

## **Table of Contents**

**State/Territory Name: Texas**

**State Plan Amendment (SPA) #: 24-0009**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 E. 12th St., Room 355  
Kansas City, Missouri 64106



**Medicaid and CHIP Operations Group**

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June 12, 2024

Emily Zalkovsky, Medicaid Director  
Texas Health & Human Services Commission  
PO Box 13247  
Austin, TX 78711

Re: TX 24-0009 §1915(k) Community First Choice State Plan Amendment (SPA)

Dear Director Zalkovsky:

The Centers for Medicare and Medicaid Services (CMS) is approving your request to amend the Community First Choice (CFC) state plan benefit submitted under transmittal number 24-0009. This amendment updates State Plan language regarding the Community First Choice program to reduce the provider requirements for emergency response. CMS conducted the review of the state's submittal according to statutory requirements in Title XIX of the Social Security Act and relevant federal regulations.

The SPA is approved with a April 1, 2024 effective date. Enclosed are the following pages to be incorporated into your approved state plan:

- Attachment 3.1-K pages 11 and 12

It is important to note that CMS' approval of this change to the state's 1915(k) CFC state plan benefit solely addresses the state's compliance with the applicable Medicaid authorities. CMS' approval does not address the state's independent and separate obligations under federal laws including, but not limited to, the Americans with Disabilities Act, §504 of the Rehabilitation Act, or the Supreme Court's Olmstead decision. Guidance from the Department of Justice concerning compliance with the Americans with Disabilities Act and the Olmstead decision is available at [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).

If you have any questions concerning this information, please contact me at (206) 615-3814. You may contact Lynn Ward at [lynn.ward@cms.hhs.gov](mailto:lynn.ward@cms.hhs.gov) or (214) 767-6327.

Sincerely,

Wendy E. Hill Petras -S  
Digitally signed by Wendy E. Hill Petras  
Date: 2024.06.12 13:35:16 -07'00'

Wendy Hill Petras, Deputy Director  
Division of HCBS Operations and Oversight

Enclosure

cc: Kathi Montalbano, TX HHSC  
Ford Blunt, CMS DPO  
Michelle Weller, CMS DLTSS  
Wendy Hill-Petras, CMS DHCBSO  
Cynthia Nanes, CMS DHCBSO

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER <div>240009</div>	2. STATE <div>TX</div>
	3. PROGRAM IDENTIFICATION: TITLE <u>XIX</u> OF THE SOCIAL SECURITY ACT	
TO: CENTER DIRECTOR CENTERS FOR MEDICAID & CHIP SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE April 1, 2024	
5. FEDERAL STATUTE/REGULATION CITATION  42 CFR Part 441 Subpart K	6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars) a. FFY 2024 \$ 0 b. FFY 2025 \$ 0	
7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Page 11 and 12 of Attachment 3.1-K	8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)  Page 11 and 12 of Attachment 3.1-K (TN 14-026)	

9. SUBJECT OF AMENDMENT

The proposed amendment removes licensure requirements for Emergency Response Services (ERS) providers of backup systems and supports under the Community First Choice State Plan Option. ERS providers are no longer subject to licensure requirements after Senate Bill (S.B.) 202, 84th Texas Legislature, Regular Session, 2015, repealed Texas Health and Safety Code, Chapter 781.

10. GOVERNOR'S REVIEW (Check One)	
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT	<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	

11. SIGNATURE OF STATE AGENCY OFFICIAL Emily Zalkovsky <small>Digitally signed by Emily Zalkovsky Date: 2024.04.18 18:00:19 -05'00'</small>	15. RETURN TO  Emily Zalkovsky State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711
12. TYPED NAME Emily Zalkovsky	
13. TITLE State Medicaid Director	
14. DATE SUBMITTED April 18, 2024	

FOR CMS USE ONLY	
16. DATE RECEIVED April 18, 2024	17. DATE APPROVED June 12, 2024

PLAN APPROVED - ONE COPY ATTACHED	
18. EFFECTIVE DATE OF APPROVED MATERIAL April 1, 2024	19. SIGNATURE OF APPROVING OFFICIAL Wendy E. Hill Petras -S <small>Digitally signed by Wendy E. Hill Petras -S Date: 2024.06.12 13:34:32 -07'00'</small>
20. TYPED NAME OF APPROVING OFFICIAL Wendy Hill Petras	21. TITLE OF APPROVING OFFICIAL Deputy Director, Division of HCBS Operations and Oversight

22. REMARKS
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**Attachment to Block 6 of CMS Form 179**

**Transmittal Number 24-0009**

	<b>Total Fiscal Impact</b>	<b>Federal</b>	<b>State</b>
<b>FFY 2024</b>	\$0	\$0	\$0
<b>FFY 2025</b>	\$0	\$0	\$0
<b>FFY 2026</b>	\$0	\$0	\$0

The proposed amendment is estimated to have no fiscal impact, as it is not expected to have an effect on Medicaid utilization or cost.

## Community First choice State Plan Option (Continued)

### 9. Provider Qualifications

CFC services are provided by LTSS and state plan service providers determined to be qualified by the State in a program already approved by CMS. Texas ensures all current qualification standards are maintained. Providers delivering CFC services include licensed home and community support services agencies (HCSSAs), certified HCS and TxHmL providers, personal emergency response services agencies, qualified financial management services agencies, and providers hired by individuals using the CDS option who meet qualifications. In accordance with Section 1902(a)(23) of the Act, the state assures that individuals will have free choice of provider, unless a limitation is authorized through a Section 1915(b)(4) waiver authority.

Service	Personal Assistance Services and Habilitation (PAS/HAB)
Service Provider Qualifications	<ul style="list-style-type: none"><li>• Is at least 18 years of age; and</li><li>• Has a high school diploma or a certificate recognized by a state as the equivalent of a high school diploma; or</li><li>• Documentation of a proficiency evaluation of experience and competence to perform the job tasks that includes:<ul style="list-style-type: none"><li>○ A written competency-based assessment; and</li><li>○ At least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals being served.</li></ul></li><li>• Is not the parent of an individual who is under 18 years of age or the individual's spouse; and</li><li>• Meets any other qualifications requested by the individual or legally authorized representative (LAR) based on the individual's needs and preferences.</li><li>• If requested by an individual the provider must allow the individual to train a CFC PAS/HAB service provider in the specific assistance needed by the individual and to have the service provider perform CFC PAS/HAB in a manner that comports with the individual's personal, cultural, or religious preferences; and</li><li>• Ensure that an individual has the right to access other training provided by or through the State so that the service provider can meet any additional qualifications required or desired by the individual.</li></ul>

TN: 24-0009 Approval Date: 06/12/2024

Supersedes TN: 14-026 Effective Date: 04/01/2024

**Community First choice State Plan Option (Continued)**

<b>Service provider Qualifications (Continued)</b>	<b>Consumer Directed Services</b> <ul style="list-style-type: none"> <li>• Is at least 18 years of age; and</li> <li>• Has a high school diploma; or A certificate recognized by a state as the equivalent of a high school diploma; or Documentation of a proficiency evaluation of experience and competence to perform the job tasks that includes: <ul style="list-style-type: none"> <li>(1) A written competency-based assessment; and</li> <li>(2) At least three written personal references from persons not related by blood that indicate the ability to provide a safe, healthy environment for the individuals being served.</li> </ul> </li> <li>• Is not the individual's legally authorized representative (LAR), LAR's spouse, designated representative, or designated representative's spouse; and <ul style="list-style-type: none"> <li>• Meets any other qualifications requested by the individual or LAR based on the individual's needs and preferences.</li> </ul> </li> </ul>
Provider Entity Qualifications	<ul style="list-style-type: none"> <li>• Licensed home and community support services agencies (HCSSAs). The agency must be licensed as a home and community support service agency under Title 40 of the Texas Administrative Code, Part 1, Chapter 97.</li> <li>• Certified HCS and TxHmL providers.</li> </ul>
<b>Service</b>	<b>Emergency Response Services</b>
Service Provider Qualifications	See provider entity qualifications
Provider Entity Qualifications	<ul style="list-style-type: none"> <li>• Must be capable of providing backup systems and supports as defined at 42 CFR §441.505.</li> </ul>