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# **CONSUMER DIRECTION WORKGROUP**

## **Biennial Report to the Texas Legislature**

As Required by Texas Government Code, Section 531.052

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**Prepared by the  
Consumer Direction Workgroup Public Members**

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# **Consumer Direction Workgroup Biennial Report**

## **Executive Summary**

Consumer direction provides alternatives to the traditional agency service delivery model for Medicaid long term services and supports programs. Currently Texas offers two forms of consumer direction with different levels of consumer control. The consumer directed services (CDS) option allows the individual or the individual's legally authorized representative to be the employer of the attendant care or respite care service provider. The second option, the Service Responsibility Option (SRO), allows the individual or legally authorized representative choice in who provides attendant services, but does not require the individual or legally authorized representative to be the employer.

Among the fiscal year 2008 accomplishments of the Consumer Direction Workgroup (workgroup), a group which provides the Health and Human Services Commission (HHSC) with recommendations on consumer direction in long term services and support programs, are:

- Changes in the composition of the workgroup consistent with legislation.
- Development of workgroup operating procedures.
- Advising Department of Aging and Disability Services (DADS) in the expansion of CDS into the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) programs.
- Advising DADS in extending CDS to new services including all services in TxHmL and nursing and professional therapies in Community Based Alternatives (CBA).
- Responses to relevant issues regarding CDS outreach and service delivery within the State of Texas.

The workgroup recommends the following to improve consumer direction in 2009 – 2010.

## **Research/Promising Practices**

- Research best practices in consumer direction to increase consumer satisfaction, control and ownership of the long-term services and supports.
- Identify promising practices nationally and in specific states.

## **Program Oversight**

- Require collection and analysis of units of service.
- Obtain consistent, comparable, quality data from all programs.
- Evaluate the impact of rate differences.
- Monitor potential conflicts of interest.

## **Outreach/Training**

- Provide outreach, training and education to consumers and case managers.
- Notify eligible consumers when CDS or SRO becomes available or is expanded.
- Provide training and education to all eligible and interested consumers/families.
- Develop and make available employee/employer management training curricula.

## **Service Delivery**

- Continue expansion of CDS and SRO to all programs.
- Continue extension of CDS and SRO to additional services.

## **Self-Determination**

- Develop a self-determination pilot program in two waiver programs.
- Implement the pilot program in at least two locations.

## **Introduction**

### **Purpose**

This report provides information to the Texas Legislature as required by Government Code §531.052(g): *“Not later than September 1 of each even-numbered year, the workgroup shall report to the Legislature regarding activities of the workgroup.”*

The Consumer Direction Workgroup is created by statute at Government Code §531.052 to advise HHSC concerning the delivery of services through consumer direction in all programs offering long-term services and supports and to assist HHSC in developing and implementing consumer direction models. This report, prepared by the public members of the workgroup, summarizes the guidance and recommendations provided to HHSC and the Department of Aging and Disability Services (DADS) and provides recommendations for improving and expanding consumer direction in Texas long-term services and supports programs.

### **Background**

Consumer direction is one vehicle available on the road to self-determination for people with disabilities and who are aged. While “consumer direction” does not always mean the same thing to everyone, it does indicate increased control by consumers over the services and supports they receive and how those services are delivered. Consumer direction gives individuals the opportunity to control who comes into their home to support their daily living needs.

In Texas, consumer direction provides alternatives to the agency service delivery model. Currently, Texas long term services and supports programs offer two forms of consumer direction with different levels of consumer control. The consumer directed services

(CDS) option allows the individual or the individual’s legally authorized representative to be the employer of record of the attendant services provider or respite services provider. The individual or legally authorized representative has responsibility for hiring, training, supervising, and, when necessary, terminating the employee. Under this option, a consumer directed services agency (CDSA) provides assistance with payroll and taxes. The second option, the Service Responsibility Option (SRO), allows the individual choice in who provides attendant services, but does not require the individual or LAR to be the employer. The following table lists the long-term services and supports programs in Texas that offer consumer directed services through CDS and SRO.

<b>Texas Long-Term Services and Supports Programs Offering Consumer Direction</b>	
<b>Program</b>	<b>Consumer Direction Option(s) Available</b>
<i>Medicaid Home and Community-Based Services Waiver Programs</i>	
Community Based Alternatives (CBA)	CDS
Community Living Assistance and Support Services (CLASS)	CDS
Deaf Blind with Multiple Disabilities (DBMD)	CDS
Home and Community-based Services (HCS)	CDS
Medically Dependent Children Program (MDCP)	CDS
Texas Home Living (TxHmL)	CDS
<i>Medicaid Managed Programs – STAR+PLUS and Integrated Care Management (ICM)</i>	
Community Based Alternatives (CBA)	CDS and SRO
Primary Home Care	CDS and SRO
Personal Care Services	CDS and SRO
<i>Medicaid State Plan Programs</i>	
Primary Home Care (PHC)	CDS and SRO*
Personal Care Services (PCS)	CDS
Community Assistance Services (CAS)	CDS
<i>Non-Medicaid Funded Programs</i>	
Family Care (FC)	CDS
Client Managed Personal Assistance Services (CMPAS)	CDS

\* SRO is currently available as a pilot in two locations. Preparations are under way to roll out SRO statewide in PHC.

No one option of service delivery will be appropriate for all individuals, but, for individuals who choose this option, consumer direction has the potential to improve the quality of services and the quality of the individual’s life. Self-determination, an individual’s ability to make choices in all aspects of life and have those choices supported, is the goal for most individuals, including those who are aging and those with disabilities. Improving consumer direction and expanding opportunities for individuals to self-direct their services will help move Texas closer to that goal.

## **Organization**

This report is divided into the following areas:

- Consumer Direction Workgroup Key Activities
- Emerging Issues
- New Trends in Consumer Direction
- Recommendations for the Future of Consumer Direction in Texas

### **Consumer Direction Workgroup Key Activities**

The workgroup, which consists of voting members including consumers, advocates, and providers and non-voting members including representatives from the health and human services agencies and the Texas Workforce Commission, met quarterly between September 1, 2007 and August 31, 2008. Among the accomplishments of the workgroup in fiscal year 2008 are:

- Adding an advocate for elderly persons to the workgroup as required by Senate Bill (S.B.) 1766, 80<sup>th</sup> Legislature, Regular Session, 2007.
- Development of workgroup operating procedures.
- Advising DADS in the expansion of CDS into the HCS and TxHmL programs.
- Advising DADS in extending CDS to new services including all services in TxHmL and nursing and professional therapies in CBA.
- Responses to relevant issues regarding CDS outreach and service delivery within the State of Texas including input on SRO rules, adding town hall meetings in El Paso and Lubbock as outreach strategies, and providing input on outreach materials.
- Providing feedback to HHSC in the development of a report to the Legislative Budget Board and the Governor on the cost-effectiveness of consumer direction.

### **Emerging Issues**

The workgroup worked with HHSC and DADS on the expansion of CDS and SRO into programs previously without one or both options. The workgroup learned that outreach and presentation of consumer direction service delivery options were often confusing to consumers in the process of changing to CDS or SRO from a traditional agency option whether in a fee-for-service or managed-care delivery modality.

The workgroup found contractor procurement procedures within Client Managed Personal Assistance Services (CMPAS) could generate a disincentive for use of the CDS option. Specifically, a new contractor was offering a lower rate for attendants under CDS than for attendants employed by the agency. DADS and the contractor remedied the issue and DADS established that future procurements for the CMPAS program will include review criteria for awarding contracts such that the rates for attendants under CDS are not adversely affected.

Additionally, rate differentials across long-term services programs may negatively affect consumer participation in the CDS option. The HCS and TxHmL programs have a lower financial management services monthly fee (\$110) paid to Consumer Directed Services Agencies (CDSAs) than CBA, CLASS, ICM, MDCP and DBMD (\$202). These lower rates may reduce the number of CDSAs providing financial management services to individuals choosing CDS in HCS and TxHmL.

Another issue of concern is potential conflicts of interest. In HCS, for example, the case manager employed by the HCS service provider is responsible for offering the CDS options to the individuals currently receiving HCS services. This is a potential conflict of interest because the direct service provider loses income if the individual selects the CDS option.

### **Trends in Consumer Direction Movement Nationally and in Texas**

#### **Role of the Support Advisor**

Many states have implemented support consultation for those who self-direct their services. The types of supports include counseling, training and assistance with employer-related activities. Texas recently added Support Consultation for individuals in HCS or TxHmL who use the CDS Option. The workgroup worked with HHSC and DADS regarding the development of support consultation and the role of the support advisor.

#### **Consumer Direction for Other Services**

Several states have implemented consumer direction for a broad range of Medicaid services beyond personal assistance services (PAS), habilitation services and respite services. As part of that trend, Texas is offering the CDS option for all services in the TxHmL program, including: community support; day habilitation; employment assistance; supported employment; respite; skilled nursing; behavioral support; professional therapies; dietary; audiology; minor home modifications; adaptive aids; and dental treatment. Further, the CBA program is offering the CDS option for nursing and professional therapies, in addition to PAS and respite.

#### **Money Follows the Person**

Money Follows the Person (MFP) is a process used to help people move from institutions to the community using Medicaid long-term services and supports. Texas began pioneering MFP in the early part of this decade and currently offers this option to individuals residing in Texas nursing facilities. Congress recently authorized, and the Centers for Medicare and Medicaid Services (CMS) has implemented, a MFP demonstration program, with Texas as one of its first recipients. An important component of the Texas MFP program is offering individuals leaving institutions for the community the opportunity to self-direct some of their services through the consumer direction options currently available. Workgroup members have worked with HHSC and

DADS to provide input on the development of the Money Follows the Person operational protocol.

## **Self-Determination**

Some other states, including Kansas, have implemented self-determination models, which provide more flexibility and greater control to the consumer than self-direction of services. In a self-determination model, the individuals control the use of the resources in their budgets, determining, with the assistance of chosen allies, which services and supports they will purchase, from whom, and under what circumstances. This process allows them to make meaningful choices in how they live their lives. A premise underlying self-determination is that the individual receiving the service is able to determine what he or she requires and can use good judgment in purchasing those services and overseeing delivery. The principles of self-determination are: Freedom, Authority, Support, Responsibility, and Confirmation.<sup>1</sup> As stated in the Kansas K-Pass Toolkit, “Self-determination is similar to self-direction but not the same. Persons [using] self-determination ... have more choice and control on how to use their personal budgets. Persons who are enrolled in the self-determination program are allowed to save funds, have more flexibility in determining the rate of pay for personal assistant services and pay for some non-traditional services.”<sup>2</sup>

## **Consumer Direction Workgroup Recommendations**

The workgroup recommends the following to improve consumer direction in 2009-2010.

### **Research/Promising Practices**

- Research best practices in the implementation and administration of consumer direction to increase consumer satisfaction, control and ownership of the long-term services and supports.
- Identify promising practices nationally and in specific states.

### **Program Oversight**

- Require collection and analysis of units of service data from all CDSAs to better understand utilization and costs of consumer direction.
- Obtain consistent, comparable, quality data from all programs offering consumer direction, including managed care.

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<sup>1</sup> *Freedom to choose a meaningful life in the community; Authority over a targeted amount of dollars; Support to organize resources in ways that are life enhancing and meaningful to the individual with a disability; Responsibility for the wise use of public dollars and recognition of the contribution individuals with disabilities can make to their communities; and Confirmation of the important leadership role that individuals with disabilities and their families must play in a newly re-designed system and support for the self-advocacy movement* (Center for Self-Determination).

<sup>2</sup> Kansas Personal Assistance Supports and Services (K-PASS) Self-Direction Toolkit was developed by the University of Kansas to provide people with disabilities the information and tools they need to hire and manage their personal assistant supports and services.



- Evaluate the impact of rate differences for financial management services on CDSAs.
- Monitor potential conflicts of interest in programs where financially interested parties are responsible for presenting consumer direction options and where support advisors work through CDSAs rather than independently.

### **Outreach/Training**

- Provide outreach, training and education to consumers and case managers to increase participation and consumer success.
- Continue to notify, within 60 days, all eligible consumers/families when CDS or SRO becomes available or when CDS is expanded to new services.
- Provide training and education to all interested consumers/families within 60 days of becoming eligible for CDS or SRO.
- Develop and make available employee/employer management training curricula.

### **Service Delivery**

- Continue expansion of CDS and SRO to all long-term services and supports programs.
- Continue extension of CDS and SRO to additional services beyond personal assistant services and respite services.

### **Self-Determination**

- Develop a pilot program in two waiver programs, employing, to the maximum extent possible, a self-determination model.
- Implement the pilot program in at least two locations.