

**Frequently Asked Questions
Traumatic Brain Injury (HCBS/TBI) Medicaid Waiver
Amended Home and Community Support Services (HCSS) Rules**

Issued: August 10, 2009 effective October 1, 2009

Timeframes for transition to LHCSA licensure requirement; implementation of the 2009 TBI Program Manual HCSS Scope of Practice:

1. Is there a time frame when participants requiring hands on care must be transitioned to a Licensed Home Care Service Agency (LHCSA) agency?
 - Participants receiving Home and Community Support Services (HCSS) care from an agency that is not currently in the process to become an LHCSA provider must be assisted by the Service Coordinator (SC) to immediately transition those participants to the LHCSA that provides HCSS.
 - Those LHCSAs who currently provide HCSS to participants should also work with the SC to transition individuals from the State Plan Personal Care Services Program. The transfer process will require coordination between Traumatic Brain Injury (TBI) SC and the Local Department of Social Service (LDSS) to ensure an uninterrupted transition of services. In accordance with the April 29, 2009 letter from Lydia Kosinski, Interim Director Division of Home and Community Based Services to all TBI Waiver Service Providers, the SC will collaborate with the LDSS and make arrangements for personal care services through the HCSS provider.”
2. What happens to agencies with pending home care services agency licenses?
 - Providers pending licensure as a home care services agency may continue to provide oversight and supervision only to current participants. All hands-on care must be provided through the LDSS personal care program, or transferred immediately to a LHCSA that provides HCSS. The SC must coordinate with the LDSS to ensure an uninterrupted transition of services from PCA to HCSS for individuals requiring hands-on care.
 - At the time of the LHCSA pre-opening survey, an agency must have a nurse supervisor on staff and all HCSS staff must hold PCA or HHA certificates. The transition from State Plan PCA Services to HCSS waiver services will require coordination between the SC, LDSS, HCSS provider and the RRDS. The SC must initiate the Home Assessment Abstract (LDSS3139) to be completed by the LHCSA. The SC must submit the Abstract as part of an Initial Service Plan (ISP), addendum or Revised Service Plan (RSP) to the Regional Resource Development Specialist (RRDS) for approval. Transition to HCSS services can occur following RRDS approval of the plan.
3. What are the effective dates of provisions in the new TBI manual? For example, the experience requirements for those providing service coordination and Independent Living Skills Training and development services (ILST) have been changed. Are these effective going forward or apply retroactively to staff already providing such services?
 - The amended TBI Program Manual was posted on May 26, 2009. The forms and appendices were posted on the DOH website at: [NYhealth.gov/Long Term Care/Traumatic Brain Injury Waiver](http://NYhealth.gov/Long_Term_Care/Traumatic_Brain_Injury_Waiver) on July 31, 2009. **The effective date for all forms**

and Manual implementation is October 1, 2009. Providers must continue to comply with the practices established in the 2006 Manual. However, DOH encourages all providers to adopt the practices presented in the 2009 version prior to the October 1 effective date, particularly in the area of the Revised Service Plan.

- Staff, hired before October 1, 2009 who meet experience requirements established in the 2006 version of the TBI Program Manual, will be “grand-fathered in”. All new staff hired after the Manual implementation date of October 1, 2009 must meet the experience/credential requirements for the specific service provided as established in the 2009 version of the manual. Each provider must maintain personnel files on every employee including resumes and job descriptions.
- All TBI HCSS providers who are seeking LHCSA licensure are expected to meet all program requirements at the time of their pre-opening survey. All current providers who are not actively engaged in obtaining LHCSA licensure must begin to transition HCSS participants to a qualified LHCSA provider approved to provide TBI HCSS services.

4. When will the Manual’s appendices, which include forms for agencies to use, be released?

The Manual appendices contain forms for providers to administer the TBI program. All forms have undergone minor revisions and are currently posted on the DOH website at: NYhealth.gov/Long Term Care/Traumatic Brain Injury Waiver.

5. If audited now, which version of the Provider Manual should be presented?

The effective date of the Manual is October 1, 2009. These standards will apply for all audits completed after that date. If audited before October 1, 2009 the requirements of the 2006 TBI Program manual will apply.

6. How will RRDC contractors be able to meet the stricter time limits that new TBI manual establishes?

- The 2009 TBI Program Manual Section V Page 8 requires that a complete, acceptable Revised Service Plan packet be submitted by the SC to the RRDS sixty (60) days prior to the end of the current approval period. The Department will be monitoring the time required for an approved service plan. When plans are delayed the Department will be reviewing the causes for the delay and take appropriate action. RRDS timeliness of Service Plans will be part of the Department’s annual review of each region.
- OLTC staff has maintained close communication with local TBI waiver administrators and service providers during the time the recommended changes in service plan processes were developed and implemented. At the June 9, 2009 RRDC quarterly meeting, discussion about recent changes to the TBI waiver service plan development and approval process indicated a consensus that the primary goal to improve and streamline the process has been achieved, particularly with the implementation of the new RSP format.

Training of Nursing Supervisors and Service Coordinators

7. Is the RRDC responsible for training SC and registered nurses (RN) on the Home Assessment Abstract (HA Abstract) (LDSS 3139)? How will agencies implement the HCSS requirements prior to receiving training?

- The Department understands that training is needed, and Department staff are working to make minor revisions to the SC and HCSS training manual sections related to completion of the HA Abstract. This Train the Trainer curriculum will then be offered to LHCSA RNs and SCs by the RRDS. However, the matter of the Home Abstract continues to be under review, as stated below.
- General instructions for completion of the HA Abstract are available with the TBI Manual forms at nyhealth.gov/Long_Term_Care/Traumatic_Brain_Injury_Waiver. See Question #4.

Implementation of Home Assessment (HA) Abstract (LDSS 3139)

Providers must implement practices established in the 2009 Manual effective October 1, 2009.

8. Does the LHCSA need to complete a HA abstract for all participants, even if they don't need hands-on care provided by staff?

Yes, all participants' receiving HCSS are required to have a HA abstract completed regardless of the need for hands on care. The HA abstract is part of a packet that must be developed by the TBI SC and approved by the RRDS before HCSS can be initiated by the LHCSA.

9. When a person is residing in an out-of-state facility, the SC can complete the SC portion of the HA abstract. May the RN complete the nursing portion of the abstract on the first visit?

Yes, for individuals residing out of state, the SC will complete the SC portion of the HA abstract as part of the development of the service plan. The nursing section of the HA abstract can be completed on the first visit in the participant's home.

10. Must the HA be completed for existing participants receiving HCSS?

Yes, the HA abstract must be completed on current participants receiving HCSS. This information is part of the packet that the SC must submit to the RRDS for approval before HCSS can be provided by the LHCSA.

11. When more than one agency provides HCSS, must they both complete the Home Assessment Abstract, conduct an initial assessment visit, develop a Detailed Plan, develop an ISR and obtain medical orders?

Yes. Providers may share the completed HA abstract with another HCSS provider; each waiver provider agency must obtain medical orders, develop, or obtain an already prepared Detailed Plan and ISR as part of the Service Plan, as appropriate.

12. How often must the HA abstract be completed?

The HA abstract is completed for the initial assessment only.

13. Is the HA abstract a required part of a Revised Service Plan (RSP)?

- The HA abstract is required when a LHCSA initiates HCSS for a participant the first time services are initiated by a LHCSA HCSS provider.

- For waiver applicants, the SC must initiate completion of the HA abstract as part of an Initial Service Plan (ISP). For current waiver participants when services are transferred from State Plan services, the SC must initiate completion of the HA abstract as part of an Addendum to the current Service Plan. For participants who are starting HCSS as part of the development of a new plan, the HA abstract would be part of the RSP.

14. For admissions which are not local for the SC, can the SC complete relevant sections of the HA abstract form over the telephone?

No, the HA abstract may not be completed by the SC over the telephone. As part of the SC responsibility to develop the Application Packet, the SC must meet face to face with the applicant. The Service Coordination sections of the HA abstract should be completed during that meeting.

Nursing Supervision

15. Does the RN need to supervise cases that are not hands-on or can those cases still be done by the HCSS supervisor in accordance with the provider manual?

LHCSA regulations require supervision of all HCSS staff by a RN regardless of the specific tasks they perform.

16. Is the RN responsible for the HCSS Detailed Plan and Individual Service Report (ISR)?

Yes. Each provider is responsible for the development of a Detailed Plan and ISR. This is not a change in the TBI waiver. Per regulations, the RN is responsible for the initial assessment, using the HA abstract, ongoing assessments and revisions to plan of care and supervision of personal care aide staff. Therefore, the RN is also responsible for the development of the Detailed Plan and the ISR.

17. The LHCSA Nurse supervises the Personal Care Aide (PCA) (under LHCSA regulations); however, the aide also receives direction from other professionals providing additional services, such as Independent Living Skills Trainer (ILST). How should the LHCSA Nurse coordinate with the other services?

This is not a change in TBI Waiver supervision policy regarding HCSS. The LHCSA RN is responsible for supervising the personal care aide providing HCSS services. The ILST does not provide or interfere with any nursing supervision, but will provide specific training to HCSS direct care staff to appropriately support the ILST goals of the waiver participant. For example, the ILST might direct the PCAs providing HCSS on how to cue the participant in the steps necessary to complete a task independently. There needs to be clear ongoing communication between the ILST and the LHCSA RN. The RN must ensure that PCAs are following the participant's plans.

18. How many nursing visits are required to be made to participants receiving HCSS?

- Three nursing visits are required in the first year and two nursing visits for subsequent years to assess the participant by the LHCSA RN. However, LHCSA regulations require assessment if there is a change in conditions. The HCSS Supervisor, an RN, must conduct a visit the first time HCSS service is provided. The environmental section of the HA abstract may be completed at this time.

- The second required nursing assessment visit is eight weeks prior to the expiration of the current service plan. The purpose of the visit is to review and assess the effectiveness of the HCSS Detailed Plan and ISR which must be submitted to the SC for development of the Revised Service Plan. Subsequent nursing visits are required every six months thereafter and should be conducted no later than eight weeks prior to the expiration of the current service plan.

19. Is the RN required to make an orientation visit for each shift (i.e. 24/7 with 3 shifts)?

LHCSA regulations (10NYCRR 766.5) require that a visit be conducted the first time services are in place. Agencies should develop policies and procedures that meet these regulations.

20. Can HCSS service being provided through a LHCSA be started without the HA?

- No, the Abstract is part of the required documentation that the SC must submit to the RRDS for approval prior to the initiation of HCSS by the LHCSA.
- LHCSA regulations require that a plan of care be established for each participant based on a professional assessment of the patient's needs. The HA abstract is a portion of the required assessment.

Medical Orders (10 NYCRR 766.4)

21. Must medical orders be obtained for all HCSS?

Yes. LHCSA regulations require that a medical order be obtained for anyone being actively treated by an authorized practitioner for a diagnosed health care problem. Since all waiver participants have a diagnosis of TBI, a medical order is necessary. Orders should be reviewed and revised as the needs of the patient dictate but no less frequently than every six months.

22. Is a physician's order on a prescription pad acceptable?

Each LHCSA is required to have an approved policy on obtaining written orders and any forms they wish to utilize. The agency must follow that policy.

23. Home health providers are being held responsible for actions of third parties such as regional resource development centers (RRDCs), and physicians (for orders), over which they have no control. Why?

The LHCSA is not held responsible for the actions of third parties. However, it is responsible to act in a manner that complies with regulations and policies in the TBI manual applicable to providers of HCSS services. By choosing to participate as a Medicaid provider, an agency assumes responsibility for meeting all requirements as a prerequisite to payment and continued status as an enrolled provider. DOH will continue to work with all providers to ensure that quality services are provided and there is compliance with the TBI Waiver Program Manual.

24. What happens if the LHCSA has difficulty obtaining orders from the participant's medical provider?

It is the responsibility of the LHCSA to obtain medical orders in accordance with their agency approved policy and procedures and to document their efforts.

25. Who is responsible to obtain medical orders?

The person identified in the LHCSA's policies and procedures.

Consumer Directed Personal Assistance Program (CDPAP)

26. If a family member or informal support agrees to provide the oversight and supervision can the participant continue with CDPAP or must they transfer to HCSS?

- If a family member is willing to provide the oversight and supervision needed to safely maintain a participant in the community and they meet the definition of "self directing other" (92ADM – 49/50), the participant may receive CDPAP and waiver services other than HCSS services.
- A non-self-directing TBI waiver participant who requires personal care services and supervision must have those service needs met by a qualified HCSS provider unless the participant's supervision needs can be met by a qualified informal (unpaid) support person. In instances in which the participant's supervision needs are not being met by the waiver program, appropriate state plan services may be provided.
- It is the responsibility of the LDSS to determine a TBI waiver participant's appropriateness for participation in the CDPAP.

Issues regarding transition of cases from State Plan PCA (administered by the Local Department of Social Services) to TBI HCSS waiver services

27. Some RRDS received calls from LDSS staff regarding transition of PCA services to HCSS. Should SC be directed by the RRDS to contact the LDSS to develop a transition plan?

Yes. The SC needs to be in communication with the LDSS to develop, coordinate and ensure a smooth transition from State Plan PCA services to a qualified LHCSA provider. The SC will work with LDSS for PCA services to remain in place until the HCSS provider is approved as a LHCSA. The SC submits the service plan packet to the RRDS and the RRDS approves the plan. Once the LHCSA is approved to admit participants, the SC must work with the LDSS and the LHCSA to coordinate the transition of services.

28. Some HCSS providers are approved to provide TBI services in multiple RRDS regions and cover many counties. As these HCSS providers become a LHCSA, they are approved for certain counties within an RRDS region. Must the participants they serve in counties for which the LHCSA is not approved, be transferred to another qualified provider? Will the Department permit the LHCSA to expand their approved service area to cover counties in which they provided HCSS prior to the LHCSA requirement?

Providers have two options:

- Transfer participants to a qualified HCSS provider in counties where they are not licensed; or
- An agency licensed as a LHCSA may seek approval to expand into additional counties within a DOH regional office area and one county contiguous to that area without setting up an additional office. If approved, the agency may only provide services to individuals under the waiver programs in these additional counties and cannot serve the general population in those counties. The request for expansion must be submitted

to the appropriate DOH regional office. The request must be in writing and include a letter of support for the expansion from the RRDS which includes the reasons for recommending that the expansion be granted. The final determination of enrollment in additional counties remains with the Office of Long Term Care.

- During the period which the agency is seeking licensure in an additional county, the provider may only provide oversight and supervision. Hands on care must continue to be provided through the Personal Care Program until the licensure process is completed.

LHCSA and PCA Training

29. How long does the LHCSA have to train all HCSS staff to the PCA level?

A LHCSA must provide services to their patients using qualified personal care aides. Sufficient personal care staff must be qualified at the time of licensure to ensure that only qualified staff deliver HCSS services to participants. It should be noted that the PCA credential is not the sole qualifying requirement. Personnel regulations must also be met.

30. Must all LHCSA staff hold a PCA or HHA certificate, or only those providing hands-on care? What is the time frame for all providers being PCA/HHA trained?

- Yes, all LHCSA staff must hold either PCA or HHA certificates regardless of the functions they perform as HCSS. Providers who are currently licensed as a home care services agency must ensure that all staff providing HCSS services are qualified as personal care aides or home health aides prior to providing services to a participant.
- Providers pending licensure as a home care service agency must have qualified aide staff at the time of their pre-opening survey.

31. Do providers who already have the LHCSA license need to remove individuals who do not hold a PCA or HHA certificate from TBI cases?

Yes, LHCSAs must remove individuals who do not hold a PCA or HHA certificate from cases which serve TBI waiver participants. Individuals who are providing HCSS services to TBI cases and who are employed by a licensed home care services agency must be certified as a personal care or home health aide. Agencies with pending LHCSA applications for licensure may continue to provide non-hands on care but should be making appropriate arrangements for their staff to have the required training completed by the time of the pre-opening survey.

32. Are criminal checks required?

Yes, a criminal history record check (CHRC) is a requirement for home health aides and personal care aides employed by or used by a home care agency.

33. What information is needed to document oversight and supervision as well as PCA tasks?

Each LHCSA is required to develop policy and procedures for documentation of service. Oversight and supervision should be added to the task list and appropriately documented in accordance with LHCSA regulations.

Reimbursement for HCSS

34. What form should be used for billing HCSS, the traditional PCA form or the TBI form?

The agency should use the same TBI billing form they have used in the past.

35. When two agencies cover for each other, it is not always feasible to bill in one hour increments. Could HCSS billing in 15 or 30 minute increments be considered?

No. HCSS must be billed in full hour increments. Agencies must accumulate a full hour of service prior to billing.

Reimbursement for Nursing Supervision

36. Currently LHCSA cannot bill separately for RN services. Is this problem being addressed by the Department?

Yes. Department staff are currently examining the most appropriate approach for TBI providers. A rate package comparable to the NHTD waiver is being developed.

Other Issues

37. What should the HCSS provider do when they identify a participant has been discharged to an unsafe housing situation?

LHCSA regulations require that LHCSA's serve participants whose needs can be safely met. It is the goal of the TBI program, supported by the many established approval and evaluation processes, to assure wavier participants' health and welfare. When a provider identifies that a participant is living in an unsafe environment it is the provider's responsibility to notify the TBI Service Coordinator and the assigned RRDS. The Service Coordinator (SC) must be proactive in addressing all of the needs of the participant, particularly in the area of health and safety. In accordance with the TBI Housing guidelines, the Service Coordinator should complete a Housing Standards Checklist, work with the landlord to address any deficiencies or if necessary submit a relocation request to the RRDS, and determine if a Serious Reportable Incident (SRI) report is required.

38. Where can providers obtain the necessary PCA training for HCSS direct care staff?

Resources available to locate training opportunities include:

- DOH, Bureau of Licensing and Credentialing maintains a list of agencies and organizations approved to offer Personal Care Aide (PCA) training and issue PCA certificates throughout New York State. The document is available through the Health Provider Network (HPN) under Health Care Organizations/LHCSA/training. Any agency which is pending licensure as a LHCSA must contact DOH at 1-800-866-529-1890 or email HINHPN@health.state.ny.us to apply for an HPN account.
- Agencies may also develop their own PCA training program. For information on how to complete this process agencies should contact:
NYS Department of Health
Bureau of Professional Credentialing

161 Delaware Ave
Delmar, NY 12054
518-408-1297

- NYS Department of Education institutions
Proprietary Schools – www.highered.nysed.gov/bpss
- BOCES programs
Each BOCES will list the programs that are offered.
<http://www.monroe2boces.org/statewide.cfm>

39. Is a provider required to keep two medical records (HCSS and LHCSA) for waiver participants?

No. A LHCSA that is an approved TBI waiver provider must follow all LHCSA requirements regarding medical records. There is no need to maintain a separate record or filing system for HCSS recipients. DOH surveillance staff is aware of the potential for competing requirements and will develop a method by which to survey HCSS providers to accommodate this issue. Future communications will be issued as needed to assist RRDC staff and providers to understand program changes and respond to questions on a consistent basis.

40. There is a problem with the requirement that the PRI/SCREEN be completed every twelve months. A CHHA cannot bill for PRI/SCREEN unless twelve months have passed since last completion and so they complete another form the week after the previous one expires. This results in a period of time when there is no active PRI/SCREEN and during which the LHCSA may face liability issues. Please clarify?

Currently, it is required that the new PRI/Screen be completed in a timely manner so that no gap in waiver eligibility results. OLTC staff are aware of this billing issue, and will explore ways to resolve the matter.