spending before the service plan year ends.

14. **Q:** What is a CDSA?  
**A:** A Consumer Directed Services Agency (CDSA) is the entity that provides financial management services (FMS) for the individual if he or she chooses to use the CDS option.
15. **Q:** Are the DADS case managers responsible for prompting the CDSA regarding quarterly reports?
   **A:** No, the CDSA is responsible to provide these reports to the case manager and the CDS employer.

16. **Q:** Can an employer increase the CDS budget at anytime during the service plan year?
   **A:** No, funds in the CDS employer budget are based on the approved service plan.

17. **Q:** If an individual requests an increase in hours, does a whole new budget need to be completed?
   **A:** Requests for an increase in hours are handled by the case manager or the service planning team, regardless of whether or not an individual uses the CDS option. The potential for an increase is based on an evaluation of the individual’s need. If the service planning team justifies the need for additional hours, then the service plan is revised. In turn, the CDSA and CDS employer will revise the CDS employer budget to match the revised service plan.

18. **Q:** What happens with funds that are left over from a previous service plan?
   **A:** As with all service plans, funds are no longer available.

19. **Q:** Does an employer have to have a backup plan?
   **A:** An employer is required to have a service backup plan if the service is identified by the service planning team as a critical service to the health and safety of the individual. Employers are required to implement the back-up plan when their employers are not able to work.
20. **Q:** Does the employer have to keep all records for 5 years?  
   **A:** The employer is to keep records for at least five years. TAC Rule 41.243

21. **Q:** Who is responsible or liable for employee accidents?  
   **A:** The employer is responsible.

22. **Q:** If a case manager suspects an individual is using the employee as their designated representative, does the case manager have authority to deny the individual’s use of CDS?  
   **A:** A corrective action plan, with notification to the CDSA, is needed prior to denying CDS.

### Roles and Responsibilities:

23. **Q:** What other resources are available to help an individual have success in choosing the CDS option?  
   **A:** The employer will have a CDSA to assist with budget, hiring and other employer related issues, if needed. The CDSA would assist the employer in planning the budget so that the employer does not run out of money. If the employer is overwhelmed with employer responsibilities, he or she has the option to transfer to another service delivery option. You may also refer to the CCAD HB Section 6300 for further clarification.

24. **Q:** Are the CDSAs divided within regions?  
   **A:** No. CDSAs can choose to serve specific regional areas or the entire state. CDSAs do not hold regional contracts.

25. **Q:** Can I get the CDSA list internet site?  
   **A:** [www.dads.state.tx.us/services/cds/index.html](http://www.dads.state.tx.us/services/cds/index.html)
26. **Q:** There are not any fax numbers listed on the CDSA list. Can the list be updated to include this?
   **A:** Not at this time. The CDSA list is drawn from the Provider System and the fax number is not a required field.

27. **Q:** If the CDSA representative is not involved in the service planning, why does he or she have to sign Form 1740, Service Backup Plan?
   **A:** The CDSA representative needs to sign and keep a copy of Form 1740, per CDS option rules, 40 Texas Administrative Code, Chapter 41, §41.315. Service Back-up Plan.

28. **Q:** Why is there a five day turnaround on CDSA transfers, yet the case manager has 14 days to process agency changes?
   **A:** The five work day time period refers the amount of the time the transferring CDSA has to send all of the required information, such as a written account of the number of units and the amount of funds remaining for each service after the scheduled transfer date. The amount of time allocated for the case manager to process agency changes is determined by policy. Please refer to your handbooks to verify any timeframes for processing an agency change.

29. **Q:** One part of these instructions state five work days and other sections just state five days. Please clarify.
   **A:** The CDSA has five working days after the request to send all necessary information to the case manager to complete the transfer.

30. **Q:** You recommend communicating with the CDSA to anticipate a begin date of services. How would you anticipate a begin date?
   **A:** As with the agency option, communication is vital to ensure initiation of services. The Case Manager Community Care for Aged and Disabled Handbook (CM CCAD), for example, states to negotiate a begin date. The case manager should communicate with the employer AND the CDSA to negotiate a begin date. Form 2101, Authorization for Community Care Services, is sent to the CDSA with the negotiated date as the date that services will actually begin. Another helpful
form to use when communicating with the CDSA is Form 2067, Case Information.

31. **Q:** In Community Attendant Services (CAS), an individual is not eligible until we get doctors orders and have nurse authorization. We may have the 2060 plan done. Do we send that that information to the CDSA before we know if the individual is eligible?

**A:** See section 6333 of the Case Manager Community Care for Aged and Disabled Handbook. Eligibility for services must be determined before the service plan is sent to the CDSA. If a PHC or CAS applicant chooses to start services through the CDS option, it is the CDS employer's responsibility to obtain the completed Form 3052, Practitioner's Statement of Medical Need. The case manager provides a copy of Form 3052 and Form Instructions to the applicant with a return envelope and instructions on returning the form to the case manager within 14 calendar days. It is the CDS employer's responsibility to get Form 3052 to the practitioner and have it completed and signed by the practitioner. The CDS employer will then send the form to the selected CDS Agency (CDSA) to complete Part II, Provider's Statement. The CDSA returns the form to the CDS employer, and it is the employer's responsibility to return the form to the case manager. Services will not be authorized until Form 3052 is signed by both the practitioner and the selected CDSA, is returned, and the applicant meets all eligibility requirements.

32. **Q:** Does there need to be documentation that a task has been taught by the employer to the employee?

**A:** The CDS employer documents all training and orientation activities on Form 1732, Management of Service Provider. The employer is responsible for providing the training. The employer is not required to document that training has been conducted on each task.
33. **Q:** How is a delegated task to be documented by the employer concerning the ability of the employee to perform tasks correctly?

**A:** The CDS employer documents all training and orientation activities on Form 1732. The employer is responsible for providing the training. Under the CDS option, tasks are not delegated by a HCSSA nurse. Employers may use the exemption from RN delegation in which the employer takes full responsibility for training the non-skilled employee to perform the task. The task to be preformed by the non-skilled person must not be prohibited from delegation by the Texas Board of Nursing (Texas Administrative Code, Section 225.12).

34. **Q:** Who is liable for monitoring the safety/delivery of a delegated task in the home?

**A:** The case manager is responsible for addressing safety at each monitoring visit by designated program policy.

35. **Q:** On an initial Money Follows the Person (MFP), when can you submit the referral for the CDSA to start their process?

**A:** This depends on the program the individual is enrolled in. In the Medically Dependant Children Program (MDCP), for example, the individual would need to be Medicaid eligible before you can submit the referral to the CDSA. Within five working days after eligibility determination for the Community Based Alternatives (CBA) program, new applicants who choose the Consumer Directed Services (CDS) option are referred to the CDSA to begin the initiation process for the CDS option. The process is the same for applicants who are using MFP.
36. **Q:** If you have a CDSA in place and the consumer wishes to transfer to another CDSA mid month, would each CDSA receive the monthly fee or would it be the original CDSA agency?

   **A:** Each CDSA would get paid for the service rendered. If a CDSA transfer occurs mid month, an extra FMS unit would be added to the service plan. For example, in a 12-month plan, one mid-month CDSA transfer will have 13 units of FMS.

37. **Q:** How does "over-time" work under the CDS option?

   **A:** Employers can pay over-time, however, they may not exceed the amount of funds or hours authorized on the service plan. Overtime is not included during the service planning process of authorization of services.

38. **Q:** Who sets the pay dates for the employee?

   **A:** Consumer Directed Services Agencies set the pay dates.

39. **Q:** When transferring CDSAs, will the new CDSA get an administration fee?

   **A:** The Financial Management Services (FMS) fee, or administration fee, is designed to pay for the CDSA’s work related to conducting payroll, verifying provider qualifications, and paying and reporting taxes. When transferring to the new CDSA, the case manager must authorize the monthly fee for the remaining number of months on the service plan to the new CDSA.

40. **Q:** Can a CDSA be authorized to begin orientation and services without an active Medicaid number; once the consumer has been discharged from a nursing facility?

   **A:** Not all programs are funded by Medicaid. Individuals must be eligible for the program, before choosing the CDS option. For programs that are funded by Medicaid, however, individuals must be Medicaid eligible to begin the CDS option.
41. Q: How does “Do Not Hire” apply to CDS?  
A: “Do not hire” applies the same way for CDS as it does for the agency option. The CDS employer must not hire any persons listed as “do not hire” on the Form 2101, Authorization for Community Care Services.

42. Q: Who resolves any problems or issues between the employer and employee? Who ensures that the employer and/or employee is abiding by legal hiring practices?  
A: Issues between the employer and the employee are to be resolved between the employer and employee. The CDSA is responsible for assuring that the employee meets eligibility requirements of the individual’s program and government regulations to deliver an intended service and that the planned service meets those requirements.

43. Q: Who should the attendant contact when there are conflicts regarding payment for services?  
A: The employee must work with the employer related to pay issues. The employee may also call DADS Consumer Rights and Services (CRS) at 1-800-458-9858 to report payment issues.

44. Q: What is the course of action if the consumer refuses to pay an attendant?  
A: Payment should come from the CDSA. An attendant or employee may contact CRS.

45. Q: What if the CDS employer has refused to sign the attendant time sheet?  
A: The employee should discuss the issue with the employer. If the issue is not resolved, the employee should contact CRS.

46. Q: If the CDSA does not send in the quarterly reports who should this be reported to?  
A: Consumer Rights and Services.
47. **Q:** Can a case manager get a copy of the budget that was developed to see how the money has been designated?

**A:** The CDSA is not required, by rule, to provide a copy of the CDS employer budget workbook to the case manager. Review of the CDS employer budget is beyond the scope of case manager responsibilities related to the CDS option.

48. **Q:** Many of my consumers state they did not receive information regarding budget planning. They were simply informed the wage they could pay their employee. Is this common? Is there a way to correct the miscommunication?

**A:** CDSAs have been trained regarding budget planning. The employer has the option to file a complaint with CRS if the employer does not receive a report from the CDSA after it has been requested.

49. **Q:** Please clarify the difference between the CDSA’s responsibility for establishing a Designated Representative (DR) and an individual needing a DR to complete Form 1582, before a CDSA has been selected.

**A:** The DR completing the 1582 is an unofficial appointee. The CDSA will work with the employer to establish the DR, if the individual chooses to use the CDS option.

**Equipment:**

**Q:** Can an individual purchase a fax machine?

**A:** Yes. The employer has the option to allocate a set amount of funding to purchase approved items so the employer is able to perform employer responsibilities. The CDSA will provide the employer with a list of the allowable and non-allowable expenditures. Items should be included in the budget.
50. **Q:** What happens to the fax machine or other supplies if the consumer is not in the CDS option anymore?
   **A:** The materials acquired while the individual is using the CDS option remain with the individual.

51. **Q:** I had a CDS client who wanted to use funds to fix their vehicle. Is this an option?
   **A:** No, this is not allowed through the CDS option.

52. **Q:** You mentioned $600 as the total for support services, per service year. Where did that figure come from?
   **A:** This amount is from the Texas Administration Code (TAC). It is a set amount and the employer may not go over the amount.

53. **Q:** Based on the Electronic Visit Verification (EVV) program being tested in Region 9, is there a need for computer literacy for a family?
   **A:** This depends on the situation. Family members may assist. If asked, the CDSA may assist the employer.

54. **Q:** Would the employer (consumer) have to be computer literate to complete their responsibilities in the CDS option?
   **A:** No, it is not required and the employer can appoint a DR to assist. An LAR may also assist.

55. **Q:** Will CDS pay for a computer for the client?
   **A:** All allowable expenditures need to be necessary and reasonable. Purchases can only be used by the CDS employer. In general, unless it can be demonstrated that the computer will be used for employer activities, computers are not an allowable purchase.
Programs and Services:

56. **Q:** So even though respite or adjunct services may be delivered by a nurse, the Medically Dependant Children Program (MDCP) backup plan cannot be designed to use a home health agency nurse to provide the service in case of an emergency?

   **A:** If the original plan is through the CDS option, then the back up plan must also be through the CDS option. The CDS employer may purchase back-up services from a home health agency as one backup plan strategy. The CDS employer would enter into a service agreement with the home health agency and the CDSA would reimburse the home health agency.

57. **Q:** Does the use of 10 hours of nursing services from a licensed home health agency for back-up also apply to MDCP?

   **A:** There are no nursing services through the CDS option for MDCP, only respite and adjunct support services. The “mandatory” nursing hours from a HCSSA apply only to CBA.

58. **Q:** If an individual is on Community Based Alternatives (CBA) and the individual chooses CDS for nursing, does the Home and Community Support Services Agency (HCSSA) still complete the 3671-C service plan to determine nursing hours? How does an individual choose what nursing hours are determined in the budget for back-up?

   **A:** The HCSSA provider will coordinate all CBA services, including development of the CDS nursing plans (the 3671-C Alternate), and deliver all non-CDS CBA services. The HCSSA provider will complete the pre-enrollment, quarterly and annual assessments to assess the applicant/consumer and provide the estimate of hours for the assessed nursing services. If deemed critical by the service planning team, nursing hours provided through CDS would require a back-up plan. There are no extra hours of nursing authorized for a backup plan. Backup plans can include both paid and unpaid support. If paid support is used, the funds
come from the indirect portion of the CBA CDS nursing rate from the CDS budget.

59. **Q:** In Primary Home Care (PHC), is the CDSA required to assist the individual in obtaining Form 3052, getting it completed and sent in to the appropriate contact?

**A:** Please see Section 6333 of the CM CCAD handbook. It is the employer’s responsibility to get the Form 3052 completed. Section 6333, states: “If a PHC or CAS applicant chooses to start services through the CDS option, it is the CDS employer's responsibility to obtain the completed Form 3052, Practitioner's Statement of Medical Need. The employer may be the applicant or the legally authorized representative (LAR). The case manager provides a copy of Form 3052 and Form Instructions to the applicant with a return envelope and instructions on returning the form to the case manager within 14 calendar days.”

60. **Q:** In which programs can the employee drive the employer to appointments?

**A:** Community Living Assistance and Support Services (CLASS), Home and Community-based Services (HCS) and Texas Home Living (TxHmL)

61. **Q:** Currently, only families with Medicaid coming into MDCP can start on CDS. Will this eventually be extended to families without Medicaid coming into MDCP?

**A:** There are no current plans to change the current rule or policy.

62. **Q:** Are time sheets processed electronically?

**A:** CDSAs have the option to use an electronic time sheet, although the majority relies on paper timesheets. With the implementation of the Electronic Visit Verification Pilot (EVV) in Region 9, electronic time sheets will be replacing paper time sheets for the mandatory programs.
63. Q: Do we have to wait for nurse authorization for CDS as we do with Community Attendant Services (CAS) agency option?
   A: Nurse authorization is required in the CAS program only. The nurse authorizes the CAS services, but the case manager processes the CDS option. Follow the enrollment process defined by program policy for each program.

64. Q: Do you need to send two Form 2101s, Authorization for Community Care Services, initially in Primary Home Care (PHC), one for the CDSA and one for the provider agency?
   A: No. A consumer can elect to begin services under the CDS option and the Form 2101 would go directly to the employer and the CDSA; OR the consumer can begin services under the agency option and later transfer to the CDS option. There are no situations where the case manager would send an initial Form 2101 to both the CDSA and a provider agency. However, within the CDS option, two 2101s are required. The first 2101 is to provide the negotiated start date and authorization for service delivered under the CDS option. A second Form 2101 is generated to authorize Financial Management Services (FMS) provided by the CDSA (one unit per month).

65. Q: Is the employer required to submit receipts?
   A: Yes, receipts are submitted to the CDSA.

66. Q: Can the CDSA provide the orientation before the consumer is determined eligible for services?
   A: No, the individual must be determined eligible for services prior to orientation.

67. Q: As a case manager, I have noticed that most elderly individuals in the Community Attendant Services (CAS), Family Care (FC), and Primary Home Care (PHC) do not want to participate in the CDS option. Is that why these programs have less utilization of the CDS option?
   A: Every individual has different reasons for not participating. However, we do need to allow the individuals applying for or receiving services to have the
opportunity to select their service delivery option. It is the case manager’s responsibility to ensure the individual is aware of ALL possible options available to them. It will be the individual’s choice to determine their preference of service delivery.

68. **Q:** Lots of my clients are asking if they can use their home owner’s insurance policy to cover on-the-job injury?  
**A:** That is one option. The CDSA can provide more detail.

69. **Q:** Is Form 1740, Service Backup Plan, required for respite through the Medically Dependant Children Program (MDCP) since it is understood that the parents are ultimately responsible for care if the respite is interrupted?  
**A:** The key to determining if a backup plan is needed for CDS services is if the individual’s health and safety would be at risk if the employee did not show up for work.