Application for

Section 1915(b)(4) Waiver
Fee-for-Service
Selective Contracting Program

August, **2022**

v1.0

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Application for Section 1915(b)(4) Waiver
Fee-for-Service (FFS) Selective Contracting Program

Facesheet

The **State** of Texas requests a waiver/amendment under the authority of section 1915(b) of the Act. The Medicaid agency will directly operate the waiver.

The **name of the waiver program** is Pre-Admission Screening and Resident Review (PASRR) Habilitative Specialized Services.

(List each program name if the waiver authorizes more than one program.)

Type of request. This is:
_ _ an initial request for new waiver. All sections are filled.
___ a request to amend an existing waiver, which modifies Section/Part ____
_**X**__ a renewal request

Section A is:
___ replaced in full
___ carried over with no changes
_**X**__ changes noted in **BOLD**.

Section B is:
___ replaced in full
_**X**__ changes noted in **BOLD**.

Effective Dates: This waiver/**renewal**/amendment is requested for a period of five years beginning **012/01/2022** and ending **11/30/2027.**

State Contact: The State contact person for this waiver is Kathi Montalbano and can be reached by telephone at (512) **438-4299**, or fax at **(512) 323-1905**, or e-mail at **kathi.montalbano@hhs.texas.gov.**

Section A – Waiver Program Description

Part I: Program Overview

Tribal Consultation:
Describe the efforts the State has made to ensure that Federally-recognized tribes in the State are aware of and have had the opportunity to comment on this waiver proposal.

HHSC has signed an agreement with the state's federally recognized tribes and tribal organizations describing the tribal consultation process. The agreement requires a request for feedback for an initial request to authorize a new §1915(b)(4) waiver that has an impact on (1) client eligibility, (2) acute care services, and (3) acute care providers.

Although the PASRR habilitation specialized **Add-on** services are not acute care and this waiver has no impact on client eligibility, HHSC issued tribal notices on **June 1, 2022**, to all federally recognized tribes. **HHSC** gave the tribes until **July 1, 2022**, to provide comments.

Public Notice: The public notice of intent (PNI) posted in the Texas Register on **June 3, 2022.**

Program Description:
Provide a brief description of the proposed selective contracting program or, if this is a request to amend an existing selective contracting waiver, the history of and changes requested to the existing program. Please include the estimated number of enrollees served throughout the waiver.

This 1915(b) (4) was initially approved for a five year period from December 1, 2017 through November 30, 2022. This **renewal** request to **continue the** §1915(b)(4) waiver is intended to **continue to provide the** PASRR service under the array of habilitative specialized services, called Habilitation Coordination, for which the State **requests to continue** to limit the choice of providers. Habilitation Coordination will **continue to** be available to Medicaid recipients residing in a Medicaid-certified nursing facility (NF). Preauthorization is required. For a PASRR-positive individual, preauthorization is granted when the need for Habilitation Coordination is identified in the PASRR Level II evaluation and included in the individual's habilitative service plan, which is coordinated with the individual's NF comprehensive care plan.

Only local intellectual and developmental disability authorities (LIDDAs) will be contracted to provide Habilitation Coordination. There is one LIDDA for each service area, for a current total of 39 LIDDAs in the state. Approximately **3,700** individuals are eligible for Habilitative Specialized Services.

Waiver Services:
Please list all existing State Plan services the State will provide through this selective contracting waiver.

Habilitation Coordination:

(a) Definition of Habilitation Coordination. Assistance for an **eligible** NF resident[1] who has chosen to remain in the NF to access appropriate habilitative specialized services necessary for the resident to achieve quality of life and level of community participation acceptable to the resident and the legally authorized representative (LAR) on the resident's behalf. Habilitation coordination consists of:

(1) assessing and periodically reassessing habilitative service needs by gathering information from the resident and other appropriate sources, such as the **LAR,** family members, social workers, and service providers, to determine the resident's habilitative needs and **preferences and** the habilitative specialized services that will address those needs **and preferences;**

(2) developing and periodically revising an individualized **habilitation** service plan by identifying with the resident and LAR, if any, desired ~~**habilitation**~~ outcomes and specifying a course of action to accomplish those outcomes;

(3) assisting the resident to access needed habilitative specialized services and other habilitative programs and services that can address needs and achieve outcomes identified in the habilitative service plan;

(4) monitoring and follow-up activities that consist of ensuring the resident receives needed habilitative specialized services; evaluating the effectiveness and adequacy of habilitative specialized services; facilitating the coordination of the resident's habilitative service plan and the nursing facility comprehensive care plan; and determining if outcomes identified in the habilitative service plan are being achieved; ~~**and**~~

(5) coordinating with the NF to assist the resident in accessing medical, social, educational, and other appropriate services and supports that will help the resident achieve a quality of life acceptable to the resident and LAR on the resident's behalf; and

(6) offering educational opportunities and informational activities about community living options; **providing information about the range of community living services, supports, and alternatives; identifying the services and supports the resident will need to live in the community;** arranging visits to community providers; and addressing concerns about community living.

(b) Qualification of a Habilitation Coordination Provider Agency. A 1915(b)(4) waiver will limit the provider agency of Habilitation Coordination to an entity that is designated as the local intellectual and developmental disability authority (LIDDA) in accordance with Texas Health and Safety Code §533A.035(a).

(c) Qualifications of Service Provider of Habilitation Coordination. A service provider of Habilitation Coordination must ~~**be**~~:

(1) **be** an employee of the LIDDA; ~~**and**~~

(2) have a bachelor's or advanced degree from an accredited college or university with a major in a social, behavioral, or human service field, such as psychology, social work, medicine, nursing, rehabilitation, counseling, sociology, human development, gerontology, educational psychology, education, or criminal justice**; and**

(3) have at least one year of experience working directly with individuals with intellectual or other developmental disabilities.

A. Statutory Authority

[1] In this document, the state uses the terms "individual" and "resident" as synonyms.

1. **Waiver Authority.** The State is seeking authority under the following subsection of 1915(b):

   _X__ **1915(b) (4) - FFS Selective Contracting program**

2. **Sections Waived.** The State requests a waiver of these sections of 1902 of the Social Security Act:

   a._ __ **Section 1902(a) (1) - Statewideness**
   b.____ **Section 1902(a) (10) (B) - Comparability of Services**
   c._X__**Section 1902(a) (23) - Freedom of Choice**
   d.___ **Other Sections of 1902** – (please specify)

B. Delivery Systems

1. **Reimbursement.** Payment for the selective contracting program is:

   _X__ the same as stipulated in the State Plan
   ___ is different than stipulated in the State Plan (please describe)

2. **Procurement**. The State will select the contractor in the following manner:

   ___ **Competitive** procurement
   ___ **Open** cooperative procurement
   _ __ **Sole source** procurement
   _X__ **Other** (please describe) direct procurement in which the entity applies directly to HHSC.

The ~~**local intellectual and developmental disability authorities (**~~LIDDAs~~)~~ provide this service. HHSC designates the LIDDAs under Texas Health and Safety Code section 533A.035 and has designated a LIDDA for each area of the state. Each LIDDA develops a local service plan that HHSC and the LIDDA use as the basis for a performance contract between HHSC and the LIDDA and for establishing the LIDDA's responsibility for achieving outcomes related to the needs and characteristics of the LIDDA's local service area. The performance contract specifies required standard outcomes for the programs administered by the LIDDA. HHSC must be able to verify performance related to the specified outcomes. The performance contract includes measures related to the outputs, costs, and units of service delivered. Information regarding the outputs, costs, and units of service delivered are recorded in the LIDDA's automated data systems, and reports regarding the outputs, costs, and units of service delivered are submitted to HHSC at least annually as required by HHSC's rules.

C. Restriction of Freedom of Choice

1. **Provider Limitations**.

   _X__ Beneficiaries will be limited to a single provider in their service area.

____ Beneficiaries will be given a choice of providers in their service area.

(NOTE: Please indicate the area(s) of the State where the waiver program will be implemented)

The waiver program **is** statewide for individuals residing in NFs who have been determined through a PASRR evaluation to have a diagnosis of an intellectual or developmental disability. Habilitation Coordination will **continue to** be provided solely by the LIDDAs. There is one LIDDA for each service area, for a current total of 39 LIDDAs in the state.

2. **State Standards**

   Detail any difference between the state standards that will be applied under this waiver and those detailed in the State Plan coverage or reimbursement documents.

   Habilitation Coordination providers are held to the same standards for reimbursement, quality, and utilization as other providers of Medicaid state plan services, and the standards are consistent with access, quality, and efficient provision of covered care and services.

D. Populations Affected by Waiver

(May be modified as needed to fit the State's specific circumstances)

1. **Included Populations**. The following populations are included in the waiver:

   _ X _ Section 1931 Children and Related Populations
   _ X_ Section 1931 Adults and Related Populations
   _X_ Blind/Disabled Adults and Related Populations
   _X_ Blind/Disabled Children and Related Populations
   _X_ Aged and Related Populations
   _ X_ Foster Care Children
   _X_ Title XXI CHIP Children

2. **Excluded Populations.** Indicate if any of the following populations are excluded from participating in the waiver:

   ___ Dual Eligibles
   ___ Poverty Level Pregnant Women
   ___ Individuals with other insurance
   ___ Individuals residing in a nursing facility or ICF/MR
   ___ Individuals enrolled in a managed care program
   _X_ Individuals participating in a HCBS Waiver program
   ___ American Indians/Alaskan Natives
   ___ Special Needs Children (State Defined). Please provide this definition.
   ___ Individuals receiving retroactive eligibility
   _X_ Other (Please define): Individuals whose PASRR Evaluations are negative

Part II: Access, Provider Capacity and Utilization Standards

A. Timely Access Standards

Describe the standard that the State will adopt (or if this is a renewal or amendment of an existing selective contracting waiver, provide evidence that the State has adopted) defining timely Medicaid beneficiary access to the contracted services, *i.e.,* what constitutes timely access to the service?

1. How does the State measure (or propose to measure) the timeliness of Medicaid beneficiary access to the services covered under the selective contracting program?

   ~~The Contract Accountability and Oversight division (CAO) within~~ HHSC **~~will~~**run**s** a report of all individuals who have had a positive PASRR Evaluation (PE) completed and **~~will~~** compare**s** that to the assignment of a habilitation coordinator within **two business ~~30~~** days of the PE being completed in **th~~e Client Assignment and Registration (CARE)~~ HHSC Data System** system. If **the ~~CARE~~ HHSC Data System** shows the LIDDA has not assigned a habilitation coordinator within the designated timeframe, **HHSC ~~the CAO will~~** contact**s** the LIDDA to ensure the LIDDA provides the service.

2. Describe the remedies the State has or will put in place in the event that Medicaid beneficiaries are unable to access the contracted service in a timely fashion.

   The LIDDA must ensure Habilitation Coordination is provided to all designated individuals who require it in compliance with contract requirements to meet the individual's needs. **HHSC ~~CAO~~** monitors the LIDDA for compliance. If the LIDDA does not meet the terms of the contract, HHSC may impose remedies on the LIDDA, which may include placing the LIDDA on a corrective action plan, after which the LIDDA would be subject to the remedies and sanctions outlined in the performance contract.

B. Provider Capacity Standards

Describe how the State will ensure (or if this is a renewal or amendment of an existing selective contracting waiver, provide evidence that the State has ensured) that its selective contracting program provides a sufficient supply of contracted providers to meet Medicaid beneficiaries' needs.

1. Provide a detailed capacity analysis of the number of providers (e.g., by type, or number of beds for facility-based programs), or vehicles (by type, per contractor for non-emergency transportation programs), needed per location or region to assure sufficient capacity under the selective contracting program.

   There are 39 LIDDAS in the state of Texas. There is one LIDDA for every service area. HHSC and the LIDDA enter into a performance contract that specifies required standard outcomes for the programs the LIDDA administers, and HHSC must be able to verify

performance related to the specified outcomes. The performance contract includes measures related to the outputs, costs, and units of service delivered. A LIDDA must record information regarding the outputs, costs, and units of service delivered in its automated data systems, and must submit to HHSC reports regarding the outputs, costs, and units of service delivered. Using the Medical Business Object Warehouse, the LIDDA must report monthly for service encounter data and quarterly for fiscal reporting **~~as required by HHSC rule~~**. **~~Currently, LIDDAs perform these activities through general revenue funding and are able to manage the capacity.~~**

2. Describe how the State will evaluate and ensure on an ongoing basis that providers are appropriately distributed throughout the geographic regions covered by the selective contracting program so that Medicaid beneficiaries have sufficient and timely access throughout the regions affected by the program.

   There are 39 LIDDAs in the state of Texas. There is one LIDDA for every service area. These LIDDAs will **continue to** provide Habilitation Coordination activities for individuals residing in NFs. Because state statute requires a LIDDA to operate in each service area, this number will never be less than 39. **~~LIDDAs are able to perform and manage these functions for this population within their service area since they currently manage these functions through general revenue funding.~~**

C. Utilization Standards

Describe the State's utilization standards specific to the selective contracting program.

1. How will the State (or if this is a renewal or amendment of an existing selective contracting waiver, provide evidence that the State) regularly monitor(s) the selective contracting program to determine appropriate Medicaid beneficiary utilization, as defined by the utilization standard described above?

   The LIDDA's **~~performance~~** contract requires that the LIDDA assign a habilitation coordinator within **~~30 days~~ two business days** of the PASRR Evaluation being completed. HHSC **~~Contract Accountability and Oversight division (CAO)~~ runs** a monthly report that **indicates** the LIDDA has assigned a habilitation coordinator within the designated timeframe. If the monthly report shows that a habilitation coordinator was not assigned within the designated timeframe, **HHSC ~~CAO will~~** contact**s** the LIDDA to ensure the LIDDA is providing this service.

   Additionally, **~~the CAO~~ HHSC conducts** reviews **of** the LIDDAs **to determine if the LIDDA is in compliance with state rules governing the PASRR program, the provision of habilitation coordination, and the contract.~~annually.~~ ~~The CAO~~ ~~division~~ HHSC reviews** a representative sample of PASRR positive individuals to ensure the LIDDA has assigned a Habilitation Coordinator and this service is provided as selected by the individual or the individual's legally authorized representative. **~~CAO~~ HHSC also reviews whether this service is provided as authorized by HHSC. Violations may be documented as a "finding" and may require submission of a corrective action plan to HHSC.**

~~HHSC also reviews whether this service is provided as authorized by HHSC. If anything is found to be out of compliance, it is considered a "finding." All "findings" require HHSC to impose specific corrective action plans (CAP), as outlined in the LIDDA's performance contract.~~ HHSC ~~also~~ has ~~the~~ discretion to impose ~~monetary~~ sanctions ~~and remedies~~ for non-compliance with a contract requirement or for a LIDDA failing to correct a finding within the timeframe outlined in the CAP.

2. Describe the remedies the State has or will put in place in the event that Medicaid beneficiary utilization falls below the utilization standards described above.

   If a LIDDA does not achieve compliance **within the HHSC threshold** with all regulations for any area across all records reviewed ~~or does not achieve an overall 90 percent program score for all elements reviewed~~ for each record in the sample, ~~the CAO~~ **HHSC** ~~review coordinator will~~ require**s** the LIDDA to submit a ~~Corrective Action Plan (~~CAP). ~~The CAP must identify or describe the following items: (1) the date by which the deficiency will be corrected;~~
   ~~(2) the party responsible for ensuring the deficiency is corrected;~~
   ~~(3) the actions that will be taken to correct the deficiency; and~~
   ~~(4) the systemic change and monitoring system implemented to ensure the deficiency does not re-occur.~~

   To ensure the LIDDA meets compliance, ~~the CAO Unit~~ **HHSC conducts** a CAP Compliance review **(CCR)** after the deficiency correction deadline identified in the CAP ~~six months from the review's exit conference. If repeat findings occur during the next contract compliance review, then the CAO unit~~ **HHSC may impose sanctions and remedies in accordance with the LIDDA's contract**~~. a monetary sanction as allowed by the LIDDA's performance contract with HHSC.~~

Part III: Quality

A. Quality Standards and Contract Monitoring

1. Describe the State's quality measurement standards specific to the selective contracting program.

   a. Describe how the State will (or if this is a renewal or amendment of an existing selective contracting waiver, provide evidence that the State):

      i. Regularly monitor(s) the contracted providers to determine compliance with the State's quality standards for the selective contracting program.

      HHSC ~~Contract, Accountability, and Oversight division unit~~ conducts reviews of LIDDAs to determine if the LIDDA is in compliance with state rules governing the PASRR program, the provision of service coordination, and the contract. HHSC reviews a representative sample of PASRR-positive individuals

to ensure a Habilitation Coordinator has been assigned and this service is being provided as selected by the individual or the individual's LAR. HHSC also reviews whether this service is provided as authorized by HHSC. Violations may be documented as a "finding" and may require submission of a corrective action plan to HHSC.

~~**HHSC conducts Quality Service Reviews (QSRs) in which it**~~ **HHSC** reviews the elements of an individual's record and related documents, interviews the individual and the legally authorized representative, **and** ~~**interviews service providers**~~ **LIDDA staff.** ~~**and observes the individual engaged in activities or receiving necessary services and supports as specified in his or her Individual Service Plan (ISPs).**~~

HHSC ~~**will**~~ identif**ies** a representative random sample of Medicaid-eligible individuals with IDD residing in a nursing ~~**home**~~ **facility** for each LIDDA service area.

~~**The purpose of the QSR process is to**~~ **HHSC reviews whether** ~~**ensure that**~~ each individual **in the sample** receive**d** all the specialized services, including Habilitation Coordination, needed to maintain the individual's level of functioning and increase his or her independence after the individual is admitted to a NF.

ii. Take(s) corrective action if there is a failure to comply.

The State **reviews** the results of ~~**QSRs**~~ **PASRR Authority reviews** and **requires** ~~**determine necessary steps to ensure the**~~ **corrective action plans for all items of noncompliance.**~~**LIDDA meets compliance with the State's quality standards for the selective contracting program. Steps may include requiring the LIDDA develop and implement necessary trainings and update policies and procedures to increase the quality of care and outcomes for individuals served.**~~

2. Describe the State's contract monitoring process specific to the selective contracting program.

a. Describe how the State will (or if this is a renewal or amendment of an existing selective contracting waiver, provide evidence that the State):

i. Regularly monitor(s) the contracted providers to determine compliance with the contractual requirements of the selective contracting program.

~~**HHSC's Contract, Accountability, and Oversight division**~~ **HHSC conducts reviews of LIDDAs to determine if the LIDDA is in compliance with state rules governing the program, the provision of habilitation coordination, and the contract.** ~~**completes contract monitoring reviews of LIDDAs annually.**~~ **HHSC reviews** a representative sample of PASRR-positive individuals to ensure

a Habilitation Coordinator has been assigned and this service is being provided as selected by the individual or the individual's LAR. **HHSC also reviews whether this service is provided as authorized by HHSC. Violations may be documented as a "finding" and may require submission of a corrective action plan to HHSC.**

ii. Take(s) corrective action if there is a failure to comply.

If a LIDDA does not achieve ~~**90 percent**~~ compliance with**in the HHSC threshold with** all regulations for any area across all records reviewed ~~**or does not achieve an overall 90 percent program score for all elements reviewed for each record in the sample, the**~~ **HHSC** review coordinators **require** the LIDDA to submit a ~~**Corrective Action Plan**~~ CAP~~**within 30 calendar days of receiving a notice of deficiency.**~~ The CAP must address the date by which the deficiency will be corrected, the party responsible for ensuring the deficiency is corrected, **and** the actions that will be taken to correct the deficiency~~**, and a description of the systemic change and monitoring system implemented to ensure the deficiency does not re-occur.**~~ To ensure the LIDDA meets compliance, ~~**the CAO unit**~~ **HHSC** will conduct a CAP Compliance review after the deficiency correction deadline identified in the CAP. If repeat findings occur during the next contract compliance review, then the ~~**CAO unit**~~ **HHSC** will recommend a monetary sanction as allowed by the LIDDA's performance contract with HHSC.

B. Coordination and Continuity of Care Standards

Describe how the State assures that coordination and continuity of care is not negatively impacted by the selective contracting program.

Habilitation Coordination is a service that assists an individual who has chosen to remain in the NF to access appropriate specialized services necessary for the individual to achieve a quality of life and level of community participation acceptable to the individual and LAR on the individual's behalf. The habilitation coordinator will assist the individual in coordinating all specialized services and provide recommendations related to the services the individual will receive in the community. If the individual decides to leave the NF, a service coordinator will be assigned to assist the individual with transitioning into the community. ~~**Additionally, the individual will already have relationships established with the community providers of specialized services, and this will assist with continuity of care when the individual leaves the facility.**~~

Part IV: Program Operations

A. Beneficiary Information

Describe how beneficiaries will get information about the selective contracting program.

Each individual or the individual's LAR is notified during completion of the PASRR Evaluation (PE) of all available specialized services the individual is eligible for, including Habilitation Coordination. During the interdisciplinary team meeting, the individual and the LAR can select from the previously discussed array of specialized services and choose which services they would like the individual to receive.

A LIDDA must assign a habilitation coordinator to each designated individual who has chosen to remain in the NF. A designated individual may decline Habilitation Coordination.

B. Individuals with Special Needs.

_X__ The State has special processes in place for persons with special needs (Please provide detail).

The state provides Habilitation Coordination to individuals with intellectual disabilities or development disabilities. The state **requires the LIDDA to provide meaningful access to its programs, services, and activities and ensure adequate communication through language assistance services for individuals and LARs with limited English proficiency, sensory impairments, and speech impairments.**~~**provides individuals who require a translator to gain access to the services.**~~

Section B – Waiver Cost-Effectiveness & Efficiency

Efficient and economic provision of covered care and services:

1. Provide a description of the State's efficient and economic provision of covered care and services.

   Habilitation Coordination is currently provided by 39 contractors to PASRR IDD individuals residing in nursing facilities ~~**and is funded by general revenue appropriations**~~. The utilization of a selective contract for these 39 contractors for habilitation coordination ensures continuity of care and minimizes services disruption. The continued assignment of these contractors to HHSC eliminates any administrative cost and/or operational startup cost on willing providers and reduces time associated with the renegotiation of rates or waiving certain contract requirements a provider may seek in light of the urgent need to setup operations to perform this service. Additionally, the oversight and monitoring functions would remain unchanged for the selective contractors and less disruptive on the individuals served.

2. Project the waiver expenditures for the upcoming waiver period.

   Year 1 from: **12/01/2022 to 11/30/2023**

   Trend rate from current expenditures (or historical figures): 0.0%

Projected pre-waiver cost	$	**$5,567,841**
Projected Waiver cost	$	$**5,567,841**
Difference:		$0

Year 2 from**: 12/01/2023 to 11/30/2024**

Trend rate from current expenditures (or historical figures):		0.0%
Projected pre-waiver cost	$	**$5,859,965**
Projected Waiver cost	$	$**5,859,965**
Difference:		$0

Year 3 (if applicable) from: **12/01/2024 to 11/30/2025**
(*For renewals, use trend rate from previous year and claims data from the CMS-64*)

Trend rate		%
Projected pre-waiver cost	$	$**5,946,083**
Projected Waiver cost	$	**$5,946,083**
Difference:		$0

Year 4 (if applicable) from: **12/01/2025 to 11/30/2026**
(*For renewals, use trend rate from previous year and claims data from the CMS-64*)

Trend rate		%
Projected pre-waiver cost	$	**$6,032,130**
Projected Waiver cost	$	**$6,032,130**
Difference:		$0

Year 5 (if applicable) from: **12/01/2026 to 11/30/2027**
(*For renewals, use trend rate from previous year and claims data from the CMS-64*)

Trend rate		%
Projected pre-waiver cost	$	**$6,131,467**
Projected Waiver cost	$	**$6,131,467**
Difference:		$0