



Senate Health and Human Services
Committee
Interim Charge 1

Department of Aging and Disability Services

Commissioner Adelaide Horn

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DADS Long Term Services and Supports - Overview

DADS Services

- Medicaid Entitlements
- Medicaid Community Services 1915(c) Waivers
- Non-Medicaid Funded Services - Federal (Title XX, Older Americans Act)
- General Revenue Funded Services

Medicaid Entitlement

- States must serve all persons who meet eligibility requirements.
- Medicaid must pay for services included in the Medicaid State Plan.
 - **Community Entitlement Services include:**
 - Primary Home Care (PHC)
 - Community Attendant Services (CAS)
 - Day Activity and Health Services (DAHS)
 - **Facility Entitlement Services include:**
 - Nursing Facilities
 - Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions (ICFs-MR/RC), including state mental retardation facilities

Note: Hospice is another entitlement service that may be received in a home, community, or long term facility setting.

Medicaid Community Services 1915(c) Waivers

- Waiver programs allow states flexibility to limit:
 - Scope of eligibility
 - Geographical location in which services are provided
 - Scope of services
 - Amount of services
 - Number of people served

Medicaid Community Services 1915(c) Waivers

- Medicaid Community Services 1915(c) Waivers:
 - Waive off of Nursing Facility (NF):
 - Community-Based Alternatives (CBA)
 - Integrated Care Management (ICM)
 - Star+PLUS
 - Medically Dependent Children Program (MDCP)
 - Waive off of ICF/MR:
 - Home and Community-based Services (HCS)
 - Community Living Assistance and Support Services (CLASS)
 - Deaf-Blind/Multiple Disabilities Program (DBMD)
 - Texas Home Living (TxHmL)
 - Waive off both NF and ICF/MR:
 - Consolidated Waiver Program (CWP)
- An individual can be enrolled in only one waiver program.

Non-Medicaid Funded Services

- Eligibility requirements vary by program.
 - **Services Funded with State General Revenue**
 - Access to mental retardation services
 - In-Home and Family Support (IHFS)
 - In-Home and Family Support Services for Persons with Mental Retardation
 - Community Care Services for Persons with Mental Retardation (MR)
 - Residential Community Care Services for Persons with MR
 - **Services Funded with Other Federal Dollars***
 - Community Services and Supports (Title XX Block Grant)
 - Older American Act Funding
 - Access and Assistance Services
 - Nutrition Services
 - Services to Assist Independent Living
 - Services for Caregivers

State School Improvements

State School Hiring

- The biennial appropriation for State Schools for FY 2008-09 is \$1.040 billion and included \$48.8 million additional GR funding (\$124.9 million all funds) to allow DADS to hire an additional 1,690 FTEs to meet national staffing ratios at our State Schools.
 - 1,211 medical professional and direct care positions
 - 479 positions that support State School operations
 - 1,193 of the new positions have been filled as of September 4, 2008
- DADS is working to ensure the newly allocated positions are filled over the next Fiscal Year.

State School System-Wide Initiatives

- Community Living Options Information Process (CLOIP)
 - As of January 2, 2008, MRAs are performing the CLOIP for adult residents of state schools
- Person-Centered Values
 - Values-Based Culture Training: treating individuals with dignity and respect
 - Standardized Person-Directed Planning System: standardized process for developing individualized plans based upon the individual's needs and what is important to the individual
- Individual Rights
 - Standardized Rights Assessment: protecting individuals' rights
 - Most Integrated Setting
 - Positive Behavior Support
 - Restraint Reduction

State School System-Wide Initiatives

- Quality Medical Services
 - Nursing Services
 - Specialized Therapies
 - Medication Management
 - Use of Standardized Assessment Tools for the Side Effects of Medications
 - Training in the area of Poly-Pharmacy
- Continuous Quality Improvement
 - Health Status Committees
 - Standardized Unusual Incident Trend Analysis System
 - Emergency Code Drills

State School System-Wide Initiatives

- Training
 - Competency based and “train the trainer” training provided at all facilities
 - Identifying and reporting abuse, neglect, and exploitation
 - Active treatment
 - Client rights
 - Nursing practices
 - Habilitation therapies and augmentative communication systems and devices
 - Nursing services with an integrated holistic health care approach
 - Additional specialized training conducted at selected facilities
 - Active treatment
 - Person directed planning
 - Positive behavior supports
 - Nursing services
- Technical Assistance

Interest Lists

Interest Lists

- In Texas, individuals names are placed on an interest list on a first-come, first-served basis.
- When an individual comes to the top of a list, the eligibility determination process begins.
- Once eligibility is established:
 - the consumer selects a provider,
 - a plan of care is established, and
 - services begin
- While on an interest list, some individuals' needs may be met through other programs.

Interest Lists

- Numbers served are impacted by federal appropriations and funding appropriated by the Legislature.
- The 80th Texas Legislature appropriated \$71.5 million General Revenue and \$167.3 million All Funds for expansion of the Medicaid waiver and non-Medicaid community services programs at DADS. With the additional authorized funding, we anticipate serving an additional 8,902 persons during the 08-09 biennium.
 - CBA – 1,607
 - CLASS – 586
 - HCS – 2,676
 - MDCP – 415
 - DBMD – 16
 - Non-Medicaid – 2,228
 - In-Home Family Support – 1,374

Medicaid Waiver Interest Lists

Program	# Currently Served	# on Interest List	Longest time on Interest List
CBA	21,050	29,316	2-3 years
STAR+PLUS 1915(c) waiver	3,425	*2,125	2-3 years
ICM 1915(c) waiver	2,540	*263	1-2 years
MDCP	2,541	9,920	2-3 years
CLASS	3,929	21,496	7-8 years
DBMD	153	28	1-2 years
HCS	13,889	37,187	8-9 years
Total	47,527	**100,335	N/A

These counts reflect the end of June 2008.

* Individuals who are not SSI eligible and who want 1915(c) CBA-like waiver services are on an interest list. This interest list is managed by DADS and the numbers above reflect those non-SSI individuals on the interest list whose eligibility has not yet been determined.

** Count is duplicated. The unduplicated count is 82,050.
The unduplicated count without STAR+PLUS is 79,925.

Medicaid Waiver Interest Lists - Other Services Received

Numbers of Individuals on DADS Medicaid Waiver Interest Lists Who are Receiving Other Services as of June 30, 2008

Interest List (IL)	Count of Individuals on IL	# on IL Receiving Other Services*	% on IL Receiving Other Services
CBA	29,316	17,570	59.9%
ICM	263	126	47.9%
STAR +PLUS	2,125	1,180	55.5%
CLASS	21,496	4,542	21.1%
DBMD	28	9	32.1%
HCS	37,187	12,543	33.7%
MDCP	9,920	302	3.0%

*Individuals on an interest list who are receiving more than one type of service are counted only once.

Non-Medicaid Funded Services Interest Lists

- The Non-Medicaid funded services and In Home and Family Support also maintain interest lists. As of the end of June 2008:
 - 10,649 individuals are on the interest list for the various Non-Medicaid funded services
 - 11,585 individuals are on the interest list for In-Home and Family Support
- Non-Medicaid funded services include:
 - Adult Foster Care
 - Consumer Managed Personal Attendant Services
 - Day Activity and Health Services (Title XX)
 - Emergency Response Services
 - Family Care
 - Home Delivered Meals (Title XX)
 - Residential Care
 - Special Services for Persons with Disabilities

Movement to the Community

Money Follows the Person Demonstration

- DADS is implementing several projects under an \$18 million federal initiative that will help Texans who are aging and/or have a disability move back into their communities from institutional settings.
- One of many initiatives under the demonstration is the voluntary closure of community ICFs/MR with nine or more beds. DADS:
 - Is working with community ICF/MR providers who voluntarily choose to close their facilities and change their business model.
 - Is working with individuals residing in these facilities to facilitate their choice between HCS and ICF/MR.
- The demonstration includes a pilot for up to 50 participants who have mental illness or substance abuse diagnoses to be able to transition from nursing facilities to the community.

Mechanisms for Movement to the Community

- Promoting Independence Plan
 - Individuals who live in State Schools may move to the community within six months of a referral.
 - Individuals who live in large community ICFs/MR may move to the community within 12 months of a referral.
- Specific appropriations
 - 250 individuals moving from a state school or state center
- Riders (80th Legislature)
 - Rider 37
 - 120 individuals aging out of DFPS conservatorship
 - 240 individuals moving out of a large (fourteen or more bed) community ICF/MR
 - Rider 41: individuals under the age of 22 moving from a nursing facility who do not qualify for a nursing facility waiver program but do meet the eligibility requirements of another waiver program (HCS)
 - Rider 43: 50 individuals under the age of 22 moving from a small or medium community ICF/MR

Investigations of Abuse/Neglect/Exploitation (ANE)

ICF/MR

Setting	Responsibility for ANE Investigations	Available Sanctions
Private community ICF	The facility is responsible for reporting the incident to DADS and conducting the investigation. DADS Regulatory Services is responsible for evaluating the thoroughness of the facility's investigation and for evaluating compliance with state licensure and federal certification standards.	Contract cancellation; decertification, vendor hold; directed plan of correction; administrative penalties; civil penalties; license revocation or suspension; denial of license renewal; emergency suspension and closing order; appointment of a trustee.
Community ICF operated by a Community MHMR Center	DFPS investigates. DADS Regulatory Services is responsible for measuring compliance of the facility with federal regulations.	Contract cancellation; decertification, vendor hold, directed plan of correction.
State School	DFPS investigates. DADS Regulatory Services is responsible for measuring compliance of the facility with federal regulations.	Contract cancellation; decertification, vendor hold, directed plan of correction.

MR/DD Waiver Programs

Setting	Responsibility for ANE Investigations	Available Sanctions
HCS	DFPS investigates.	Decertification, vendor hold, Contract termination
Texas Home Living	DFPS investigates.	Decertification, vendor hold
CLASS and DBMD providers that are licensed as HCSSAs	If the alleged perpetrator is an employee of the HCSSA, DFPS investigates for adults and DADS Regulatory Services investigates for children. If the alleged perpetrator is not an employee of the HCSSA, the either the appropriate division of DFPS (Adult or Child Protective Services) or the appropriate law enforcement entity having jurisdiction over the location where the alleged act occurred conducts the investigation.	Decertification (if applicable); contract sanctions (if applicable); administrative penalties; license revocation/suspension; denial of license renewal; recommendation to CMS to terminate Medicare participation; injunction
DBMD providers that are licensed as assisted living facilities	DADS investigates.	Civil penalties; administrative penalties; license revocation/suspension; license denial; emergency suspension and closing order; appointment of a trustee; injunction

Background Checks

Bars to Employment

Offenses listed in Health and Safety Code Chapter 250 as absolute bars to employment for DADS providers, including community ICFs/MR, HCS, Texas Home Living, CLASS and DBMD:

- Criminal homicide
- Kidnapping and unlawful restraint
- Continuous sexual abuse of a young child or children and indecency with a child
- Sexual assault
- Aggravated assault
- Injury to a child, elderly individual, or disabled individual
- Abandoning or endangering a child
- Aiding suicide
- Agreement to abduct from custody
- Sale or purchase of a child
- Arson
- Robbery
- Aggravated robbery
- Indecent exposure
- Improper relationship between educator and student
- Improper photography or visual recording
- Deadly conduct
- Aggravated sexual assault
- Terroristic threat
- Online solicitation of a minor
- Money laundering
- Medicaid fraud
- Cruelty to animals
- A conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection .

State schools adopt the bars to employment from Chapter 250 by reference.

Bars to Employment

- The following convictions bar a person from employment for a period of five years:
 - Assault that is punishable as a Class A misdemeanor or as a felony
 - Burglary
 - Theft that is punishable as a felony
 - Misapplication of fiduciary property or property of a financial institution that is punishable as a class A misdemeanor or felony
 - Securing execution of a document by deception that is punishable as a Class A misdemeanor or a felony
 - False identification as a peace officer
 - Certain forms of disorderly conduct (discharging a firearm in a public place other than a public road or a sport shooting range; displaying a firearm or other deadly weapon in a public place in a manner calculated to alarm, and discharging a firearm on or across a public road)
- Applicants who are listed as revoked in the Nurse Aide Registry or who are listed as unemployable in the Employee Misconduct Registry are barred from employment.

Background Check Processes

- State schools
 - Conduct pre-employment and annual background checks
 - DPS criminal background check
 - Employee Misconduct Registry (EMR)
 - Nurse Aid Registry (NAR)
- Contracted service providers
 - Prohibited from employing individuals:
 - With convictions listed as bars to employment in Health and Safety Code Chapter 250
 - Listed on the Employee Misconduct Registry
 - Listed on the Nurse Aide Registry as unemployable
- Nurse aide training and competency evaluation programs must ensure that certified nurse aide trainees are not listed as unemployable on the EMR and have not been convicted of a criminal offense listed as a bar to employment in Chapter 250.