

Your Rights

In An HCS Program



This Book Belongs To:



**Published by:
SPINDLETOP MENTAL HEALTH
AND MENTAL RETARDATION
November, 1998**

Table of Contents

A Special Note About Your Rights	2
Definition of Terms	3
Your Rights Under the Persons With Mental Retardation Act	5
The HCS Principles	7
Your Guardian's Rights	12
Your Responsibilities	13
Guardianship Hearing	14
Individual Service Plan	14
Problems with the HCS Provider	15
Consumer Advisory Committee	15
State Regulatory Offices	16
How to Reach Your Case Manager	18

A Special Note About Your Rights

This handbook tells you about the rights and privileges you have if you are receiving services in programs offered through the Home and Community Based Services (HCS) program. If you have chosen the Spindletop Mental Health and Mental Retardation (STMHMR) Community Center as the provider of services, you may also want to refer to an additional handbook called “Your Rights in TDMHMR Community Programs.”

There are some basic things that guide your rights.

1. **People have rights.** Rights are what you are allowed to do and how you should be treated.
2. **People are free from abuse and neglect.**
3. **People have responsibilities with the exercise of rights.** Responsibilities are your duties that you need to try to do, if you are able.



Sometimes, some of your rights might be restricted. This should only be done for very good reasons. You may ask your provider for a review of this decision if you do not agree with it.

Staff can help you learn about your rights and responsibilities.

All services are provided in compliance with the Civil Rights Act of 1964, as amended, and in the Americans with Disabilities Act (ADA) of 1990.

Definition Of Terms

Advocate - A person who helps you make decisions and looks out for your best interests.

Appeal - To ask for a special meeting when you disagree about a decision.

Case Manager - The person who arranges services to meet your needs and help you achieve your goals. Sometimes this person is known as your case coordinator, your service coordinator, or your QMRP (Qualified Mental Retardation Professional).

Consent (informed consent) - When you agree to do something or give permission to do something. You must understand what you are agreeing to, be over age 18, and not have a guardian.

Consumer Advisory Committee – A group of consumers, family members, volunteers from the community, and staff who help you with problems with your provider.

Due Process - A review process to make sure your rights are not taken away from you without a good reason.

Guardian - Somebody chosen by the courts (often your parent or other adult family member) or your parent if you are under age 18. Your guardian makes certain decisions, as outlined in the court papers. These decisions may be about your money, your rights, and/or your physical needs.

Hearing - A special meeting to talk about something which you or your guardian do not agree.

Individual Habilitation Plan - The services and maximum amount of each service that you are to receive over your plan year. It is also known as the IHP.

Planning meeting - A meeting with your team to develop service plans that will help you meet your goals. (This is sometimes called a “staffing.”)

Responsibilities – What you need to do in order to have your rights and to continue your services

Rights - What you are allowed to do and how you should be treated.

Service Plan - This includes the reasons you are receiving the services scheduled on your habilitation plan. It is based on assessments that support the need for the service.

Team (interdisciplinary team) - A group of people who make suggestions for the programs that will help you meet your goals or dreams. You and your guardian are also members of the team.

Treatment - This is something that is done for you, like providing you with training.

Your Rights Under The Persons With Mental Retardation Act

If you are a person with mental retardation living in the state of Texas, you have the following rights:

1. You have the same rights all citizens have, unless some of these rights have been taken away by a judge. These rights include the right to vote, to practice a religion, to keep your own possessions, to contract for something such as buying a house, and to get married.



You cannot be treated differently because of your disability.

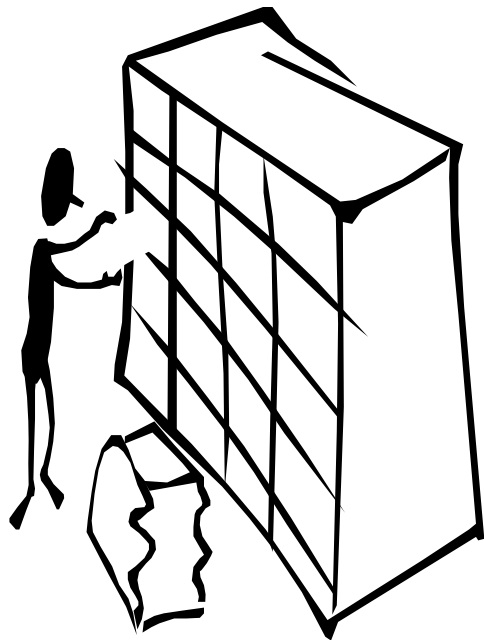
2. No one has the right to hurt you, take advantage of you, or ignore your needs.
3. You have the right to live and receive services where you can make as many of your own decisions as possible. This may be with your family, with your friends, alone, or where there are people trained to help you.



4. You have the right to go to public school until age 22.
5. For issues needing consent, you should be able to understand

what you agree to. If you have a guardian, he or she may make decisions for you.

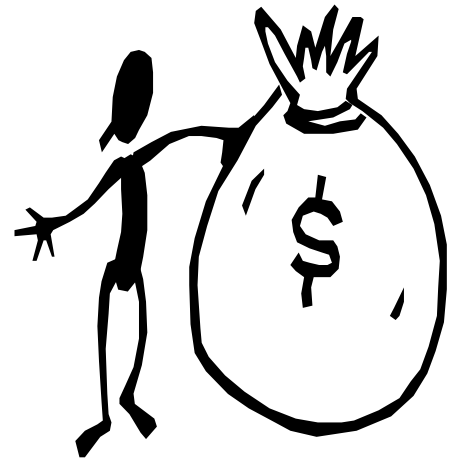
6. Before you receive services, a doctor or a psychologist must determine that you have mental retardation and explain to you what that means. If you do not agree with them, you can ask for a meeting to review your case. You can also ask for a second opinion that you would pay for with your own money. You can ask for services from other agencies and organizations, also.
7. Before a guardian is named, you will have a hearing in court with a judge. Only a judge can give you a guardian. That guardian may be a parent or another adult. This hearing is considered due process. Due Process is a review process to make sure your rights are not taken away from you without a good reason.
8. If you are looking for a job and have the skills to do the job, you cannot be denied it just because of your disability. If you have a job, you have the right to be paid fairly like everyone else.
9. You have the right to have treatment and services that are best for you. You can change your mind about any or all of the services you receive.



The HCS Principles

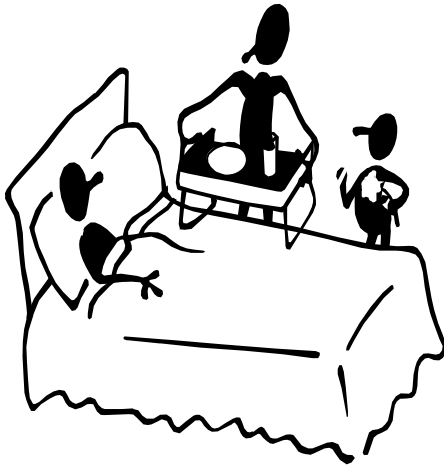
If you receive services in the Home and Community-Based Services program (HCS), you have all the rights listed in this handbook under the Persons With Mental Retardation Act. In addition, you also have the following rights:

1. You have the right to manage your money, be trained to manage your money, or have help in handling your money. If you handle your own money, you can use it for yourself or be trained to do so. You can ask staff if you need help or need questions answered. If you want the provider to manage your money, you should ask in writing.



2. You can go to the same places as everybody else.
3. You should be told of your rights in HCS, and the rules to stay in this program.
4. You will be told of all the services available, the rules for the program, and any changes in the program.
5. You should be told about your Service Plan, Individual Plan of Care, and any restrictions to your rights. Sometimes, some of your rights might be restricted. This should only be done for very good reasons. You may ask your provider for a review of this decision if you do not agree with it.
6. You should participate in all decisions about you.
7. You can have visitors without telling the HCS staff ahead of

time, and you can meet privately with your visitors.



8. You have the right to be told about your health, and your progress in the program.

9. You have the right to know the name and abilities of any person serving you. You can choose from different service providers.

10. You have the right to use the telephone in private.

11. You can attend religious activities of your choice.



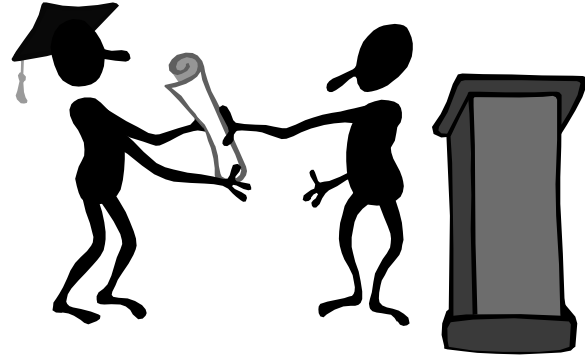
12. You can send and receive mail without anybody opening it. Your mail should not be opened by another person unless your doctor writes in your record that you need help.

13. You can help write a plan for the services that you need or want after you leave the program.

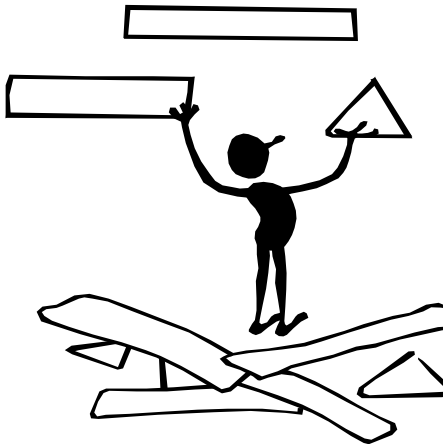
14. You have the right not to be restrained.

15. You can live in a regular home, just like other people.

16. You can have a free public school education if you are school aged.



17. You have the right to live near the services that you need.



18. You have the right to have training programs that will help you do things for yourself. Your team will develop a plan for you every year, or more often if needed. You have the right to go to your meetings and participate. You and your team need to look at your plan often to help your plan. Your plan should include what you need to learn to help you with your goals and dreams.

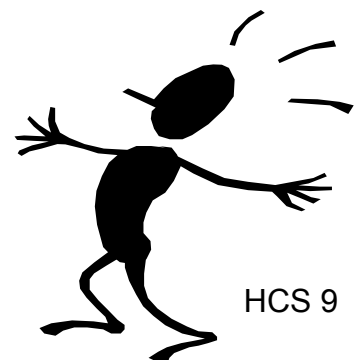
19. You and your team will look at your needs every year to be sure your plan is still right for you.

20. You should be told what areas of your program plan you are doing better in and in what areas you are not doing as good.

21. You can choose from the same services available to everyone else in the community.

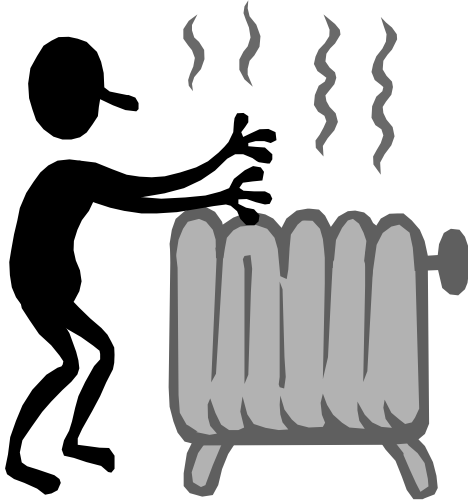
22. You have the right to complain to any HCS staff at any time.

23. You can decide where you live, what kind



of furniture you will have, and with whom you will live. You can also help decide if you should move.

24. Staff should be careful not to spend too much money for your program, but still try to meet your needs.



25. You have the right to live in a healthy, safe, and comfortable place.

26. Staff will help you do things like register to vote or complain. Staff can also give you information on citizenship, advocacy services, and guardianship.

27. You should talk to staff, your guardian, your family, your friend, or your advocate before you spend a lot of money.

28. You can keep your own money to use for yourself or have staff teach you about handling money.

29. You can look at your financial records.

30. You have a right to privacy during treatment and care of personal needs.

31. You have a right to private visits with your husband or wife if you do not live together. If you do live with your husband or wife, you may share a room.

32. You can meet and talk p

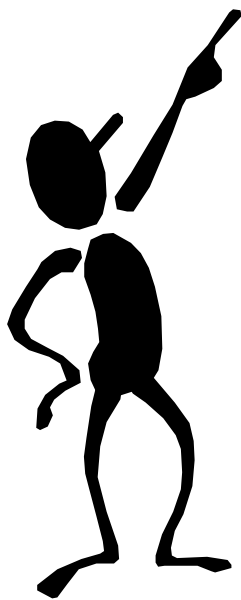


33. You do not have to do work where you live, unless you live with your family, but you should help take care of your home.

34. You and/or your guardian will be told of all rights and responsibilities when you are enrolled in HCS. You will also be told about any changes in your rights and responsibilities.
35. You can transfer to another program provider if you want.
36. You have the right to be part of the community.
37. You have the right to be told of any charges the provider makes against your money. You must agree in writing to the charges.
38. You can complain to TDMHMR at 1-800-252-8154 when your provider does not settle your complaints.



Your Guardian's Rights



If you have a guardian, there are certain decisions they can make for you. Your guardian might make decisions about your money, where you live, or what services you will receive. A guardian may consent to medical treatment. If you are able to make a choice about something, your guardian should let you. There are papers from the court, which tell you exactly what your guardian can decide. If your guardian has papers from the court that say you have a “full guardianship,” they can make all decisions that

require consent. All other guardianships are called “limited guardianship” and consent is limited to the specific areas listed in the court papers.

Your guardian should participate in the planning meetings with you and your team. They have the right to look at your records and to talk with staff about you. They can file complaints for you.

Your guardian has to tell the court every year about how you are doing. For the guardian of the estate, this is called an annual accounting. For the guardian of the person, it is known as an annual report. The law requires all guardians to complete an annual accounting or report to the court, no matter how long they have been a guardian. When your guardian files the annual accounting or report, they are given letters from the court to show the guardianship is current. They need to share this letter with your staff. Your guardian helps protect your rights.

Your Responsibilities

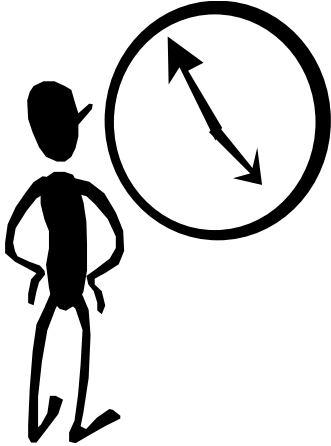
Along with rights come certain responsibilities. Responsibilities are your duties that you need to try to do, if you are able. You may not be able to do all these things by yourself, and you can ask for help.

1. You should not hurt others.
2. You should follow the rules and regulations of your program.
3. You should tell staff what you need.
4. You should speak up at your planning



meeting and tell your team about your goals and dreams.

5. You should help take care of the home where you live.



6. You should try your best to follow the treatment plan developed by you, your guardian, and those who work with you. If you do not like your plan, you can ask that the plan be changed.

7. You should be on time.

8. You should take care of your things and not bother other people's things.

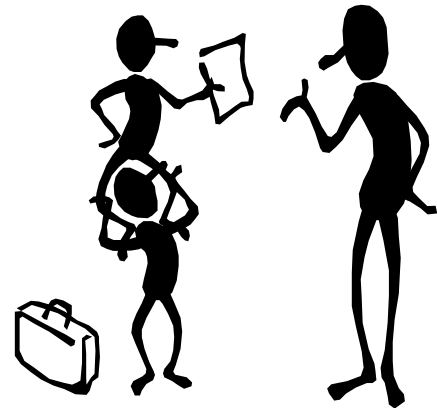
9. If you leave, you should tell staff where you will be.

10. You may have other responsibilities, and staff can help you learn what they are.

Special Meetings

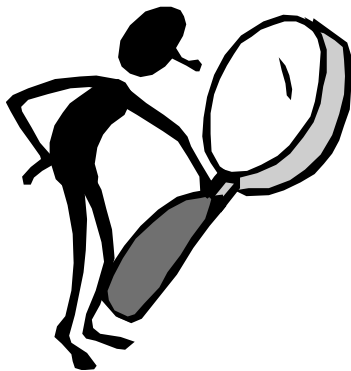
Guardianship Hearing

If you have a guardian, the guardian had to go to court to tell the judge why he or she wanted to be your guardian to help you make decisions. This process in the court is known as due process. Due Process is a review process to make sure your rights are not taken away from you without a good reason.



If your guardian was given permission by the court to make certain decisions, then your staff will need your guardian's permission before restricting any of your rights in those areas.

Individual Service Plan



At least once per year, you, your guardian if you have one, your case manager, and the staff that work closely with you will meet to determine your service plan. This plan will determine what services your HCS provider will give you over the next year. If you want to make changes in your plan, then you must have a meeting to discuss the changes.

How To Make A Complaint

If you think that anyone or anything is going against your rights, you should call one of the following people or groups and tell them about anyone/anything that does not respect your rights. Ask staff to help you do this if you need help.



Problems with Your HCS Provider

You should talk to your case manager or the Citizens Advisory Committee where you get services. Ask your provider how to

contact the Citizens Advisory Committee.

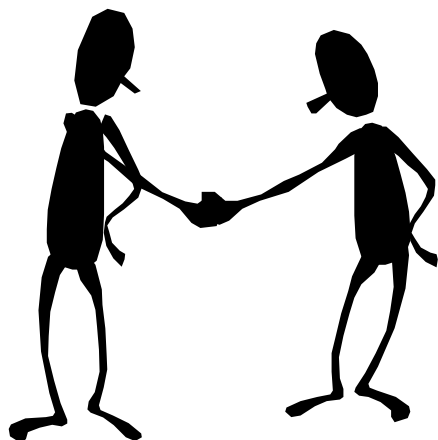
You can also talk to STMHMR about any complaints that you have about your HCS provider. You can call HCS directly at (???) ???-5846. You can also call STMHMR at 1-800-????

Consumer Advisory Committee

The Consumer Advisory Committee is made up of consumers, family members, volunteers from the community, and staff. They care about you and will listen to you. They are there to help improve the HCS program and to help you with complaints. Your provider can help you to contact them.

State Regulatory Offices

If you want help with complaints or violations to your rights regarding MHMR or HCS, you should call ???, Texas:



**OFFICE OF CONSUMER
SERVICES & RIGHTS
PROTECTION (STMHMR)**
1-800-???-????

If you think staff have abused you, neglected you, or taken advantage of you should call and report this to:

**SPINDLETOP MHMR PROTECTIVE AND
REGULATORY SERVICES (STPRS)**
1-800-647-7418

If you want to complain about public school, you should call:

TEXAS EDUCATION AGENCY (TEA)
1-800-252-9668

Other places you can call if you have complaints or need help:

ADVOCACY, INC.

1-800-223-4206

THE ARC

1-800-252-9729

PART (Parent Association for the Retarded of Texas)

1-512-453-7145

If you are hearing impaired and need TDD to make a phone call,
you can get help from:

RELAY TEXAS

1-800-735-2988 (voice)

1-800-735-2989 (TDD)

Your case manager is named:

Their telephone number is:

You can reach the Consumer Advisory Committee at:



**STMHMR CONSUMER SERVICES
AND RIGHTS PROTECTION:
1-800-???-????**