



PROMOTING
INDEPENDENCE
ADVISORY COMMITTEE
2005 STAKEHOLDER REPORT

Submitted to Executive Commissioner Albert Hawkins
Texas Health and Human Services Commission
By the Promoting Independence Advisory Committee
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INTRODUCTION AND PURPOSE

The 2005 Promoting Independence Advisory Committee (PIAC) Stakeholders Report is submitted to the Health and Human Services Commission (HHSC) as required by Senate Bill (SB) 367, 77th Legislative Session. This report includes the non-agency stakeholders' committee resolutions, policy interests to be considered during fiscal year (FY) 2006, and a status update on the Promoting Independence Plan¹.

PIAC has met on a quarterly basis during FY 2005 to:

- continue the work of the Promoting Independence Initiative
- revise and submit an updated Promoting Independence Plan (December 2004), and
- coordinate and oversee the implementation of the Promoting Independence Plan.

SB 367 mandated four specific charges to the Committee; these charges include:

- To study and make recommendations on developing a comprehensive, effective working plan to ensure appropriate care settings for persons with disabilities by submitting annually a report to HHSC;
- To advise HHSC giving primary consideration to methods to identify and assess each person who resides in an institution but chooses to live in the community and for whom a transfer from an institution to the community is appropriate, as determined by the person's treating professionals;
- To advise HHSC on determining the health and human services agencies' availability of community services and support options and identifying, addressing, and monitoring barriers to implementation of the plan;
- To advise HHSC on identifying funding options for the plan.

This report is submitted by the PIAC with assistance from staff provided by the Texas Department of Aging and Disability Services (DADS). HHSC formally delegated daily management of Promoting Independence (PI) activities to DADS in an October 2004 Health and Human Services Circular C-002 (see Appendix A).

The Circular directs and authorizes DADS to act on behalf of, and in consultation with, HHSC in all matters relating to the Promoting Independence Initiative. In addition, the specific directives of the Circular include:

- preparation of the revised Texas Promoting Independence Plan, submitted to the Governor and Legislature every two years;
- monitoring and oversight of implementation of all agency-specific Promoting Independence Plan recommendations across the enterprise;
- nomination, for HHSC Executive Commissioner review and approval, of appointments to the Promoting Independence Advisory Committee;

¹ This report reflects the views and opinions of a consensus of the non-agency stakeholders of the Promoting Independence Advisory Committee. Unless otherwise noted, the views and opinions expressed in this report do not necessarily reflect the policy of HHSC, the Texas Department of Aging and Disability Services, or any state agency represented on the Committee.

- staff support for the Promoting Independence Advisory Committee, including assistance in developing its annual report to HHSC, which will be presented directly to the HHSC Executive Commissioner; and
- coordination and oversight of any other activities related to the Promoting Independence Initiative and Plan, as a direct report for this purpose to the HHSC Executive Commissioner.

The Promoting Independence Initiative continues to be a HHSC initiative. HHS Circular C-002, Appendix A, may be accessed at:

<http://www.hhs.state.tx.us/news/circulars/C-002.shtml>.

See Appendix B for a listing of the current PIAC Membership.

BACKGROUND

The background and history of the Promoting Independence Initiative is well documented in previous Promoting Independence reports and plans. These documents may be accessed on both the Health and Human Services Commission (HHSC):

http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp

and the Texas Department of Aging and Disability Services (DADS) websites:

<http://www.dads.state.tx.us/business/pi/index.html>

Please reference the December 2004 **Revised Texas Promoting Independence Plan: Introduction, page 14; and Background, pages 15-18** for the comprehensive review of the Promoting Independence Initiative's history. The December 2004 Plan also includes information on:

- the originating *Olmstead v. L.C.* 1999 Supreme Court ruling; and
- then Governor George W. Bush's Executive Order GWB 99-2, which directed HHSC to initiate the Promoting Independence Initiative and appointed the original Promoting Independence Advisory Board.

The recently created DADS' Promoting Independence website also provides an extensive array of information regarding Promoting Independence and related activities.

The following information provides specific historical website reference material:

- The 77th Legislative Session (2001) passed a significant piece of legislation, Senate Bill 367, which codified many of the efforts and direction of the original Promoting Independence Advisory Board and their report:

<http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=77&SESS=R&CHAMBER=S&BILLTYPE=B&BILLSUFFIX=00367&VERSION=5&TYPE=B>

- Governor Rick Perry's Executive Order (RP-13) in April 2002, which furthers the state's efforts regarding the PI Initiative:

<http://www.governor.state.tx.us/divisions/press/exorders/rp13>

RP-13 not only requires coordination among the health and human services agencies but also the Texas Workforce Commission and the Texas Department of Housing and Community Affairs.

OVERVIEW OF 79TH TEXAS LEGISLATIVE SESSION

The 79th Session included improvements for health and human services. The PIAC non-agency stakeholders were encouraged by:

- the codification of Rider 28 (“money follows the person” for the nursing facility population) into statutory language with House Bill 1867, and
- the increase in appropriations to begin the reduction of the various interest lists managed by the Texas Department of Aging and Disability Services (DADS).

The 79th Legislature, through Senate Bill (SB) 1, Article II, significantly reduced the number of individuals who will be on DADS’ interest lists. SB 1 provides \$ 97.9 million in General Revenue (GR) funds (\$18.4 million GR for demographic growth and \$79.5 million GR for reduced waiting lists) to address the interest and waiting lists at DADS, serving an estimated additional caseload of 9,360 by the end of Fiscal Year (FY) 2006-07 biennium.

All of DADS’ waiver programs are impacted:

- Community-Based Alternatives (CBA)
- Community Living Assistance and Support Services (CLASS)
- Medically Dependent Children’s Program (MDCP)
- Deaf-Blind with Multiple Disabilities (DBMD)
- Home and Community-Based Services (HCS)
- Texas Home Living (TxHL)
- Consolidated Waiver Program (CWP)

In addition, other DADS’ programs, including some pure state programs such as non-Medicaid services and In-Home and Family Support, will receive additional dollars.

Legislation

Several legislative bills signed by the Governor will impact the Promoting Independence Initiative and specifically DADS in its’ management of human services programs. These bills include:

SB 6: transfers the guardianship program from the Texas Department of Family and Protective Services (DFPS) to DADS

SB 40: strengthens the permanency planning activities for children residing in state institutions; this bill includes, among its mandates, the elimination of the potential conflict of interest by requiring that permanency planning activities be conducted by a third party who is not the provider of service

SB 566: creates a Medicaid Buy-In program for working persons with disabilities

SB 626: this bill would allow certain individuals to receive services in the community up to a cost of 133.3% of the cost of services in an institution

SB 1055: this bill allows for an alternative method of satisfying certain licensing and program participation requirements for assisted living facilities and addresses consumer choice in assisted living facilities

HB 1771/
Rider 49: requires the implementation of an integrated care management (ICM) model pilot project. Rider 49 requires the Integrated Case Management (ICM) model to be implemented in the Dallas Service Delivery Area; a managed care carve-out model in the Harris Service Delivery Area; and either the ICM, managed care carve-out, or a Primary Care Case Management model in the other urban areas.

HB 1867: codifies the Rider 28 – “money follows the person” process

HB 2579: provides certain mandates relating to procedures, which ensure the involvement of parents or guardians of children placed in certain institutions

Rider 46: allows for a pilot program for a “money follows the child” from an intermediate care facility for the mentally retarded (ICF/MR) to community-based services.

Rider 54: CPS Reform Plan. Out of funds appropriated in Strategy A.3.2, Home and Community-Based Services, \$1,182,270 in General Revenue Funds, and the associated federal funds, are set aside each fiscal year for children aging out of Foster Care.

Executive
Order

RP 45: the Texas Health and Human Services Commission ("HHSC") shall continue the implementation of Section 533.035 (e) through (g) of the Health and Safety Code as it relates to the requirement that community mental health and mental retardation authorities operate as providers of last resort. For full language:
<http://www.governor.state.tx.us/divisions/press/exorders/rp45>

See the attached hyperlink for a full DADS legislative report:

http://www.dads.state.tx.us/news_info/presentations/79th_Leg_Update.pdf

RESOLUTIONS

The Promoting Independence Advisory Committee (PIAC) non-agency stakeholders believe that the 79th Legislative Session demonstrated the positive effect that can occur when all stakeholders work together for a particular issue – in this case, interest list reduction for DADS' programs.

The current PIAC non-agency stakeholders are very appreciative of the groundwork established by the previous Committees, of the various advocate, consumer and provider communities and of the legislative, executive, and governmental officials. The non-agency stakeholders would like to recognize the efforts made by Albert Hawkins, Executive Commissioner, HHSC, for his leadership and commitment, both during the Legislative Appropriations Request (LAR) process and during the Regular Session, for additional funding to reduce interest lists.

However, overall funding for long-term support and services continues to be inadequate as evidenced by the fact that interest lists will continue to exist. In addition, while funding was restored for the 1.1% rate reduction made by the 78th Legislature to certain community services program providers, the requests by HHSC for rate increases to cover inflation and increased attendant wages/benefits were not funded. Home and Community-Based Services (HCS) and Community Living Assistance and Support Services (CLASS) providers were not included in the guaranteed 1.1% rate restoration and had to depend on the initiation of a quality assurance fee.

There are a number of general policy stances the non-agency stakeholders want to promote.

Therefore, the PIAC non-agency stakeholders submit the following resolutions:

Let it be resolved that:

Resolution 1: The Health and Human Services Commission, and its operating agencies, continues to advocate for the reduction and eventual elimination of interest lists. HHSC must effectively plan for the number of individuals who will be added to the interest lists during Calendar Years 2007-2016.

Resolution 2: Promoting Independence principles and philosophy are incorporated into any discussion of Medicaid reform. PIAC requests that a statewide work group be established to advise in the development of any Medicaid reform strategy the state considers as a response to the impact of a federal Medicaid reform initiative.

Resolution 3: Promoting Independence principles and philosophy are incorporated into the Integrated Care Management (ICM)/Administrative Services Organization Model development. PIAC also wants assurances that PI principles and philosophy are included in the implementation of any future roll-out of either the ICM; the STAR+Carve-Out; or the Primary Care Case Management models (see Appendix C for Senator Zaffirini's legislative intent).

Resolution 4: The Health and Human Services Commission, and its operating agencies, continue the discussion regarding the future of State Schools with closure or consolidation as an outcome, and community placement as a realistic choice for Texas' persons with mental retardation/development disabilities. HHSC should give consideration to rebalancing the system design and moving funds from institutional care to community services.

Resolution 5: The Health and Human Services Commission, and its operating agencies, develop and promote the availability of a competent and adequately compensated workforce who will be able to deliver services to an aging; and/or disabled population and to children. PIAC recommends that HHSC create a Work Force Task Force to develop realistic solutions to the on-going problem of the availability of a competent work force. The following issues need to be included in the Task Force's scope of work:

- Increase funding targeted to enhance wage rates and to eliminate the disparity which currently exists between state-paid direct support professionals and what the state allocates to community-based providers to perform the same service;
- Create ways to provide health benefits, such as benefit pools;
- Enhance consumer directed/self-determined options to allow flexibility in selection options (this impacts the local community by increasing options families and individuals have to select direct care workers);
- Expand the Attendant Registry;
- Expand the definition of allowable persons to provide paid services, such as spouses and other family members, by working with the Centers for Medicare and Medicaid Services;
- Expand and explore non-market strategies to enhance the pool of hands on workers; and
- Study the "best practices" in recruitment, training and retention in the United States.

Resolution 6: Promoting Independence principles and philosophy are incorporated into any discussion regarding the development of a redesigned "front-door" and local access system. PIAC requests on-going and meaningful participation in the development of any changes to the local access system. The PIAC believes that the goal of any system redesign should focus on:

- improvement of access to services for aging Texans and people with disabilities,
- improvement of the quality of the services available, and
- reduction of existing duplication and fragmentation in the current system to maximize resources.

Note: As a response to lessons learned from recent emergencies such as Hurricanes Katrina and Rita, the PIAC non-agency stakeholders have added the following resolution:

Resolution 7: PIAC urges the Health and Human Services Commission to include the Promoting Independence philosophy and principles in all of its' policy decisions as it plans for a long-term strategy in the aftermath of any emergency. Ultimately, any strategy for an aged and disabled population depends on a coordinated social support system including community-based services and supports delivered in accessible, affordable, and integrated housing.

FISCAL YEAR 2006 APPROPRIATIONS AND BUDGET

The PIAC requested that appropriation comparisons of the past biennium and the 79th Session's newly appropriated budget for Fiscal Years (FY) 2006 and 2007 regarding community services be included in this report. The increase in appropriations for the current biennium over FY 2004-2005 is reflected in the following tables.

TABLE 1

DADS Waiver and Attendant Care Appropriations and Requested Funds

	FY04 Appropriated All Funds	FY05 Appropriated All Funds	FY06 Requested All Funds	FY06 Appropriated All Funds
CBA¹	\$429,782,526	\$399,358,432	\$469,910,892	\$454,026,989
CLASS	\$58,065,047	\$56,753,196	\$67,155,666	\$79,964,580
Deaf-Blind	\$5,995,635	\$5,995,635	\$6,596,935	\$6,680,603
MDCP	\$17,350,336	\$16,431,002	\$19,151,325	\$22,057,753
CWP²	\$3,888,000	\$3,888,000	\$4,114,247	\$3,804,701
HB 1867 (R 28)			\$62,523,722	\$65,538,125
HCS/TxHmL³	\$292,287,761	\$292,288,681	\$431,597,199	\$433,522,474
Total Waivers	\$807,369,305	\$774,714,946	\$1,061,049,986	\$1,065,595,225
Primary Home Care⁴				\$533,324,657
Community Attendant Services				\$372,475,886

NOTES:

1. The figures for do not include individuals who transferred to waiver services through the newly codified House Bill 1867 (previous Rider 28) – see separate line.
2. CWP, during FY 04-05, was funded through funds appropriated to CBA, CLASS, MDCP, and the HCS waiver. Because CWP did not have a specific appropriation, the figures for FY04 and FY05 are estimates rather than appropriated. However, there was a specific appropriation for CWP in FY 06.
3. HCS figures do not include individuals who were refinanced into the HCS waiver during FY04 and FY 05.
4. In the 04-05 appropriations bill pattern, these dollars and the measures were all rolled together in one strategy, A.1.1, Community Care

Source Documents:

- FY 04 Appropriated – Previous Word worksheet on 03-04-05 Appropriated
- FY 05 Appropriated - Previous Word worksheet on 03-04-05 Appropriated
- FY 06 Appropriated - ABEST printout for –6-07 appropriated. The increase in numbers served for FY 06 is due to newly appropriated interest list slots, ICF/MR conversions and ICF/MR closures

TABLE 2

**DADS Waiver and Attendant Average Monthly Caseload
Appropriated/Requested**

	FY 04 Avg. #/month appropriated	FY 05 Avg. #/month appropriated	FY06 Avg.#/month requested	FY 06 Avg. #/ month appropriated
CBA¹	29,284	27,211	26,100	26,867
CLASS	1,859	1,817	1,817	2,228
Deaf-Blind	143	143	143	148
MDCP	1,038	983	983	1,320
CWP²	192	192	192	194
HB 1867 (R 28)			4,098	4,098
HCS/TxHmL³	6,823	6,823	11,821	12,555
Total Waivers	39,339	37,169	45,154	47,410
Primary Home Care⁴				68,904
Community Attendant Services				49,206

Notes: See above

Source Documents: See above

TABLE 3

**DADS Waiver and Attendant Care Expenditures
Expended and Projected Funds**

	FY04 Expended All Funds	FY05 Projected All Funds	FY06 Projected All Funds
CBA¹	\$427,604,206	\$402,349,306	\$448,651,082
CLASS	\$60,222,617	\$66,406,539	\$80,776,942
Deaf-Blind	\$6,223,505	\$6,322,303	\$6,520,797
MDCP	\$16,416,185	\$16,282,765	\$22,492,166
CWP²	\$3,729,946	\$3,483,844	\$3,804,701
Rider 28/HB 1867	\$18,274,024	\$54,394,684	\$82,533,353
HCS/MRLA³	\$317,454,487	\$353,282,845	\$403,572,742
Total TDHS and MHRM Waiver	\$849,924,970	\$902,522,286	\$1,048,351,783
Primary Home Care	\$414,932,713	\$462,789,897	\$531,369,130
Community Attendant Services	\$284,333,313	\$326,239,483	\$372,475,886

NOTES:

1. See previous note 1.
2. See previous note 2.
3. HCS figures include individuals refinanced into the HCS waiver during FY04 and FY05. The average caseload per month includes; annualization of 1,075 plus 168 additional refinanced consumers who will be phased in during FY04; full annualization of 1,075 plus 168 refinanced consumers in FY05. For FY04 estimated expenditures, the rate restoration is included.

Source Documents

FY 04 Expended – ABEST printout for FY 06-07

FY 05 Projected – June, FY 05 BSR

FY 06 Budgeted – Approved FY06 Operating Budget. The increase in numbers served for FY 06 is due to newly appropriated interest list slots, ICF/MR conversions and ICF/MR closures

TABLE 4

**DADS Waiver and Attendant Care Average Monthly Caseload
Actual/Projected/Budgeted/End-Of-Year**

	FY 04 Avg. # /month Actual	FY 05 Avg. # /month Projected	FY 06 Avg. # /month Budgeted	FY 07 Project EOY Total
CBA	27,664	25,521	26,867	29,935
CLASS	1,812	1,804	2,228	3,871
Deaf-Blind	143	139	148	166
MDCP	979	997	1,320	2,667
CWP	192	183	194	199
Rider 28/HB 1867	1,186	3,461	5,058	6,745
HCS/TxHmL¹	8,344	10,951	12,555	16,398
Total Waiver Caseload	40,320	43,056	48,370	59,981
Primary Home Care	56,871	62,166	68,070	N/A
Community Attendant Services	40,126	45,058	49,527	N/A

NOTES:

1. HCS figures include individuals refinanced into the HCS waiver during FY04 and FY05. The average caseload per month includes; annualization of 1,075 plus 168 additional refinanced consumers who will be phased in during FY04; full annualization of 1,075 plus 168 refinanced consumers in FY05.

Source Documents:

FY 06 Budgeted caseload is an annual average
FY 07 Projected is an End-Of-Year Total; different roll-out strategies exist for each of the waivers.

POLICY DIRECTIVES FOR FISCAL YEAR (FY) 2006

There are many policy directives that require attention during FY 2006. The Promoting Independence Advisory Committee (PIAC) non-agency stakeholders would like to focus attention on the following:

- **Barriers to Relocation:** continue the identification of all the barriers for an individual to remain in the community or for an individual who wants to relocate into the community. Those barriers that are an obstacle to living in the most integrated setting include, but are not limited to:
 - **housing** (also see section on Housing) that is affordable, accessible and integrated;
 - **lack of community support/resources** with an emphasis on an effort to build capacity for resources to address the needs of individuals transitioning into the community (i.e. money management; resources to repair medically needed equipment);
 - **lack of staffing**, such as personal attendants in all areas of the state (see section on Workforce);
 - **lack of family and/or informal supports** that may create unsafe living environments, which puts health and safety at risk;
 - **service coordination** because of the current lack of adequate relocation specialists and resources; and
 - **individuals with high services and support needs** who may have on-going medical/functional support requirements that exceed the “cost cap” and/or the reimbursement structure for home health agencies to meet their needs, or who require specialized staff.
- **Expansion of managed care and integrated care management models:** House Bill 1771 and Rider 49 to the 2006-2007 General Appropriations Act (Article II) 2005 requires the major urban areas to incorporate either a managed care (hospital carve-out) model, an integrated care management (ICM) model, or a primary care case management (PCCM) model for service delivery to its’ aged, blind, and/or disabled populations (the managed care hospital carve-out model must be used in Harris County while the ICM model must be used in Dallas County). Either one of these models will have a significant impact on service delivery to these populations. PIAC will monitor this expansion closely to ensure the incorporation of the Promoting Independence philosophy and principles.
- **Transportation:** A true comprehensive transportation system does not exist for the Promoting Independence population. Medicaid transportation is available to individuals in the community but only for medical reasons. It also means a very long day, from pick-up to drop-off, at the individual’s home. There is little or no transportation for going to the grocery store, shopping, picking up medications, paying bills, etc.
- **Aging population with Cognitive and/or Physical Disabilities:** As with the entire population, individuals with cognitive and/or physical disabilities continue to live longer. It is important that the state be prepared, and has a plan to provide services for this specific aging population with their different needs. All

individuals should have a choice to receive their long term services and supports in the most integrated setting.

- **Telehealth Technology:** While there are a number of technology initiatives occurring throughout the state, there is not any systematic exchange of information or information-sharing regarding the Promoting Independence population. Payment for telehealth/telemonitoring services provided to the PI population is needed to reduce the dependence on skilled “hands-on” care to promote further independence to allow an individual to remain at home or assist them to relocate back to the community. Issues include ensuring that technological supports are available and that low-income individuals may have access to a “wired” residence for possible broad-band technological assistance.
- **Older American’s Act funding:** Increased focus on coordination of Older American’s Act policy and dollars with other funding streams for support services.
- **Data Coordination:** It is time to review available data regarding individuals who are transitioning to the community. It is important to know what data are needed to help us in designing the changing long-term services and support delivery system. Coordination of the current available data is essential. Data coordination should include at a minimum: the Q1a data collected through the Minimum Data Set (MDS), Relocation Specialists’ information, the Real Choice “Money Follows the Person” projects, and STAR+PLUS. PIAC wants to ensure that these disparate data points are comprehensive and meaningful.

MONEY FOLLOWS THE PERSON – RIDER 28 DATA

The State of Texas was one of the originators of the “money follows the person” concept. This policy allows for individuals residing in nursing facilities to relocate back into a community setting and to utilize their entitlement dollars to receive community-based services; primarily community-based alternatives (CBA). The 77th Legislative Session’s 2002-2003 General Appropriations Act 2001 attached then Rider 37 to legacy Texas Department of Human Services’ (DHS) appropriation. The language stated: “it is the intent of the legislature that as clients relocate from nursing facilities to community care services, funds will be transferred from Nursing Facilities to Community Care Services to cover the cost of the shift in services.” DHS implemented the program on September 1, 2001.

The 78th Legislative Session continued the policy with Rider 28 in the 2004-2005 General Appropriations Act 2003. The basic concept was continued; however, the Legislature made a slight variance by not allowing for the expansion of the base number of appropriated waiver slots through Rider 28 transfers. An additional rider was added which requires that individuals utilizing Rider 28 shall remain funded separately through transfers from the Nursing Facility strategy and that those slots shall not count against the total appropriated community services slots.

This policy has been highly successful in the relocation of individuals to the most integrated setting. Among the remarkable statistics are the numbers of individuals who are over 85 years of age who have chosen to relocate back to a community setting. Texas is a national leader on this policy and continues to provide consultation to many other states. The 79th Legislative Session codified the rider policy into law through House Bill 1867.

DADS tracks Rider 37 and Rider 28 data separately and collates detailed data on Rider 28 individuals (those who have utilized the process since September 1, 2003). As of August 31, 2005, there have been 3,204 Rider 37 and 6,092 Rider 28 individuals for a total of 9,296 since the beginning of the program. Of those numbers, 920 Rider 37 and 4,432 Rider 28 individuals are still actively receiving services in the community. See Appendix D for more detailed information regarding those individuals who have utilized Rider 28 since September 1, 2003.

While Rider 28 has proven successful for individuals residing in nursing facilities, individuals residing in intermediate care facilities for the mentally retarded (ICF/MRs) do not have the same mechanism of “money follows the person”. While the issue of high occupancy in ICF/MRs remains a challenge to the implementation of policy, the consumers’ right to choose must remain the priority objective. The state must continue to expand opportunities for individuals residing in ICF/MRs to exercise the same option as those in nursing facilities. It is also important for the state to offer incentives to providers in order to help them seek ways to diversify their service options to include more broad based community services.

CHILDREN'S ISSUES

The Promoting Independence Advisory Committee non-agency stakeholders continue to promote that children with disabilities residing in institutions are included in all Promoting Independence Initiatives. However, while children are leaving institutions to return to families or transition to family-based alternatives, other children continue to be admitted to nursing facilities, intermediate care facilities for the mentally retarded (ICF/MRs), and other congregate care facilities.

During the past fiscal year, permanency planning and the family-based alternatives project continue to be the primary Promoting Independence initiatives aimed at reducing the number of children residing in institutions. Permanency planning, as required by statute, is the on-going process used to ensure that families recognize the benefit of children growing up in families and receive comprehensive information on the services available to make family life for institutionalized children possible.

Efforts of the agencies continue to improve the quality of permanency planning activities by enabling those involved to learn more about both the purpose and the process. The Texas Department on Aging and Disability Services has conducted permanency planning training at multiple sites around the state and continues to monitor quality and effectiveness. Child Protective Services' (CPS) disability specialists continue to work closely with CPS field staff to promote effective permanency planning for children in the state's conservatorship.

The family-based alternatives project has continued to operate in the original project catchment area (12 central Texas counties), and has expanded to additional areas of the state where a significant number of institutionalized children reside. The family-based alternatives project originally focused on:

- recruitment of support families,
- identification and assessment of institutionalized children,
- intense birth-family support efforts, and
- careful and deliberate matching of support families and children.

While this work continues, expansion efforts have been focused on building capacity for providers outside the project to understand the philosophy and engage in the activities designed to help transition children from institutional care to family life.

Recent legislative action will help to continue and expand the effort to ensure that children grow up in families. Senate Bill (SB) 1, including Riders 46 and 54 to the 2006-2007 General Appropriations Act 2005 (Article II), will provide additional opportunities for up to 50 children in ICF/MRs to transition to community-based services and keep some children aging out of the CPS system from being institutionalized. Additionally, House Bill 1867, codified the previous Rider 28 "money follows the person" policy, which allows both children and adults residing in nursing facilities to transition to community services.

Two other pieces of legislation passed during the 79th Texas Legislature will directly affect children in institutions. SB 40 (Zaffirini) will transfer the responsibility for permanency planning for children residing in ICF/MRs from the facility to an independent entity, thus removing the conflict of interest that currently exists. The Department of

Aging and Disability Services now has the opportunity to ensure that permanency planning for these children will be done primarily by the local Mental Retardation Authorities.

House Bill 2579 is a complex piece of legislation aimed at addressing the “front door” issue – children entering institutions. This piece of legislation primarily does three things: 1) ensures that parents have comprehensive information on all options prior to placing their child in an institution, 2) requires that parents who place their child in an institution recognize their responsibility to continue to be involved in their child’s life, and 3) provides for on-going decision-making on behalf of institutionalized children who have been abandoned. Senate Bill 40 and House Bill 2579 create significant systems improvements designed to protect the health and well-being of children with disabilities.

While significant progress has been made, significant work is left to be done. Decades of institutionalization of children with disabilities cannot be reversed in a few short years. Efforts to prevent institutionalization and comprehensive work to help institutionalized children to move to families must remain a priority for Texas. Funding community services continues to be an issue. While funds are often available, they may not be available in the right funding “silo.” Efforts must be made to ensure that when funding is available, it may be used to provide services in the most appropriate waiver program to serve the child’s needs.

Continued investment in effective permanency planning, family-based alternatives activities, and comprehensive relocation services are essential if we are to continue to see reductions in the number of institutionalized children in Texas. If under funded, permanency planning efforts run the risk of doing more harm than good. Those engaged in permanency planning must have sufficient training to ensure that this very delicate work is performed effectively, ensuring respect of the families and the children involved.

Additionally, transitioning children from institutions to families requires significant planning and preparation. Families are often overwhelmed with the process and the details and need support during the relocation process. Resources should be made available to ensure that families have access to the services provided through the family-based alternatives project and the statewide relocations projects. While the steps needed to move children to families may be somewhat different from the steps taken to transition adults, the ultimate objective is the same – to return children to their families and communities.

Finally, key efforts should be made to prevent institutionalization of children as a front-line strategy. Family support services should be enhanced to provide families the support they need to keep their child at home in their community. Preventing institutionalization not only improves the quality of life for a child and family, but is often the most cost effective form of care. The State of Texas must stay focused on keeping children with disabilities and their families intact with the supports and services they need.

AGENCY STATUS REPORTS FOR FISCAL YEAR 2005

Fiscal Year (FY) 2005 was the first year of operation for the consolidated health and human services enterprise as mandated by House Bill (HB) 2292, 78th Regular Legislative Session. The Health and Human Services Commission and its' four operating agencies, the:

- Texas Department of Aging and Disability Services (DADS);
- Texas Department of Assistive and Rehabilitative Services (DARS);
- Texas Department of Family and Protective Services (DFPS); and
- Texas Department of State Health Services (DSHS)

were focused on developing their infrastructures, new organizational cultures, development of legislative appropriations requests, and the 79th Legislative Session.

Nevertheless, the mission to serve the aged, and/or physically, cognitively, and behaviorally disabled continued through this first year of operation, as did the oversight of the Promoting Independence Advisory Committee. Below are the major accomplishments of HHSC and its' operating agencies during FY 2005 as they relate to the Promoting Independence Initiative.

In addition, the December 2004, Revised Texas Promoting Independence Plan, as submitted to the Governor and the Texas Legislature, contained over 70 specific recommendations for the health and human services enterprise as well as for the Texas Department of Housing and Community Affairs and the Texas Workforce Commission. Please see Appendix E for a complete listing of those recommendations and a status report on each recommendation's progress.

HEALTH AND HUMAN SERVICES MAJOR ACCOMPLISHMENTS

TEXAS HEALTH AND HUMAN SERVICES COMMISSION (HHSC)

HHSC has the overall policy and budget lead for the entire health and human services enterprise. Because of their leadership, health and human services programs realized a stabilization in funding over the 2004-2005 General Appropriations Act, Article II, for fiscal years (FY) 2006-2007, as well as a real increase in service dollars.

The major effort to be recognized is the significant increase in funding to address community services interest lists. This initiative resulted in new appropriations to serve an additional 9,360 individuals who receive services through the Texas Department of Aging and Disability Services' 1915 (c) waiver and non-waiver programs.

TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES (DADS)

The major policy accomplishment of DADS during FY 05, in conjunction with HHSC, was the actual increase in funding for DADS' programs and services, specifically in the significant reduction of the various interest lists. Because DADS is the operating health and human services agency for long term supports and services, many of its initiatives and accomplishments are covered throughout this report. DADS' other major accomplishments include:

- Completed state-wide training regarding DADS community services and supports in all ten health and human services regions. Invited participants included DADS regional staff, nursing facility relocation contractor staff, Mental Retardation Authorities (MRAs) and other stakeholders;
- Developed implementation plans for the release of waiver slots appropriated by the 79th Legislative Session;
- Continued relocation of individuals from nursing facilities through the use of Rider 28. From September 1, 2003, through July 31, 2005, a total of 4,243 individuals had moved (see section on Rider 28 and Appendix D for detailed information);
- Continued relocation of individuals from state mental retardation facilities. From September 1, 1999, through July 31, 2005, a total of 808 individuals had moved with the vast majority of moves during FY05 facilitated by the provision of recycled HCS waiver slots;
- Continued relocation of individuals from large community Intermediate Care Facilities for the Mentally Retarded (ICF/MRs). From September 1, 1999, through July 31, 2005, 552 individuals had moved, with the vast majority of moves during FY05 facilitated by 396 new waiver slots that were created from existing funds in May 2004;
- Targeted ten Home and Community Services' waiver slots for persons under 22 years of age in nursing facilities;
- Continued work on four Real Choice Systems Change grants (see section on *Grant Opportunities*);
- Effective September 1, 2004, Transition Assistance Services has been approved for inclusion in the Medically Dependent Children's Program (MDCP), Community Based Alternatives (CBA), Community Living Assistance and Support Services (CLASS) and Deaf-Blind Multiple Disabilities (DBMD) waivers. This addition will allow the state to receive matching federal funds while attempting to meet the initial transition needs of individuals accessing community services after institutionalization. These funds cover transition and one-time start up expenses such as security deposits, essential furnishings, moving expenses and utility deposits, but may not be used for home modifications.
- DADS has created a dedicated webpage for the monthly publication of the Q1a data from the federal Minimum Data Set (MDS). This data are being used to help outside resources identify nursing facility residents who have indicated on the MDS their desire to relocate to the community. This webpage is: <http://www.dads.state.tx.us/business/pi/reports/index.html>
- DADS has created a dedicated webpage for Promoting Independence: <http://www.dads.state.tx.us/business/pi/index.html>
- DADS has continued to recognize Caregiver Support as an integral part of the services provided by AAA's and ensure that the Aging Family Caregiver Program is coordinated with the PI Initiative in order to afford maximum utilization of

resources to support family caregivers. As a result, individuals will be allowed to remain in the community and avoid or delay institutionalization.

TEXAS DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES (DARS)

- DARS and the Division of Rehabilitative Services (DRS) initiated a pilot project, Institution to Community Coordination (ICC), to provide services to individuals in institutions to relocate to the community. The pilot includes the following elements:
 - Institution to Community Support Analysis (ICSA)
 - Institution to Community Coordination Plan (ICCP)
 - Institution to Community Relocation Coordination (ICRC)
 - Institution to Community Relocation (ICR)
 - Relocation Follow-up for Three Months (RF)
 - Community Stability (CS)
 - Re-Institutionalization Coordination

The Institution to Community Coordination (ICC) pilot project was launched September 1, 2004. The pilot project was designed to gather information regarding the best way to provide ICC, consumer needs, and needed provider qualifications.

Originally, the pilot was expected to operate for a 12-month period and the data obtained would be used to evaluate procedures to expand the project statewide. The pilot was initiated in the Metroplex (Dallas-Fort Worth) region. Trainings were provided for DRS Region 2 counselors and Area Managers. A conference was conducted for providers and additional trainings were held for providers to ensure utilization of the pilot.

DARS and DADS staffs are continuing to meet to ensure coordination between agency relocation programs and to prevent the duplication of payments to providers.

During the first six months, the pilot initiated services for 20 individuals residing in nursing facilities. Health problems interfered with the completion of the transition for several individuals while others dropped out of the program with the realization of the responsibilities they be undertaking. DARS decided to renew the contracts to continue the pilot.

- The State of Texas celebrated 25 years of Independent Living Centers providing services to promote independence for individuals with disabilities. This has been through the sponsorship and direction of DARS/DRS and the Division for Blind Services (DBS).

DARS/DRS and DBS and the State Independent Living Council (SILC) worked cooperatively to develop a State Independent Living Plan that focused on providing technical assistance for community integration by Centers for Independent Living (CILs).

DARS and the SILC sponsored an Independent Living conference regarding relocation. The Regional Rehabilitation Continuing Education Program (RRCEP) provided the training.

- DARS' 2006-2007 LAR included increased funding to add capacity of CILs to better meet the needs of individuals relocating from institutions to the community. However, this request was not funded by the 79th Legislature.
- DARS is working collaboratively with the Texas Workforce Commission (TWC) on the following PIAC-relevant projects:
 - Supporting local vocational rehabilitation offices (DBS and DRS) to partner with the Local Workforce Boards in their areas to address the training needs regarding job development for individuals with disabilities;
 - Working to develop a plan to implement House Bill 481 relating to the eligibility for partial unemployment benefits of certain persons with disabilities who have been discharged from part-time employment; and
 - Working with the Texas Council for Developmental Disabilities and the Self-Determination Micro-enterprise/Self-employment Work Group, to develop a Request for Proposal relating to self-employment for individuals with disabilities.

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES (DFPS)

DFPS conducted the following initiatives to meet its' Promoting Independence responsibilities:

- DFPS made arrangements for a joint effort between the Protective Services Training Institute (PSTI), the Texas Center for Disability Studies (TCDS) and DFPS to ensure that the Children's Protective Services' caseworker curriculum and training would address disability issues. This focused training began February 2005 and will be presented by TCDS trainers in each region of the state. All CPS staff are invited to the trainings.
- An on-going review of current DFPS policy, to ensure the least restrictive alternative for Adult Protective Services (APS) and CPS clients, identified the following areas for further focus:
 - Child Care Licensing (CCL) -- reviewing standards/rules to include additional items to support the PI effort;
 - CPS' Placement Request/ Approval process -- placement teams are being set up in the regions to approve all placements; specialized Residential Treatment Center (RTC) staff will approve all requests for RTC placements; DD Specialists are managing targeted cases and helping staff with referrals to and ongoing monitoring of placements involving ICF-MRs, nursing facilities, state schools; and
 - CPS Renewal (Reform) -- Basic, Moderate, Specialized, and Intense Service Level enhancements will be folded into the reform efforts.

- Based on successful pilot efforts in 2003 and 2004, CPS began an initiative in September 2004 to implement Family Group Decision Making (FGDM) statewide as its method for service planning efforts with families. Under the initiative, the plan was to expand FGDM to one county in each of 9 regions in February 2005, while continuing the project in the original pilot sites. As the process is refined and additional resources are found, FGDM would then be phased in gradually in other areas of the state.

As of May 2005, over 1,300 conferences have been held, involving families in over 40 Texas counties. Effective February 1, 2005, nine targeted counties began offering family group decision-making conferences exclusively as the mechanism for permanency planning for families of children entering foster care. Further expansion capabilities are currently being reviewed in light of recent funding allocations. Additionally, plans are underway to alter the existing permanency planning team-meeting schedules in order to allow more resources for family group conferencing

- CPS has a Parent Collaboration Group (PCG) composed of clients from the regions that meet regularly to review CPS issues and make recommendations.

The State PCG met in November 2004, March 2005 and June 2005; the next meeting was in September 2005. The three pilots sites in Regions 3, 7, and 9 are in various stages of starting up their respective parent-led orientation groups for families new to the CPS system. All regions are being encouraged to form regional PCGs as advisory entities to the regions. The State PCG has been asked to present at the Annual Family Preservation Conference held every September in San Antonio. All but one region has at least one parent representative on the State PCG.

During the June 2005 meeting, parents heard a presentation by Casey Family Programs regarding their nation-wide Powerful Families Program. Parents decided to participate in this program which empowers parents through skill development in financial management, leadership, and advocacy. The next step is to meet with Casey Family Programs of Texas about how to implement a Texas-based Powerful Families project.

TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS)

- **MENTAL HEALTH SERVICES**

As of May 31, 2005, the ten State Mental Health Hospitals (SMHs) averaged a daily census of 2,281, with a projected 18,009 total admissions during FY2005.

For most individuals, inpatient psychiatric care lasts no more than a few weeks. However, for some people with severe treatment needs, longer lengths of stay are needed. DSHS monitors patients' lengths of stay for identification of barriers that may delay community placement. Quarterly, DSHS generates a report that identifies all patients who have been hospitalized for more than one year. The report is sent to respective hospitals, which verify the status of each patient and any barriers that may exist impeding the discharge of the individuals. The SMHH and the Local Mental Health Authority (LMHA) prepare a revised Community of Care Plan for persons with identified barriers. As of May 31, 2005, 373 persons were hospitalized in SMHHs for a period of more than one year. Of these patients, 212 need continued hospitalization, 15 have been accepted for community placement, 24 have a barrier to placement, and 122 have court involvement.

As of May 31, 2005, 195 persons were admitted to psychiatric hospitals 3 or more times in 180 days. Note that community hospitals (i.e., Gulf Coast Community Regional Hospital, Sunrise Canyon Hospital, and The University of Texas Harris County Psychiatric Center) are now included in this computation, along with SMHHs. They were added to the report during the third quarter of FY2005. Although adding the community hospitals increases the numbers, this inclusion also identifies additional individuals who may be at risk.

- **Adult Services**

Hospitals. Adults with 2 or more psychiatric hospitalizations in 180 days or four or more psychiatric hospitalizations in the last two years are recommended for the most intensive service package available, Assertive Community Treatment (ACT). ACT is part of the overall new service benefit design model known as Resiliency and Disease Management (RDM).

Persons in ACT are provided pharmacological management in the form of medications according to the Texas Implementation of Medication Algorithms, medication training and supports (a.k.a., patient and family education), psychosocial rehabilitation (i.e., rehabilitative case management, including housing services and co-occurring substance use services and skills training and development), supported employment, and medical services by a registered nurse.

The 2004 PIAC recommended that DSHS require LMHAs to prioritize those individuals hospitalized three times or more in 180 days and/or 12 or more continuous months with expedited assessment and assignment to services. In accordance with this recommendation, the new uniform assessment process for community mental health services is completed at intake, every 90 days, and at planned discharges, which includes psychiatric-related hospitalizations. As previously mentioned, those with two or more hospitalizations in 180 days or four or more hospitalizations in the last two years are targeted for the most intensive service package available known as ACT.

In addition, Local Mental Health Authorities (LMHAs) now have access to a data report that identifies adults with three or more psychiatric hospital admissions in 180 days (both SMHH and community) and two or more psychiatric hospital admissions in 120 days (both SMHH and community). A report has also been created so that LMHAs can identify the particular RDM service package both recommended and authorized for adults with three or more (SMHH or community) psychiatric hospital admissions in 180 days.

- **Children's Services**

Hospitals. As with adults, the 2004 PIAC recommended that children with three or more hospitalizations within 180 days or 12 continuous months for mental health services be considered a high priority for the most intensive service package, and that LMHAs prioritize this special population with expedited assessment and assignment to services. Both recommendations were met in 2005. DSHS, through RDM, has implemented services that decrease the rate of re-hospitalization among children. Intensive Case Management (ICM), Multi-Systemic Therapy (MST), and Treatment Foster Care (TFC) are services that are part of the RDM initiative. As part of the intensive out-patient service packages, each LMHA is required to provide ICM services to children and their families, with the provision of MST and TFC being limited.

RDM requires each LMHA to provide ICM for children and their families. These services are intended to address the treatment needs of the child and to assist the family with developing necessary traditional and non-traditional services and supports to prevent the child from more restrictive or out-of-home placement. Additionally, DSHS has required that Wraparound Planning be the method of delivering ICM. Wraparound is a family-driven, strength-based approach to ICM. Recent changes to the uniform assessment process for RDM will help better identify children that would benefit from this intensive level of services. To be recommended for ICM, any two of the following domains must be present among children with an externalizing disorder: 1) Severe Disruptive or Aggressive Behavior, 2) Lack of Family Resources, 3) History of Psychiatric Treatment, 4) Juvenile Justice Involvement, and 5) School Behavior Problems.

MST is currently available at two LMHAs - Tarrant County and San Antonio. This intervention is aimed at children involved in the juvenile justice system to prevent recidivism. DSHS plans to work with other urban areas around the state to provide incentives to offer MST in their communities. Technical assistance will be provided in communities to assist with the development of the relationship with local juvenile probation departments in order to further implement this program. Juvenile probation departments are locally controlled and thus provide tremendous opportunity for the development of MST. DSHS is committed to making this intervention available in all urban areas around the state, and will provide a forum to work through any local issues that might arise.

In terms of Treatment Foster Care, Harris County and San Antonio have each submitted an application to the Substance Abuse and Mental Health Services Administration (SAMSHA) for a Systems of Care (SOC) grant. If selected, DSHS will partner with each LMHA to assist in the development of TFC. Furthermore, Tarrant County, Lena Pope Home, and Tarrant County Juvenile Probation have a

long history of collaboration and the working relations between these entities are strong. Because of their long-standing working relationship, it is anticipated that the limited funds available for the DSHS Community Mental Health Block Grant may be matched by local funds, thereby allowing for more children to be served. Tarrant County is also a Texas Integrated Funding Initiative (TIFI) site and the City of Fort Worth is a SAMHSA SOC grant recipient. In addition, the focus of TFC is on family reunification, which supports the tenets of both TIFI and SOC.

Also, DSHS will begin to work with El Paso, a SOC grant recipient, to assist them in developing relationships similar to those in Tarrant County. Girls and Boys Town, Inc. would provide training in the TFC model that has a well developed curricula and training. The training would be provided in a train-the-trainer's format. Once this training has been completed in Tarrant County, it would allow for replication across the state without involving (costly) outside resources.

Finally, the same data report available to LMHAs that identifies adults with three or more psychiatric hospital admissions in 180 days (both SMHF and community) and two or more psychiatric hospital admissions in 120 days (both SMHF and community) also identifies children. A report has also been created so that LMHAs can identify the particular RDM service package both recommended and authorized for children with three or more (SMHF or community) psychiatric hospital admissions in 180 days.

- **Other Community Mental Health Initiatives**

Study of three or more hospitalizations over multiple years. A study was undertaken in 2005 to examine the number and percent of persons with three or more SMHF admissions in 180 days, and whether the same individuals experienced three or more admissions in 180 days over three time periods (i.e., Fiscal Year 2003, Quarters 1 and 2; Fiscal Year 2004, Quarters 1 and 2; Fiscal Year 2005, Quarters 1 and 2). The results showed that, of the 941 persons who had 3 or more SMHF admissions in 180 days where the third admission was in one of these time periods, only 7.1% (67) had three or more SMHF admissions in 180 days that occurred in multiple years. Further analyses revealed that 13% (216) had three or more SMHF admissions in 180 days for more than one year during Fiscal Years 2002, 2003, and 2004.

- ***Memorandum of mutual awareness between nursing homes and LMHAs.*** In order to promote independence among individuals in nursing facilities who have a mental illness that is targeted for RDM according to HB 2292 (i.e., Schizophrenia, Bipolar Disorder, or Major Depressive Disorder) and who many benefit from community mental health services, a joint memorandum is being prepared from DSHS (Community Mental Health and Substance Abuse) and by DADS (Provider Services) to foster greater awareness and understanding between nursing facilities and LMHAs. Contact information for nursing facilities in Texas and LMHAs will be relayed to both nursing facility associations and the Texas Council of Community Mental Health and Mental Retardation Centers, Inc. DSHS staff is working closely with DADS staff to monitor this population. Historically, individuals hospitalized over twelve months and discharged to a nursing facility were being reported quarterly. A new report is being prepared for fourth quarter

FY 05 that will include all individuals discharged from a SMHH to a nursing facility.

- ***Deaf and hard-of-hearing.***

DSHS staff have worked with Advocacy, Inc. and Texas Rehabilitation Commission to develop a standard definition for deaf and hard of hearing. Currently, patient's hearing is assessed at the time of admission to the hospital. Efforts are underway to track this data through the SMHH Electronic Record. Each patient should be classified as hearing, hearing impaired, or deaf. Once this is accomplished, it should be relatively easy to track these patients and determine their length of stay. As of May 31, 2005, there were three patients on the Over 365 Report who were deaf.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA)

Affordable, accessible, integrated housing remains an integral part of successfully transitioning individuals from institutional care into the community. The PIAC stakeholders identified barriers to obtaining affordable, accessible, integrated housing to include: the long waiting list for Section Eight vouchers; TDHCA having no control over local public housing authorities; lack of income targeting within existing affordable housing allocations; and existing architectural problems in public and private housing rental units. These barriers require advocates on a national level to continue working to change existing federal regulations to avoid discrimination against individuals with disabilities in the housing market that are accessing public housing made available through HUD programs.

The Texas Department of Housing and Community Affairs (TDHCA) joined the PIAC at the request of HHSC during fiscal year (FY) 2001. Due to the need to address affordable, accessible, integrated housing, along with Executive Order RP-13 and the legislative mandates related to coordinating services, TDHCA plays an integral role in the Promoting Independence Initiative.

The PIAC created a Housing Workgroup to initially address the issues of the development of a housing assistance voucher program. TDHCA and HHSC made requests to the U.S. Department of Housing and Urban Development (HUD) and received 35 rental vouchers as part of a national pilot program called "Project Access." These vouchers allowed HHSC, legacy TDHS, and TDHCA to implement a pilot, referenced in Senate Bill (SB) 367, 77th Legislature, Regular Session, 2001, for providing housing assistance to individuals within the *Olmstead* population transitioning from nursing facilities to community services. TDHCA, TDHS, and HHSC entered into a Memorandum of Understanding (MOU) in order to coordinate the implementation of this voucher assistance program. This program continues to operate within the state through the assistance of TDHCA's central office, DADS, as well as relocation specialists providing assistance to individuals transitioning from nursing facilities.

DADS (including activities by legacy TDHS) has referred a total of 117 individuals to TDHCA since June 1, 2003. TDHCA has awarded all 35 vouchers. Several of the original 35 vouchers have been absorbed by local Public Housing Authorities (PHAs chose to use one of its own existing vouchers), thus enabling TDHCA to re-issue those vouchers to applicants on the waiting list. These vouchers will continue to be "recycled" by TDHCA without the "age 62 limitation" placed on the original 35 vouchers.

In the Fall of 2002, TDHCA committed \$4 million dollars in Tenant Based Rental Assistance (TBRA) from the HOME Program for the 2003-04 biennium to assist individuals affected by the *Olmstead* decision to secure affordable, accessible, and integrated housing in the community. Due to concerns regarding the limited amount of funds allowed for administrative support, TDHCA increased the amount allowed from 4% to 6%, and received an additional 4% of funding from HHSC to allow contractors to spend up to 10% of the award on administrative activities. However, in the 2005 Consolidated Plan, the commitment of dollars was withdrawn.

TDHCA committed \$3,034,018 of the \$4 million dollars set-aside to the HOME Investment Partnership Program for Olmstead participants. The PIAC Housing Subcommittee is working with the agency to ensure that the entire award is used for people in the Olmstead population.

TDHCA withdrew the \$2 million annual commitment of tenant based rental assistance under the HOME program. If this issue is to be re-visited, all of the current dollars must be spent.

The largest HOME program contractor will no longer administer the \$1,000,000 award as of September 30, 2005. On September 16, 2005, TDHCA's Board approved the reassignment of these funds to ensure its commitment to the Olmstead population.

TDHCA has made various policy statements related to the need for accessible, affordable, and integrated housing for persons with disabilities in its state plan. Additionally, TDHCA will continue working with the state's Public Housing Authorities, encouraging the availability of more integrated housing, including serving individuals within the *Olmstead* population and all individuals with disabilities.

OTHER HOUSING INITIATIVES

With a grant from the Texas Council for Developmental Disabilities, the Coalition of Texans with Disabilities (CTD) is further addressing the housing needs of persons with disabilities, by increasing the awareness of the need for affordable, accessible, integrated housing for individuals with disabilities. In addition to training Public Housing Authorities (PHAs) on how to best serve this growing population, CTD provides targeted technical assistance to PHAs and agencies on issues as diverse as disability etiquette and reasonable accommodation to providing consumer input to state agencies to ensure increased response rates to available HOME funds.

PIAC Housing Subcommittee and the Texas Council on Developmental Disabilities hosted a meeting in March 2005, between HOME Rental Assistance Contractors and DADS Relocation Contractors. This meeting identified issues and created relationships among these groups, designed to speed up the transition of people with disabilities from nursing homes and other institutions.

PIAC HOUSING SUBCOMMITTEE GOALS FOR FISCAL YEAR 2006

- Work with TDHCA to increase the amount of rental assistance that will be available for entities to apply for and will add a scoring incentive for serving persons with disabilities (prioritizing the Olmstead population).
- Work with TDHCA to restore the Olmstead set-aside or make an equivalent commitment of dollars in 2005 and in subsequent years.
- Request that HHSC work with TDHCA, as well as advocates and stakeholders at the local level, to encourage Public Housing Authorities to identify and set aside a specific number of housing vouchers to be used for individuals in the Olmstead population.
- Encourage HHSC, upon request, to assist TDHCA to continue to improve intra-agency coordination regarding housing assistance funds through continuing education of TDHCA staff regarding affordability, accessibility, and integration.

WORKFORCE ISSUES

TEXAS WORKFORCE COMMISSION (TWC)

The importance of workforce issues in the Promoting Independence Initiative prompted the Health and Human Services Commission (HHSC), with the direction of Governor Perry's Executive Order RP-13 (2002), to include the Texas Workforce Commission (TWC) in the on-going plan development. PIAC continues to recognize that one of the greatest threats to the quality of life and quality of services for individuals with disabilities is the lack of professional, trained, qualified, and highly skilled direct care workers.

The Promoting Independence Advisory Committee (PIAC) has highlighted the importance of the need for well-paid, trained, caring human service workers with its' inclusion of ***Resolution 5*** (see section on *Resolutions*). In order to ensure that institutional transition to the community is successful, an available and competent workforce must exist.

PIAC would like to reinforce the statement in the December 2004 revised report by repeating the following: "The PIAC identified the shortage of hands-on assistants throughout the long-term care system of services; the low wages, lack of benefits, and absence of career ladders for this workforce; the turnover of nursing and direct care staff; the need to expand Consumer Directed Services options in community services programs; and the need to expand training opportunities for direct care workers as barriers to providing quality care to individuals with disabilities."

The following were accomplished during Fiscal Year (FY) 2005:

- TWC and the Texas Department of Assistive and Rehabilitative Services (DARS) are supporting Division of Rehabilitative Services (DRS) local offices to partner with the Local Workforce Board(s) in their area to address the training needs regarding job development strategies for individuals with disabilities.
- TWC is working with the Texas Council for Developmental Disabilities and the Microenterprise/Self-employment Work Group to recommend elements integral to a Request for Proposals relating to self-employment for individuals with disabilities.
- TWC continues to work with the Assistive Technology Advisory Council to assist in carrying out the federal Assistive Technology Act of 1998 and provide input to the State Plan for Assistive Technology to increase access to, and funding for, assistive technology devices and assistive technology services for individuals with disabilities.
- TWC is developing a plan to implement House Bill 481 relating to the eligibility for partial unemployment benefits of certain persons with disabilities who have been discharged from partial employment.

PIAC WORKFORCE SUBCOMMITTEE GOALS FOR FISCAL YEAR 2006

- HHSC and TWC will assist in promoting partnerships between hospitals, educational institutions, workforce development boards, area businesses, small business development centers, and advocates for individuals with disabilities to explore and encourage training and skills development to address health care industry labor shortages, particularly attendants.
- HHSC and TWC will identify High Growth Job Training Initiatives that may be replicated and other industry-identified strategies and work incentives that address barriers contributing to the workforce shortages.
- HHSC and TWC will encourage job seekers with disabilities to register on WorkInTexas.com to promote the hiring of, and access to, qualified candidates with disabilities.
- HHSC and TWC will explore small business ownership efforts and other self-employment options that may increase the employment rate among individuals with disabilities.
- TWC, along with the PIAC, continue to explore methods to track individuals who are moving from institutions into communities who enter workforce employment and training services.

REAL CHOICE SYSTEM CHANGE GRANTS

In February 2001, President Bush announced his New Freedom Initiative, which is a nationwide effort to remove barriers to community living for people of all ages with disabilities and long-term illnesses. One result of the New Freedom Initiative is a series of Real Choice System Change Grants, which are aimed at building infrastructure that will result in effective and enduring improvements in community long-term support systems. Texas has received five Real Choice grants over a three-year period. The following is a status report on each of the grants:

Creating a More Accessible System for Real Choices in Long-Term Care Services:

This \$1.385 million grant was initiated to help all persons in their community navigate the maze of long-term services, regardless of their age or type of disability. The concept utilized "system navigators" whose first priority is to help a person or his family members cut through the red tape (across agencies and organizations) and get to the benefits, services and supports an individual needs, enabling that person to live and integrate into their own community. The demonstration has occurred in the:

- **Heart of Central Texas** (thirteen counties in and around Belton, Killeen and Waco) and,
- **Texoma** (three counties in and around Sherman/Denison)

Area Agency on Aging (AAA) regions. The project concluded on September 30, 2005, and successfully:

- Hired, trained and assigned 12 "system navigators" to help consumers get services and supports all across the health and human services system.
- Tested the system navigators using two models: (a) navigators located within a single point of access; and (b) navigators located across multiple points of access.
- Launched new client tracking software that allowed for: (a) interagency sharing of basic intake information; (b) tracking of client outcomes and levels of satisfaction; and, (c) tracking numbers of clients re-located from institutions into the community, as well as those "diverted" from entering an institution.

Community-Based Treatment Alternatives for Children

The Community-Based Treatment Alternatives for Children (CTAC) three-year grant supported activities to determine the feasibility of using a Medicaid 1915 (c) waiver to provide quality services to children with severe emotional disturbances (SED) in their homes and communities. If determined feasible, then there was direction to develop an implementation plan. The Health and Human Services Commission (HHSC) contracted with Community Ties of America (CTA) to conduct a feasibility study and a subsequent implementation plan to evaluate whether a 1915 (c) waiver could serve a larger number of children with intensive home and community based services. CTA recommended that it would be financially feasibility to develop the 1915 (c) waiver and serve children in a

more integrated setting. HHSC has delegated development of the waiver to the Texas Department of State Health Services (DSHS).

Service Responsibility Option

DADS received a grant to study, in the Lubbock Region, a new method of service management that empowers people to manage the day-to-day work of their attendants, but leaves the business and employment processes to the provider agency they choose. It is known as the *Service Responsibility Option*. The project focuses on providing people with the information needed for them to make a choice regarding on how best to meet their attendant needs.

This pilot is a third alternative to two previously developed options for managing Personal Assistant Services in the Primary Home Care, Family Care, and Community Attendant Services programs. The three options for persons in the Lubbock area are:

The Service Responsibility Option (the grant demonstration), or SRO, lets the participant manage most of the day-to-day activities of the attendant; i.e. when the attendants work and how they perform their duties, but leaves the business details to a provider agency of the participant's choosing. The other two options are known as the Agency Option and Consumer-Directed Services. The Agency Option lets participants entrust all the employment details to a provider agency they choose. In Consumer-Directed Services, the participant manages the entire process, including the business of being an employer.

The project is in its second year of the three year grant. During the project's second year, the SRO team trained 60 home health agency staff and 27 Department of Aging and Disability Services (DADS) staff in the Panhandle pilot region. In December 2004, DADS began offering the SRO to individuals residing in the panhandle region who receive Primary Home Care, Family Care or Community Attendant Services. Once individuals select SRO, they are required to participate in the SRO Orientation prior to starting services. The initially slow uptake of the SRO prompted the SRO Task Force and team to re-target SRO outreach efforts to deliver materials to people more directly and to provide multiple avenues to learn about the SRO.

In order to test the SRO in an urban area before statewide rollout, the SRO Task Force and team expanded the pilot to Bexar County. The team trained 54 staff from nine home health agencies and 63 DADS staff in Bexar County before launching the SRO in August 2005.

Money Follows The Person

The goals of the "money follows the person" (MFP) grant is to (1) educate agency staff and stakeholders about community-based options to ensure that all programs are considered when an individual transitions from the institution to a community setting; and (2) establish local nursing facility transition teams in every region to enable individuals with significant transition needs to return to the community.

The project is in its second year of the three-year grant. The following accomplishments have been achieved during this second year:

- Completed the Community-based Options Stakeholder trainings in every region;
- The MFP contractor in coordination with state office and regional directors have established and trained a transition team in every region. Region 11 has started a third transition team;
- Texas has an established system to coordinate services and supports for individuals with significant transition needs;
- Developed a database to collect project specific data;
- Transition Teams are identifying and addressing individual, local and systematic barriers to transition;
- Transition Teams facilitate the linking of resources across Texas for individuals with complex needs;
- Transition teams are facilitating the lines of communication among state agencies, local organizations, and other stakeholders at a statewide level to support transition efforts;
- MFP Grant activities have been recognized by other states and CMS;
- CMS will be conducting a study of the Texas MFP grant in September 2005;
- State office will continue to promote collaboration among agency staff and stakeholders to promote Texas relocation efforts; and
- A workshop for agency transition team staff and relocation providers was held on August 2, 2005, and the MFP annual conference is planned for early 2006.

Quality Assurance And Quality Improvement

Texas received a three-year grant to study and recommend ways to redesign and improve the quality assurance and quality improvement system in its Medicaid waiver programs. One expected outcome of the improved system is to make information about waiver program quality accessible to consumers, advocacy groups, community mental health and mental retardation staff, and department and provider staff.

The project is in its second year of the three-year grant. The following major activities were conducted this past year:

- Developed the Quality Assurance and Quality Improvement Values and Supports statement and produced posters and brochures to distribute;
- Grant staff collaborated with stakeholders to coordinate the "Understanding Self-Determination" Conference (a one-day workshop for people with disabilities who were interested in learning about self-determination and consumer control);
- Produced a video with consumers telling their stories of self-determination;
- Joined the National Core Indicators project and conducted approximately 2000 face-to-face and 2000 mail out surveys of participants in DADS' Medicaid waiver and ICF/MR programs;
- Developed a Request for Proposal for Measuring Quality through Individual Experience Surveys to conduct interviews on an annual basis;
- Developed a critical incident definition survey that was posted on the QA/QI website for input from the public; and
- Hired a data analyst to work with the business analyst on the analysis of the consolidated information-gathering system that will be used to produce reports about quality indicators.

AGING AND DISABILITY RESOURCE CENTER GRANT

DADS successfully submitted an application for funding to the Administration on Aging (AoA) for their Aging and Disability Resource Center Grant Program.

The Aging and Disability Resource Centers funded by AoA and the Centers for Medicare and Medicaid Services provide citizen-centered, “one-stop” entry points into the long-term support system and are based in local communities accessible to individuals and their families who may require long-term support. DADS’ was awarded an \$800,000 three-year grant in three locations to be selected. Activities will include: advocacy, liaison among the stakeholders, benefits counseling, and coordination with Medicaid program and financial eligibility staff.

ALZHEIMER’S DISEASE DEMONSTRATION GRANTS TO STATES (ADDGS) PROGRAM

The Alzheimer’s Disease Demonstration Grants to States (ADDGS) program is a grant through the Administration on Aging (AoA). ADDGS allows for the demonstration of innovative practices and services to serve persons with Alzheimer’s disease and their caregivers. DADS was awarded a \$225,000 grant for the first year of the three-year project period. Texas’ pilot will use system navigators to assist clients and informal caregivers with accessing available public and private home and community-based long-term services and supports. The two pilots sites are: (1) the Harris County Area Agency on Aging, and (2) the Panhandle Area Agency on Aging.



HHS Circular C-002

The Promoting Independence Initiative and Plan

Purpose

To direct and authorize the Department of Aging and Disability Services (DADS) to act on behalf of and in consultation with the Health and Human Services Commission (HHSC) in all matters relating to the Promoting Independence Initiative.

Directive

In this capacity, DADS will be responsible for:

- preparation of the revised Texas Promoting Independence Plan, submitted to the Governor and Legislature every two years;
- monitoring and oversight of implementation of all agency-specific Promoting Independence Plan recommendations across the enterprise;
- nomination, for HHSC Executive Commissioner review and approval, of appointments to the Promoting Independence Advisory Committee;
- staff support for the Promoting Independence Advisory Committee, including assistance in developing its annual report to HHSC, which will be presented directly to the HHSC Executive Commissioner; and
- coordination and oversight of any other activities related to the Promoting Independence Initiative and Plan, as a direct report for this purpose to the HHSC Executive Commissioner.

Background

The Texas Promoting Independence Initiative and Plan is in response to several key laws, decisions, and state actions related to services for individuals with disabilities. In chronological order, they are:

The Americans with Disabilities Act

Congress passed the Americans with Disabilities Act (ADA) in 1990. Key provisions in Title II of the ADA and the federal regulations implementing it require a public entity to:

- provide services “in the most integrated setting appropriate to the needs” of the person; and
- “make reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can

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demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.”

The *Olmstead* Decision

On June 22, 1999, the United States Supreme Court ruled in *Olmstead v. L.C.*, 527 U.S. 581, that unnecessary institutionalization of persons with disabilities in state institutions would constitute unlawful discrimination under the ADA. The Court ruled that unnecessary institutionalization occurs when the:

- state’s treatment professionals have determined that community placement is appropriate;
- transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and
- placement can reasonably be accommodated, taking into account the resources available to the state and the needs of others with disabilities.

The decision did not require states to abolish institutions and allowed some flexibility for states to maintain a waiting list for community services if the list moves “at a reasonable pace not controlled by the state’s endeavors to keep its institutions fully populated.”

GWB-99

Texas Governor George W. Bush issued Executive Order GWB-99 on September 28, 1999, directing HHSC to:

- conduct a comprehensive review of all services and support systems available to persons with disabilities in Texas, in light of the *Olmstead* decision;
- ensure the involvement of consumers, advocates, providers, and relevant agency representatives in the review; and
- submit a written report of its findings to the Governor and Legislature, including specific recommendations on how Texas can improve its community-based programs for persons with disabilities by legislative or administrative action.

Senate Bill 367

The Seventy-seventh Legislature passed Senate Bill 367 in 2001, requiring that HHSC and appropriate agencies implement a comprehensive, effectively working plan that:

- provides a system of services and supports;
- fosters independence and productivity; and

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- provides meaningful opportunities for a person with a disability to live in the most integrated setting.

S.B. 367 established the S.B. 367 Interagency Task Force on Appropriate Care Settings for Persons with Disabilities, which carried on the work of the Promoting Independence Advisory Board. The bill also required that HHSC update the Promoting Independence Plan no later than December 1 of each even-numbered year, and submit this plan to the Governor and the Legislature.

RP-13

In April 2002, Governor Rick Perry issued Executive Order RP-13 to further the efforts of the state regarding its Promoting Independence Initiative and community-based alternatives for individuals with disabilities. The order highlighted the areas of housing, employment, children's services, and community waiver services.

Summary

The Texas Promoting Independence Plan now serves several purposes within the state. The plan:

- works to provide the comprehensive, effectively working plan called for as a response to the U.S. Supreme Court ruling in *Olmstead v. L.C.*;
- assists with the implementation efforts of the community-based alternatives Executive Order RP-13, issued by Governor Rick Perry;
- meets the requirements of the report referenced in S.B. 367, Seventy-seventh Legislature, which asks HHSC to report the status of the implementation of a plan to ensure appropriate care settings for persons with disabilities, and the provision of a system of services and supports that fosters independence and productivity, including meaningful opportunities for a person with a disability to live in the most appropriate care setting; and
- serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.

The Promoting Independence Plan and the subsequent Promoting Independence Initiative are far-reaching in their scope and implementation efforts. The Promoting Independence Initiative includes all long-term care services and supports and the state's efforts to improve the provision of community-based alternatives, ensuring that these Texas programs effectively foster independence and acceptance of people with disabilities and provide opportunities for people to live productive lives in their home communities.

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Inquiries

Inquiries regarding the content of this circular should be directed to Terry Childress, Program Administrator, Department of Aging and Disability Services, at (512) 438-2260 or terry.childress@dads.state.tx.us.

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MEMBERSHIP OF THE PROMOTING INDEPENDENCE ADVISORY COMMITTEE

Appointed Members

Mr. Bob Kafka
ADAPT of Texas
Represents people with disabilities

Ms. Anita Bradbury
Texas Association for Home Care
Represents home care service providers

Ms. Carole Smith
Private Providers Association of Texas
Represents mental retardation service providers

Dr. Jean L. Freeman
DADS Agency Council
Represents aging and disability services

Ms. Colleen Horton
University of Texas
Center for Disability Studies
Represents children with disabilities and families

Mr. Mike Bright
Association of Retarded Citizens
Represents mental retardation services
advocates

Mr. Tim Graves
Texas Health Care Association
Represents nursing facility service providers

Mr. Dennis Borel
Coalition for Texans with Disabilities
Represents people with disabilities

Ms. Ann Denton
Advocates for Human Potential
Represents mental health services advocates
and housing

Ms. Chris Kyker
Texas Silver-Haired Legislature
Represents people who are aging

Ms. Glenda Rogers
President, Texas Association of
Area Agencies on Aging
Represents people who are aging

Agency Representatives

Ms. Adelaide Horn
Texas Department of Aging and Disability
Services
Presiding Officer

Mr. Michael Lyttle
Texas Department of Housing and
Community Affairs

Ms. Catherine Gorham
Texas Workforce Commission

Ms. Peggy Perry
Texas Department of State Health Services

Mr. Trey Berndt
Health and Human Services Commission

Mr. Lynn Blackmore
Texas Department of Assistive and
Rehabilitative Services

Ms. Jane Norwood
Texas Department of Family and Protective
Services

Mr. Barry Waller
Texas Department of Aging and Disability
Services

DADS Staff Support

Mr. Marc S. Gold
Manager, Promoting Independence Initiative

**STATEMENT OF LEGISLATIVE INTENT RELATED TO
HOUSE BILL 1771 AND SENATE BILL 1**

As Chair of the Article II (Health and Human Services) Work Group for the Senate Finance Committee and the Senate Bill 1 Appropriations Conference Committee, I developed the *Special Provisions Relating to all Health Care Health and Human Services Agencies Section 49*, which is in Senate Bill 1 and on which HB 1771 is based. Our intent was to ensure that the Health and Human Services Commission will seek the necessary federal waiver for the Integrated Care Management model of Medicaid managed care laid out in HB 1771. We expect the ICM model developed in HB 1771 to be piloted in the Dallas service area by September 1, 2006, and the appropriate public hospital and county officials to be consulted about whether the ICM model will be the model of managed care implemented in their respective service areas.

It is also my intent that the Health and Human Services Commission work closely with provider groups and consumer advocate groups to ensure that long term services and supports comparable to community based alternative waiver services will be offered under the ICM model to all who are eligible for that waiver. What's more, the Health and Human Services Commission should require the ICM contractor to subcontract with qualified local community based organizations for some or all care coordination, service coordination, recipient outreach and educational services, and relocation services under the Promoting Independence Initiative. Recipients should have the option of consumer directed services. Finally, a comprehensive outreach and educational initiative should be conducted at least 90 days prior to implementation of ICM to inform recipients and providers about the implementation.

Judith Zaffirini
Senator, District 21



Rider 28 Client Demographics

Data Effective Date: August 31, 2005

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Description: Demographic information about currently active Rider 28 Clients. Rider 28 clients are those individuals who have an 'Enrolled From' code 12 entered in SAS on or after September 1, 2003, AND who has not previously been identified as a Rider 37 client.

Living Arrangement	Client Count
COMMUNITY - ADULT FOSTER CARE	37
COMMUNITY - ALONE	941
COMMUNITY - ALTERNATIVE. LIVING/RES. CARE	1,282
COMMUNITY - W/FAMILY	1,997
COMMUNITY - W/OTHER WAIVER PARTICIPANTS	147
ICF/MR - COMMUNITY	1
OTHER	27
Total	4,432

Service Group	Client Count
CBA	4,292
CLASS	36
COMMUNITY CARE	2
CONSOLIDATED WAIVER	1
MEDICALLY DEPENDENT CHILDREN PROGRAM	102
Total	4,432

Age Group	Client Count
0 - 9	75
10 - 17	34
100 +	10
18 - 20	9
21	10
22 - 44	336
45 - 64	1,138
65 - 69	400
70 - 74	449
75 - 79	557
80 - 84	622
85 - 89	468
90 - 94	249
95 - 99	75
Total	4,432

Region	Client Count
00	6
01	162
02	321
03	1,331
04	572
05	238
06	159
07	340
08	518
09	148
10	50
11	587
Total	4,432

Gender	Client Count
FEMALE	2,919
MALE	1,512
UNKNOWN	1
Total	4,432

Ethnicity	Client Count
AMERICAN INDIAN OR ALASKAN NATIVE	11
ASIAN OR PACIFIC ISLANDER	16
BLACK- NOT OF HISP. ORIGIN	528
HISPANIC	848
UNKNOWN	124
WHITE- NOT OF HISP. ORIGIN	2,905
Total	4,432

**AGENCY STATUS REPORTS
2004 REVISED PROMOTING INDEPENDENCE PLAN**

APPENDIX E

At Risk of Institutionalization

- HHSC will direct Health and Human Service Agencies (HHSAs) to ensure that any entity utilized to assist individuals in decision-making regarding their services will be knowledgeable in aging and disability specific information, the Promoting Independence Initiative, self-determination, community services, and Title II of the ADA.

Status

HHSC will notify the health and human service agencies in writing that staff or subcontractors assisting aged and disabled individuals are knowledgeable about their issues and programs. All health and human service agencies have some initiative to meet this goal.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSAs would develop mechanisms to ensure continuity of services for individuals who "age out" of children's services in order for them to remain in the community, including persons between the ages of 18-22 in the Adult Protective Services system.

Status

HHSC recently applied for a Policy Academy on Improving Outcomes for Young Adults. If selected, this would provide a forum for addressing these issues. Rider 54 (DADS) carves out \$1,182,270 in General Revenue (plus matching dollars) from Strategy A.3.2 Home and Community Based Services, to be set aside annually for services for children aging out of foster care.

- HHSC will continue to support the expansion of Consumer Directed Services (CDS) options and work with its CDS workgroup to accomplish this goal.

Status

The CDS workgroup meets quarterly and is monitoring the expansion of CDS in the Home and Community Based Services (HCS) and Texas Home Living waivers; and the expansion of coverage of more services such as occupational, physical and speech therapies.

Funding and Capacity Issues

- HHSC will continue to direct all HHSAs to examine strategic planning, current budgets and planned budgets for explicit inclusion of activities and funds related to *Olmstead*.

Status

HHSC directed the HHSAs to examine strategic planning, current budgets and planned budgets for explicit inclusion of activities and funds related to *Olmstead*. All HHSAs included activities during the past legislative session.

- **Requires legislative direction and/or appropriations.**
If made permanent by the Legislature, HHSC would implement Section 18, Special Provisions Rider, to allow the use of funds appropriated for long-term care waiver slots to DADS for: a) the establishment and maintenance of long-term care waiver slots; b) the provision of wraparound services that are specifically associated with such slots and that relate to transitional services, access to immediate housing, and transportation services; or c) the development of family-based alternatives for children leaving institutions.

Status

This rider was made permanent.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DADS would implement legacy TDHS Rider 7b in its original wording from the 77th Legislature, Regular Session, 2001.

Status

The 79th Legislature codified Rider 7b with Senate Bill 626, which had the original language from the 77th Legislative Session. SB 626 allows for certain individuals in 1915 (c) waiver programs to receive services in the community up to a cost of 133.3% of the cost of services in an institution. DADS is implementing the legislation.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DADS would ensure the implementation of legacy TDHS Rider 28 as a permanent funding mechanism.

Status

The 79th Legislative Session codified Rider 28 with House Bill 1867, which allows for the “money follows the person” policy in nursing facilities.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DADS would re-integrate the legacy

TDHS Rider 28 "slots" into the base waiver numbers as was done prior to the 2004-05 biennium.

Status

The 79th Legislature did not include this provision in House Bill 1867 as the 77th Legislative Session had done with Rider 37.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would expand legacy TDHS Rider 28 to all institutional settings, including all ICF/MR funded entities.

Status

The 79th Legislative Session did not expand Rider 28, now codified as House Bill 1867, to beyond the nursing facility setting. Rider 46 directs DADS to fund up to 50 children to move from an intermediate care facility for the mentally retarded (ICF/MR) to a community setting.

- **Requires legislative direction and/or appropriations.**
If made permanent by the Legislature, HHSC would implement the provisions in HHSC Rider 13(c) to transfer funds for promoting independence activities including relocation activities, housing, and family-based alternatives.

Status

This has been completed.

- DADS will request funding to continue the current nursing facility relocation services beyond the current biennium in its FY 2006 and FY 2007 Legislative Appropriation Request (LAR).

Status

This has been accomplished.

- HHSC will request funding in two exceptional items in its FY 2006 and FY 2007 LAR to address the waiting/interest lists in all HHSAs based on a ten-year interest/wait list elimination strategy.

Status

This was accomplished. While the entire amount requested was not appropriated, the 79th Legislature did include funding for DADS for an additional 9360 waiver "slots".

- DADS will include an exceptional item in its FY 2006 and FY 2007 LAR that would increase rates by rebasing rates and by providing inflation adjustments.

Status

This recommendation was in DADS' LAR. Rate increases for HCS, CLASS, and ICF/MR Community were funded, contingent upon approval of the Quality Assurance Fee for HCS and CLASS. DADS also requested the restoration of rates to FY 2003 levels. This restoration was funded with the following exceptions: (1) nursing facility; (2) HCS/CLASS and ICF/MR Community were funded contingent on approval of the quality assurance fee for HCS and CLASS.

- **Requires legislative direction and/or appropriations.**

If directed and/or funded by the Legislature, HHSC would work with DADS in the implementation of appropriated funds for transitioning providers who voluntarily downsize their facilities.

Status

There was no legislative direction or appropriations. Rider 46 allows for a limited movement of children from ICF/MRs to the community.

- **Requires legislative direction and/or appropriations.**

If directed and/or funded by the Legislature, HHSC would support further study of service planning approaches for individuals of all ages, including those being performed by an independent entity separate from the provider.

Status

There was no legislative direction or appropriations. Senate Bill 40 added additional restrictions to permanency planning activities to prevent conflict of interest.

- HHSC will support TDHCA's request for funding to assist individuals in obtaining accessible, affordable integrated housing to be maintained at the current level or increased.

Status

HHSC has worked collaboratively with TDHCA on the Housing Voucher Program and continuation of efforts to assist individuals in obtaining accessible, affordable integrated housing. No specific request for assistance was made by TDHCA.

- DADS will include in its FY 2006 and FY 2007 LAR funding to maintain current services in the In Home and Family Support Program.

Status

This was requested and funded.

Children's Issues

- **Requires legislative direction and/or appropriations.**

If directed and/or funded by the Legislature, DADS would expand legacy TDHS Rider 7b to include children transferring from the Comprehensive Care Program (CCP).

Status

While Rider 7b was amended during the 79th Legislative Session, those changes did not include expansion of the provisions to children transitioning from CCP to adult services. Rider 7b was amended and codified by SB 626.

- **Requires legislative direction and/or appropriations.**

If directed and/or funded by the Legislature, HHSC would implement permanency planning requirements that go beyond preparation of a written plan to include ongoing activities that keep parents informed of family-based options and assist in promoting activities that will result in children growing up in families.

Status

The 79th Legislature did strengthen permanency planning requirements through Senate Bill 40 but did not to the full measure of the recommendation. This continues to be a strong unmet need. Many individuals involved in permanency planning believe that the efforts stop when the plan is written. The written plan should not be the final outcome. Permanency planning should include ongoing efforts needed to address the barriers identified in the plan, identify supports families require to transition their child, and help access those supports as soon as possible.

- **Requires legislative direction and/or appropriations.**

If directed and/or funded by the Legislature, HHSC would work with DADS to target 20% of newly appropriated Home and Community-Based Services (HCS) waiver slots (FY 06 and FY 07) for children who are placed on the waiver interest/waiting list as a result of Senate Bill 368, 77th Legislative Session's permanency planning efforts, and for those children living in institutions within the Family Based Alternatives project.

Status

Funds for waiver services for children in the family-based alternative project area were not appropriated. However, the Legislature did provide funding for up to 50 children residing in ICF/MRs to transition to community services and \$1.8 million for community services for children with disabilities aging out of foster care. While these funds are not limited to children in the project area, some children in the project area will be eligible for this funding.

- HHSC will work with DADS and DFPS to examine all funding options including, but not limited to, allowing for appropriate waiver slots to be made available for

children in Child Protective Services (CPS) custody, particularly for those placed in CPS licensed institutions for children with physical and cognitive disabilities.

Status

Some progress has been made in linking services between DFPS and DADS, but significant barriers remain that prevent children from obtaining the waiver services that they need. The \$1.8 million in funding identified for children with disabilities aging out of foster care will be available for any child aging out of CPS conservatorship or aging out of secondary school services. Further efforts should be made, however, to ensure that children living in CPS institutions have access to the needed waiver services to allow them to transition to families.

- HHSC will work with appropriate health and human services agencies in order that the Senate Bill 367 MOU required for coordination of services for individuals transitioning from nursing facilities include the Early Childhood Intervention (ECI) agency to address those individuals from ages zero to two.

Status

This MOU will be updated during the next cycle of review. ECI continues to serve those children.

- HHSC will study the feasibility and costs of allowing individuals who age out of any existing children's services (i.e. Comprehensive Care Program {CCP}), Medically Dependent Children's Program (MDCP), Early and Periodic Screening, Diagnostic, and Treatment (EPPSDT) services) access to the most appropriate waiver services in the community.

Status

Pending. Children aging out of children's programs who are eligible for adult services only have access to the Community Based Alternatives waiver which is often not the most appropriate waiver. Efforts must continue to address the fragmentation of the waiver system and the inadequacy of the separate funding silos.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC will ensure that children with disabilities aging out of CPS services will have access to the most appropriate HHS waiver services in the community.

Status

As stated above, the 79th Legislature appropriated approximately \$1.8 million to provide Home and Community-based Services (HCS) to children aging out of foster care. It is anticipated that these funds will provide services for approximately 62 children. There are significantly more children who will be aging out of CPS conservatorship during this biennium that will need these services.

- **Requires legislative direction and/or appropriation.**
If directed and/or funded by the Legislature, HHSC would ensure that the permanency planning be performed by an independent entity from the provider or facility where the child resides.

Status

Accomplished through Senate Bill 40.

- **Requires legislative direction and/or appropriation.**
If directed and/or funded by the Legislature, HHSC would ensure an independent permanency plan is completed prior to a child's placement in a nursing facility.

Status

House Bill 2579 (Rodriguez) requires comprehensive information on alternatives to institutionalization be provided to parents/families prior to the placement of a child in an institution. This information must be presented by an independent party unaffiliated with the institution.

- HHSC will request funding for continuation of the family-based alternatives project in its FY 2006-07 budget.

Status

Accomplished through SB 1. Funds for the core project were appropriated through the Health and Human Services budget. Funds to expand efforts to other parts of the state with high concentrations of institutionalized children were obtained through the Promoting Independence funding.

- HHSC, with DADS, will explore the implications and feasibility that, for children residing in nursing facilities, the parent/legally appointed representative be required to give consent for treatment annually.

Status

House Bill 2579 requires parents placing children in institutions to sign a "Parental Responsibility Acknowledgement." This acknowledgement requires parents to keep their contact information up-to-date at the facility where their child resides, and make every effort to participate in the planning and decision-making for their child. Additionally, it requires facilities to make reasonable accommodations to allow parents to participate in both annual planning and permanency planning.

- HHSC, with DADS, will examine the implications and feasibility of developing a mechanism for making decisions about the plan of care, permanency planning, treatment, and placement for children in institutions whose parents cannot be located.

Status

Accomplished through House Bill 2579.

Housing Issues

- Texas Department of Housing and Community Affairs (TDHCA) will seek to increase the amount of rental assistance that will be available for entities to apply for and will add a scoring incentive for those entities serving persons with disabilities (prioritizing the *Olmstead* population).

Status

For FY 2006, TDHCA's HOME Program has actually decreased the Tenant Based Rental Assistance allocation from 20 percent to 15 percent of the total of HOME funds. Furthermore, there is no special scoring incentive for the *Olmstead* population — there is, however, a scoring preference for persons with disabilities.

- TDHCA will restore the *Olmstead* set-aside or make an equivalent commitment of dollars in 2005 and beyond.

Status

TDHCA's Board has not made a policy decision on this recommendation.

- HHSC will work together with TDHCA, as well as advocates and stakeholders at the local level, to encourage Public Housing Authorities to identify and set aside a specific number of housing vouchers to be used for individuals in the *Olmstead* population.

Status

TDHCA is willing and ready to work with all agencies that serve individuals in the *Olmstead* population. However, TDHCA does not advocate policy decisions aimed toward public housing authorities, or any public entity.

- HHSC will, upon request, assist TDHCA to continue to improve intra-agency coordination regarding housing assistance funds through continuing education of TDHCA staff regarding affordability, accessibility, and integration.

Status

TDHCA welcomes any information that enables it to better serve persons with disabilities and all citizens of Texas in need of safe, quality, and accessible affordable housing.

Workforce Issues

- HHSC will work with the PIAC to review and identify workforce issues and concerns, while acknowledging that wages and benefit packages are set by the Legislature.

Status

No activity on this recommendation. Workforce issues will be a priority during Fiscal Year 2006.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would direct appropriate HHSAs to explore and develop employee recruitment and retention incentives for all providers of long-term care services.

Status

There was no legislative direction or appropriations.

- HHSC and TWC will continue the plan to enhance information exchange and explore coordination efforts to increase opportunities to support people with disabilities and older Texans living and working in the most integrated setting.

Status

Senate Bill 566 directed HHSC to implement a Medicaid Buy-In program to allow working people with disabilities to increase their income without losing Medicaid coverage.

- DADS Administration on Aging Family Caregiver and Education Program will coordinate with Promoting Independence Initiatives to insure maximum utilization of resources to support family caregivers providing care and support for elderly Texans.

Status

DADS will continue to recognize Caregiver Support as an integral part of the services provided by the Area Agencies on Aging and ensure that the Aging Family Caregiver Program is coordinated with the Promoting Independence Initiative. This effort is on going.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DADS would investigate and fund a benefits pool, including health benefits and workers compensation, that attendants/direct support professionals can access easily.

Status

There was no legislative direction or appropriations.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would allow individuals receiving Temporary Assistance to Needy Families (TANF) to work as attendants/direct support professionals without losing benefits for a period of two years.

Status

There was no legislative direction or appropriations.

- HHSC and DARS will continue to pursue the Medicaid Buy-In as mandated by H.B. 3484, 78th Legislature, Regular Session, and associated grant activities.

Status

Senate Bill 566 establishes the Medicaid Buy-In program.

- HHSC will direct all HHSAs to work with universities in recruiting students into the health and human services field, such as Physical Therapy (PT), Occupational Therapy (OT) and social work, to be involved in direct support positions during internships and practica.

Status

HHSC will notify HHSAs in writing. DADS' State Schools will continue to work with universities and colleges in the placement of students for practicum and internship work. DADS will also inventory providers regarding current utilization of students via trade associations appropriate licensing agencies, local colleges, etc.

- HHSC will continue to direct HHSAs to support and encourage self-determination efforts through the work of the Consumer Directed Services (CDS) Workgroup and the expansion of consumer directed services.

Status

HHSC's Consumer Directed Services Advisory Work Group continues to meet on a quarterly basis to monitor the development of the self-determination philosophy and consumer directed services (CDS) option in DADS' programs. The work group is working with HHSC and DADS for the inclusion of the CDS option in the Home and Community-Based Services (HCS) and Texas Home Living waivers. Additionally, it is working with both agencies for the expansion of CDS to cover

other services such as therapies.

- The HHSC will encourage the Texas Council for Developmental Disabilities to continue funding of the Attendant Network Project.

Status

HHSC will communicate support.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would direct DADS to coordinate and expand training opportunities for direct support professionals/attendants statewide.

Status

There was no legislative direction or appropriations.

Health and Human Services Commission (HHSC)

- HHSC directs and authorizes DADS, in consultation with the HHSC, to act on behalf of HHSC in all matters relating to the Promoting Independence Initiative.

Status

HHSC posted Health and Human Services (HHS) Circular C-002, October 20, 1994, which directs and authorizes the Department of Aging and Disability Services (DADS) to act on behalf of, and in consultation with, the Health and Human Services Commission (HHSC) in all matters relating to the Promoting Independence.

- HHSC will direct HHSAs to: (1) review all policies, procedures, and rules regarding services to individuals that would assist them in transitioning from institutions; and (2) revise policies, procedures, and rules accordingly to make transition a reality within the guidelines of federal regulations, available funding, legislative direction, individual choice, and appropriateness of service plans.

Status

HHSC is preparing a letter to the operating health and human services agencies directing them to review all policies and procedures.

- HHSC supports the goal that all identification, assessment, and service coordination processes be provided through organizations knowledgeable of community services.

Status

HHSC continues to work to ensure this recommendation in all of its initiatives.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would ensure that any future rate development be done in a manner that provides incentives to attract and retain competent direct support professionals/attendants.

Status

There was no specific legislation on this recommendation. However, legacy Department of Human Services community services providers will receive a rate restoration that occurred during the 78th Legislative Session.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would amend the Medicaid State Plan to utilize Targeted Case Management to fund relocation assistance for individuals who choose to leave nursing homes.

Status

There was no legislative direction or appropriations.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC would explore the feasibility of expanding the task of nurse/doctor delegation/assignments into the Primary Home Care program.

Status

There was no legislative direction or appropriations.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, HHSC will explore the implications and feasibility of requiring the guardian/legally appointed representative of a person of any age residing in a nursing facility to be required to give consent for treatment at least annually.

Status

House Bill 2579 was approved to ensure the involvement of parents/guardians of children placed in institutions. This legislation does not include adults.

- **Requires legislative direction and/or appropriations**
HHSC will work with the identified responsible agency for guardianship to: (1) identify the number of individuals that APS places in nursing facilities; and (2) identify barriers in finding less restrictive placements.

Status

HHSC has assigned this to DADS and DFPS.

Department of Aging and Disability Services (DADS)

- DADS will assist PIAC to develop a subcommittee to review all materials and processes informing individuals of community-based alternatives and to provide recommendations to the appropriate HHS agencies.

Status

All pertinent information has been collected for review pending PIAC subcommittee appointment.

- DADS will continue the contract requirement that relocation specialists provide cross-agency coordination with the Local Mental Health and Mental Retardation Authorities (LMHMRA) and the DFPS for individuals (adults and children) transitioning into the community to ensure the appropriate expertise and services are available to support a successful transition.

Status

Contracts remain in effect.

- DADS will provide information to regional staff and relocation contractors regarding coordination between LMHMRA and regional DADS staff related to services and supports in the community.

Status

Material has been sent.

- For individuals living in nursing facilities who have expressed an interest in returning to the community, DADS will explore the feasibility of forwarding the person's name to the Center for Independent Living (CIL) or Area Agency on Aging (AAA), with the consent of the individual.

Status

DADS has received necessary CMS approval for sharing of MDS data and relocation contracts have been revised to provide data.

- With approval from the Centers for Medicare and Medicaid Services (CMS), DADS will continue to publish a report on the website relating to the number of individuals living in nursing facilities who express an interest in returning to the community, which include the names and addresses of these facilities.

Status

DADS publishes information on a dedicated website:
<http://www.dads.state.tx.us/business/pi/reports/index.html>

- Regarding individuals living at State Mental Retardation Facilities (SMRFs), DADS would: 1) review data regarding the length of stay, by facility, for persons with mental retardation who are diagnosed as deaf or have a hearing impairment; 2) compare this length of stay data to other individuals without these impairments; and 3) identify potential barriers to community transition for this population, i.e., lack of interpreter services.

Status

As of April 30, 2005, there were 210 individuals who have been diagnosed as deaf or as having a hearing impairment. These individuals have an average length of stay of 23.6 years, compared with 23.3 years for individuals in a comparable group (based on level of need and age but without a significant hearing impairment).

- **Requires legislative direction and/or appropriations.**
 If directed and/or funded by the Legislature, regarding individuals with mental retardation who are diagnosed as deaf or have a hearing impairment living at SMRFs, if barriers to community transition for this population are identified, DADS will take action to address the barriers.

Status

No legislative direction or funding was received.

- **Requires legislative direction and/or appropriations.**
 If directed and/or funded by the Legislature, for adults that Adult Protective Services places in nursing facilities, including those for whom the state becomes the guardian, DADS would: 1) identify any potential barriers to community transition; and 2) if barriers to community transition are identified, DADS would take action to address the barriers.

Status

No legislative direction or funding was received.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DADS, in coordination with DSHS, will study the feasibility of investigating and resolving the barriers to transitioning residents of nursing facilities who have physical disabilities and a mental health diagnosis.

Status

No legislative direction or funding was received.

- The DADS Office of the State Long Term Care Ombudsman will continue to provide input into DADS Planning and Advisory activities to ensure that the Ombudsman involvement is appropriately included in Promoting Independence activities.

Status

The State Ombudsman is on the Real Choice grant “Money Follows the Person” task force. The Area Agencies on Aging participate in the “Community Care Options” training.

- The DADS Office of the State Long Term Care Ombudsman will continue to provide Promoting Independence related training to ensure Area Agencies on Aging (AAA) ongoing support and involvement in *Olmstead* related initiatives.

Status

Program and statistical updates have been shared with the AAAs regarding the progress of statewide PI activities; “Community Care Options” training has been completed; and a PI update has been provided to the Ombudsman and new staff through their orientation.

Texas Department of Assistive and Rehabilitative Services (DARS)

- DARS FY 2006 and FY 2007 LAR will include funding to increase the capacity of centers for independent living and the statewide network of centers for independent living, therefore increasing their capacity to assist individuals in nursing homes and other institutions to transition into the community.

Status

The legislature did not appropriate the additional dollars requested by DARS in their LAR.

- DARS will continue to work with the State Independent Living Centers (SILCs) and other interested stakeholders in assuring that technical assistance is funded and provided to community organizations interested in or providing assistance to individuals transitioning from nursing facilities and other institutions into the community.

Status

DARS' Division of Rehabilitative Services (DRS) and the SILC worked cooperatively to develop a State Independent Living (IL) Plan for 2005-07. Objectives regarding technical assistance for Centers for Independent Living and community integration are included in the proposed State Plan for Independent Living. In addition, DARS has provided to the SILC \$15,000 to provide technical assistance. Relocation was among the 2005 training priorities selected by the regional IL Training Council in August 2004. DRS worked with the Regional Rehabilitation Continuing Education Program to plan a regional IL conference in June 2005. DRS worked cooperatively with SILC on the 2005 state IL Conference, which was held on March 7& 8th and utilized the conference as training for staff.

Texas Department of Family and Protective Services (DFPS)

- DFPS will ensure that the Children's Protective Services' (CPS) caseworker training curriculum continue to be revised and improved as needed with respect to disability issues and that any revision of disability training be coordinated with DADS.

Status

This has been accomplished and training began February 2005 and is presented by Texas Center for Disability Studies'(TCDS) trainers in each region of the state. All CPS staff are invited to these trainings. The Developmental Disability Specialists attend the trainings given in their local regions and will be a resource contact for staff when they need assistance that involve children with disabilities. TCDS also developed a resource notebook that is given to CPS staff during the training session. DFPS collaborated with TCDS to update the resource notebook with current DFPS policy for working with children with disabilities.

Texas Department of State Health Services (DSHS)

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, DSHS would ensure that children and adults with 3 or more hospitalizations within 180 days or 12 continuous months for mental health services be considered a high priority for the most intensive service package as appropriate to meet their needs, within the new service benefits design model.

Status

No additional legislative direction or appropriation was given during the 79th session. However, DSHS has addressed this issue with on-going policy as a result of House Bill 2292, 78th Legislative Session. Adults with three or more hospitalizations within 180 days or 12 continuous months for mental health

services are considered a high priority for the most intensive service package within the Resiliency and Disease Management (RDM) program.

DSHS also implemented services that decrease the rate of re-hospitalizations among children through RDM (Intensive Case Management, Multi-systemic Therapy and Treatment Foster Care).

- DSHS, in coordination with DADS, will require Local Mental Health Authorities (LMHAs) to prioritize individuals referred for services who are transitioning from nursing facilities, and those hospitalized 3 times or more in 180 days and/or 12 or more continuous months (i.e. prioritization might include expedited intake and assessment process or expedited assignment to services).

Status

DSHS and DADS are coordinating information, resources and contacts to meet this recommendation. Efforts continue to meet this goal.

- DSHS will: 1) review data regarding the length of stay, by facility, for persons with mental illness who are diagnosed as deaf or have a hearing impairment; 2) compare this length of stay data to other individuals without these impairments; and 3) identify potential barriers to community transition for this population, i.e., lack of interpreter services.

Status

DSHS is determining the best methodology for capturing information regarding those who are deaf or have a hearing impairment and will compare that data to those individuals without hearing impairments. There are three individuals who have been identified on the Over 365 report who have been identified as being deaf or having a hearing impairment. No barriers have been identified.

- **Requires legislative direction and/or appropriations.**
If directed and/or funded by the Legislature, if barriers to community transition are identified for persons with mental illness who are diagnosed as deaf or have a hearing impairment, DSHS will take action to address the barriers.

Status

No additional legislative direction or appropriation was given during the 79th session. However, DSHS has worked with Advocacy Incorporated and DARS to develop a standard definition for deaf and hard of hearing.