



# TEXAS HEALTH AND HUMAN SERVICES COMMISSION

*Providing leadership, direction, and innovation to achieve an efficient and effective health and human services system for Texans.*

## **The 2006 Revised Texas Promoting Independence Plan**

**In Response to S.B. 367, 77<sup>th</sup> Legislative Session,**

**Executive Order RP-13,**

**and the**

***Olmstead vs. L.C. Decision***

**Submitted to the Governor and the Texas Legislature**

**February 2007**

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## EXECUTIVE SUMMARY

### PREFACE

The 2006 Revised Texas Promoting Independence Plan (Plan) is the third revision of the original Plan submitted in January 2001 as required by then-Governor George W. Bush's Executive Order GWB 99-2. Texas' Plan is a direct response to the Supreme Court's *Olmstead* decision (June 1999) which requires states to provide individuals an opportunity to live in the most integrated setting in order to receive their long-term services and supports within certain conditions.

### INTRODUCTION AND PURPOSE

The Plan serves several purposes within the state. First, the Plan provides the comprehensive, effectively working plan called for as a response to the U.S. Supreme Court ruling in *Olmstead v. L.C.*, 119 S.Ct. 2176 (1999). Additionally, the Plan assists with the implementation efforts of the community-based alternatives Executive Order, RP-13, from Governor Rick Perry.<sup>1</sup> The Plan Revision also meets the requirements of the report referenced in Senate Bill (S.B.) 367,77th Legislature, Regular Session, 2001, which directs the Health and Human Services Commission (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 foster independence and productivity, including meaningful opportunities for a person with a disability to live in the most appropriate care setting.<sup>2</sup> Finally, the Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.<sup>3</sup>

### BACKGROUND

The purpose, comprehensive nature, and implications of the Promoting Independence Initiative (Initiative) within Texas, must be understood within the context of the history of the Initiative and all relevant information related to the *Olmstead* decision. In June 1999, the United States Supreme Court affirmed a judgment in the *Olmstead vs. L.C.* case, which has had far reaching effects for states regarding services for individuals with disabilities. This case was filed in Georgia, on behalf of two individuals with mental and cognitive disabilities living in state operated institutions. They claimed a right to care in an integrated setting based on the guarantees under Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C § 12131 *et seq.*).

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<sup>1</sup> Executive Order RP-13 follows Executive Order GWB 99-2 as the second community-based alternatives Executive Order. These orders required the state to review all long-term care services and supports, make appropriate recommendations, and implement specific gubernatorial directives. See Appendix A.

<sup>2</sup> S.B. 367, 77<sup>th</sup> Legislature, Regular Session, 2001, Subchapter B, Chapter 531, Government Code.

<sup>3</sup> Executive Order GWB 99-2, see Appendix A.

Following the *Olmstead* decision, HHSC embarked on the Initiative and appointed the Promoting Independence Advisory Board, as directed by Executive Order GWB 99-2. The Promoting Independence Advisory Board met during fiscal years 1999 and 2000 and assisted HHSC in crafting the State's response to the *Olmstead* decision. This was accomplished by the development and ongoing implementation of the original Plan.<sup>4</sup> The first Plan was submitted to the Governor and state leadership on January 9, 2001. The 77<sup>th</sup> Legislature, Regular Session, 2001 passed S.B. 367 which codified many of the recommendations made in the original Plan. Subsequently, in April 2002, Governor Rick Perry issued an Executive Order to further the state's efforts regarding its Promoting Independence Initiative and community-based alternatives for individuals with disabilities (see Appendix A).

Effective September 1, 2004, Executive Commissioner Hawkins, through Health and Human Services Circular – 002, directed and authorized the Department of Aging and Disability Services (DADS), in consultation with HHSC, to act on behalf of HHSC in all matters relating to the Initiative.<sup>5</sup>

## **INTEREST LIST REDUCTION**

The 79th Texas Legislature made important progress in serving additional persons from the Medicaid waiver and non-Medicaid community services interest lists. S. B. 1, 79<sup>th</sup> Legislature, Regular Session, 2005, provides \$97.9 million in general revenue funds (\$18.4 million for demographic growth and \$79.5 million for interest list reduction) to address the interest lists at DADS.

## **BUDGETARY INFORMATION**

The Promoting Independence Advisory Committee (Committee) made two issues their highest priority for the 2008-09 biennium: continued interest list reduction and workforce stabilization. In addition, there are several other Committee recommendations which are considered very important for the ongoing success of the Initiative. HHSC, DADS, the Department of State Health Services (DSHS), the Department of Family and Protective Services (DFPS) and the Department of Assistive and Rehabilitative Services (DARS) have incorporated these issues into their respective Legislative Appropriations Requests and into the HHSC Consolidated Budget.

## **2006 PROMOTING INDEPENDENCE PLAN IMPLEMENTATION DIRECTIVES**

HHSC proposes directives for program funding and service system delivery and design in order to meet the intent of two Executive Orders (see Appendix A) and S.B. 367, 77<sup>th</sup> Legislature, Regular Session, 2001. These directives for the *2006 Revised Promoting Independence Plan* will help Texas reach its' ultimate goal of individual choice and self-determination. The report notes which recommendations would require legislative directive and/or funding.

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<sup>4</sup> The PIAC Report to the HHSC may be found at: [http://www.hhsc.state.tx.us/about\\_hhsc/reports/search/search\\_LTC.asp](http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp).

<sup>5</sup> See Appendix C for the Health and Human Services Circular – 002.

All implementation directives from the 2001, 2002, and 2004 Plans remain in effect.<sup>6</sup> The 2006 directives build upon those made in previous Plans. In past years, implementation directives were made for specific state agencies. However, for the 2006 Plan, directives are grouped in seven general categories. HHSC will make agency assignments and coordinate activities across state agencies as necessary. The Committee will monitor agency progress in implementing each directive.

HHSC based these directives on the Committee's recommendations made in its' *2006 Stakeholder Report*.<sup>7</sup>

The major categories included in the *2006 Revised Promoting Independence Plan* include:

**Program Funding:** these are directives to help fully-fund community services and institute certain structural changes in order for individuals to have a choice in living in the most integrated setting.

**Workforce and Provider Network Stabilization:** these are directives to increase reimbursement rates in order to help stabilize the direct services and supports professional workforce.

**Service Improvement:** these are directives to improve the current services system.

**Expand Independent Living Opportunities and Relocation Activities:** these directives will to help make these transitions successful and to provide enhanced assistance for persons with complex needs.

**Children's Supports:** these directives will help many of Texas' children to reside in community settings.

**Housing Initiatives:** these directives will help individuals to remain in the community or assist them in their transition from an institutional placement into the community.

**Promoting Independence Principles:** this directive reinforces HHSC's commitment to the Initiative.

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<sup>6</sup>To access the original Plan and the subsequent revisions, please go to the HHSC website at [http://www.hhsc.state.tx.us/about\\_hhsc/reports/search/search\\_LTC.asp](http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp) or the DADS' website at: [http://www.dads.state.tx.us/business/pi/piac\\_reports/index.html](http://www.dads.state.tx.us/business/pi/piac_reports/index.html).

<sup>7</sup> For the full report see DADS' website at: <http://www.dads.state.tx.us/business/pi>; for the Promoting Independence Advisory Committee's full text of its recommendations see Appendix F.

## **CONCLUSION**

As in the original and revised Promoting Independence Plans, HHSC is committed to a continuing relationship with its stakeholders. Through the ongoing enforcement of S.B. 367, 77<sup>th</sup> Legislature, Regular Session, 2001, this relationship has been formalized.

HHSC would like to thank the Governor's Office and the Legislature for their ongoing commitment to the Initiative. HHSC would also like to thank all members of the Committee and state agency staff, who have dedicated their time, resources, knowledge, abilities, and work in the development of this revised Plan and the Initiative.

## PREFACE

The 2006 Revised Texas Promoting Independence Plan (Plan) is the third revision of the original Plan submitted in January 2001 as required by then-Governor George W. Bush's Executive Order GWB 99-2. Texas' Plan is a direct response to the Supreme Court's *Olmstead* decision (June 1999) which requires states to provide individuals an opportunity to live in the most integrated setting in order to receive their long-term services and supports within certain conditions (see Background section for detailed information). The Plan is the state's working plan on how to provide greater community-based options within the long-term services and supports system.

Texas was one of the first states to develop a response to the *Olmstead* decision and has received important national recognition for its proactive public policies and support of the Promoting Independence Initiative (Initiative). The Initiative includes the Plan, all policy, program and activities in support of the Plan, and the oversight of the Promoting Independence Advisory Committee (Committee). Governor Rick Perry issued an Executive Order, RP-13, to reinforce and broaden the scope of the Initiative. The accomplishments made by Texas in developing and providing community options for all Texans is significant and the long-term services and supports system is very different than it was in 2001.

The 2006 Revised Plan does not attempt to repeat information previously provided but builds upon the three previous Plans. While much has been accomplished, it is recognized that the effort must continue to ensure that all individuals have community-based options when considering their long-term services and supports. The Health and Human Services Commission encourages all readers of the 2006 Revised Plan to review previous Plans to understand the full scope of Texas' efforts and successes. The policies and statements made in previous Plans continue to be a part of the larger Initiative. Both the previous Plans and the current directives made in the 2006 Plan will be monitored by the Committee.<sup>8</sup>

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<sup>8</sup> To access the original Plan and the subsequent revisions, please go to the HHSC website at [http://www.hhsc.state.tx.us/about\\_hhsc/reports/search/search\\_LTC.asp](http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp) or the DADS' website at: [http://www.dads.state.tx.us/business/pi/piac\\_reports/index.html](http://www.dads.state.tx.us/business/pi/piac_reports/index.html).

## INTRODUCTION AND PURPOSE

The Texas Promoting Independence Plan (Plan) serves several purposes within the state. First, the Plan provides the comprehensive, effectively working plan called for as a response to the U.S. Supreme Court ruling in *Olmstead v. L.C.*, 119 S.Ct. 2176 (1999). Additionally, the Plan assists with the implementation efforts of the community-based alternatives Executive Order, RP-13, from Governor Rick Perry.<sup>9</sup> The Plan Revision also meets the requirements of the report referenced in Senate Bill (S.B.) 367, 77th Legislature, Regular Session, 2001, which directs the Health and Human Services Commission (HHSC) to report the status of the implementation of a plan to ensure appropriate care settings for persons with disabilities, the provision of a system of services and supports that foster independence and productivity, including meaningful opportunities for a person with a disability to live in the most appropriate care setting.<sup>10</sup> Finally, the Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.<sup>11</sup>

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

The Plan articulates a value base that serves as the framework for future system improvements:

- People should be well informed about their program options, including community-based programs, and allowed the opportunity to make choices among affordable services and supports;
- Families' desire to care for their children with disabilities at home should be recognized and encouraged by the state;
- Services and supports should be built around a shared responsibility among families, state and local government, the private sector, and community-based organizations, including faith-based organizations;
- Programs should be flexible, designed to encourage and facilitate integration into the community, and accommodating the needs of individuals; and
- Programs should foster hope, dignity, respect and independence for the individual.

The State of Texas has made significant progress since the inception of the original Plan in January 2001. Texas' Plan is nationally recognized as one of the most proactive responses to

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<sup>9</sup> Executive Order RP-13 follows Executive Order GWB 99-2 as the second community-based alternatives Executive Order. These orders required the state to review all long-term care services and supports, make appropriate recommendations, and implement specific Gubernatorial directives. See Appendix A.

<sup>10</sup> SB 367 (77<sup>th</sup> Legislature, Regular Session, 2001), Subchapter B, Chapter 531, Government Code.

<sup>11</sup> Executive Order GWB 99-2, see Appendix A.



*Olmstead* throughout the United States.<sup>12</sup> Texas was awarded the Council of State Governments national 2006 Innovation Award for its “money follows the person” policy. Within the state, the Promoting Independence Advisory Committee (Committee) is acknowledged as one of the leading forums in providing policy leadership and oversight of the long-term services and supports system.

Since 2001, Texas has made significant progress in evolving its health and human services system from an institutionally-based to a community-based system. This progress has been achieved through policies instituted by previous legislatures, the health and human services enterprise, and through additional funding for community programs by the 79<sup>th</sup> Legislature. In 2000, Texas had 76,350 institutionally based residents<sup>13</sup> versus 69,032 in 2006.<sup>14</sup>

Some of the notable initiatives and policies that have been implemented include:

- “Money follows the person” and associated support services;
- Providing expedited community services for persons residing in Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR) with fourteen or more beds or in State Mental Retardation Facilities (SMRF);
- Riders which allow children aging out of foster care to access community services;
- The creation of the Texas Home Living 1915(c) waiver program for persons with intellectual disabilities;<sup>15</sup>
- The provision of enhanced community services for persons who have been in a state hospital setting three or more times within 180 days;
- The creation of Medicaid Buy-In for the working disabled;
- The creation of permanency planning policies for children residing in institutional settings;
- Development of the family-based alternatives program;
- Creation of the housing voucher program;
- Expansion of its’ STAR+PLUS (managed long-term care program); and
- Increased support of self-determination and consumer-directed services.<sup>16</sup>

The Initiative has achieved an equally important goal of increasing awareness about community-based options and ensuring that the directives made by two Governor’s Executive Orders and S.B. 367, 77<sup>th</sup> Legislature, Regular Session, 2001, are incorporated in overall policy development. The Initiative is more than just a philosophy in the state of Texas; it is practiced in the reality of state policy and program development.

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<sup>12</sup> As requested, Texas presented at several national conferences during the last two years including the Centers for Medicare and Medicaid Services national conference on New Freedom Initiatives, National Academy of State Health Policy and the Gerontological Society of America.

<sup>13</sup> 2001 Promoting Independence Plan. Institutions covered in this number include nursing facilities, large (14 or more beds) ICFs/MR, State Mental Retardation Facilities, and State Mental Health Facilities.

<sup>14</sup> 2006 Promoting Independence Advisory Committee Stakeholder Report. In addition to the 69,032 individuals residing in nursing facilities, State Mental Retardation Facilities, State Mental Health Facilities, and large (14 or more beds) ICFs/MR, there are 622 children with disabilities in the Department of Family and Protective Services’ institutional programs.

<sup>15</sup> The Arc of the United States, the national advocacy organization for persons with mental retardation and developmental disability, earlier this year made a policy decision to describe persons formerly known as individuals with mental retardation/development disabilities to individuals with intellectual and/or developmental disabilities.

<sup>16</sup> See Appendix B for a chronology of agency accomplishments since 2001.

Recognizing the significant progress that has been achieved, the Initiative and Plan remain necessary and relevant components for maintaining an emphasis on community-based services, and meeting the state's statutes and the requirements under *Olmstead*. While 70 percent of all individuals are now being served in community settings,<sup>17</sup> 102,034 individuals remain on DADS interest lists as of October 31, 2006.<sup>18</sup> The Committee is dedicated to building upon previous achievements, advocating for the ultimate goal of individual self-determination, and availability of community-based options.

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<sup>17</sup> DADS' 2008-2009 Legislative Appropriations Request.

<sup>18</sup> See DADS website at: <http://www.dads.state.tx.us/services/interestlist/index.html>. As of October 31, 2006, 102,034 individuals (duplicated count) remain on DADS' interest lists. The unduplicated individual count is 86,556.

## BACKGROUND

The purpose, comprehensive nature, and implications of the Promoting Independence Initiative (Initiative) within Texas, must be understood within the context of the history of the Initiative and all relevant information related to the *Olmstead* decision. In June 1999, the United States Supreme Court affirmed a judgment in the *Olmstead vs. L.C.* case, which has had far reaching effects for states regarding services for individuals with disabilities. This case was filed in Georgia, on behalf of two individuals with mental and cognitive disabilities living in state operated institutions. They claimed a right to care in an integrated setting based on the guarantees under Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C § 12131 *et seq.*).

The Court ruled in *Olmstead* that unnecessary institutionalization of persons with disabilities in state institutions would constitute unlawful discrimination under the ADA. The Court ruled that states are required to place persons with disabilities in community settings, rather than in institutions, when:

- The State’s treatment professionals have determined that community placement is appropriate;
- The transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and
- The placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with disabilities. (119 S.Ct. 2176).

The Court further determined that nothing in the ADA condones the termination of institutional settings for persons unable to handle or benefit from community settings (119 S.Ct. 2176), and that the state's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not boundless (119 S.Ct. 2176).

The principles set forth in the Supreme Court’s decision apply to all individuals with disabilities protected from discrimination by Title II of the ADA. The ADA prohibits discrimination against “qualified individual(s) with a disability”. The ADA defines “disability” as: a) a physical or mental impairment that substantially limits one or more of an individual’s major life activities; b) a record of such an impairment; or c) being regarded as having such an impairment. Examples of major life activities include caring for oneself, walking, seeing, hearing, speaking, breathing, working, performing manual tasks and learning, as well as basic activities such as thinking, concentrating, interacting with others, and sleeping. Age alone is not equated with disability; however, if an elderly person has a physical or mental impairment that substantially limits one or more of his or her major life activities, has a record of such impairment, or is regarded as having such impairment, he or she would be protected under the ADA. To be a “qualified” individual with a disability, the person must meet the essential eligibility requirements for receipt of services or participation in a public entity’s programs, activities, or services (42 U.S.C. § 12131 (2), 12132).

The United States Congress instructed the United States Attorney General to issue regulations implementing the ADA Title II discrimination proscriptions. One such regulation, known as the “integration regulation”, requires a public entity to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” (28 CFR § 35.130(d)).

Under another ADA regulation, states are obliged to “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 demonstrate that making the modification would fundamentally alter the nature of the service, program or activity.”<sup>19</sup> Fundamental alteration of a program takes into account three factors:

- The cost of providing services to the individual in the most integrated setting appropriate;
- The resources available to the state; and
- How the provision of services affects the ability of the state to meet the needs of others with disabilities.<sup>20</sup>

The Court suggested that a state could establish compliance with Title II of the ADA if it demonstrates that it has a:

“comprehensive, effectively working plan for placing qualified persons with mental disabilities in less restrictive settings, and a waiting list that moves at a reasonable pace not controlled by the state’s endeavors to keep its institutions fully populated. . . . In such circumstances, a court would have no warrant effectively to order a displacement of persons at the top of the community-based treatment waiting list by individuals lower down who commenced civil actions.”<sup>21</sup>

The Court, in its opinion, also acknowledged Congress’ findings that discrimination against people with disabilities includes segregation, isolation, and institutionalization and that under the ADA an individual with disabilities has the legal right to be served in the most integrated setting. The Court stated that “confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.”<sup>22</sup>

Following the *Olmstead* decision, the Health and Human Services Commission (HHSC) embarked on the Initiative and appointed the Promoting Independence Advisory Board, as directed by Executive Order GWB 99-2. The Promoting Independence Advisory Board met during fiscal years 1999 and 2000 and assisted HHSC in crafting the State’s response to the *Olmstead* decision. This was accomplished by the development and ongoing implementation of the original Promoting Independence Plan (Plan).<sup>23</sup>

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<sup>19</sup> 28 CFR § 35.130(b)(7)(1998).

<sup>20</sup> 119 S.Ct. 2176.

<sup>21</sup> 119 S.Ct. 2176.

<sup>22</sup> 119 S.Ct. 2176.

<sup>23</sup> The PIAC Report to the HHSC may be found at: [http://www.hhsc.state.tx.us/about\\_hhsc/reports/search/search\\_LTC.asp](http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp).

The original Plan was submitted to the Governor and state leadership on January 9, 2001. This Plan provided the beginning framework for the state to review all services and support systems available to people with disabilities in Texas and make recommendations related to affected populations, improving the flow of information about supports in the community, and removing barriers that impede opportunities for community placement.<sup>24</sup> The Plan highlighted the state's efforts to assist those individuals who desired community placement, who were appropriate for community placement as determined by the state's treatment professionals, and whose placement in the community did not constitute a fundamental alteration in the state's services. HHSC was able to identify and provide detailed accountability related to specific recommendations, sequencing of expansion and implementation phases, and agency responsibilities. The efforts of stakeholders resulted in the passage of related legislation to achieve the Plan recommendations and to ensure the continued revision of the Plan in order to facilitate timely and effective implementation.

A significant piece of legislation passed during the 77<sup>th</sup> Legislature was Senate Bill (S.B.) 367. This bill re-named the Promoting Independence Advisory Board to the S.B. 367 Interagency Task Force on Appropriate Care Settings for Persons with Disabilities ("S.B. 367 Task Force"). This bill also gave the Executive Commissioner of HHSC the authority to appoint the task force members and its presiding officer and to determine the number of task force members who include representatives of appropriate health and human service agencies, related work groups, individual and family advocacy groups, and providers of services. Many members of the original Promoting Independence Advisory Board continued in their appointments in order to provide continuity within the Initiative.

Subsequently, in April 2002, Governor Rick Perry issued an Executive Order to further the state's efforts regarding the Initiative and community-based alternatives for individuals with disabilities. Executive Order RP-13 highlights the areas of housing, employment, children's services, and community waiver services.<sup>25</sup> The Executive Order includes coordination with the Texas Department of Housing and Community Affairs (TDHCA), the Texas Rehabilitation Commission (TRC), the Texas Commission for the Blind (TCB), and the Texas Workforce Commission (TWC). As a result of this order the S.B. 367 Task Force was expanded to include the appointments of a representative from the TDHCA, the TRC and the TWC.<sup>26</sup>

A Revised Plan was submitted to the Governor and state leadership on December 2, 2002. The 2002 Revised Plan, as required by S.B. 367 and Executive Order RP-13, reported on the implementation status of the original Plan and included recommendations on any statutory or other actions necessary to implement the plan.

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<sup>24</sup> Executive Order GWB 99-2, see Appendix B.

<sup>25</sup> Executive Order RP-13, see Appendix A.

<sup>26</sup> TRC is now part of the Texas Department of Assistive and Rehabilitative Services.

House Bill (H.B.) 2292 was passed by the 78<sup>th</sup> Legislature, Regular Session, 2001. This bill has had far reaching implications for all of health and human services as it consolidated the twelve health and human services agencies into four operating agencies reporting directly to the Executive Commissioner of HHSC. HHSC Executive Commissioner, Albert Hawkins, recertified the S.B. 367 Task Force which was renamed the Promoting Independence Advisory Committee (Committee). The Committee continues to be the forum to provide input related to the state's Plan and Initiative.

Effective September 1, 2004, Executive Commissioner Hawkins, through Health and Human Services Circular – 002, directed and authorized the Department of Aging and Disability Services (DADS), in consultation with HHSC, to act on behalf of HHSC in all matters relating to the Initiative. In this capacity, DADS is 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, serving as a direct report for this purpose to the HHSC Executive Commissioner.<sup>27</sup>

The 79<sup>th</sup> Legislature not only increased appropriations to significantly reduce DADS' community interest lists but also enacted a number of bills that support the Initiative. H.B. 1867 codified the "money follows the person" policy while H.B. 2579 and S.B. 40 strengthened permanency planning. In addition, the 2006-07 General Appropriations Act (Article II, DADS, Rider 54, S.B. 1, 79th Legislature, Regular Session, 2005) created dedicated Home and Community-based Services (HCS) waiver slots for children aging out of the Department of Family and Protective Services' foster care program.

In 2006, HHSC and DADS entered into a settlement agreement in the lawsuit, *Travis v Hawkins* (formerly *McCarthy v Hawkins*) to seek additional legislative support to reduce interest lists for the HCS and Community Living Assistance and Support Services (CLASS) waiver programs.<sup>28</sup>

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<sup>27</sup> See Appendix C for the Health and Human Services Circular – 002.

<sup>28</sup> See section on Budget Information, Interest List Reduction for detailed information.

## PROMOTING INDEPENDENCE ADVISORY COMMITTEE

The basis of this revised Promoting Independence Plan (Plan) is the result of recommendations made by the Promoting Independence Advisory Committee (Committee) in its *2006 Stakeholder Report* submitted to the Health and Human Services Commission (HHSC) as required by section 531.02441(i), Government Code.<sup>29</sup> The Committee met on a quarterly basis during the last biennium to:

- Continue the work of the Promoting Independence Initiative (Initiative);
- Coordinate and oversee the implementation of the Plan;
- Provide ongoing policy discussions on issues pertaining to community integration; and
- Recommend policy initiatives for this Plan.

Section 531.02441 also directs the Committee 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;
- 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;
- Advise HHSC on determining the health and human services agencies' availability of community care and support options and identifying, addressing, and monitoring barriers to implementation of the Plan; and
- Advise HHSC on identifying funding options for the Plan.

The Committee is provided support by the Texas Department of Aging and Disability Services (DADS).<sup>30</sup>

See Appendix D for a listing of the current Committee membership.

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<sup>29</sup> 2006 PIAC Stakeholder Report can be found at: <http://www.dads.state.tx.us/pi>.

<sup>30</sup> HHSC has responsibility for the Initiative, however, it formally delegated daily management of the Initiative's activities to DADS in an October 2004 Health and Human Services Circular C-002 (see Appendix C or access the Circular at <http://www.hhs.state.tx.us/news/circulars/C-002.shtml>).

## INTEREST LIST REDUCTION

Applicants for the Department of Aging and Disability Services' (DADS) community-based services may be placed on an interest list because the demand for community-based services and supports often outweighs available resources. Ever since the original Promoting Independence Plan (Plan), the Promoting Independence Advisory Committee's ultimate goal has been sufficient funding for community-based services to ensure community options for all persons seeking services.

Interest lists for community-based programs are managed either locally or statewide, depending on the program. The 1915(c) programs accounted for in this Plan are:

- Community-based Alternatives (CBA);
- Community Living Assistance and Support Services (CLASS);
- Deaf/Blind with Multiple Disabilities (DBMD);
- Home and Community Services (HCS); and
- Medically Dependent Children's Program (MDCP).

The 79<sup>th</sup> Texas Legislature, Regular Session, 2005, made important progress in serving additional persons from the Medicaid waiver and non-Medicaid community services interest lists. Senate Bill 1 provides \$97.9 million in General Revenue funds (\$18.4 million for demographic growth and \$79.5 million for interest list reduction) to address the interest lists at DADS.

These funds allowed DADS to authorize enrollment for 8,891 individuals in the above mentioned Medicaid waiver program services. The Texas Home Living (TxHmL) program and the Consolidated Waiver Program (CWP), which is in Bexar County only, do not have independent interest lists. TxHmL offers are made from the HCS interest list; CWP offers are only made when a CWP vacancy is available and is drawn from the interest lists of the five waiver programs. Table 1 provides information regarding the overall number of average monthly consumers who are served by community care waiver programs and DADS' attendant programs.



[Click here for the following table in HTML.](#)

**TABLE 1**

**DADS Waiver and Attendant Care Average Monthly Caseload**

Actual/Projected/Budgeted/End-Of-Year

	<b>FY05 Avg. # per month Actual</b>	<b>FY06 Avg. # per month Projected</b>	<b>FY07 Budgeted EOY Total</b>
<b>CBA</b>	25,308	27,634	24,745
<b>HCS</b>	9,262	10,915	12,301
<b>CLASS</b>	1,795	2,639	3,460
<b>Deaf-Blind</b>	134	152	156
<b>MDCP</b>	1,023	1,657	2,330
<b>CWP</b>	170	196	199
<b>Money Follows the Person<sup>31</sup></b>	3,467	4,927	5,417
<b>TxHomeLiving</b>	1,869	2,160	2,160
<b>Total: All Waivers</b>	<b>43,028</b>	<b>50,280</b>	<b>50,768</b>
<b>Non-Waiver Programs</b>			
<b>Primary Home Care</b>	62,069	64,373	55,957
<b>Community Attendant Services</b>	44,928	44,747	46,663
<b>Total: Non-Waiver Programs</b>	<b>106,997</b>	<b>109,120</b>	<b>102,620</b>

Notes:

1. FY 08-09 LAR reflects expansion of STAR+Plus and implementation of Integrated Care Management (ICM) by HHSC; programs impacted are CBA and PHC.
2. FY 07 covers an 11 month period; FY 08 a 13 month period; and FY 09 an 11 month period.

Source Documents:

- FY 06-07 Appropriated – ABEST printout for 06-07 appropriated.
- FY 08-09 Requested – DADS Legislative Appropriations Request (Base request plus Exceptional-Items #1 and #2).

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<sup>31</sup> “Money Follows the Person” is a policy that allows individuals to transition from nursing facilities to the community and who primarily access CBA (see section on Community Transition Policy).

Nevertheless, even with the increase made through the 2005 appropriation, a large number of individuals remain on DADS' interest lists for community-based waiver services. The following tables provide information regarding interest list reduction and length of time clients have remained on interest lists as of October 31, 2006.<sup>32</sup>

[Click here for the following table in HTML.](#)

**TABLE 2**

**Interest List Reduction Summary Fiscal Years 2006-2007**

**(Data through October 31, 2006)**

	<b>CBA</b>	<b>CLASS</b>	<b>DBMD</b>	<b>MDCP</b>	<b>HCS</b>	<b>Total</b>
<b>Number of Clients on Interest List —</b>						
Legislative Appropriations Request (LAR) submission (November 2004)	66,787	13,453	18	8,604	26,698	115,560
<i>Enrolled</i>	7,885	575	5	294	1,686	10,445
<i>In the Pipeline</i>	2,704	2,145	10	1,038	459	6,356
<i>Denied/Declined</i>	26,234	1,182	19	1,530	680	29,645
Total Released/Removed from Interest List	36,823	3,902	34	2,862	2,825	46,446
Net Remaining from LAR submission	29,964	9,551	-16	5,742	23,873	69,114
Percent reduction from LAR submission	-55.1%	-29.0%	-188.9%	-33.3%	-10.6%	-40.2%
Added to IL since LAR submission	15,942	5,841	29	4,318	6,790	32,920
Current Interest List — Oct. 31, 2006	45,906	15,392	13	10,060	30,663	*102,034
Net Percentage Change from LAR Submission	<b>-31.3%</b>	<b>14.4%</b>	<b>-27.8%</b>	<b>16.9%</b>	<b>14.9%</b>	<b>-11.7%</b>

\* Count is duplicated. The unduplicated individual count is 86,556.

<sup>32</sup> For current interest list information, see DADS' website at: <http://www.dads.state.tx.us/services/interestlist/index.html>.

Table 3 reflects the length of time an individual has been on an interest list prior to being offered a “slot” in a specific 1915(c) waiver program.

[Click here for the following table in HTML.](#)

**TABLE 3**

**Time on Interest List**

**(Data through October 31, 2006)**

	<b>CBA</b>	<b>CLASS</b>	<b>DBMD</b>	<b>MDCP</b>	<b>HCS</b>
0 to 1 year	51.4%	24.0%	53.8%	30.7%	18.7%
1-2 Years	24.2%	17.5%	46.2%	21.5%	15.0%
2-3 years	13.2%	18.2%	0.0%	23.9%	13.7%
3-4 years	10.6%	18.7%	0.0%	23.8%	13.1%
4-5 years	0.6%	13.4%	0.0%	0.0%	11.8%
5 years +	0.0%	8.3%	0.0%	0.0%	27.7%
<b>Average Time on List (in years)</b>	<b>CBA</b>	<b>CLASS</b>	<b>DBMD</b>	<b>MDCP</b>	<b>HCS</b>
November 2004	1.5	2.9	1.4	2.0	3.3
October 31, 2006	1.3	2.5	0.9	1.9	3.5

**Impact of Managed Care Systems: STAR+PLUS and Integrated Care Management (ICM)<sup>33</sup>**

STAR+PLUS is Texas’ capitated managed care program for acute and long-term services and supports. ICM is a non-capitated managed care program. One of the benefits of STAR+PLUS and ICM is that 1915(c) waiver services are available, upon eligibility, to all individuals who receive supplemental security income (SSI). These individuals are served through these managed care delivery systems, and are not required to be placed on the CBA interest list to receive this array of services.

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<sup>33</sup> See section on Health and Human Services Agencies Biennial Report: Health and Human Services Commission for detailed information regarding STAR+PLUS and ICM.

STAR+PLUS will expand to four service delivery areas in February 2007 from the original site in Harris County.<sup>34</sup> ICM is scheduled to be implemented in two service delivery areas on July 1, 2007.<sup>35</sup> It is the expectation that there will be an additional reduction of DADS' CBA interest lists as a result of offering these services to all members who are eligible and require 1915(c) services in the STAR+PLUS and ICM catchment areas.

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<sup>34</sup> STAR+PLUS service delivery areas include: Bexar (7 counties); Harris (6 counties); Nueces (9 counties); and Travis (7 counties). For more information regarding specific STAR+PLUS counties see HHSC' website at: [http://www.hhsc.state.tx.us/medicaid/ManagedCare\\_Options.html](http://www.hhsc.state.tx.us/medicaid/ManagedCare_Options.html).

<sup>35</sup> ICM service delivery areas include: Dallas (Collin, Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall counties) and Tarrant (Denton, Hood, Johnson, Parker, Tarrant, and Wise counties)

## BUDGETARY INFORMATION

The Promoting Independence Advisory Committee (Committee) made two issues their highest priority for the 2008-09 biennium: continued interest list reduction and workforce stabilization. The Health and Human Services Commission (HHSC) has incorporated these issues into its Legislative Appropriations Request (LAR) and into the Consolidated Budget.

### INTEREST LIST REDUCTION

The 79<sup>th</sup> Legislature, Regular Session, 2005 made important progress in serving additional persons from the Medicaid waiver and non-Medicaid community services interest lists. Senate Bill 1 provides \$97.9 million in General Revenue funds (\$18.4 million for demographic growth and \$79.5 million for interest list reduction) to address the interest lists at the Department of Aging and Disability Services (DADS).<sup>36</sup>

However, the Committee expressed concern about the Legislative Budget Board's (LBB) 2006 LAR instructions which required a 10 percent reduction in the baseline for all non-entitlement programs. This 10 percent reduction, if realized, would impact the 1915(c) community-based waiver program and eliminate gains made by the 79<sup>th</sup> Legislature's action to reduce interest lists. In addition, the instructions required that state agencies use the average monthly census for baseline information which artificially reduces the number of individuals served by the end of fiscal year 2007. This is because the data for fiscal year 2007 is not complete.

In response to this directive, HHSC, DADS, and the other operating agencies have emphasized the Promoting Independence Initiative in its LAR and in the Consolidated Budget. Restoration of base funding is the number one priority exceptional item for all the operating agencies and the number two priority item for HHSC. HHSC has stated in its LAR Description/Justification that funding reductions would reduce the ability to maintain program accountability and oversight and that the 10 percent reduction would negatively impact the state's ability to meet its Promoting Independence Plan's goals.

Another important LAR consideration is that HHSC and DADS settled *Travis v. Hawkins* (formerly *McCarthy v. Hawkins*) in regard to the Home and Community-Based Services (HCS) and Community Living Assistance and Support Services (CLASS) programs' interest lists. This litigation was originally filed in federal district court in September 2002 against the Commissioner of HHSC as well as the legacy agencies Department of Mental Health and Mental Retardation (TDMHMR) and Department of Human Services (DHS), now consolidated into DADS. *Travis* sought to ensure that individuals with intellectual and developmental disabilities on interest lists for community-based services receive services in a timely manner. One of the terms of the settlement was that for the next three (3) regular biennial legislative sessions (the 80th, 81st, and 82nd), HHSC will include in its LAR a request for funding to:

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<sup>36</sup> See Section on Interest List Reduction.

- Offset the estimated increase in the number of persons listed on the HCS and CLASS waiver interest lists during the preceding biennium; and
- Achieve a five percent (5 percent) to ten percent (10 percent) reduction in the number of persons listed on the HCS and CLASS waiver interest lists each year.

However, under no circumstances does the agreement require the state to request funding in excess of the amount sufficient to reduce the HCS and CLASS interest lists by more than 10 percent per year, considering both the increase in the number of individuals seeking HCS and CLASS waiver services during the preceding biennium and efforts to reduce the HCS and CLASS interest lists each year.

Therefore, partially in response to the lawsuit settlement and HHSC's ongoing commitment to the Initiative, HHSC's LAR proposes two exceptional items which would fund reductions in both the current levels of the interest lists and to address demographic growth. These two items, if approved by the legislature, would serve 27,764 individuals by end of fiscal year 2009 and cost \$255 million in General Revenue funds for the biennium.

### ***Exceptional Items to Address Interest Lists and Waiver Caseloads***

HHSC Exceptional Item Priority 5 requests \$93,130,575<sup>37</sup> in all funds to provide funding to keep pace with demographic growth in programs administered by DADS' community programs and for specific programs administered by the Department of Assistive and Rehabilitative Services (DARS) and the Department of State Health Services (DSHS).<sup>38</sup> Of this amount, \$66,418,141 in all funds would go to DADS' programs (\$29,368,616 General Revenue and \$37,049,525 Medicaid and other funding) to fund 4,609 individuals from waiver, non-Medicaid services, and the In-Home and Family Support program. Approximately \$25 million in General Revenue funds will be requested for DSHS to offer placement for 5,230 individuals from the waiting lists for Adult Community Mental Health, Child and Adolescent Community Mental Health, and Children with Special Health Care Needs. For DARS, approximately \$2 million in General Revenue funds will be requested to offer placement for 209 individuals from the waiting lists for Comprehensive Rehabilitative Services and Independent Living Services.

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<sup>37</sup> This amount by fiscal year requests an additional \$26,020,393 in all funds for fiscal year 2008 (\$16,763,078 General Revenue and \$9,257,315 Medicaid) and \$67,110,182 in fiscal year 2009 (\$39,696,632 General Revenue and \$27,413,550 Medicaid).

<sup>38</sup> DADS programs include: Community Based Alternatives (CBA), Community Living Assistance and Support Services (CLASS), Medically Dependent Children's Program (MDCP), Consolidated Waiver Program, Deaf-Blind with Multiple Disabilities (DBMD), Home and Community Based Services (HCS), and Texas Home Living. DARS programs include: Comprehensive Rehabilitation Services and Independent Living Services. DSHS programs include: Adult Community Mental Health, Child and Adolescent Community Mental Health, and Children with Special Health Care Needs.

HHSC Exceptional Item Priority 9 requests \$444,248,391 in all funds to reduce waiting/interests lists (\$198,211,184 General Revenue and \$246,037,207 Medicaid). For DADS, this funding would reduce current interest lists by 20 percent over the 2008-09 biennium. There is no interest list for the Consolidated Waiver Program which draws from the interest lists of five waiver programs.<sup>39</sup> This request, when combined with the Exceptional Item Priority 5, would completely eliminate the DSHS and DARS interest lists. Of this amount, \$415,628,548 in all funds would go to DADS' programs (\$166,442,166 General Revenue and \$249,186,382 Medicaid and other funding).

DADS included Exceptional Item Priority 2 to maintain fiscal year 2007 waiver caseloads. The 79<sup>th</sup> Legislature appropriated funds to DADS to decrease the number of individuals on its interest lists during fiscal years 2006 and 2007. Consumers were added to DADS' waivers throughout the biennium in a steady "ramping up" fashion and DADS received funding accordingly. Per the LAR instructions, DADS was only allowed to request General Revenue equal to the average of fiscal years 2006-2007 for fiscal years 2008 and 2009 in non-entitlement programs. Therefore, the amount of General Revenue needed to continue to service the projected caseloads as of August 31, 2007 for the 2008-09 biennium is reflected in this exceptional item. This item requests \$213,436,475 in all funds for the biennium (\$84,128,973 General Revenue). If this exceptional item is not funded, it is estimated that 4,588 consumers currently receiving waiver services would have to be removed from these programs in order to operate within the General Revenue requested in DADS' base budget.

## **WAGES AND PROVIDER NETWORK STABILIZATION**

The Committee made wage and provider network stabilization its other top priority in its *2006 Stakeholder Report* to HHSC. Currently, long-term services and supports providers are finding it difficult to attract and retain reliable attendants and nurses with the appropriate skills to provide the standard of care required by state and federal regulations.

HHSC's Consolidated Budget, Appendix B.2, illustrates the cost of providing increases in the rates paid to providers in order to reflect changes in costs incurred by providers that care for health and human services consumers.<sup>40</sup> Without this funding, continued rising costs incurred by providers may erode the quality of services provided and could result in access problems for consumers.

In general, most Medicaid programs have not had a rate increase in six to seven years (as of September 1, 2006) with a few programs not experiencing a rate adjustment in over ten years. In addition, most of these programs were subject to a rate reduction effective September 1, 2003 (1.1 percent for community long-term services and supports programs, 1.75 percent for long-term care institutional care programs, and 2.5 percent for acute care programs and 5 percent for hospitals). As of September 1, 2005, only certain long-term services and supports programs have seen these reductions restored. The nursing facility and hospice programs were the only services to receive a rate increase in fiscal year 2006.

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<sup>39</sup> The Consolidated Waiver Program draws on the following programs: CBA, CLASS, DBMD, HCS, MDCP.

<sup>40</sup> See Appendix E.

Each agency's specific LAR include exceptional items for restoration of these rate reductions (where appropriate), however these rate restorations will not be sufficient to cover the increased costs of these programs. Since 2000 the Medical Price Index has increased 27 percent, an average of 4.5 percent a year. With rates held flat or reduced in most programs over these years and into the current biennium, the rates for these programs are not keeping pace with general inflation, much less medical inflation.

### ***DADS Exceptional Item to Restore Rates to 2003 levels***

The 2004-05 General Appropriations Act (Article II DADS, H.B. 1, 78th Legislature, Regular Session, 2003) reduced provider rates by 2.2 percent for DADS' programs below the fiscal year 2003 level for all community based programs. The subsequent release of one-time Federal Fiscal Relief funds enabled the department to partially restore the rate reduction by 1.1 percent. The 2006-07 General Appropriations Act (Article II, DADS, S.B. 1, 79<sup>th</sup> Legislature, 2005) restored these rate reductions for all DADS community based programs except for Home and Community Based Services and Community Living Assistance and Support Services. For these two programs, the Legislature authorized a Quality Assurance Fee (QAF) and appropriated funds to be generated by the QAF to restore rates to fiscal year 2003 levels. The QAF has not been approved by the Centers for Medicaid and Medicare Services (CMS) and so these rates have not been restored. DADS is requesting \$13,618,177 in all funds for each fiscal year of the 2008-2009 biennium to restore these rate reductions (\$27,236,354 total funds for the biennium, \$10,703,886 General Revenue).

### ***HHSC Consolidated Budget Submittal to Increase Provider Rates***

HHSC has indicated in its Consolidated Budget that it would require \$588,830,861 in all funds (\$245,897,219 General Revenue) for fiscal years 2008-2009 in order to fund community-based provider rates according to their stated methodologies based on cost reports and trended for inflation. Attachment B2 includes information on the estimated cost of these rate changes (see Appendix E).

## **OTHER BUDGETARY ACTIVITIES TO SUPPORT THE PROMOTING INDEPENDENCE PLAN**

The Committee has made other important recommendations to support the overall goals of the Plan. The following exceptional items to the HHSC's, DADS', DSHS', and DARS' LARs, if funded, would provide additional community supports to help individuals either remain in or transition to the community to the residence of their choice.

### ***Exceptional Item to address Promoting Independence***

DADS included Exceptional Item Priority 4 to provide Home and Community-based Services (HCS) waiver slots for two distinct populations. These populations include those individuals residing in large (14 or more beds) intermediate care facilities for persons with mental retardation (ICFs/MR) and children aging out of foster care. The total request for this item is \$19,919,531 in all funds (\$7,803,317 General Revenue).



For individuals residing in large ICFs/MR, this item requests funding to move 240 persons to HCS waiver services. This request furthers the state's commitment to place individuals who currently reside in large ICFs/MR into the most integrated setting appropriate for the individual. The total request for this portion of the item is \$13,402,827 in all funds (\$5,250,450 General Revenue).

For children aging out of the foster care system, this item requests funding to provide HCS services for 120 individuals (age 18 and above) whose foster care funding through Child Protective Services (CPS) is ending. These services provide much needed stability to those individuals who are aging out of the CPS system, yet require support services. The total request for this portion of the item is \$6,516,704 in all funds (\$2,552,867 General Revenue).

### ***Exceptional Item to Address Mental Health Community Services***

DSHS included in its LAR Exceptional Item Priority 4 regarding mental health community services for children and adults (an extension of the Resiliency and Disease Management program). Local mental health authorities are currently required to provide access to 24-hour crisis assessment and screening. Historically, funds have not been sufficient to provide the necessary access to clinically appropriate services needed to promptly resolve a crisis. This exceptional item, if funded, would provide for a range of effective community-based interventions designed to intervene in or avoid crises and the need for hospitalization (e.g., mobile outreach; 23-hour observation; crisis residential and in-home crisis services; respite services; and transportation of persons in crisis to Mental Health Hospitals). This exceptional item requests \$82,336,430 in General Revenue funds; \$27,455,390 in fiscal year 2008 and \$54,881,040 in fiscal year 2009.

### ***Exceptional Items to Address Centers for Independent Living***

DARS' LAR includes two exceptional items that would impact the Centers for Independent Living (CILs). Exceptional Item Priority 3 requests the establishment of two new CILs in unserved areas, each at \$250,000 per year for a total of \$1,000,000 in General Revenue funds (\$500,000 in fiscal years 2008 and 2009). Statewide, there are gaps in the service areas covered by CILs.

Exceptional Item Priority 4 requests additional appropriations to increase funding to certain Independent Living Centers. This item requests \$409,623 for each fiscal year for a total of \$819,246 in General Revenue funds for the biennium.

***HHSC and DADS Legislative Appropriations Request to fund Promoting Independence Initiatives***

DADS' LAR includes in its base strategy A.4.3 which helps to implement the Texas Promoting Independence Plan. Activities include community outreach and awareness and relocation services. This strategy also includes funding for Transition to Living in the Community (TLC) services to cover establishing and moving an individual to a community residence. The LAR is for \$2,332,964 in General Revenue funds for the 2008-09 biennium.

HHSC's LAR in strategy 1.1.1 HHS Enterprise Oversight and Policy includes \$1.5 million each year less the 10 percent LBB reduction. This strategy supports Promoting Independence Initiatives including the Family-based Alternatives program.

## 2006 PROMOTING INDEPENDENCE PLAN IMPLEMENTATION DIRECTIVES

The following directives are made for program funding and service system delivery and designed to meet the intent of two Executive Orders (see Appendix A) and Senate Bill (S.B.) 367, 77<sup>th</sup> Legislature, Regular Session, 2001. These directives for the 2006 Promoting Independence Plan (Plan) will help Texas reach its' ultimate goal of individual choice and self-determination.

All implementation directives from the 2001, 2002, and 2004 Plans remain in effect.<sup>41</sup> The 2006 directives build upon those previous Plans. In past years, implementation directives were made for specific state agencies. However, for the 2006 Plan, directives are grouped in seven general categories. The Health and Human Services Commission (HHSC) will make agency assignments and coordinate activities across state agencies as necessary. The Promoting Independence Advisory Committee (Committee) will monitor agency progress in implementing each directive.

HHSC, based on the Committee's recommendations made in its *2006 Stakeholder Report*, has included the following implementation directives that address the barriers identified in providing community-based programs and promoting individual choice.<sup>42</sup>

**Program Funding:** these are directives to help fully-fund community services and institute certain structural changes in order for individuals to have a choice in living in the most integrated setting.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with the Department of Aging and Disability Services (DADS), the Department of State Health Services (DSHS), and the Department of Assistive and Rehabilitative Services (DARS) to reduce community-based interest/waiting lists.***

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<sup>41</sup>To access the original Plan and the subsequent revisions, please go to the HHSC website at [http://www.hhsc.state.tx.us/about\\_hhsc/reports/search/search\\_LTC.asp](http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp) or the DADS' website at: [http://www.dads.state.tx.us/business/pi/piac\\_reports/index.html](http://www.dads.state.tx.us/business/pi/piac_reports/index.html).

<sup>42</sup> For the full report see DADS' website at: <http://www.dads.state.tx.us/business/pi>; for the Promoting Independence Advisory Committee's full text of its recommendations, see Appendix F.

In keeping with the policy direction of the 79<sup>th</sup> Legislature and in accordance with the *Travis* lawsuit settlement regarding two DADS programs, HHSC has requested additional appropriations to reduce community-based programs' interest lists. HHSC is requesting an additional \$26,020,393 in fiscal year 2008 and \$67,110,182 in fiscal year 2009 to decrease interest/waiting lists in DADS community programs and for specific programs administered by DSHS and DARS.<sup>43</sup> HHSC is also committed to requesting additional appropriations in its fiscal years 2010–2011 and fiscal years 2012–2013 Legislative Appropriations Requests to reduce interest lists per the *Travis* lawsuit settlement.

*Requires legislative direction and/or appropriations*

***If directed and/or funded by the Legislature, HHSC will work with DADS to expand “money follows the person” for individuals with intellectual and developmental disabilities living in intermediate care facilities for persons with mental retardation (ICFs/MR).***

Texas was the originator of the “money follows the person” (MFP) policy as codified under Subchapter B, Chapter 531, Government Code, 531.082 for individuals living in nursing facilities (NF). This state policy allows individuals in NFs to relocate to the community in order to receive their long-term services and supports predominately delivered through 1915(c) waiver programs. A similar provision does not exist for individuals residing in ICFs/MR.

*Requires legislative direction and/or appropriations*

***If directed and/or funded by the Legislature, HHSC will work with DADS to establish a transition plan for ICFs/MR with nine or more beds to downsize or close.***

Current policy governing closure and/or downsizing of ICFs/MR with nine or more beds requires the process to be cost neutral. This limitation, in conjunction with other factors, such as funds to support the transition for both consumers and providers, has precluded more active consideration by facility operators.

A downsizing/closure plan would need to address transition funds to support the initiative as well as funds to assure the ongoing cost of services for those individuals moving to the community and for those individuals who are still residing in the facility that is downsizing/closing. HHSC and DADS would involve affected stakeholders in the plan development, and include a review of the October 26, 2002, House Bill (H.B.) 966 Report in addition to other factors and data critical to successful achievement.<sup>44</sup>

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<sup>43</sup> DADS programs include: Community Based Alternatives, Community Living Assistance and Support Services (CLASS), Medically Dependent Children's Program, Consolidated Waiver Program, Deaf-Blind with Multiple Disabilities, Home and Community Based Services, and Texas Home Living. DARS programs include: Comprehensive Rehabilitation Services and Independent Living Services. DSHS programs include: Adult Community Mental Health, Child and Adolescent Community Mental Health, and Children with Special Health Care Needs.

<sup>44</sup> House Bill 966, 77<sup>th</sup> Legislature, Regular Session, 2001.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with DSHS to implement a fully funded Assertive Community Treatment (ACT) service package as part of the Resiliency and Disease Management (RDM) program.***

Currently, adults with Schizophrenia or Bipolar Disorder who have two or more psychiatric-related hospitalizations in the past 180 days, or 4 or more in the past 2 years, are eligible for ACT as part of RDM. However, because of all the service demands for ACT, there are more individuals who are eligible for the service package than there are resources.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will increase telemedicine and other technology assistance in order for individuals to remain in the community and be independent.***

Home technology assistance is an area of growing interest in home and community settings. The Quality Improvement Organizations (QIO) have been instructed by the Centers for Medicare and Medicaid Services (CMS) to include technology assistance as part of their eighth scope of work in order to attain the goal of allowing homecare individuals to remain in their homes and foster individual self-care and independence. Studies show other benefits to include a reduction in unscheduled physician office visits; emergency room visits; fewer long-term care placements, and fewer hospitalizations.<sup>45</sup>

**Workforce and Provider Network Stabilization:** these are directives to increase reimbursement rates in order to help stabilize the direct services and supports professional workforce.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with DADS to increase non-governmental provider rates according to established methodologies, recognizing inflation factors.***

Across the board rate cuts in fiscal years 2004 and 2005, and no rate increase for several years, have made it difficult for providers to keep up with inflation, respond to wage pressures, or to make quality of service improvements. High staff turnover results in lower quality of service and in additional expenses because of the continuous recruiting, hiring and training. HHSC has included provider rate increases in its Consolidated Budget.<sup>46</sup>

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<sup>45</sup> Kaiser Permanente Medical Center's pilot tele-home health project. *Telemedicine Today*, 4(7): 16-1,19

<sup>46</sup> See Appendix E.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with DADS to fund the specialized nursing rate established by rule in 2003 for 1915(c) waiver programs.***

Nursing rates are under-funded in the 1915(c) waiver programs, and the specialty nursing rate established in a 2003 rule has never been funded, creating difficulty in staffing persons with highly skilled or specialized needs.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with DADS to equalize wage and benefits for non-governmental direct support staff with appropriate state employee pay grade (wage parity).***

There are large disparities in rates for direct services and support staff across community programs and with comparable state agency staff.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will increase the number of levels available through the wage enhancement option, expand the enhancement option to all Medicaid attendant programs, and fund the ability of all long-term services and support providers to participate in the attendant enhancement option to the highest level.***

The General Appropriations Act (Article II, legacy Department of Human Services, Rider 37, S. B. 1, 76<sup>th</sup> Legislature, Regular Session, 1999) created the Attendant Compensation Rate Enhancement to give community services and supports providers an incentive to increase compensation for their attendants.

The Attendant Compensation Rate Enhancement is an optional program wherein providers agree to maintain a certain level of attendant compensation spending in return for increased attendant compensation revenues.

The Attendant Compensation Rate Enhancement is currently available only to providers in the following programs: Primary Home Care (PHC), Community-based Alternatives (CBA), Community Living Assistance and Support Services (CLASS), Deaf-Blind Multiple Disabilities (DBMD), Day Activity and Health Services (DAHS), Residential Care (RC) and Assisted Living/Residential Care (AL/RC). Due to limited funding, participation in the Attendant Compensation Rate Enhancement has been frozen since September 2002.

**Service Improvement:** these are directives to improve the current services system.

***HHSC will direct DADS to investigate the feasibility of consolidating DADS' seven 1915(c) waiver programs and their services along functional lines with consideration of service rates appropriate to the level of need of the individuals served.<sup>47</sup> The investigation should examine efficiencies in administration, service definitions, and appropriate rate level for services.***

The 1915(c) waivers were developed independently beginning in 1985 with the Home and Community-based Services (HCS) waiver. Development of the subsequent six other waiver programs were based on diagnostic criteria. One of the reasons for separate community development was the pre-consolidation (House Bill 2292, 78<sup>th</sup> Legislature, Regular Session, 2003) organization of the health and human service agencies. Individuals with intellectual disabilities were served by legacy agency Texas Department of Mental Health and Mental Retardation and all other populations were served by legacy agency Texas Department of Human Services.

This developmental approach of the seven 1915(c) waiver programs has resulted in mutually exclusive administrative and policy decisions. There are differences in service definitions, regulatory expectations, and monitoring and billing guidelines.

An individual needing long-term services and supports may apply for multiple programs and be placed on more than one interest list. HHSC will direct DADS to use historical information learned through the Consolidated Waiver Program pilot to help guide this investigation.

***DADS will educate providers and consumers regarding the policy of “negotiated service plans” which will help better serve persons with complex needs in the community.***

One of the barriers to community relocation is the perceived liability of home and community support services agencies (HCSSA) to provide health and safety services twenty-four hours/seven-day a week. 40 Texas Administrative Code (TAC) Section 97.401(b) allows for some level of “negotiation” between the HCSSA and the individual regarding the independent service plan that allows for some individual needs to be met but not necessarily all needs.<sup>48</sup>

DADS will work with all stakeholders to ensure appropriate training of DADS' staff and HCSSA providers of this ability to negotiate a service plan based on individual choice.

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<sup>47</sup> The seven 1915(c) waiver programs operated by DADS are: Community-based Alternatives; Medically Dependent Children's Program; Community Living Assistance and Support Services; Deaf-Blind with Multiple Disabilities; Home and Community-based Services; Texas Home Living; and Consolidated Waiver Program.

<sup>48</sup>40 TAC 97.401(b) states, “The agency must accept a client for home health services based on a reasonable expectation that the client's medical, nursing, and social needs can be met adequately in the client's residence. An agency has made a reasonable expectation that it can meet a client's needs if, at the time of the agency's acceptance of the client, the client and the agency have agreed as to what needs the agency would meet; for instance, the agency and the client could agree that some needs would be met but not necessarily all needs.”.

***HHSC and DADS will investigate different management structures to improve access and utilization of the consumer-directed services (CDS) option.***

CDS is a service option that allows individuals more choice and control in how they receive services. This option provides an individual the opportunity to control the hiring, managing, and firing of individuals who provide direct services. In addition, the individual has the opportunity to set wages and work schedules. This service option is available in all of DADS' 1915(c) waiver programs (CDS in the Texas Home Living and the HCS waiver programs will become effective March 1, 2007); the two Medicaid state plan attendant programs and STAR+PLUS. Currently, DADS holds individual contracts with any willing CDS agency that meets DADS' criteria.

There has been a low utilization of the CDS option in both of its formats other than in the CLASS waiver program. The Committee in its recommendation on this issue noted the lack of a central systematic outreach and education process and the lack of appropriate incentives.

HHSC and DADS will build on the current system but explore economic and program incentives to allow a balanced choice among home and community service and support delivery system options.

**Expand Independent Living Opportunities and Relocation Activities:** Texas is an originator of the "money follows the person" institutional transition policy. These directives will help make these transitions successful and to provide enhanced assistance for persons with complex needs.

***HHSC will explore matching dedicated dollars for relocation with Medicaid administrative dollars.***

DADS is currently allocated \$1.3 million dollar/year in its 2006-2007 appropriation, under strategy A.4.5: Promoting Independence Plan, for relocation activities and is requesting similar funding for fiscal years 2008 and 2009. This strategy funds the relocation activities involved in supporting the "money follows the person" policy which is codified under Subchapter B, Chapter 531, Government Code, 531.082. These activities include outreach to current nursing facility residents in order to help identify individuals who want to relocate to the community. Once identified, relocation specialists facilitate the relocation of nursing facility residents back into the community. This activity is administered through six contracts with local community-based organizations. Currently, all funding is with General Revenue.



*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, DADS will increase the current relocation specialists' budget from \$1.3 million/annum (General Revenue) to \$2.6 million/annum (General Revenue).***

The 79<sup>th</sup> Legislature, Regular Session, 2005, allocated \$1.3 million/annum to DADS for purposes of supporting the Promoting Independence Plan. DADS has chosen to use these dollars to fund its relocation specialist activity. Current funding only allows for a little more than twenty relocation specialists to support the state-wide effort. Consequently, the current number of relocation specialists has only been able to serve a small percentage of the overall 17,000 plus individuals who have indicated their desire to relocate back into the community according to the Minimum Data Set's (MDS) Question 1a. The MDS is a federally mandated care planning assessment tool used in nursing facilities. HHSC transferred additional dollars to DADS during fiscal year 2007 to support this activity through August 31, 2007.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, DARS will add an additional 21 Centers for Independent Living (CIL)s in order to provide state-wide coverage.***

The federal Rehabilitation Act which is overseen by the Rehabilitation Services Administration created the development of Centers for Independent Living (CIL)s. The purpose of the independent living programs is to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities and to integrate these individuals into their communities. CILs provide services to individuals with significant disabilities that help them remain in the community and avoid long-term institutional settings. There are 21 CILs in Texas funded by federal and General Revenue funds.

However, these 21 CILs cover only 145 counties. This results in many parts of the state, especially in the rural counties, to being without CIL supports (109 counties are without Title VII, Part C, CIL funding).

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, DADS will develop a community navigator program to assist individuals in accessing community based services.***

In September 2005, Texas concluded a three-year CMS Real Choice grant that pilot-tested the use of community navigators.<sup>49</sup> The pilot had positive outcomes. It demonstrated that organizing community service organizations and/or providers through a coordinated "front-door" could help individuals get the necessary supports they require to remain in the community.

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<sup>49</sup> See section on Grant Support: Creating a More Accessible System for Real Choices in Long-Term Care Services.

The community navigators assist individuals in need of long-term services and supports to more easily access the appropriate services to support ongoing community living. They are able to educate individuals on the usually less expensive community system versus institutional service.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will work with the Texas Department of Transportation to increase non-medical transportation supports for individuals who are aging and/or have disabilities.***

The statewide network of community integration teams has identified the lack of reliable transportation as a major barrier to relocation of institutional residents into the community. Individuals who are aging and/or with disabilities are disproportionately affected by the lack of transportation. Medical (Medicaid) transportation services are offered only after meeting restrictive eligibility criteria and do not provide non-medical services such as grocery shopping.

**Children's Supports:** these directives will help many of Texas' children to reside in community settings.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will develop and implement a Medicaid Buy-In program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as allowed in the Deficit Reduction Act of 2005.***

Many children with disabilities are uninsured or underinsured. Often this is due to the fact that the cost to provide insurance for a child with significant disabilities may be unattainable for many families. Additionally, the limitations in many commercial insurance policies do not provide the services needed for a child with disabilities. Consequently, families of children with disabilities may purposely enter into poverty through divorce or employment decisions in order to qualify for publicly funded health insurance for their child. In other cases, families are forced to make the difficult decision to institutionalize their child in order to obtain required services. Expanding Medicaid opportunities, on a sliding-fee basis, to families caring for children with disabilities will help prevent families from remaining in or entering into poverty for the sole purpose to obtain medical care for their child, and will help prevent institutional placements caused by the lack of needed services.

*Requires legislative direction and/or appropriations.*

*If directed and/or funded by the Legislature, HHSC and DADS will continue initiatives to ensure funding is available for institutionalized children to have the opportunity to transition to families.*

The 79<sup>th</sup> Legislature passed initiatives to ensure community options for institutionalized children or children aging out of the foster care system. The state created dedicated HCS slots for those legal representatives seeking these services. DADS requested in its LAR base budget funding for these initiatives and in addition contains Exceptional Item Priority 4 to fund an additional 120 HCS slots for children aging out of the DFPS foster care system.

*Requires legislative direction and/or appropriations.*

*If directed and/or funded by the Legislature, DARS will fund additional transition specialist positions to more effectively facilitate meaningful transition from Independent School Districts' (ISD) secondary school system to appropriate adult supports and services.*

DARS' created transition specialist positions to more comprehensively serve the needs of minors with disabilities. Additional transition specialists will help to meet the demand in our high schools to enhance the opportunities for those individuals who are transitioning into adult services to remain in their communities.

*Requires legislative direction and/or appropriations.*

*If directed and/or funded by the Legislature, DADS will increase funding for permanency planning activities.*

S. B. 368, 77<sup>th</sup> Legislature, Regular Session, 2001, and H. B. 2586, 79<sup>th</sup> Legislature, Regular Session, 2005, have established the principles and mandates for permanency planning. Permanency planning for institutionalized children is a process of communication and planning with families. The purpose is to identify the supports and services needed to enable the child to leave an institution by returning to the birth family or transitioning to a support family. This is a labor-intensive task and requires a specialized skill set. Current funding does not cover the entire cost of generating the plans and does not allow permanency planners to actualize the plan by working to remove transitional barriers.

**Housing Initiatives:** these directives will help individuals to remain in the community or assist them in their transition from an institutional placement into the community. Without available, accessible, and integrated housing there is no opportunity to remain in or relocate to the community.

***HHSC will work with the Texas Department of Home and Community Affairs (TDHCA) and the Public Housing Authorities to increase the number of dedicated HOME (Section 8 and Tenant Based Rental Assistance - TBRA) funds for persons who are aging and/or have disabilities.***

Individuals who are leaving nursing facilities or individuals who meet *Olmstead* criteria under the Department of State Health Services (DSHS) provisions must have a stable residence in which to reside. Given that many of the individuals will be living on Supplemental Security Income (SSI) which is \$603 per month, financial assistance is required. HOME funds allow the individual to choose where they will live, provides true community integration, and fills the gap between income and fair market rents in our communities.

*Requires legislative direction and/or appropriations.*

***If directed and/or funded by the Legislature, HHSC will develop a program of local housing coordinators/navigators to assist individuals and the human services system to locate and develop housing resources.***

Housing navigators in other states assist in finding housing, helping in making community arrangements, and supporting individuals in the housing of their choice. This has proven to be successful in increasing the number of individuals with disabilities to live in an integrated community setting.

**HHSC will work with its operating agencies, TDHCA, and the Public Housing Authorities to develop a housing plan for persons with very low income and/or have disabilities.**

Community integration requires affordable, integrated housing opportunities. HHSC will work with its partners to develop an overall plan to increase the number of accessible, affordable, and integrated housing units available for very low income individuals who are aging and/or with disabilities.

**Promoting Independence Principles:** this directive reinforces HHSC’s commitment to the Promoting Independence Initiative.

*HHSC will ensure that the Promoting Independence principles are incorporated in all state initiatives and that all stakeholders are included in the development of any health and human services long-term services and supports policy and/or program.*

As the health and human services agencies act to meet its Legislative direction and are in a continuous process of the quality management of its programs and services, HHSC will seek the advice of its’ stakeholders to ensure the goals of the Promoting Independence Initiative are met.

## **COMMUNITY TRANSITION POLICY: MONEY FOLLOWS THE PERSON AND PROMOTING INDEPENDENCE PRIORITY POPULATIONS**

### **Nursing Facilities**

The State of Texas was one of the originators of the “money follows the person” policy. 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 2002-2003 General Appropriations Act (Article II, legacy agency Texas Department of Human Services, Rider 37, S.B. 1, 2001, 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.” The legacy agency Department of Human Services (DHS) implemented the program on September 1, 2001.

The 78<sup>th</sup> Legislature continued the “money follows the person” (MFP) 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 required that individuals utilizing Rider 28 remain funded separately through transfers from the nursing facility strategy and that those slots not count against the total appropriated community care slots.

The 79<sup>th</sup> Legislature codified the rider policy into law as Texas Government Code, section 531.082. The implementation of this law has been highly successful in the relocation of individuals to the most integrated setting. Texas is a national leader on this policy and continues to provide consultation to many other states. The Council of State Governments, Southern Region, awarded Texas its’ *2006 Innovation Award* for MFP.

DADS tracks data from the period September 1, 2001, through August 31, 2003, and September 1, 2003, through the present separately. Data from September 1, 2003, through the present are more detailed and provide information on living arrangements, service groups, age, gender and ethnicity.

As of October 31, 2006, 12,030 individuals have transitioned back to the community from nursing facilities. Of that number, 5,794 continue to receive their long-term services and supports in a community-based setting. See Appendix G for more detailed information regarding those individuals who have utilized MFP since September 1, 2003. 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.

## **Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR)**

The original Promoting Independence Plan established the policy that allowed individuals living in large community ICFs/MR (14 beds or more) and State Mental Retardation Facilities (state schools) and who desire a living arrangement other than the institution to be part of a priority population to move back into the community. The state created separate target groups within the Home and Community-based Services (HCS) waiver, thereby ensuring these individuals expedited access to HCS waiver slots. A different process than the MFP process for those in nursing facilities, these individuals are funded by a special legislative appropriation and through “attrition” slots. Individuals in state schools may access an HCS slot within six months of request while those residing in large ICFs/MR may access an HCS slot within 12 months of request.

This process is effective in meeting the demand contingent upon attrition slots and funding. As of August 31, 2006, 913 individuals moved from a state school back to the community under the Plan, while a total of 662 individuals moved from large ICFs/MR as of September 5, 2006.

## STATUS REPORTS: INTRODUCTION

The following sections provide status updates on the state's progress during the 2006-07 biennium in complying with its Promoting Independence Plan (Plan). Texas' state administrative agencies made significant progress in meeting the goals of the *2004 Revised Promoting Independence Plan*. Among the many achievements made and/or being made during the 2006-07 biennium are the following:

- On average, a 11.7 percent reduction in DADS' interest list;<sup>50</sup>
- A strengthened permanency planning process;
- Expansion of the consumer-directed services model to the Home and Community-based Services and Texas Home Living waivers;<sup>51</sup>
- Increased utilization of Family-based Alternatives;
- Expansion of the relocation specialist activity;
- Witnessed its 12,000<sup>th</sup> nursing facility resident transition into the community through "money follows the person";
- Implemented Medicaid Buy-In;
- Received the Mental Health Transformation Grant;
- Increased the number of vocational rehabilitation counselors working with a school-aged population with disabilities;
- Experienced an increase in the number of children placed with relatives rather than in foster care due to the implementation of Family Group Decision Making;
- A decrease in the number of individuals admitted to a state mental health hospital (SMHH) with three or more hospitalizations in a 180-day period while a concomitant increase in those served in the community by local mental health authorities (LMHA)s; and
- The development of aging and disability resources centers (ADRC)s.

See Appendix H for a complete status review on each directive from the 2004 Plan.

The first five reports provide the top accomplishments made by each of the health and human services agencies. The subsequent three reports are each on a specific subject matter. The reports are presented in the following order:

- Health and Human Services Agencies
  - Health and Human Services Commission
  - Texas Department of Aging and Disability Services
  - Texas Department of Assistive and Rehabilitative Services
  - Texas Department of Family and Protective Services
  - Texas Department of State Health Services
- Children's Issues
- Housing
- Workforce

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<sup>50</sup> There has been, on average, a 11.7 percent reduction in DADS' interest lists as of October 31, 2006.

<sup>51</sup> Consumers Directed Services becomes effective in March 2007.



### *THE HEALTH AND HUMAN SERVICES COMMISSION*

The mission of the Health and Human Services Commission (HHSC) is to provide leadership and direction, and foster the spirit of innovation needed to achieve an efficient and effective health and human services system for Texans. HHSC directs and supports collaboration and partnerships of agencies with individuals and local communities to establish systems that support individual choices and personal responsibility. HHSC has oversight responsibilities for designated health and human services agencies, and administers certain health and human services programs including the Texas Medicaid Program, the Children's Health Insurance Program (CHIP), and Medicaid waste, fraud, and abuse investigations.

HHSC is the agency with overall responsibility for the Texas Promoting Independence Initiative (Initiative). Since the development of the original Promoting Independence Plan (Plan), HHSC has been charged with the responsibility of monitoring and coordinating the implementation of the Plan. Effective September 1, 2004, HHSC Executive Commissioner Albert Hawkins directed and authorized the Department of Aging and Disability Services (DADS), in consultation with HHSC, to act on behalf of HHSC in all matters relating to the Initiative.<sup>52</sup>

HHSC receives \$1.5 million in General Revenue to support Promoting Independence activities. Of that amount, \$140,000 is used to fund the Family-based Alternatives Program administered by HHSC through a contract with EveryChild, Inc. In fiscal year 2007, HHSC Executive Commissioner Hawkins, through the authority of Senate Bill 1, Rider 13(c), 79<sup>th</sup> Legislature, Regular Session, 2005), transferred \$1.36 million to fund Promoting Independence activities, such as the increase in relocation services and support for permanency planning.

HHSC continues to assist and provide leadership related to innovations in the area of community-based long-term services and supports. The following activities are some of the more prominent initiatives demonstrating HHSC's commitment and leadership in supporting the Initiative.

#### **HHSC Budget Activities**

HHSC is responsible for coordinating specific budget requests related to the Initiative and for the third consecutive session has submitted a budget reflecting the need for additional funding to support the Initiative.<sup>53</sup> HHSC made two exceptional item requests in its Legislative Appropriations Request (LAR) that total \$255 million in General Revenue to reduce waiting/interest lists for community services and to avoid the creation of waiting/interest lists in some instances.

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<sup>52</sup> See Appendix C.

<sup>53</sup> See section on Budgetary Information.

## Managed Care Options: STAR+PLUS<sup>54</sup> and Integrated Care Management<sup>55</sup>

STAR+PLUS is an HHSC program designed to provide Medicaid acute care (medical and health services) and long-term services and supports within a managed care delivery model.

STAR+PLUS has been operating in Harris County since 1998. Section 2.29 of House Bill (H.B.) 2292, 78th Legislature, Regular Session, 2003, directs HHSC to provide Medicaid services through the most cost-effective model(s) of managed care and to conduct a study to determine which managed care model(s) are most cost effective for the state's Medicaid program. Pursuant to H.B. 2292, a cost effectiveness study was conducted and was published in 2004.

The 79<sup>th</sup> Legislature built upon H.B. 2292's authority and required HHSC to utilize cost-effective models to better manage the care of aged, blind, and disabled persons enrolled in Medicaid. The 2006-07 General Appropriations Act (Article II, Special Provisions, Sec. 49, S.B. 1, 79<sup>th</sup> Legislature, Regular Session, 2005) establishes conditions for the use of capitated managed care models.

The 79<sup>th</sup> Legislature also established the *Integrated Care Management* (ICM) model as a non-capitated managed care alternative to ensure proper utilization and integration of acute care and long-term care services and supports.<sup>56</sup> The ICM model was required to be implemented in Dallas County.

HHSC, as directed, worked with local officials to decide whether the new STAR+PLUS model or the ICM would be administered in a specific county. Through this process it was determined that STAR+PLUS would expand to four Texas services areas in early 2007; the expansion areas include the Bexar, Travis, Nueces and Harris service delivery areas.<sup>57</sup> ICM is scheduled to be implemented on July 1, 2007 in the two services delivery areas of Tarrant and Dallas Counties.<sup>58</sup>

Individuals living in the STAR+PLUS or ICM counties who receive supplemental security income (SSI), are 21 years or older, and receive Medicaid must be part of either system. Enrollment in STAR+Plus is *voluntary* for children under age 21 receiving SSI.

Expansion of the managed care options should have an immediate impact on DADS' Community-based Alternatives' (CBA) interest list. All STAR+PLUS members and those served through ICM will have immediate access to 1915(c) services upon meeting eligibility.

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<sup>54</sup> For more information on STAR+PLUS can be found on the HHSC STAR+PLUS website at: <http://www.hhsc.state.tx.us/starplus/starplus.htm>.

<sup>55</sup> For more information on the Integrated Care Management model can found on HHSC's website at: [http://www.hhsc.state.tx.us/pubs/031505\\_fipicmm.html](http://www.hhsc.state.tx.us/pubs/031505_fipicmm.html).

<sup>56</sup> House Bill 1771 (79<sup>th</sup> Legislature, Regular Session, 2005).

<sup>57</sup> The counties in each of these four service areas are: Bexar Service Area (Atascosa, Bexar, Comal, Guadalupe, Kendall, Medina, and Wilson Counties); Harris/Harris Expansion Service Area (Brazoria, Fort Bend, Galveston, Harris, Montgomery, and Waller Counties); Nueces Service Area (Aransas, Bee, Calhoun, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, and Victoria Counties); and Travis Service Area (Bastrop, Burnet, Caldwell, Hays, Lee, Travis, and Williamson Counties).

<sup>58</sup> The counties in each of the two service delivery areas are: Dallas Service Area (Collin, Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall Counties); Tarrant Service Area: (Denton, Hood, Johnson, Parker, Tarrant, and Wise Counties).

## **Texas Medicaid Buy-In Program**

S. B. 566, 79<sup>th</sup> Legislature, Regular Session, 2005, required that HHSC develop and implement a Medicaid Buy-In (MBI) program for working persons with disabilities who will be able to apply for extended health insurance benefits even if their income exceeds traditional Medicaid limits. Development was based on a model that emphasizes work and has significant participant cost sharing. The program is based on the federal Balanced Budget Act (BBA) 1997.

Under the traditional program, a worker who has a disability sometimes had to choose between a higher-paying job without insurance or staying in a lower-paying job to keep their Medicaid coverage. MBI allows workers to earn a higher salary without the fear of losing their health-care coverage.

The Medicaid Buy-In program allows workers who have a disability and substantial earnings to receive Medicaid by paying a monthly premium. The premium is based on the person's income. People in the Medicaid Buy-In program have access to the same Medicaid services available to adult Medicaid recipients, which include office visits, hospital stays, X-rays, vision services, hearing services and prescriptions. The program was implemented statewide September 2006.<sup>59</sup>

## **CONSUMER DIRECTED SERVICES AND PERMANENCY PLANNING**

There are two major initiatives that are joint efforts between HHSC and the Department of Aging and Disability Services (DADS): (1) Consumer Directed Services and (2) Permanency Planning. In each case, HHSC provides general policy oversight direction while DADS administers the initiatives on a daily basis. Discussion of the two initiatives is under the DADS section detailed below.

## **HHSC OFFICE OF PROGRAM COORDINATION FOR CHILDREN AND YOUTH**

HHSC recognizes that children receiving long-term care services and supports have different needs than those of adults in the service system. In an attempt to address and coordinate those needs, HHSC consolidated a number of children's initiatives and programs into one unit, the Office of Program Coordination for Children and Youth, within the Health Services Division. This office has responsibility for the coordination of children's long-term care activities, permanency planning, family-based alternatives, and the Children's Policy Council. The office includes a focus on children's mental health through coordination and policy oversight activities of the Texas Integrated Funding Initiative (TIFI). Also within the office is the state Community Resource Collaboration Groups Office (CRCG), which at the local level addresses service needs for children requiring multi-agency services, and the Office of Early Childhood Coordination, which is working to implement a more coordinated system of services for children under age six.

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<sup>59</sup> Information regarding Medicaid Buy-In may be found on the HHSC website at: For more information, visit [www.hhsc.state.tx.us/medicaid/buy\\_in\\_QNA.html](http://www.hhsc.state.tx.us/medicaid/buy_in_QNA.html).

## **Children's Policy Council**

The Children's Policy Council (Council), established by H.B. 1478, 77<sup>th</sup> Legislature, Regular Session, 2001, assists the HHSC Executive Commissioner and health and human services agencies in developing, implementing, and administering family support policies and related long-term care and health programs for children. The Council studies and makes recommendations for policies in the areas of funding, transition, collaboration, permanency planning, enforcement of regulations, services and supports to families, and the provision of services under the Medical Assistance program. The Council has continued to examine and make recommendations relating to promoting opportunities for children with disabilities to grow up in families. The most recent recommendations were reported in the October 2006 report, *Recommendations for Improving Services for Children with Disabilities in Texas*.<sup>60</sup>

## **Family-based Alternatives Initiative**

The Family-based Alternatives Project (Project) was authorized by S.B. 368, 77<sup>th</sup> Legislature, Regular Session, 2001, and supported by Governor Rick Perry in Executive Order RP-13, which operationalized the state's efforts to promote family life for children with disabilities.<sup>61</sup> The Project is aimed at creating a system that assists institutionalized children and young adults to return home to their birth families with support, or when returning home is not possible, to live with alternate families who are recruited, carefully matched, and supported by provider agencies. The Project serves both children whose birth families voluntarily placed them in residential facility care, and children in state conservatorship through the Child Protective Services system. Use of a family-based alternative does not require parents of children not in state conservatorship to relinquish custody of their children and does not limit parental choice but enables and encourages family life for children. The system values birth parents as an integral part of the process and encourages parents who are participating in this program to participate in all decisions affecting their children.

HHSC has contracted with EveryChild, Inc. since fiscal year 2003 to manage the Family-based Alternative Project. During the initial two years, the project's focus was on developing and testing the support family model and facilitating changes within the state system to allow for children to successfully live with families. In that time, EveryChild assisted 21 children primarily residing in Central Texas facilities to move into families. In fiscal year 2005, the project expanded to cover the major metropolitan areas of the state. Since then, EveryChild has assisted another 70 children to live with families, for a total of 91 children that have moved as a direct result of EveryChild's work.

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<sup>60</sup> The October 2006 Report, *Recommendations for Improving Services for Children with Disabilities in Texas*, may be found on the HHSC website at: [http://www.hhsc.state.tx.us/si/C-LTC/ltc\\_home.html](http://www.hhsc.state.tx.us/si/C-LTC/ltc_home.html).

<sup>61</sup> See Appendix A.

EveryChild has collaborated with 62 family-based care providers, and has worked directly with 23 of them to place children from facilities into families. Moreover, the project has focused considerable attention in the past two years to embedding the support family model throughout the state system. In addition to working with family-based care providers, EveryChild has provided training and technical assistance to a variety of stakeholders including Mental Retardation Authority (MRA) staff, Medicaid waiver staff, permanency planners, home health agencies, Department of Family and Protective Services (DFPS) staff, facilities and other local community organizations.

This work has helped bring about a significant change in philosophy and approach across much of the system, which has in turn contributed to a total of 360 children with disabilities moving from various institutions into families over the past two years.

### ***TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES***

DADS has the major responsibility for Promoting Independence programs, policies, and initiatives because it is the state's long-term services and supports operating agency. DADS works closely with HHSC regarding overall policy direction and implementation of these activities. Many of DADS' activities are referenced throughout the plan either as stand-alone activities or in conjunction with HHSC or the other health and human services agencies. The following DADS' activities support the Promoting Independence Initiative and are listed here because of DADS leadership in these areas.

#### **Transition Activities**

Transition activities reflect the three major initiatives to assist individuals in nursing facilities, large (14 or more bed) intermediate care facilities for persons with mental retardation (ICFs/MR) and state mental retardation facilities (SMRF)s to access community-based services.<sup>62</sup> The three initiatives are:

- Money Follows the Person (MFP) for Medicaid eligible residents of nursing facilities;
- Promoting Independence priority population for residents of ICFs/MR; and
- Promoting Independency priority population for residents of SMRFs.

Nursing Facility (NF) residents may access the Community-based Alternatives (CBA); Community Living Assistance and Support Services (CLASS); or Medically Dependent Children's Program (MDCP) waivers without having to be on an interest list. NF residents must meet all eligibility considerations. As of October 31, 2006, 12,030 individuals who lived in nursing facilities have transitioned to a community program; and of those, 5,794 remain active in the community. From September 1, 2005 through August 31, 2006, 831 individuals moved to community-based waiver services.

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<sup>62</sup> See section on Community Transitions for a more full report.

Residents of large ICF/MR have access to a Home and Community-based Services (HCS) waiver slot within twelve months of request given availability of funding. Slots are funded through the combined use of new HCS appropriations and lapsed funds.<sup>63</sup> As of September 5, 2006, 662 individuals have moved from a large ICF/MR and of that number 87 moved from September 1, 2005 through August 31, 2006.

Residents of SMRFs have access to an HCS waiver slot within six months of their request. As of August 31, 2006, 913 individuals had moved from a SMRF, and of that number, 94 individuals moved from September 1, 2005 through August 31, 2006.

## **Relocation Activity**

### *Relocation Specialists*

Legacy agency Department of Human Services began the relocation specialist activity in 2002 through a transfer of Promoting Independence dollars by HHSC. Relocation specialists help to identify nursing facility residents who want to transition back to the community and facilitate in that transition. Not everyone residing in a nursing facility who wishes to move to the community needs relocation services, but for those without housing or other community supports, specialists assist in securing housing, household goods, identifying community supports, and coordinating necessary paperwork.

The initial relocation specialist activity began as a pilot program in five sites. Because of the success of the pilot, the activity was implemented statewide in 2004 through four contracts to Centers of Independent Living (CIL). In fiscal year 2006, the CILs provided transition assistance to 388 individuals.

DADS originally had four contracts with CILs. With funds transferred by HHSC on September 1, 2006, DADS was able to expand the number of catchment areas from four to six. These additional two catchment areas will allow contractors to provide more focused attention to a larger population. DADS awarded the contracts to six local community-based organizations in December 2006 with an effective date of January 1, 2007.

### *Area Agency on Aging Relocation Support*

Area Agencies on Aging (AAA) also provide relocation activity support to nursing facility residents. Assistance is provided upon self-referral, the request of a caregiver, or through their Ombudsman program.

The Ombudsmen are trained on providing information to families and older individuals in nursing facilities on the ability to transition out of the facility. They also link the families or older individuals with an agency who can coordinate the complete process for the family/older individual.

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<sup>63</sup> See DADS Exceptional Item Priority 4 for amount requested in 2008-2009 Legislative Appropriations Request

Once the decision is made to transition out of the facility, the AAA has two areas where consumer choice may be provided. The Older Americans Act requires the “care coordination program” of the AAA to provide the older individual with a list of providers to ensure that the older individual has a choice of service provider. The Respite Voucher Program §84.23 was implemented in fiscal year 2002, ensuring the facilitation of consumer choice through the provision of respite services. DADS is implementing the Homemaker Voucher Services Program in fiscal year 2007.

The Office of the State Long-term Care Ombudsman and the network of 28 AAAs continue to actively support the Promoting Independence Initiative. Training and program updates were provided for Ombudsman staff from the AAAs during quarterly state-level trainings. At least two such trainings were conducted each year since 2003. The State Ombudsman coordinated with other DADS operating units to provide resource material for the regional programs.

### **Transitional Workgroups**

Texas was the recipient of a 2003 Real Choice System Change Grant to establish regional Community Integration Transition Teams (CITT)s to assist in the elimination of systematic barriers to community transition and help nursing facility residents with complex needs return to their communities.<sup>64</sup> These CITTs are public-private local community teams that help secure community transitions outside the traditional service array.

The \$730,422 three-year grant which funded this activity ended on September 1, 2006. DADS was able to establish a local team in each of its ten regions plus an additional three teams to serve more rural regions. Because of the success of this program, DADS committed to supporting the program after the grant period ended.

### **Dedicated Home and Community-based Services (HCS) Waiver Slots**

The 2006-07 General Appropriations Act (Article II, Section 1, DADS, S.B. 1, 79<sup>th</sup> Legislature, Regular Session, 2005) provided dedicated HCS slots for children either residing in an intermediate care facility for persons with mental retardation (Rider 46) or who were aging out of DFPS’ Child Protective Services’ foster care program (Rider 54).

DADS has implemented both programs and HCS waiver slots were targeted in accordance with each rider. DADS has enrolled three children as of October 31, 2006 through Rider 46, which allows for up to 50 slots for children residing in community ICFs/MR. Children already have the opportunity to leave large ICFs/MR and state mental retardation facilities (SMRF)s through Promoting Independence priority HCS slots.

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<sup>64</sup> Community Integration Transition Teams are composed of private organizations, business partners, not-for-profit advocacy organizations, Adult Protective Services, Public Housing Authorities, Centers for Independent Living, DADS regional staff, Area Agencies on Aging, managed care organizations and any other stakeholder that may assist in community transition.

Rider 54 allowed for 62 HCS slots for children aging out of Department of Family and Protective Services' (DFPS) foster care program. As of October 26, 2006, DADS has enrolled all 62 children.

## **Permanency Planning**

S. B. 368, 77<sup>th</sup> Legislature, Regular Session, 2001, codified Texas' public policy position regarding permanency planning for children with a developmental disability residing in a Texas institution. HHSC, DADS, and DFPS have worked cooperatively to strengthen permanency planning efforts for children in institutions. HHSC worked with agencies to create permanency planning instruments and a technical assistance guide designed to help direct staff in developing comprehensive, individualized plans. HHSC worked with DADS to help plan for the development of support family services in the Community Living Assistance and Support Services (CLASS) waiver, and worked with DFPS to develop a family reimbursement rate for children needing services at the Intense Level. DADS administers the permanency planning process.

HHSC worked with DADS regarding the implementation of two legislative directives from the 79<sup>th</sup> Legislature, Regular Session, 2005, which strengthened the original permanency planning legislation in S.B. 368, 77<sup>th</sup> Legislature, Regular Session, 2001. S.B. 40 required the state "...to minimize the potential conflict of interest that may exist or arise between the Intermediate Care Facility for Persons with Mental Retardation (ICF/MR), Home and Community Based Services (HCS), or State Mental Retardation Facility (SMRF) provider and the best interest of the child". In response to this legislation, DADS assigned responsibility for ongoing permanency planning to the local mental retardation authorities (MRA).

In response to H. B. 2579, DADS defined the role of the ICF/MR, HCS, and SMRF provider in assisting the local MRA with permanency planning; defined the role of a nursing facility to conduct annual comprehensive care planning meetings and cooperate with the entity conducting permanency planning; and began the process of revising rules to address the role of the provider in permanency planning and making accommodations for parents/legally authorized representatives to participate in the children's life. MRAs are contractually required to review the "Why Permanency Planning" document with families who are considering residential placement for children under 22 years of age.

HHSC submitted a comprehensive report, *Permanency Planning Report*, on permanency planning in July 2006 to the Governor and the Texas Legislature.<sup>65</sup>

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<sup>65</sup> The July 2006 Report, *Permanency Planning Report*, may be found on the HHSC website at: [http://www.hhsc.state.tx.us/si/C-LTC/ltc\\_home.html](http://www.hhsc.state.tx.us/si/C-LTC/ltc_home.html).



## Self-Determination and Consumer Directed Services

Self-determination is a philosophy of individual choice and direction in all aspects of one's life. It is an important component of promoting an individual's independence. This philosophy represents a shift in how state staff and providers approach all aspects of the long-term services and supports system and how it impacts how staff and providers collaborate with individuals in assessing and determining service plans. It is no longer acceptable to make determinations for individuals but rather work together to develop an acceptable service plan.

One aspect of self-determination is consumer directed services (CDS). CDS is managed by DADS with policy oversight by HHSC (see above discussion for further information). CDS allows the individual more control in the selection, training, and supervision of their personal attendants.

The CDS model was implemented in July 2002 in multiple Medicaid home and community-based waiver programs in response to S. B. 1586, 76<sup>th</sup> Legislature, Regular Session, 1999. The model allows consumers or their guardians or designated representatives to be legal employers of record for the service providers. Under CDS, consumers have greater control of and responsibility for their services. An alternative model, the Service Responsibility Option, has been developed which allows the individual flexibility between the home health model and the CDS version.

H. B. 2292, 78<sup>th</sup> Legislature, Regular Session, 2003, directed HHSC to provide an annual report regarding the effectiveness, including cost-effectiveness, of consumer directed services by February 1 of each year.<sup>66</sup> S. B. 153, 78<sup>th</sup> Legislature, Regular Session, 2003, mandated the formation of a Consumer Directed Services Workgroup to assist in the continued implementation of the CDS option.

Currently there are two options for CDS in the Texas Medicaid program; the original CDS model and the Service Responsibility Option (SRO) developed through a 2003 Real Choice Systems Grant. In the original CDS model, the consumer or legally authorized representative employs and retains service providers and directs the delivery of program services. In the SRO model, consumers select, train, and supervise their personal attendants but the provider agency keeps the fiscal functions and the responsibility for providing substitute attendants and administrative personnel functions.

The original CDS model, currently utilized by approximately 1,500 consumers, is available in the Primary Home Care, the STAR+PLUS programs, and is available in all seven DADS waiver programs.<sup>67</sup> The SRO model will be offered to adults and children receiving Primary Home Care services and will be available in managed care and non-managed care areas beginning January 2007.

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<sup>66</sup> The 2006 Report may be found at the HHSC website at: [http://www.hhsc.state.tx.us/pubs/020105\\_CDS\\_Update2.html](http://www.hhsc.state.tx.us/pubs/020105_CDS_Update2.html).

<sup>67</sup> CDS becomes an option in the Home and Community-based Services (HCS) and Texas Home Living (TxHL) waiver programs in March 2007.

## **Information and Processes Related to Community-based Program Options.**

DADS facilitated a subcommittee of the Promoting Independence Advisory Committee (Committee) whose purpose was to review all materials and processes informing individuals of their community-based program options. Membership consists of representatives of all health and human services agencies, consumers, families, advocates, providers and other interested stakeholders. The subcommittee's primary focus is on consumers living in institutional settings and how they are informed of community-based program options with a secondary focus on front door activities for individuals seeking services. The subcommittee will present their recommendations for change and/or streamlining to the Committee, HHSC, and the health and human services agencies in January 2007.

### ***TEXAS DEPARTMENT OF STATE HEALTH SERVICES***

The Texas Department of State Health Services (DSHS) is the health and human services operating agency for public health, mental health, and substance abuse services and administers the state mental health hospital system. DSHS has responsibility for a number of the Promoting Independence Initiative activities including the requirement to provide an intensive mental health service package to individuals with three or more hospitalizations within a 180 day period in order to help prevent further institutionalization and to assist in the transition of nursing facility residents who have a co-occurring behavioral health need.

### **Resiliency and Disease Management Program**

H. B. 2292, 78<sup>th</sup> Legislature, Regular Session, 2003 significantly altered the process and the criteria for the delivery of mental health services. H.B. 2292 required DSHS to implement the Resiliency and Disease Management (RDM) program in an effort to redesign the way public mental health services are delivered to adults with severe and persistent mental illness and children with severe emotional disturbance. One primary aim of RDM is to ensure the provision of interventions with empirical support to eliminate or manage symptoms and promote recovery from psychiatric disorders. Other aims of this project include: establishing who is eligible to receive services, establishing ways to manage the use of services, measuring clinical outcomes or the impact of services, and determining how much these services should cost.

The RDM initiative is intended to better match services to mental health consumers' needs, and to use limited resources most effectively. The intention is to provide the right service to the right person in the right amount to have the best outcomes. One of the goals is to provide the appropriate services in order to keep individuals in the community.<sup>68</sup> All recommendations for community mental health services are based on a new uniform assessment process known as the Texas Recommended Assessment Guidelines (TRAG).

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<sup>68</sup> For more information regarding RDM, contact the DSHS website at: <http://www.dshs.state.tx.us/mhprograms/RDM.shtm>.

One intensive service component of RDM is Assertive Community Treatment (ACT) that provides comprehensive services delivered by a multi-disciplinary team to persons who have not responded to traditional mental health service approaches. A uniform assessment was created in order to determine an authorized Level of Care (LOC) that corresponds to a specific service package. Service packages for both children and adults were developed to ensure the provision of evidence-based services to those individuals who would most benefit from those services. Also part of RDM is the utilization management processes that allow Local Mental Health Authorities (LMHAs) to manage limited resources and ensure reasonable access to effective services. To better align funding resources with the goals of RDM, DSHS revised portions of the Medicaid State Plan, Medicaid program rules, and Medicaid Administrative Claiming (MAC).

A typical ACT team consumer has Schizophrenia or another serious mental illness such as Bipolar Disorder and has experienced multiple psychiatric hospital admissions either at the state or community level. The most recognized benefit since program implementation has been the reduction in hospitalization of high system utilizers. Current 2-year outcome data reflects a 57 percent reduction in hospital bed day utilization, which is consistent with national outcome standards.<sup>69</sup>

ACT is provided to individuals with 2 or more psychiatric hospitalization in 180 days or 4 or more psychiatric hospitalizations in 2 years. In addition, Intensive Outpatient services are provided to children to decrease the rate of psychiatric hospitalization among children and to prevent more restrictive or out-home-placement.

### **Statistical Data on State Mental Health Hospital Utilization**

DSHS monitors the number of individuals in State Mental Health Hospitals (SMHHs). As of August 31, 2006, the 9 SMHHs averaged a daily census of 2,293 with 18,167 admissions in fiscal year 2006 as compared to 18,479 admissions during fiscal year 2004.

Quarterly, a report is generated that identifies all individuals who have been hospitalized for more than a year. The report is sent to the respective hospitals, which verify the status of each patient and any barriers that may exist impeding the discharge of the individual. The SMHH and the Local Mental Health Authority (LMHA) prepare a revised Continuity of Care Plan for persons with identified barriers. As of August 31, 2006, 435 individuals were hospitalized in SMHHs for more than one year. Of these, 389 need continued hospitalization, 15 have been accepted for placement, 25 have a barrier to placement, and 6 have court involvement. Two adolescents, one at the Waco Center for Youth and one at the North Texas State Hospital have been hospitalized over one year as of August 31, 2006.

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<sup>69</sup> For more information regarding Assertive Community Treatment, contact the DSHS website at: <http://www.dshs.state.tx.us/mhprograms/ACT.shtm>.

### *Individuals who are deaf and hard-of-hearing*

DSHS implemented a system for monitoring deaf and hard-of-hearing individuals in their electronic medical records. There were no more than three individuals who are deaf and hard-of-hearing in a SMHH over one year as of August 31, 2006.

### *Individuals with three or more hospitalizations within 180 days.*

There were 248 individuals admitted to psychiatric hospitals (both SMHHs and Community Hospitals) 3 or more times within 180 days of August 31, 2006; (state funded community hospitals were added to the data during fiscal year 2006). A further study found that, of 1,644 individuals who had 3 or more SMHH admissions in 180 days when the third admission was in fiscal year 2002, fiscal year 2003, or fiscal year 2004, only 13 percent (216) had 3 or more SMHH admissions in 180 days that occurred in multiple years.

DSHS prepares a quarterly report for the Committee, *Adults and Children Readmitted to a State or Community Psychiatric Hospital Three or More Times in 180 Days Since FY2001: Where Are They Now In the Community Mental Health System?* As of August 31, 2006, there were 2,535 adults readmitted 3 or more times in 180 days since fiscal year 2001 with 1,201 receiving RDM services, of which 86 percent received the same service package as that recommended by the TRAG. Also, there were 216 children readmitted 3 or more times in 180 days since fiscal year 2001 with 52 receiving RDM services, of which 87 percent received the same service package as that recommended by the TRAG.

An additional analysis indicates that the number of individuals admitted to a SMHH 3 or more times in 180 days appears to be declining (fiscal year 2006 = 572), while the percentage of these individuals who have been served at a Texas LMHA has risen dramatically from fiscal year 2001 (81 percent) to fiscal year 2006 (90 percent). These results are consistent with S.B. 367, 77<sup>th</sup> Legislature, Regular Session, 2001, that directed legacy agency Texas Department of Mental Health Mental Retardation (TDMHMR), now DSHS, to consider for community-based services those individuals with a mental illness admitted to a psychiatric hospital 3 or more times in 180 days.

### **Promoting Independence Mental Health Advisory Committee**

In 2001, legacy agency TDMHMR received a \$60,000 grant from the Center for Mental Health Services (CMHS) to assist the state in developing awareness and policy for the state's *Olmstead* population who have mental illness or serious emotional disturbance. The department convened the Promoting Independence Mental Health Advisory Committee (PIMHAC), as a subcommittee to the Mental Health Planning Advisory Committee. Its task was to solicit policy input for mental health services to adults and children to prevent unnecessary institutional care. The PIMHAC reports quarterly to the Committee and monitors DSHS compliance with the Plan. The populations most closely monitored are:

- Adults and children diagnosed with a mental illness who have resided in state and state funded community hospitals over a year;

- Adults and children diagnosed with a mental illness who have been hospitalized more than three times in six months; and
- Adults and children diagnosed with a mental illness who reside in nursing facilities and want to transition to the community.

### **Children with Special Health Care Needs Services Program**

DSHS also addresses children's issues through the Children with Special Health Care Needs (CSHCN) Services Program that provides funding for health care benefits (medical and family support services) to children who:

- Have a chronic physical or developmental condition as defined in program rules.
- Are under age 21 (except for individuals with cystic fibrosis of any age).
- Are residents of the state of Texas (must provide proof of residency).
- Have family income less than 200 percent of the federal poverty level or meet this criteria through spend down.

The program pays for health care benefits provided by community-based providers across the state of Texas. The program's health care benefits include, but are not limited to: inpatient and outpatient medical services, medications, durable medical equipment, therapies, meals, transportation, and lodging when the child must travel to obtain needed services, and family support services. Family support services may be used to help support a child moving from an institution to live in the community. In fiscal year 2006, the program provided funding for health care benefits to 2,084 children. As of August 31, 2006, there were 1,063 children on the waiting list. During fiscal year 2006, 852 children were able to access program health care benefits coverage and were removed from the waiting list.

The CSHCN Services Program also funds case management and community resources and family supports for clients and their families, provided through community-based contracts and regional DSHS staff.

### **Targeted Projects for the 2008-09 Biennium for Individuals with Mental Health Issues**

#### *Expansion of Assertive Community Treatment (ACT)*

Currently, H. B. 2292, 78<sup>th</sup> Legislature, Regular Session, 2003, restricts the provision of RDM community-based mental health services to individuals with Schizophrenia, Bipolar Disorder, and Major Depressive Disorder for adults. Adults with Schizophrenia or Bipolar Disorder, who have had 2 or more psychiatric-related hospitalizations in the past 180 days, or 4 or more in the past 2 years, meet the criteria for ACT services as a part of RDM. The Committee has recommended that DSHS explore the expansion of the eligibility requirements for ACT to include individuals who have 2 or more psychiatric-related hospitalizations in the past 180 days or 4 or more in the past two years and who have a diagnosis of Major Depressive Disorder (MDD), in addition to those with a diagnosis of Schizophrenia and Bipolar Disorder.

*Contract with Centers for Independent Living to coordinate mental health training to Home Health providers*

The Centers for Independent Living (CIL)s have experience working with individuals residing in nursing facilities to help facilitate their transition into the community. DSHS will explore the feasibility of contracting with the CILs to ensure individuals wanting to transition from nursing facilities to the community will have a barrier-free transition. DSHS will propose that the CILs will work with home health providers to coordinate the provision of training in the area of mental health for those nursing facility residents with co-occurring behavioral health needs.

*Identification of Nursing Facility Residents with Co-occurring Mental Illness*

DSHS will work with DADS to identify individuals in a nursing facility with a co-occurring mental illness and who want to live independently. Individuals leaving state mental health hospitals that have been placed in nursing facilities by the Local Mental Health Authority can be identified and monitored, but those placed in nursing facilities in another manner have been very difficult to identify. This effort will help identify these individuals and coordinate services when possible for those who want to transition back into the community.

*Specialized Services for Nursing Facility Residents with Co-occurring Mental Illness who are Transitioning back into the Community*

Texas has applied for a federal grant from the Centers for Medicare and Medicaid Services (CMS) to help individuals in long-term care facilities to return to their communities. Individuals with physical disabilities who also have psychiatric disorders are a special subgroup of the long-term care population. These individuals require specialized supports and services for the immediate period of post-nursing facility transition. If funded through the grant, DSHS will help coordinate the provision of these services for a limited number of individuals.

*Home and Community-Based Services Waiver for Children with Severe Emotional Disturbance*

HHSC and DSHS are exploring the development of a Medicaid 1915(c) home and community-based services waiver for children with severe emotional disturbance. This project is authorized under the 2006-07 General Appropriations Act (Article II, HHSC Rider 8, S.B. 1, 79<sup>th</sup> Legislature, 2005), which enables HHSC to develop and implement a plan to prevent custody relinquishment of youth with serious emotional disturbances, including requesting waivers from the federal government, if needed. HHSC has contracted with Navigant Consulting to assist in concept feasibility, waiver development, and analysis of Medicaid and other cost/utilization data.

## **Demonstration to Maintain Independence and Employment (DMIE):**

DSHS is currently preparing to implement the three year Demonstration to Maintain Independence and Employment (DMIE) project. This project is authorized under a \$19 million dollar federal grant from CMS and an in-kind match from the Harris County Hospital District (HCHD). The goals are to improve or maintain the employment of working people with disabilities and prevent future dependence on public programs (such as Medicaid, SSI and SSDI) by providing access to health insurance and employment services. Texas DMIE will be a randomized, controlled trial. Intervention and control group members will be working adults in Harris County with behavioral health diagnoses who are enrolled in the existing HCHD-sponsored health benefit program (GoldCard). Intervention group participants will receive enhanced physical health, behavioral health, dental services and employment services through contracts or programs administered by HCHD. Intensive case management will be used to integrate these services into an individualized continuum of supports. DSHS submitted the implementation protocols for CMS approval in late fall 2006. Once protocols are approved by CMS, the project will be implemented. The University of Texas at Austin Addiction Research Institute (UT ARI) will independently evaluate the project.

## ***TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES***

The Texas Department of Family and Protective Services (DFPS) is the state operating agency charged with protecting children and adults who are elderly or have disabilities living at home or in state facilities, and licensing group day-care homes, day-care centers, and registered family homes. The agency is also charged with managing community-based programs that prevent delinquency, abuse, neglect and exploitation of Texas children, elderly and disabled adults.

### **Caseworker Training**

DFPS is directed by HHSC to ensure that the Child Protective Services (CPS) caseworker training curriculum continues to be revised and improved as needed with respect to disability issues. DFPS committed to develop a one-day workshop for direct delivery staff to address disability issues and include such training as an ongoing option that can be used to meet worker or supervisor certification requirements. To facilitate this, DFPS entered an agreement with the Protective Services Training Institute (PSTI) and the University of Texas Center for Disability Studies (TCDS) for the development of this workshop. This collaboration resulted in the "Best Practices with Children with Developmental Disabilities" workshops, which began to be offered to CPS staff in February 2005. During 2006 this workshop was delivered seven times in various locations across Texas. Training sessions are scheduled to be offered nine times in 2007.

## **Family Group Decision Making**

HHSC directed DFPS to support and encourage self-determination efforts through the work of the Consumer Directed Services (CDS) Workgroup and the expansion of consumer directed services. In December 2003, DFPS began piloting Family Group Decision Making (FGDM) in multiple sites across the state. FGDM facilitates a discussion of the family's strengths and concerns and provides family private time for decision making. In this process, the family participates as a partner in securing the protection and safety of children. To effect this implementation, the agency assigned one FGDM Specialist position to each of the five administrative Districts. Texas targeted FGDM conferences primarily to families experiencing removal of a child in an effort to expedite the child's safe return to the family.

Data collection for the FGDM programs began in March 2004. During the first year of operation, FGDM conferences were offered in 21 counties. By June 2005, evaluation of the process showed 1,646 conferences were held at various points in the life of a case. Early in the implementation process, comparisons were made between the living arrangements of children prior to the family's participation in a FGDM conference and their living arrangements after their participation in the conference. By August 2006, 4,166 conferences had been conducted in over 57 counties throughout the state.

Evaluation shows that following the use of FGDM conferences, foster care placements fell from 1,035 (54 percent) to 733 (38 percent) and relative placements increased from 550 (29 percent) to 850 (45 percent). By June 2006, more children whose families participated in at least one FGDM conference exited foster care (48 percent) compared to those who did not participate (33 percent). Although increased permanent placements resulted from these conferences for all children, these findings were especially pronounced for African American and Hispanic children for whom exits from foster care to permanent placements, historically, have been slower than those for Anglo children, thus showing a positive impact on Disproportionality.<sup>70</sup>

## **Family Focus Initiative**

Family Group Decision Making is one of the five program areas within the Family Focus division of DFPS. The Family Focus Initiative of Child Protective Services (CPS) was created in response to the passage of S. B. 6, 79th Texas Legislature, Regular Session, 2005. The law requires CPS to establish an initiative responsible for leading and monitoring the agency's cultural shift towards embracing families in all stages of their children's care while they are in the CPS system. The purpose of the Family Focus Initiative is to enhance the safety, permanency, and well being for children through the provision of direct and support services to their caretakers, whether biological or through affinity. The Family Focus Initiative is designed to address two primary needs: 1) to increase the parent's participation in service planning, and 2) to strengthen an extended family's ability to provide safe and permanent living arrangements within their kinship structure.

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<sup>70</sup> Disproportionality is overrepresentation of a particular race or ethnic group within the CPS system.



## **Relative and Other Designated Caregiver Program (aka Kinship Program)**

Effective March 2006, DFPS expanded the Relative and Other Designated Caregiver Program, also known as the Kinship Program. The Kinship Program provides: caregiver training and support groups, case management services, limited financial assistance for eligible caregivers, child care to eligible children, information, referral and assistance in applying for public assistance benefits, supportive family counseling services, and other support services.

## **Staff Training on Aging and Disability Issues**

HHSC directed DFPS 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 care services, and Title II of the ADA. In January 2005 the Protective Services Training Institute (PSTI) and the DFPS Professional Development Division (PDD) began to explore the need for further or enhanced training through Basic Skills Development (BSD) pre-service training, in-service training, or prescriptive trainings for field staff in these areas. As a result of this assessment PSTI is currently developing a course specific to APS on Domestic Violence as it relates to Persons with Disabilities. This course discusses the issues faced by a person with a disability and the relationship to their caregiver who is abusive.

## ***TEXAS DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES***

The Department of Assistive and Rehabilitative Services (DARS) administers programs that ensure Texas is a state where people with disabilities, and children who have developmental delays, enjoy the same opportunities as other Texans to live independent and productive lives. DARS administers programs that help Texans with disabilities find jobs through vocational rehabilitation, ensure that Texans with disabilities live independently in their communities and prepare children with disabilities and developmental delays to meet their educational goals.

## **Increase in number of Transition Vocational Rehabilitation Counselors**

DARS has increased the number of transition vocational rehabilitation counselors (TVRC) to one hundred. These counselors work in the public schools and communities to assist eligible students who have disabilities in developing a plan for independence once they graduate from high school. Most Transition Vocational Rehabilitation Counselors will be on campus all day. DARS was able to create these new transition counselor positions by redeploying existing staff from other positions. Fiscal year 2007 is the first full academic school year with all one hundred counselors on campus.

## **Institution to Community Coordination**

The Institution to Community Coordination (ICC) Program helps individuals who want to relocate from institutions to the community and who have employment goals by giving them access to coordination services. ICC is not direct supportive services from DARS, but a coordination of existing community supports and services that assist individuals in “navigating” through a service delivery system. ICC services are time-limited, focus on the coordination of the relocation process, and support the employment goal by providing services that allows individuals with significant disabilities to function independently in the community. This is considered a first step to achieving employment.

Through a pilot project implemented in the Dallas/Fort Worth area, DARS has determined that ICC relocation services is a needed service for those individuals in an institutional setting, who desire to move back to the community and obtain employment. ICC is a permanent component of the service array for the Division of Rehabilitation Services within DARS and became a statewide program on December 1, 2006.

## CHILDREN'S ISSUES

The Promoting Independence Plan (Plan) and Initiative have helped to bring attention to the number of children with disabilities residing in long-term care institutions. Significant policy and program initiatives continue to change the way the state approaches service delivery for children with disabilities and their families.

Texas has made significant progress in reducing the number of children institutionalized in large congregate care facilities. Many of the children have returned to birth families, transitioned to support families, or in some cases, transitioned to smaller settings such as group homes. The progress made to date is primarily due to the state's recognition that children should grow up in families and that institutionalization of children should be avoided if at all possible.

Through improved permanency planning, increased availability of waiver slots, dedicated waiver slots for children aging out of foster care, and the activities of the Family-based Alternatives project that provides opportunities for children who are institutionalized to transition to support families if their birth-families are not able to care for them, family life has become the reality for many children formerly institutionalized or at risk of institutionalization. All of these changes are helping to promote a system of supports and services that provide better opportunities for children and families.

While the number of children in large institutions has decreased, the total number of children in institutions continues to remain high because children continue to be referred or court committed to facilities. The Promoting Independence Advisory Committee (Committee) identified numerous barriers to a coordinated system of supports for children that still exist including: (1) lack of access to the appropriate services and supports as individuals age-out of children services; (2) the need for effective permanency planning that includes ongoing efforts to implement the plan; (3) the need to educate agency staff, service providers, legislators, and families of the importance of making family options available to children and the benefits to living in a family to children's development; and (4) funding limitations and lack of flexibility in the way funds are allocated.

Aware of the ongoing barriers and based on the Committee recommendations, HHSC made the following directives in this Plan:<sup>71</sup>

- ***If directed and/or funded by the Legislature, HHSC will develop and implement a Medicaid Buy-In program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as allowed in the Deficit Reduction Act of 2005.***

***If directed and/or funded by the Legislature, HHSC and DADS will continue initiatives to ensure funding is available for institutionalized children to have the opportunity to transition to families.***

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<sup>71</sup> See section on 2006 Promoting Independence Plan Implementation Directives – Children's Supports for more detailed information.

- *If directed and/or funded by the Legislature, DARS will fund additional transition specialist positions to more effectively facilitate meaningful transition from Independent School Districts' (ISD) secondary school system to appropriate adult supports and services.*
- *If directed and/or funded by the Legislature, DADS will increase funding for permanency planning activities.*

In addition, HHSC will continue to support all permanency planning efforts, the Family-based Alternatives program, the development of dedicated waiver slots to support children aging out of state programs and foster care, and ways to streamline the process in order to avoid unnecessary institutionalization and to help ensure that individuals and/or their legal representatives have all the information they need in order to make the best possible choices.

## HOUSING ISSUES

Affordable, accessible, integrated housing remains an integral part of successfully transitioning individuals from institutional care into the community. Individuals who are leaving nursing facilities or individuals who are in the targeted *Olmstead* populations under the Department of State Health Services' (DSHS) provisions must have a stable community residence. Given that many of the individuals are living on Supplemental Security Income (SSI), which is \$603 per month, financial assistance for housing is required. Housing issues were included as part of the Promoting Independence Initiative by Governor Rick Perry's Executive Order RP-13.<sup>72</sup>

The majority of the housing assistance comes through the United States Department of Housing and Urban Affairs' (HUD) HOME dollars, Tenant Based Rental Assistance (TBRA), and Section 8. This financial assistance is available through public housing authorities (the Section 8 - Housing Choice Voucher program), some local governments through the HOME program, and through the state HOME program.

Texas continues to use an allocation of *Project Access* vouchers made available by HUD in 2002 that supports *Olmstead*. These are Section 8 vouchers for the exclusive use of individuals who are leaving nursing facilities. The Health and Human Services Commission (HHSC), the Department of Aging and Disability Services (DADS), and the Texas Department of Housing and Community Affairs (TDHCA) continue to support the Housing Voucher Program (HVP) as the process to distribute these vouchers. Through HVP, more than 70 households have been assisted through an original allocation of 35 vouchers. This is due to the local public housing authorities in maintaining assistance to households and returning the previously used *Access* voucher to the state for re-allocation.

In addition to the *Access* program, the state HOME program has been used historically to provide rental assistance to people meeting *Olmstead* criteria. As of 2006, there are fewer than ten contractors providing more than \$2 million in assistance to this group. While a number of people are being assisted at this time, this resource will end within the next year and a renewed commitment is needed, if these individuals are to remain in the community. The Promoting Independence Committee (Committee) believes that it is important to get more community-based organizations to administer these funds.

One of the issues identified with HVP and TBRA is the coordination of the long-term services and supports process with the housing application. This still remains a relatively new area and there are concerns about TBRA contractor performance. TDHCA is committed to working with HHSC and DADS on this issue and has convened a workgroup in January 2007 to address all aspects of the HOME program. In addition, TDHCA, in its *2007 State Low Income Plan*, is dedicating \$4 million to be utilized exclusively by persons with disabilities and especially for those leaving institutions. These dedicated dollars would be used for the 2007 Home Investment Partnerships Program, Tenant-based Rental Assistance for Persons with Disabilities, and the Home Buyer Assistance and Owner Occupied Housing Assistance programs.

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<sup>72</sup> See Appendix A.

The Committee has identified barriers to obtaining affordable, accessible, integrated housing to include: the long waiting list for Section 8 vouchers; TDHCA having no control over local public housing authorities; existing architectural problems in public housing rental units; the manner in which HUD provides and sets priorities for housing assistance funding to states; and overall state housing funding for persons with disabilities. Solutions to these barriers would require advocates on a national level to continue working to change existing federal regulations to avoid discrimination of individuals with disabilities in the housing market who are accessing public housing made available through HUD programs. The Committee's Housing Workgroup continues to provide leadership in this area and is committed to work with all housing partners.

Aware of the ongoing barriers and based on the Committee recommendations, HHSC made the following directives in this Promoting Independence Plan:<sup>73</sup>

- ***HHSC will work with the Texas Department of Home and Community Affairs (TDHCA) and the Public Housing Authorities to increase the number of dedicated HOME (Section 8 and Tenant Based Rental Assistance - TBRA) funds for persons who are aging and/or have disabilities.***
- ***If directed and/or funded by the Legislature, HHSC will develop a program of local housing coordinators/navigators to assist individuals and the human services system to locate and develop housing resources.***
- ***HHSC will work with its operating agencies, TDHCA, and the Public Housing Authorities to develop a housing plan for persons with very low income and/or have disabilities.***

TDHCA has demonstrated a serious commitment to individuals with disabilities. HHSC will continue to work with TDHCA to resolve housing barriers and provide assistance so that both organizations are knowledgeable about each other's systems.

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<sup>73</sup> See section on 2006 Promoting Independence Plan Implementation Directives – Housing Initiatives for more detailed information.

## WORKFORCE ISSUES

The Health and Human Services Commission (HHSC) recognizes 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. Individuals with disabilities, providers, advocates, and state agencies recognize the need for well-paid, trained, caring human service workers. In order to ensure that an individual's transition from an institution to the community is successful, a highly skilled and trained workforce must exist. Workforce issues, and the Texas Workforce Commission (TWC), were included as part of the Promoting Independence Initiative by Governor Rick Perry's Executive Order RP-13.<sup>74</sup>

The Promoting Independence Advisory Committee (Committee) identified the following workforce concerns as barriers to providing quality care to individuals with disabilities:

- The shortage of direct services workers throughout the long-term services and supports system;
- The lack of provider rate increases during the last several years and the resulting low wages;
- Lack of benefits;
- 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 care programs; and
- The need to expand training opportunities for direct services workers.

The Committee is making workforce issues one of its top priorities in 2007.

There were a number of accomplishments regarding workforce issues that were made and/or are being made during the 2006-07 biennium. The Committee noted in its *2006 Stakeholder Report* its commendation to the Legislature for passing Senate Bill 566, 79<sup>th</sup> Legislature, Regular Session, 2005, which authorizes the *Medicaid Buy-In* program. Medicaid Buy-In allows individuals with disabilities to continue working and still remain eligible to receive certain Medicaid services.

Similarly, the Department of State Health Services (DSHS) is developing the Texas Demonstration to Maintain Independence and Employment (DMIE) project in Harris County under a \$19 million grant from the federal Centers for Medicare and Medicaid Services (CMS).<sup>75</sup>

The Department of Aging and Disability Services' (DADS) and HHSC received a technical assistance workforce grant from CMS. This grant will help DADS and HHSC explore issues and solutions regarding direct services and supports workers in the long-term services and supports system. DADS, HHSC, and TWC convened a workforce forum on November 13, 2006 with national and local experts to develop recommendations on how to prepare for the tremendous need of a stable, trained, and available long-term services and supports workforce.

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<sup>74</sup> See Appendix A.

<sup>75</sup> See section on Health and Human Services Agencies Biennial Report: Department of State Health Services: Targeted Projects for more information.

DADS is also participating in the *State Employment Leadership Network* (Network). This is a nationwide project to work on supportive employment outcomes for persons with intellectual and developmental disabilities. The Network works with participating states to promote collaborative learning and problem-solving in areas of: common service definitions, transition to work for children aging out of the school system, employment policies, quality employment training, expansion of integrated employment, and data collection.

The Committee has established a Workforce workgroup to identify issues regarding direct services and supports workers, provider stabilization, and barriers to employment for people with disabilities. Aware of the ongoing barriers and based on the Committee's recommendations, HHSC made the following directives in this Promoting Independence Plan:<sup>76</sup>

- ***If directed and/or funded by the Legislature, HHSC will work with DADS to increase non-governmental provider rates according to established methodologies, recognizing inflation factors.***
- ***If directed and/or funded by the Legislature, HHSC will work with DADS to fund the specialized nursing rate established by rule in 2003 for 1915(c) waiver programs.***
- ***If directed and/or funded by the Legislature, HHSC will work with DADS to equalize wage and benefits for non-governmental direct support staff with appropriate state employee pay grade (wage parity).***
- ***If directed and/or funded by the Legislature, HHSC will increase the number of levels available through the wage enhancement option, expand the enhancement option to all Medicaid attendant programs, and fund the ability of all long-term services and supports providers to participate in the attendant enhancement option to the highest level.***

HHSC is committed to working with TWC to continue to encourage local health and human service agencies to coordinate with local boards to identify workforce supports, resources, and strategies for individuals relocating into the community who desire to work; study “best practices” in recruitment, training and retention in the United States and disseminate results; promote partnerships between hospitals, clinics, higher education institutions, local boards, area businesses, health care academies, and faith-based community organizations to explore and promote the development of qualified caregivers and support staff.

The *High Growth Job Training Initiative* is designed to build partnerships and share information between the public workforce system and employers, high-growth industry leaders, business associations, educators, trainers, and community/technical colleges. HHSC and TWC will identify initiatives that may be replicated and other work incentives that address barriers contributing to the workforce shortages. Planning efforts may include visits to local boards funded by the Department of Labor to implement High Growth Initiatives, and explore small business ownership efforts and other self-employment options.

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<sup>76</sup> See section on 2006 Promoting Independence Plan Implementation Directives – Workforce and Provider Network Stabilization for more detailed information.



## GRANT SUPPORTED INNOVATIONS

### *REAL CHOICE SYSTEM CHANGE GRANTS*

In February 2001, President Bush announced his New Freedom Initiative, 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 aimed at building local infrastructure for effective and enduring improvements in community long-term support systems. Texas received five Real Choice grants over a four-year period for a total amount of \$3,405,111. All of the grants have to come to an end. The following is a status report on four of the grants that ended this year.<sup>77</sup>

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

This grant was initiated to help all individuals navigate the maze of long-term services in their communities, regardless of their age or type of disability. The concept utilized “system navigators”, whose first priority was to help a person or their family members cut through the red tape (across agencies and organizations) and access the benefits, services, and supports an individual needs, enabling that person to live and integrate into their own community. The demonstration 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 implemented a navigator system. The Department of Aging and Disability Services (DADS) conducted a Navigator Forum to discuss lessons learned in March 2006, and is using the information as it develops its Aging and Disability Resource Centers (ADRC)s that are being funded by a new Centers for Medicare and Medicaid Services (CMS) grant (see below for more information on the ADRC grant).

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

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

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<sup>77</sup> See section on Health and Human Services Agencies Biennial Report : Department of State Health Services: Targeted Projects for more information.

The project was successful and accomplished the following:

- Community-based Options Stakeholder trainings were held in every region of the state;
- Community Integration Transition Teams have been established in each region of the state;
- Solutions to systemic barriers to NF transitions were identified and developed; and
- A state-wide conference was held in April 2006.

DADS has committed to continue providing support to the Community Integration Transition Teams and will provide regional liaisons to the monthly team meetings.

### **Service Responsibility Option**

In 2003, DADS received a Real Choice Systems Change Grant, from CMS to add an alternative process for individuals to direct their own services, called the *Service Responsibility Option (SRO)*. The SRO 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. The project focuses on providing people with the information needed for them to make an informed choice regarding how much involvement they want to have in managing their attendant services. It also provides training for DADS staff and home health provider agency staff on how to talk with individuals about service management options and on how the SRO works.

Over the course of the SRO pilot in the Lubbock/Amarillo region and in Bexar County, two barriers to sustainability and statewide expansion emerged. The project needed a funding mechanism to provide the consumer the education and support necessary to be successful with self-direction as well as an entity to provide this time limited support. The original grant period concluded on September 30, 2006, however, DADS requested a one-year no cost extension to spend unexpended dollars.

DADS staff are working closely with the Health and Human Services Commission (HHSC) to calculate a rate for the SRO support. It is anticipated that Consumer Directed Services Agencies (CDSA) along with home health agencies will be offered the opportunity to provide this support. The individual would choose who they want to provide their SRO training and ongoing support. DADS plans to expand the SRO statewide, exclusively to those receiving Medicaid State Plan or Title XX personal assistance services, including the Medicaid managed care personal care services, in early 2007.

### **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. All activities have been conducted in partnership with a Quality Assurance and Quality Improvement Task Force that has met on a monthly or bi-monthly basis since December 2003. The task force is comprised of self-advocates and representatives of advocacy groups as well as public and private providers.

The project concluded September 30, 2006. The following major activities were conducted in calendar year 2006:

- Joined the National Core Indicators (co-sponsored by the Human Services Research Institute and the National Association of Directors of Developmental Disabilities Services) project and conducted approximately 2,000 face-to-face and 2,000 mail surveys of participants in DADS' Medicaid waiver and ICF/MR programs.
- Conducted a mail survey of children 17 years of age and younger in DADS waiver programs and all families in the Medically Dependent Children Program. The report was published August 2006.
- Published the "Measuring Quality Using Experience Surveys" report.

DADS will incorporate the information learned through this grant and will continue the work begun by this pilot.

In addition to the Real Choice Grants, the state has received the following:

### ***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 state was awarded an \$800,000 three-year grant that began in 2005.

The Aging and Disability Resource Centers funded by AoA and CMS 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. Bexar County is the pilot site for the first year. The second and third year will add two additional sites in Tarrant County and Central Texas (Bell, Coryell, Hamilton, Lampasas and Milam Counties). Activities will include: advocacy, assistance with obtaining public benefits, liaisoning among the stakeholders, benefits options counseling, and coordination with Medicaid program and financial eligibility staff. ADRC services will be available to persons who are older, persons with physical and cognitive disabilities, persons with intellectual and developmental disabilities, and their families and caregivers.

### ***ALZHEIMER'S DISEASE DEMONSTRATION GRANTS TO STATES (ADDGS) PROGRAM***

The Alzheimer's Disease Demonstration Grants to States (ADDGS) program is a grant through the 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 that began in 2006. 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 pilot site for 2007 and 2008 is the Harris County Area Agency on Aging.

## ***CENTER FOR MEDICARE AND MEDICAID SERVICES TECHNICAL ASSISTANCE WORKFORCE GRANT***

Texas was chosen to receive intensive technical assistance (TA) from CMS sponsored Direct Service Workforce Center over the course of the next year.

The TA will provide national experts to help identify ways to reduce turnover, enhance consumer-directed service options, and improve the professional status of direct service workers and personal attendants in the community. A major focus of this project will be to improve how individuals and providers are able to recruit, manage, train and retain direct service workers, i.e., attendants. Also, barriers to becoming an attendant and how to overcome these barriers will be identified and discussed. By improving the supply of and access to direct service workers, individuals will have more opportunities to choose consumer-directed options, which is a priority of CMS in this project.

As the State Medicaid Agency, the HHSC commissioner received the award and designated DADS to lead the project. DADS will use a partnership of consumers, attendants/direct services workers and their employers, community based organizations, educators and policymakers to plan and accomplish the project. DADS will use the expertise of existing advisory groups, primarily the Workforce subcommittee of the Promoting Independence Advisory Committee, in developing and implementing the project. DADS will ensure the project is coordinated with other state efforts to improve workforce retention and recruitment. DADS convened a workforce forum on

November 13, 2006 in conjunction with HHSC and the Texas Workforce Commission. Invited national and local experts helped elucidate major workforce issues, initiative and approaches which will be pursued during 2007.

## ***MENTAL HEALTH TRANSFORMATION GRANT***

The Substance Abuse and Mental Health Services Administration (SAMHSA) awarded Mental Health Transformation State Incentive Grants (MHT SIG) designed to assist states in transforming their mental health service systems to create a single effective, transparent, and easily navigated system for consumers. Texas and six other states were awarded these grants. These grants were awarded to the Chief Executive Offices and require states to engage in focused leadership activities of planning and building infrastructure across all agencies that provide, fund, administer, and purchase mental health services.

Governor Rick Perry designated the Department of State Health Services (DSHS) as the lead coordinating agency for the Texas MHT SIG. An interagency transformation work group (TWG), paralleling activities at the federal level, was formed to produce the main deliverables of the grant including a thorough statewide Needs Assessment, Resource Inventory, and a Comprehensive State Mental Health Plan. The Texas TWG, which is comprised of 13 state agencies, 4 consumer and family organizations/individuals representatives, 2 legislators, and a representative of the Governor's Office, signed a Memorandum of Understanding (MOU) reflecting their initial agreement of the Texas partners to engage in the intensive planning process required to carry out the deliverables of the grant and achieve this system-wide transformation effort. Six of the TWG members were mandatory partners.

This grant opportunity will assist DSHS, as the lead coordinating agency, in focusing its leadership efforts to facilitate and sustain fundamental system-wide changes necessary to achieve a transformed mental health system. Costs associated with facilitating, supporting, and sustaining a transformed state mental health system will include convening meetings with stakeholders, travel, technology development and enhancement (reconfiguring and enhancing/modernizing information systems), and dedicated staff committed to the transformation. The grant provides the capacity needed to begin the intensive planning and implementation process for achieving this system-wide transformation.

Grant funds in the amount of \$2,730,000 for the first year were made available to Texas. The grant program extends for up to 5 years, and the award period began October 1, 2005.

### ***DEMONSTRATION TO MAINTAIN INDEPENDENCE AND EMPLOYMENT***

Texas was awarded a Demonstration to Maintain Independence and Employment (DMIE) grant by CMS. DSHS is managing the DMIE project in Harris County with the \$18.6 million CMS grant and a \$7.5 million in-kind match from the Harris County Hospital District (HCHD). Texas DMIE will serve working people with behavioral health conditions who are receiving HCHD-sponsored health benefits. The project will provide an enhanced benefit package, including additional behavioral health services, care coordination, and employment supports to an intervention group. The three year project is designed to test whether providing the additional benefits will forestall or prevent loss of employment, prevent future dependence on federal assistance programs like Supplemental Security Income, improve quality of life and/or reduce health care costs.

## CONCLUSION

As in the original and revised Promoting Independence Plans, the Health and Human Services Commission (HHSC) is committed to a continuing relationship with its stakeholders. Through the ongoing enforcement of Senate Bill 367, 77<sup>th</sup> Legislature, Regular Session, 2001, this relationship has been formalized. HHSC Executive Commissioner Hawkins will continue to determine the number of members of the Promoting Independence Advisory Committee (Committee) and appoint such members as are representative of the appropriate health and human services agencies (HHSAs), individuals and family advocacy groups, related workgroups, and service providers.

The Executive Commissioner continues to designate the presiding officer of the Committee, and each member serves at the will of the Executive Commissioner. With the support of the Department of Aging and Disability Services, the Committee will continue to study and make recommendations to HHSC on the development of the comprehensive, effectively working plan in order to ensure appropriate care settings for persons with disabilities and advise the commission and appropriate HHSAs on the implementation of the plan. Not later than September 1 of each year the Committee shall submit a report to the Executive Commissioner on its findings and recommendations related to: (1) implementing the Promoting Independence Plan; (2) identifying and assessing 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; (3) assisting the HHSAs in determining the availability of community care and support options related to individuals desirous of transferring into the community; and (4) identifying, addressing, and monitoring barriers to implementation of the plan including identifying funding options.<sup>78</sup>

On December 1, of each even numbered year, HHSC will use the information gleaned from the Committee meetings and annual Reports, agency reports and information, and continued public comment in order to revise the Texas Promoting Independence Plan. This biennial revision allows for the state's efforts to stay vibrant and effective in meeting the changing needs of individuals with disabilities.

HHSC would like to thank the Governor's Office and the Legislature for their ongoing commitment to the Initiative. Their foresight and willingness to support long-term services and supports systems change has made Texas' response to the *Olmstead* decision one of the leaders in the nation.

HHSC would like to thank all members of the Committee and state agency staff, who have dedicated their time, resources, knowledge, abilities, and work in the development of this revised Promoting Independence Plan and the Promoting Independence Initiative. The Commission would also like to thank those members of the public who responded to its invitation for comment at each Committee meeting.

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<sup>78</sup> SB 367, 77<sup>th</sup> Legislature, Regular Session, 2001, Subchapter B, Chapter 531, Government Code.

HHSC acknowledges the significant work that has been accomplished since the original Plan in January 2001. It also recognizes that the state should continue its' efforts related to providing services to individuals in the most integrated setting.

The Health and Human Services Enterprise will continue to welcome the opportunity to further its work with individuals, advocates, providers, and agencies to improve the system of services and supports for individuals with disabilities. With everyone working towards the same goal, we will continue to make a difference and make the principles of self-determination a reality.

# **APPENDICES**



**APPENDIX A**  
**GOVERNORS' EXECUTIVE ORDERS**

**George W. Bush: GWB 99-2**  
**Rick Perry: RP-13**

**[Click here for GWB 99-2 in HTML format](#)**

THE STATE OF TEXAS EXECUTIVE DEPARTMENT, OFFICE OF THE GOVERNOR-  
AUSTIN, TEXAS EXECUTIVE ORDER GWB 99-2

RELATING TO COMMUNITY-BASED ALTERNATIVES FOR PEOPLE WITH  
DISABILITIES

WHEREAS, The State of Texas Is committed to providing community-based alternatives for people with disabilities and recognizes that such services advance the best interests of all Texans and

WHEREAS, Texas seeks to ensure that Texas' community-based programs effectively foster independence and acceptance of people with disabilities; and

WHEREAS, programs such as Community Based Alternatives and Home and Community Services provide the opportunity for people to live productive lives in their home communities; and

WHEREAS, as Governor, I have been a consistent advocate for increasing funds to expand community-based services for the elderly and people with disabilities and, working with the Legislature, have increased funding for such programs by more than \$1.7 billion, a 72 percent increase, since taking office; and

WHEREAS, the 76th Legislature has provided funding to allow an additional 15,000 Texans to live outside of institutional settings through our Medicaid waiver and non-waiver community services; and

WHEREAS, Texas must build upon its success and undertake a broader review of our programs for people with disabilities and ensure services offered are in the most appropriate setting.

NOW, THEREFORE, I, GEORGE W. BUSH, GOVERNOR OF TEXAS, by virtue of the power vested in me, do hereby order the following directives:

1. The Texas Health and Human Services Commission (HHSC) shall conduct a comprehensive review of all services and support systems available to people with disabilities in Texas. This review shall analyze the availability, application, and efficacy of existing community-based alternative for people with disabilities. The review shall focus on identifying affected populations, improving the flow of information about supports in the community, and removing barriers that impede opportunities for community placement. The review shall examine these issues in light of the recent United States Supreme Court decision in *Olmstead v. Zimring*.
2. HHSC shall ensure the involvement of consumers, advocates, providers and relevant agency representatives in this review.
3. HHSC shall submit a comprehensive written report of its findings to the Governor, the Lieutenant Governor, the Speaker of the House, and the appropriate committees of the 77th Legislature no later than January 9, 2001. The report will include specific recommendations on

how Texas can improve its community-based programs for people with disabilities by legislative or administrative action.

4. All affected agencies and other public entities shall cooperate fully with HHSC's research, analysis, and production of the report. This report should be made available electronically.

5. As opportunities for system improvements are identified, HHSC shall use its statutory authority to effect appropriate changes.

George W. Bush, Governor of Texas

Filed: September 28, 1999

## **Executive Order RP13 - April 18, 2002**

**by the  
GOVERNOR OF THE STATE OF TEXAS  
Executive Department  
Austin, Texas  
April 18, 2002**

**WHEREAS**, The State of Texas is committed to providing community-based alternatives for people with disabilities and recognizes that such services and supports advance the best interests of all Texans; and

**WHEREAS**, it is imperative that consumers and their families have a choice from among the broadest range of supports to most effectively meet their needs in their homes, community settings, state facilities or other residential settings; and

**WHEREAS**, as Governor, I am committed to ensuring that people with disabilities have the opportunity to enjoy full lives of independence, productivity and self-determination; and

**WHEREAS**, working with the Texas Legislature last session as Governor, I signed legislation totaling \$101.5 million dollars in general revenue to expand community waiver services; and

**WHEREAS**, also last session, I signed legislation promoting independence for people with disabilities and directing agencies to redesign service delivery to better support people with disabilities; and

**WHEREAS**, programs such as Community Based Alternatives, Home and Community-based Services, and other community support programs provide opportunities for people to live productive lives in their home communities; and

**WHEREAS**, accessible, affordable and integrated housing is an integral component of independence for people with disabilities; and

**WHEREAS**, Texas recognizes the importance of keeping children in families, regardless of a child's disability, and support services allow families to care for their children in home environments;

**NOW, THEREFORE**, I, Rick Perry, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following:

**Review of State Policy.** The Texas Health and Human Services Commission ("HHSC") shall review and amend state policies that impede moving children and adults from institutions when the individual desires the move, when the state's treatment professionals determine that such placement is appropriate, and when such placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others who are receiving state-supported disability services.

**Promoting Independence Plan.** The Health and Human Services Commission shall ensure the Promoting Independence Plan is a comprehensive and effective working plan and thorough guide for increasing community services. HHSC shall regularly update the plan and shall evaluate and report on its implementation.

In the Promoting Independence Plan, HHSC shall report on the status of community-based services. In the plan, HHSC shall:

1. update the analysis of the availability of community-based services as a part of the continuum of care;
2. explore ways to increase the community care workforce;

3. promote the safety and integration of people receiving services in the community; and
4. review options to expand the availability of affordable, accessible and integrated housing.

Housing. The Health and Human Services Commission shall incorporate the efforts of the Texas Department of Housing and Community Affairs ("TDHCA") to assure accessible, affordable, and integrated housing in the recommendations of the Texas Promoting Independence Plan.

The Texas Department of Housing and Community Affairs shall provide in-house training of key staff on disability issues and technical assistance to local public housing authorities in order to prioritize accessible, affordable, and integrated housing for people with disabilities.

The Texas Department of Housing and Community Affairs and HHSC shall maximize federal funds for accessible, affordable, and integrated housing for people with disabilities. These agencies, along with appropriate health and human services agencies, shall identify, within existing resources, innovative funding mechanisms to develop additional housing assistance for people with disabilities.

Employment. The Health and Human Services Commission shall direct the Texas Rehabilitation Commission and the Texas Commission for the Blind to explore ways to employ people with disabilities as attendants and review agency policies so they promote the independence of people with disabilities in community settings.

The Health and Human Services Commission shall coordinate efforts with the Texas Workforce Commission to increase the pool of available community-based service workers and to promote the new franchise tax exemption for employers who hire certain people with disabilities.

Families. The Health and Human Services Commission shall work with health and human services agencies to ensure that permanency planning for children results in children receiving support services in the community when such a placement is determined to be desirable, appropriate, and services are available.

The Health and Human Services Commission shall move forward with a pilot to develop and implement a system of family-based options to expand the continuum of care for families of children with disabilities.

Selected Essential Services Waiver. Dependent on its feasibility, HHSC shall direct the Texas Department of Mental Health and Mental Retardation to implement a selected essential services waiver, using existing general revenue, in order to provide community services for people who are waiting for the Home and Community-based Services waiver.

Submission of Plan. The Health and Human Services Commission shall submit the updated Texas Promoting Independence Plan to the Governor, the Lieutenant Governor, the Speaker of the House, and the appropriate legislative committees no later than December 1st each even numbered year, beginning with December 1, 2002.

All affected agencies and other public entities shall cooperate fully with the Health and Human Services Commission during the research, analysis, and production of this plan. The plan should be made available electronically.

This executive order complements GWB 99-2 and supersedes all previous executive orders on community-based alternatives for people with disabilities. This order shall remain in effect until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

Given under my hand this the  
18th day of April, 2002.

RICK PERRY (signature)  
Governor

GWYNN SHEA (signature)  
Secretary of State

**APPENDIX B**  
**CHRONOLOGY: AGENCY ACCOMPLISHMENTS**  
**1999-2006**

**Texas Promoting Independence Initiative  
Accomplishments  
1999 - 2006**

House Bill (H.B.) 2292, 78<sup>th</sup> Legislature, Regular Session, 2003 reorganized the health and human services enterprise from twelve state agencies to five. During calendar year 2004 the following agencies became effective:

- February 1, 2004: the Texas Department of Family and Protective Services (DFPS)
- March 1, 2004: the Texas Department of Assistive and Rehabilitative Services (DARS)
- September 1, 2004: the Texas Department of Aging and Disability Services (DADS)
- September 1, 2004: the Texas Department of State Health Services (DSHS)

The Health and Human Services Commission (HHSC) continues in its role as both an operating agency and having oversight responsibility for the health and human services enterprise.

The previous operating agencies that were functional prior to calendar year 2004 and contributed to the Promoting Independence Initiative included:

Legacy Texas Department of Mental Health and Mental Retardation (TDMHMR)

Legacy Texas Department of Human Services (TDHS)

Legacy Texas Department of Protective and Regulatory Services (TDPRS)

Legacy Texas Rehabilitation Commission (TRC)

Legacy Texas Department on Aging (TDoA)

In addition to the health and human services enterprise agencies, the following state agencies have also made major contributions to the Initiative:

Texas Department of Housing and Community Affairs (TDHCA)

Texas Workforce Commission (TWC)

**The following information documents primary legislation and agency accomplishments related to the Texas Promoting Independence Initiative in chronological order.**

**June 1999**

The *Olmstead* Decision: The United States Supreme Court issues a decision in *Olmstead vs. L.C.* that upholds Title II of the Americans with Disabilities Act in requiring a public entity to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities."



## **September 1999**

### **Office of the Governor**

Governor George W. Bush issues Executive Order GWB 99-2, Relating to Community-Based Alternatives for People with Disabilities, requiring HHSC to conduct a comprehensive review of all services and support systems available to people with disabilities in Texas. The review must analyze the availability, application, and efficacy of existing community-based alternatives to institutional living and focus on identifying the affected populations, improving the flow of information about supports in the community, and removing barriers that impede opportunities for community placement. HHSC also must submit a comprehensive written report to the Governor and appropriate members of the Legislature no later than January 9, 2001.

### **HHSC**

As directed by Governor Bush, HHSC forms the Promoting Independence Advisory Board. The advisory board members include consumer and family advocacy groups, providers of services, related workgroups, and representatives of health and human service agencies. During FY 1999 and FY 2000, the advisory board met at least quarterly and assisted HHSC in the development of the Promoting Independence Plan.

## **October 1999**

### **TDPRS**

TDPRS and TDHS explore possible dual licensing of foster homes to allow children who turn 18 years of age while under Child Protective Services (CPS) conservatorship and are placed under Adult Protective Services (APS) guardianship to remain in foster homes.

CPS inaugurates the Children with Disabilities Project with a state office program specialist and project staff in Region 1 to assist CPS staff in finding placements and resources for children with disabilities and in learning about medical and physical conditions of children with disabilities.

## **March 2000**

### **TDMHMR**

TDMHMR develops the Living Options instrument for use by a state mental retardation facility (state MR facility) to assist a resident, family members, and staff evaluate the resident's living arrangements. TDMHMR directs the 13 state MR facilities to use the instrument with

each resident. A similar instrument is developed for use by intermediate care facilities for persons with mental retardation (ICFs/MR) other than state MR facilities.

## **August 2000**

### **TDMHMR**

In coordination with TDHS, TDMHMR provides training on the ICF/MR Living Options process for ICFs/MR other than state MR facilities at annual Medicaid conference.

TDMHMR launches Promoting Independence (PI) website with information on mental retardation programs and services, instructions on determining "designated" Mental Retardation Authority (MRA), program eligibility requirements, ICF/MR Program vacancy information, and services provided through other state agencies.

## **December 2000**

### **TDMHMR**

Effective date of TDMHMR rules requiring Living Options process for ICFs/MR other than state MR facilities.

### **TDHS**

TDHS implements the Long Term Care Options Notification Campaign with notification letters informing residents of nursing facilities who receive Medicaid and Supplemental Security Income benefits about the long term care options available through the agency.

TDHS implements a process to inform all new community care applicants about long term care options at the time of application.

## **January 2001**

### **HHSC**

HHSC publishes the initial Texas Promoting Independence Plan.

### **TDMHMR**

TDMHMR rules requiring Living Options process for state MR facilities, which had been following the process since the previous March under a Central Office directive, become effective.

## **February 2001**

### **TDPRS**

CPS directs regional staff to place children with disabilities on appropriate Medicaid waiver interest/waiting lists.

## **May 2001**

### **TDHS**

In coordination with TDMHMR, TDHS incorporates review of the Living Options process into annual survey for ICFs/MR other than state MR facilities.

### **TDPRS**

APS directs guardianship staff to ensure placement of all adult wards in community settings or on waiting lists for Medicaid waiver programs, unless the state office approves an institutional setting as more appropriate for meeting a ward's needs.

CPS requires regional staff to obtain approval from the CPS state office director prior to placement of a child in TDPRS conservatorship in a state MR facility, institution for persons with mental retardation, or nursing home. (In November 2001, ICFs/MR were added to the list.)

## **June 2001**

### **TDPRS**

APS conducts training for guardianship staff concerning promoting independence, disabilities, community placements and least restrictive setting provisions of Senate Bills 367 and 368, 77th Legislature, Regular Session, 2001.

## **August 2001**

### **HHSC**

- HHSC distributes "Permanency Planning: A Guide for Parents and Families on Community and Family-Based Options."

### **TDMHMR**

TDMHMR develops CARE report for use by MRAs that lists individuals residing in state MR facilities for whom alternative living arrangements have been recommended.

TDMHMR develops CARE report for use by MRAs that is updated weekly and lists individuals residing in large community ICFs/MR whose names are on the HCS waiting list.

## **TDPRS**

- CPS initiates a pilot project to provide Level of CARE (LOC) 5 and 6 services to CPS children in a community setting in a specialized foster home with support services.

## **TDHS**

TDHS revises information materials for residents of nursing facilities and new applicants for community based options to address a resident's eligibility (under legacy TDHS Rider 37) to by-pass community care interest lists.

## **September 2001**

### **Legislative**

- Senate Bill 367, 77th Legislature, Regular Session, 2001, requires HHSC and appropriate health and human services agencies to implement a comprehensive, effective working plan for a system of services and support that fosters independence and productivity for persons with disabilities and provides meaningful opportunities for them to live in the most integrated setting. The bill also established the Interagency Task Force on Ensuring Appropriate Care Settings for Persons with Disabilities. The bill further required that HHSC submit an updated Promoting Independence Plan no later than December 1st of each even-numbered year to the governor and Legislature.
- Senate Bill 368, 77th Legislature, Regular Session, 2001, requires agencies to consider the placement of an individual in an institution temporary if the individual is under 22 years of age and has a developmental disability, and to ensure permanency planning for each individual under 22 years of age who resides in an institution. The legislation further requires agencies to develop uniform procedures for conducting permanency planning and to place the name of each individual under 22 years of age who resides in an institution on the interest lists for the appropriate Medicaid waiver programs. In addition, agencies are required to review the individual's placement every six months as long as the individual is under 22 years of age and resides in an institution. The agencies also are directed to consider family-based alternatives to institutional placement.
- TDHS Appropriations Rider 37, 77th Legislature, Regular Session, 2001, states: "Promoting Independence: 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."

## **October 2001**

### **HHSC**

- HHSC coordinates the development and implementation of uniform standards for permanency planning for use by TDPRS, TDMHMR, and TDHS.

## **January 2002**

### **HHSC**

- HHSC receives a grant from the Texas Council for Developmental Disabilities to provide permanency planning training.

### **TDHS**

- TDHS contracts with Texas Community Solutions to conduct permanency planning for individuals under 22 years of age residing in nursing facilities.
- In coordination with TDMHMR, TDHS incorporates review of the Living Options process into annual survey of state MR facilities.

## **February 2002**

### **HHSC**

- HHSC releases a request for proposals to establish a family-based alternatives project in the Central Texas region.

### **TDMHMR**

- TDMHMR changes CARE to identify persons who have three admissions to a state mental health facility (state MH facility) within 180 calendar days. Upon a person's third admission, the state MH facility and the appropriate mental health authority (MHA) must ensure that the person is assessed for intensive community services upon discharge (e.g., Active Community Treatment (ACT)). A monthly report is generated for review by State Mental Health Facilities staff in Central Office and mental health authority directors during quarterly meetings. Central Office staff discusses these reports at the quarterly meetings of the MH Directors' Consortium.

## **March 2002**

### **HHSC**

- HHSC coordinates the development and implementation of an electronic submission and review system of admissions to institutions of individuals under 22 years of age.

## **TDMHMR**

- Revisions to TDMHMR rules governing the Living Options process for state MR facilities become effective.
- TDMHMR achieves closure for original referral list of 409 individuals in State MR facilities.

## **April 2002**

### **Legislative**

- Governor Rick Perry issues Executive Order RP-13, Relating to Community-Based Alternatives for People with Disabilities, which highlights the areas of housing, employment, children's services, and community waiver services. The order includes coordination with Texas Department of Housing and Community Affairs (TDHCA), Texas Rehabilitation Commission (TRC), Texas Commission for the Blind (TCB), and Texas Workforce Commission (TWC). As a result, HHSC expands the S.B. 367 Task Force to include representatives from TDHCA, TRC and TWC.

## **TDPRS**

- TDPRS changes Child and Adult Protective System (CAPS) automation program to facilitate identification and reporting on children with diagnosed developmental disabilities.

## **May 2002**

### **HHSC**

- HHSC, TDHS and TDHCA enter into an a memorandum of understanding (MOU) implementing a pilot program to coordinate the distribution of 35 Housing and Urban Development (HUD) Project Access Housing vouchers received by TDHCA.
- HHSC awards the family-based alternatives contract to Every Child Inc.  
TDHS
- Effective May 31, 2002 through November 30, 2003, TDHS contracts for community awareness and relocation activities at five pilot sites to transition individuals from nursing facilities. As a result, 451 individuals are identified for assessment for relocation, and as of November 30, 2003, 130 individuals have moved from nursing facilities.

## **TDPRS**

- TDPRS signs MOU concerning the S.B. 367 pilot project developed by TDHS, TDMHMR, and TDPRS.

## **June 2002**

### **TDPRS**

- CPS directs staff to identify children for referral to Every Child, Inc., holder of the family-based alternatives contract with HHSC.

### **TDoA**

- The Texas Department on Aging (TDoA) ombudsman program (consisting of 28 local programs and the state office) conducted the first Promoting Independence training for staff ombudsmen and one combined training for ombudsmen, benefit counselors, and case managers.
- Local ombudsman programs begin assisting state and private agencies to coordinate services to assist individuals in transitioning from nursing homes to community settings.

### **TRC**

- TRC forms Independence Initiatives Workgroup to identify issues related to the *Olmstead* decision and subsequent federal and state initiatives that impact how the agency serves people with disabilities and to make recommendations related to those issues.

### **TDHS**

- As a result of the Housing MOU, TDHS implemented the Housing Voucher Program (HVP). TDHS created a HVP interest list on potentially eligible applicants for housing vouchers to refer them to TDHCA.
- Implemented the Transition to Life in the Community Grants (TLC) at a statewide level. TLC grants allowed a one-time assistance of up to \$2,500 to nursing facility residents who are re-establishing a community residence.

## **July 2002**

### **TRC**

- TRC informs field staff of training and employment opportunities for individuals with disabilities for whom attendant care may be an appropriate employment goal.

## **September 2002**

### **HHSC**

- HHSC receives a \$1.3 million Real Choice System Change Grant from the Centers for Medicare and Medicaid Services (CMS) to test a "System Navigator" function to improve access to long term care services for individuals with disabilities.

## **TDMHMR**

- State MR facilities operated by TDMHMR implement a self-assessment to review the quality of the Living Options process.

## **TDPRS**

- TDPRS begins using an ACCESS database to collect CPS and APS data on permanency planning to be reported to HHSC. This process also is to be used to document agency and HHSC approval for extensions of temporary placements in institutions for children with developmental disabilities who are in CPS conservatorship and for individuals who are 18-22 years of age who are in APS guardianship.

## **TRC**

- TRC determines which recommendations of the Independence Initiatives Workgroup and the S.B. 367 Interagency Task Force can be implemented.

## **October 2002**

## **HHSC**

- HHSC publishes the first Senate Bill 367 Task Force report.

## **TDMHMR**

- Using new funding allocated for the FY 2002-03 biennium, TDMHMR completes the last enrollment of all 259 individuals from the waiting list into its Medicaid waiver programs.
- Using new funding for the FY 2002-03 biennium, TDMHMR completes the last enrollment of all 135 individuals who resided in large community ICFs/MR into its Medicaid waiver programs.

## **TDPRS**

- CPS establishes developmental disability (DD) specialist positions in each of the 11 regions. The DD specialists are charged with learning about CPS children with developmental disabilities in their regions and appropriate local resources. They also are to develop contacts with appropriate agencies and to assist CPS staff with information and referrals concerning developmental disability issues.
- CPS establishes educational specialist positions in each of the 11 regions to ensure that children in CPS conservatorship who are in out-of-home care receive appropriate educational services. They assist particularly with special education issues.



## **TRC**

- TRC begins work with the State Independent Living Council, Texas Independent Living Partnership, and Regional Independent Living Training Council to provide relocation training opportunities for Centers for Independent Living staff. This work is ongoing.
- TRC begins collaborative work with the State Independent Living Council to redirect grant funds to address independent living through an RFP process. This work is ongoing.

## **December 2002**

### **HHSC**

- HHSC publishes the revised Texas Promoting Independence Plan.
- HHSC submits the first legislative report on permanency planning.

### **TDPRS**

- TDPRS and HHSC begin the Advancing Residential Childcare (ARC) Project dedicated to evaluating and improving the Texas foster care system. The project is projected to be completed in three to five years and will look at the CPS foster care system from different perspectives to ensure that the agency is providing quality, cost efficient care. The project will evaluate how the agency contracts for out-of-home care, as well as how best to license caregivers. The project also will study methods for streamlining the monitoring of out-of-home care, the development of best practices, building resources in underserved areas, and the use of outcomes to improve the system of care.
- TDPRS works with TDHS to change the TDHS rules so that CPS children at LOC 2 or higher can qualify for a Medicaid waiver.

## **TRC**

- TRC provides intranet materials to inform and assist field staff as they work with individuals relocating from institutions to the community.

## **January 2003**

### **TDMHMR**

- TDMHMR's MOU with TDHS becomes effective and will ensure coordination of services for individuals in nursing facilities who meet the *Olmstead* population criteria and need mental retardation or mental health services.

### **TDPRS**

- CPS incorporates into its handbook a process for obtaining regional and state office approvals for placement of children in nursing homes, community ICFs/MR, state MR

facilities, and TDPRS licensed institutions for persons with mental retardation.

#### **TRC**

- TRC supports, through active involvement, development of the Attendant Network Project funded by the Texas Council for Developmental Disabilities. The project trains individuals with disabilities to provide personal attendant services and maintains a web based attendant registry, as required by Governor Perry's Executive Order RP-13.
- TRC examines its rate structure to identify incentives to employ individuals in supported employment and integrated settings consistent with their strengths and abilities.
- TRC confirms that its rate structure is not biased toward providing services within a sheltered environment.

### **March 2003**

#### **TDMHMR**

- TDMHMR identifies contact persons at most community MHMRs who will meet with TDHS regional staff to assess and secure services for residents of nursing facilities who have a mental illness and who choose to transition for inclusion in the Resiliency and Disease Management service model. The contact list is provided to TDHS and Advocacy, Inc.

### **April 2003**

#### **TDPRS**

- TDPRS coordinates with TDHS and TDMHMR to access wrap-around services that would allow children who have aged out of CPS conservatorship and are under APS guardianship to remain in foster homes.

#### **TWC**

- TWC representative joins the S.B. 367 Task Force.

### **May 2003**

#### **TDPRS**

- The TDPRS board approves adoption by rule of the MOU concerning the S.B. 367 pilot project (as required by S.B. 367), with an effective date of June 12, 2003.

#### **TRC**

- TRC revises agency brochure to add information about supports for individuals with disabilities moving from nursing homes and other institutions to community-based settings.
- TRC initiates contact with other assistive technology programs and works with the Texas Center for Disability Studies at The University of Texas at Austin to update its web based assistive technology funding database. This database could be an important resource for field

staff in the location of comparable benefits as they work with individuals moving from institutions to the community.

## **June 2003**

### **TRC**

- TRC reviews all Rehabilitation Services Manual Policies to ensure they support independence in community settings as required by Governor Perry's Executive Order RP-13.
- TRC includes Independence Initiatives issues in the initial development stages of the TRC 2005-2009 Strategic Plan.
- As recommended by the TRC Independence Initiatives Workgroup, TRC works with state leadership through the FY 2004-05 budgeting process to reduce outcome expectations, due to economic conditions affecting employment, as well as increased consumer need for multiple services. The Rehabilitation Services Key Performance measure for consumers rehabilitated and employed is reduced.

## **July 2003**

### **TRC**

- TRC continues to expand the capabilities of the Rehabilitation Technology Lab through the purchase of new equipment.

## **August 2003**

### **TDHS**

- As of August 31, 2003, 2,022 individuals transitioned to the community under legacy TDHS Rider 37.

### **TDPRS**

- TDPRS Board approves changing the six-tier Level of Care (LOC) system to a four-tier service level system (Basic, Moderate, Specialized, and Intense levels), effective September 1, 2003. Former LOCs 1 and 2 become Basic; LOC 3 and part of LOC 4 become Moderate; Part of LOC 4 and LOC 5 become Specialized; and LOC 6 becomes Intense. A rate structure is approved to support the new levels. A rate for family placements at the Intense Level was not set at this time. Efforts are initiated to ensure integration of developmental disability and special health care needs in the new service level system.

### **TDHCA**

- TDHCA approves \$4 million to be set aside specifically to assist individuals affected by the *Olmstead* Decision and publishes a Notice of Funding Availability (NOFA).

## September 2003

### Legislative

- House Bill 2292, 78th Legislature, Regular Session, 2003, required many changes to the health and human services system. One requirement abolishes most advisory committees. The HHSC Executive Commissioner exempts the S.B. 367 Task Force from abolition and redesignates it as the Promoting Independence Advisory Committee (PIAC).
- HHSC Appropriations Rider 13(c) provides for exceptions to the limitations on transfers, which allows the HHSC Executive Commissioner to transfer funds to a number of programs including, but not limited to, Promoting Independence, Family-Based Alternatives, Community Resources Coordination Group (CRCG), and Texas Integrated Funding Initiative (TIFI).
- TDHS Appropriations Rider 28, 78th Legislature, Regular Session, 2003, states: "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."
- TDHS Appropriations Rider 37, 78th Legislature, Regular Session, 2003, states: "Clients utilizing TDHS Rider 28 shall remain funded separately through transfers from the Nursing Facility strategy, and those slots shall not count against the total appropriated community care slots. TDHS Rider 28 funding through the Nursing Facility strategy shall be maintained for those clients as long as the individual client remains in the transferred slot. When a TDHS Rider 28 client leaves a waiver program, any remaining funding for the biennium shall remain in the Nursing Facility strategy."

### HHSC

- HHSC receives a \$93,000 Real Choice Systems Change Grant from CMS to determine the feasibility of and the most appropriate plan for using a 1915(c) Medicaid waiver to provide community-based treatment alternatives for children with severe emotional disturbances.

### TDMHMR

- TDMHMR receives a \$500,000 Real Choice Systems Change Grant from CMS to redesign and improve the quality assurance and quality improvement processes in its Medicaid waiver programs for individuals with mental retardation.  
TDHS.
- The Center for Social Work Research (CSWR) at the University of Texas at Austin, under contract with TDHS, completes a process evaluation for the one-year pilot (June 1, 2002 through May 31, 2003) of the Community Awareness and Relocation Services (CARS) project. After review and approval by TDHS and HHSC, the evaluation is distributed to evaluation participants and other interested stakeholders in January 2004.

- TDHS receives two Real Choice Systems Change grants from CMS. One grant for "Community Integrated Personal Assistance Services" in the amount of \$599,763 will conduct a research and demonstration project to further extend support systems to individuals interested in selecting, training, and managing their own attendants. The second grant for "Money Follows the Person" in the amount of \$730,442 will assist in establishing local service coordination workgroups statewide.

## **TDPRS**

- TDPRS replaces the Child and Adult Protective System (CAPS) with the Information Management Protecting Adults and Children in Texas (IMPACT ), a new web-based software application. IMPACT improves documentation of CPS children's characteristics and completion of CPS family and children's service plans. It also improves documentation of developmental disability and placement information for APS individuals and completion of service plans. In addition, IMPACT includes changes from the six-tier Level of Care (LOC) system to the four-tier service level system (Basic, Moderate, Specialized, and Intense levels) for CPS children.
- TDPRS changes the LOC 5 and 6 Pilot Project to the Intensive Foster Family Pilot Project and focuses on placing some CPS children at the Intense Level in family homes. TDPRS contracts with Alliance Adolescent and Children Services, a child-placement agency previously known as Texas Mentor Clinical Care, for this service.

## **TDoA**

- TDoA's ombudsman program (consisting of 28 local programs and the state office) conducts further Promoting Independence training for staff ombudsmen and one combined training for ombudsmen, benefit counselors, and case managers.

## **October 2003**

### **HHSC**

- HHSC, TDMHMR, TDHS, and TDPRS coordinate the development of a standardized permanency-planning tool for use by each agency.
- HHSC Executive Commissioner, with the approval of the Legislative Budget Board, transfers \$1.5 million to fund Promoting Independence activities, per Rider 13 (c).

### **TDMHMR**

- TDMHMR adds mental health information to the Promoting Independence page of the agency's website.

## **TRC**

- TRC launches a Relocation Services section in the intranet-based Counselor's Desk Reference.
- TRC clarifies the personal attendant services policy regarding support of individuals relocating to the community.

## **November 2003**

### **HHSC**

- HHSC publishes the second Senate Bill 367 Task Force Report.

### **TDMHMR**

- Mental health rules become effective. These rules address:
  1. requirements of HHSC rules at §351.15 to ensure that individuals in state mental health facilities (state MH facilities) receive information about alternative services and supports prior to admission to nursing facilities; and
  2. service needs of individuals with three or more admissions to a state MH facility within 180 days.
- Of the original 16 persons in state MH facilities over one year and considered ready for discharge, only three remain due to the need for continued hospitalization.

### **TDHS**

- TDHS announces that 642 permanency plans have been completed for individuals under 22 years of age who reside in nursing facilities and that 62 individuals have been discharged. TDHS assumes permanency planning activities for individuals under 22 years of age who reside in nursing homes

## **TRC**

- TRC initiates development of an "Institution to Community Coordination" service for individuals eligible for vocational rehabilitation services who wish to live and work in the community.

## **December 2003**

### **TDHS**

- TDHS announces that 857 individuals have transitioned to community settings from nursing facilities under TDHS Rider 28, 78th Legislature, Regular Session, 2003.

- TDHS announces that 84 individuals have been referred to TDHCA for a housing voucher application and 49 have been approved.

### **TDoA**

- TDoA's State Ombudsman staff assist the Urban Institute Research Project by providing state level statistics on people relocating from nursing facilities and linkage to local Area Agencies on Aging (AAA's) ombudsman programs for continued research.

### **January 2004**

#### **TDPRS**

- TDPRS revises agency rules and policy regarding permanency planning to reflect the definition of permanency planning in the Texas Government Code, §531.151.
- TDPRS Board approves a family rate for the Intense Level of Service that allows CPS children with intense service needs to be served in a family setting, if appropriate and if such family placements are available through a child-placement agency.

#### **TDHCA**

- TDHCA completes approval of all 35 Project Access Housing vouchers. Over 25 individuals have moved into housing of their choice. TDCHA has been able to "recycle" several of the original 35 vouchers due to withdrawals. Additionally, the number of vouchers in this pool has increased because some Public Housing Authorities (PHAs) have utilized a voucher from their available inventory rather than the project access voucher. TDHCA drops the "age 62" requirement on the recycled vouchers.

### **February 2004**

#### **HHSC/TDHS**

- The Community Living Exchange Collaborative at Independent Living Research Utilization (ILRU) publishes "Strategies and Challenges in Promoting Transitions from Nursing Facilities to the Community for Individuals with Disabilities: A Pilot Study of the Implementation of TDHS Rider 37 in Texas." Staff from HHSC and TDHS coordinated the study.

#### **TDMHMR**

- CARE data indicates over 99 percent of individuals residing in state MR facilities have a current date for the Living Options process.
- Since August 19, 1999, 702 individuals residing in state MR facilities have moved to an alternative living arrangement. Through the use of recycled waiver slots and oversight of movement from state MR facilities, the timeframe of 180 days has been met for the majority of individuals referred.

- Over 92 percent of individuals living in community ICFs/MR have a current date for the Living Options process.
- Since September 1, 2001, 192 persons on the HCS Program waiting list have enrolled into waiver services, 57 through the use of recycled slots.
- During FY 2004, 47 recycled waiver slots were used to provide additional options to individuals with mental retardation who were discharged from a state MH facility.
- The Texas Center for Disability Studies at The University of Texas at Austin completes report regarding persons with three or more admissions to a state MH facility.
- Texas Federation of Families for Children's Mental Health completes report regarding children with three or more admissions to the Waco Center for Youth.
- TDMHMR continues development of the model for Resiliency and Disease Management (formerly called Benefit Design) in order to ensure the most appropriate service package based on the availability of funds to serve individuals. Prioritization of services is based on individuals' disorders and support needs as determined by the revised Uniform Assessment and the TRAG (Texas Responsibility Authorization Guidelines).
- State MH Facility Division in Central Office continues to monitor activity regarding individuals who have resided in a state MH facility over one year.
- TDMHMR takes steps to improve the accuracy of program vacancy information in the ICF/MR program that appears on the Promoting Independence page on the agency website.

#### **TDoA**

- At the state level, the TDoA state ombudsman serves on TDHS' Relocation Services RFP review team.
- TDoA ombudsman staff participate in ongoing support and oversight of the newly formed local relocation workgroups, in relation to the TDHS "Money Follows The Person" grant activities (ongoing).

#### **TDHS**

- The Community-Integrated Personal Assistance Services and Supports (C-PASS) grant establishes the C-PASS/Service Responsibility Option Task Force that includes consumers, advocates, home health agency representatives, and state agency representatives.

#### **TDHCA**

- TDHCA publishes published the second Notice of Funding Availability (NOFA) for the *Olmstead* set-aside funding in an "open cycle" application process.

#### **March 2004**

#### **DFPS**

- DFPS' new level of service rules became effective, replacing the previous Level of Care (LOC) rules for CPS children.



## **TDHS**

- TDHS contracts for relocation services statewide, and as a result, 95 additional transitions have taken place.

## **April 2004**

### **HHSC**

- HHSC approves the transfer of \$1.2 million to TDHS to assist with relocation services for individuals residing in nursing facilities.
- HHSC approves the transfer of \$160,000 to assist TDHCA with administrative costs of distributing the *Olmstead* HOME vouchers.

### **TWC**

- HHSC staff present information about the *Olmstead* decision and Promoting Independence Initiative in Texas to local workforce boards and workforce center staff at the Texas Workforce Forum.

### **DARS/DRS**

- Department of Assistive and Rehabilitative Services (DARS) Division of Rehabilitative Services (DRS) works with potential service providers to develop Institution to Community Coordination Pilot provider standards.

## **May 2004**

### **TDHS**

- Through the Money Follows the Person Grant, TDHS develops the Community Care Options and Person-Centered Planning Training program.
- TDHS delivers the Community Care Options and Person-Centered Planning Training to advocates, providers, other stakeholders, and key state office staff at HHSC, TDHS, DFPS, TDoA, TDMHMR, and DARS.

### **TDMHMR**

- TDMHMR receives approval to begin transferring services for 396 persons from large ICFs/MR into HCS waiver services. Plans were made to release waiver slots at a rate of 55 per month.

### **DARS/DRS**

- DARS/DRS chooses DRS Region 2 (Dallas-Fort Worth metroplex) for the Institution to Community Coordination Pilot with a start date of September 1, 2004.

## **June 2004**

### **TDHS**

- Through the Money Follows the Person Grant, TDHS contracts with the Center on Independent Living (COIL) to work with TDHS staff to establish nursing facility transition workgroups in every region.

### **DARS/DRS**

- DARS/DRS posts Institution to Community Coordination Pilot provider enrollment information on the Texas Market Place.
- DARS/DRS works with independent living stakeholders to develop an exceptional item for the DARS Legislative Appropriations Request for 2006-2007 that would address Promoting Independence issues.

## **July 2004**

### **TDHS**

- Through the Money Follows the Person Grant, TDHS delivers the Community Care Options and Person-Centered Planning Training to regional stakeholders and key agency staff in Region 6 (Houston area). This region will train field staff, who interact with clients, by December 2004.
- Through the C-PASS Grant, TDHS contracts with Rebecca Wright and Associates to produce outreach materials and training curricula for consumers, home health agency staff, and TDHS staff to promote a continuum of choice through three options in managing attendant care for consumers of primary home care services.

### **DARS/DRS**

- DARS/DRS works with TDHS regional staff to identify consumers who might participate in the Institution to Community Coordination Pilot.
- Institution to Community Coordination Pilot policy and provider standards are provided to stakeholders for review.
- DARS/DRS develops Institution to Community Coordination Pilot evaluation and training plans.
- In cooperation with the State Independent Living Council, DARS/DRS submits the 2005-2007 State Plan for Independent Living, which contains a goal relating to community integration and relocation activities.

## **August 2004**

### **TDHS**

- Through the Money Follows the Person Grant, TDHS delivers the Community Care Options and Person-Centered Planning Training to regional stakeholders and key agency staff in Region 5 (Beaumont) area. This region will train field staff, who interact with individuals, by December 2004.
- The Money Follows the Person Grant contractor worked with regional stakeholders and field and state office staff to establish transition workgroups in Regions 5 and 6.

### **TDMHMR**

- During FY 2004, 75 individuals residing in state MR facilities moved to alternative living arrangements. Through the use of recycled waiver slots and oversight of individuals' movements from state MR facilities, the timeframe of 180 calendar days has been met for the majority of individuals referred.
- By the end of August 2004, 172 of the additional 396 waiver slots authorized for release for individuals in large community ICFs/MR have been released.
- Since September 1, 2001, 240 persons in large ICFs/MR have enrolled in waiver services through the combined use of new and recycled waiver slots.
- During FY 2004, 95 recycled waiver slots were used to provide additional options to individuals with mental retardation who were discharged from a state mental health facility.

### **DFPS**

- DFPS arranges for the Protective Services Training Institute (PSTI) to contract with the Texas Center for Disability Studies to offer an elective one-day training on disability issues for CPS staff.

### **DARS/DRS**

- DARS/DRS completes contracts with four Institution to Community Coordination Pilot service providers.
- DARS/DRS works with regional organizations to prioritize independent living training and technical assistance needs including relocation services.

### **September 2004**

### **HHSC**

- Children's Policy Council releases report "Making Children a Priority" to the legislature and agencies. The recommendations include establishing a system to ensure responsibility for permanency planning is independent of the institution in which the child resides, developing alternatives for making placement and health care decisions for children in institutions whose parents cannot be found, and establishing 'money follows the child' for children residing in ICFs/MR. Subsequent legislation was enacted in the 79th Legislative Session (2005) to ensure independent permanency planning (Senate Bill 40), establish procedures for ensuring the involvement of parents of children placed in facilities (House Bill 2579), and a pilot

program allowing up to 50 children residing in ICFs/MR to transition to HCS (Rider 46 to House Bill 1).

## **DSHS**

- DSHS, as mandated by HB 2292 (passed in 2004), began statewide implementation of Resiliency and Disease Management (RDM) for community mental health at all Local Mental Health Authorities (LMHAs) in Texas. As part of the initiative, adults with 2 or more psychiatric hospitalizations within 180 days or 4 or more psychiatric hospitalizations in the last 2 years are recommended for the most intensive service package available, namely *Assertive Community Treatment*. Also as part of RDM, *Intensive Outpatient* service packages are recommended to decrease the rate of psychiatric hospitalization among children and to prevent more restrictive or out-home-placement. Recommendations for community mental health service packages are based on a new uniform assessment process known as the Texas Recommended Assessment Guidelines (TRAG).
- State Mental Health Hospitals began reporting to the Governing Body of the State Hospitals activity regarding patients who had been in the hospital for more than one year with identified barriers to placement.

## **DFPS**

- The CPS Family Group Decision Making initiative was announced.

## **DARS**

- Institution to Community Coordination Launched. This pilot is a relocation program for individuals residing in an institution who want to transition to the community and go to work.

## **November 2004**

## **DADS**

- DADS Ombudsman program staff conducted first of several training events on Promoting Independence for Area Agencies on Aging Staff Ombudsman.

## **December 2004**

## **DFPS**

- PSTI began developing a course specific to APS on Domestic Violence as it relates to Persons with Disabilities.

## **January 2005**

### **DFPS**

- DFPS has 17 foster homes that have been certified to accept children with intense needs and one home is in the process of being certified. Nine children are authorized for intense services are placed in these homes.

## **February 2005**

### **DFPS**

- Plans are implemented to begin offering and testing Family Group Decision Making conferences in one county in 9-targeted regions with families of all children coming into care after February 1, 2005.

## **April 2005**

### **DFPS**

- There are six signed contracts for the Intense Foster Family Initiative.
- Three new foster homes have been certified as Intense Level Homes during the last quarter and a fourth was in the certification process.

## **May 2005**

### **DADS**

- Ten HCS slots were made available to nursing facility residents under 22 years of age.

### **DFPS**

- The Exceptional Item Request List was combined into the special request for CPS Reform. The 79th Legislature provided \$248.1 million of additional funding for CPS Reform for the FY 2006-2007 biennium. Specific purposes related to permanency for children for which reform funding shall be used include \$43.3 million for more purchased client services to aid families in staying together and to address the needs of children and their families once the child has been removed from their home, and \$15.6 million for the statewide expansion of the Kinship Care pilot program.

## **June 2005**

### **DSHS**

- Reports on 3 or more hospitalizations in 180 days to state hospitals began including data from the state funded community hospitals in Lubbock, Houston and Galveston.

## **DARS**

- A decision is made to move 100 highly trained transition counselors into the public schools and communities. This decision will create a seamless process to work with eligible students who have disabilities to assist them in working toward a plan for independence once they graduate from high school. A connection with teachers, students, parents and community leaders will be developed on a daily basis. Transition counselors will take the lead in developing all the necessary connections for students wishing to work and be independent.

## **July 2005**

### **DADS**

- Training was provided to DADS regional staff which enhanced their familiarity with the Independent Living Center relocation specialists and stakeholders such as Advocacy Inc., transportation specialists, CLASS contracted providers, AAA staff, Adult Protective Services, and the local housing authority.
- Each DADS region had at least one Nursing Facility Transition Team trained and meeting to help facilitate the movement of individuals from nursing facilities into the community.
- Alzheimer's Disease Demonstration Grant to states which provides support for the caregivers of persons who have Alzheimer's disease. This grant becomes effective for a three year period.

### **DSHS**

- DSHS received a final report from Texas Community Solutions, Inc. (TCS) with regard to a project that was funded through federal Olmstead technical assistance funds. The report described the efforts of TCS to provide technical assistance, support and training for 23 organizations who were seeking to apply to the Texas Department of Housing and Community Affairs for HOME Tenant-based Rental Assistance housing vouchers. These vouchers are intended to assist persons in relocating from their present setting to a setting that was less restrictive.
  - Additionally, a curriculum was created and used for training Primary Housing Providers. This curriculum outlines policies and procedures which focus upon meeting the requirement for accurately identifying eligible participants, securing appropriate housing, and completing the necessary forms and other documentation.
- Twenty-three organizations participated and successfully secured \$1 million dollars in HOME Tenant-Based Rental Assistance funds from the Texas Department of Housing and Community Affairs through a competitive procurement process. These funds are being used to assist 100 Texans who have a serious mental illness to obtain and maintain stable housing for 24 months.

- DSHS began working with a representative from Advocacy Inc. to develop a process for monitoring patients who are hearing impaired or deaf so their progress towards discharge to the least restrictive placement can be monitored.

## **DFPS**

- In accordance with CPS Renewal efforts, CPS initiated plans to expand the Children with Disabilities Project statewide by employing nurses and bringing the program in-house, rather than contracting for the service.

## **August 2005**

## **HHSC**

- HHSC, in conjunction with DADS and DFPS, coordinated the development of an improved, more user friendly permanency planning instrument.

## **DSHS**

- DSHS, together with DADS, begins efforts to increase coordination between nursing homes, LMHAs, and home healthcare providers to further promote independence among individuals in nursing homes who have a mental illness and who may benefit from community mental health services.

## **DFPS**

- DFPS has seven signed contracts for the Intense Foster Family Initiative.
- DFPS has 12 foster homes that have been certified to accept children with intense needs and 1 additional home is in the process of being certified.

## **September 2005**

## **Legislative**

The following pieces of legislation and appropriation riders were passed by the 79<sup>th</sup> Legislature, Regular Session, 2005, and signed by the Governor:

- Senate Bill 1, (General Appropriations Act 2006-2007) provides \$97.9 million in General Revenue funds to reduce interest lists by serving an additional 8,891 individuals in DADS' Medicaid waiver program services.
- House Bill 1867 codified the *Money Follows the Person* policy established through Rider 37 (77<sup>th</sup> Legislature, 2001) and Rider 28 (78<sup>th</sup> Legislature, 2003).
- Senate Bill 6 which reforms Child Protective Services and transfers the guardianship program from the DFPS to DADS.
- Senate Bill 40 that strengthened the permanency planning activities for children residing in state institutions by eliminating the potential conflict of interest by requiring that

permanency planning activities be conducted by a third party who is not the provider of service.

- House Bill 2579 that provides certain mandates relating to procedures, which ensure the involvement of parents or guardians of children placed in certain institutions.
- Senate Bill 566 which creates a Medicaid Buy-In program for working persons with disabilities.
- House Bill 1771/Rider 49 which requires the implementation of an integrated care management (ICM) model pilot project in at least the Dallas Service Delivery Area and a managed care hospital carve-out model in the Harris Service Delivery Area. The remaining Service Delivery Areas may be either model.
- Rider 46 allows for a pilot program for a “money follow the child” from an intermediate care facility for the mentally retarded to community-based services.
- Rider 54 sets aside \$1,182,270 in General Revenue funds each fiscal year for children aging out of foster care.
- House Bill 614 allows youth to stay in extended foster care up to age 22 if she or he is enrolled in and regularly attending high school. Previously the youth had to be able to graduate before turning 20. If a youth’s placement breaks down but the youth has been enrolled in and regularly attending high school, DFPS is required to find the youth another placement if the youth wants to continue in extended foster care.

## **DSHS**

- DSHS develops a new quarterly report for the PIAC, *Adults and Children Readmitted to a State or Community Psychiatric Hospital Three or More Times in 180 Days Since FY 2001: Where Are They Now In the Community Mental Health System?* As of May 31, 2006, there were 2,429 adults readmitted 3 or more times in 180 days since FY 2001 with 1,162 receiving RDM services, of which 88 percent received the same service package as that recommended by the TRAG. Also as of May 31, 2006, there were 207 children readmitted 3 or more times in 180 days since FY 2001 with 45 receiving RDM services, of which 94 percent received the same service package as that recommended by the TRAG.

## **DARS**

- Institution to Community Coordination Pilot Concluded.

## **October 2005**

## **DADS**

- Aging and Disability Resource Centers (ADRC) grant becomes effective for a three year period. DADS will pilot three “front door” models.

## **DSHS**

- DSHS conducts an analysis showing that of the 941 persons who had 3 or more SMHH admissions in 180 days where the third admission was in FY 2002, FY 2003, or FY 2004,



only 13 percent (216) had 3 or more SMHH admissions in 180 days that occurred in multiple years.

## **December 2005**

### **DADS**

- HCS waiver slots were targeted in accordance with:
  - Rider 46: 50 slots for children residing in small and medium community ICFs/MR; and
  - Rider 54 “Child Protective Services (CPS) Reform Plan”: approximately 62 slots for individuals aging out of Department of Family and Protective Services (DFPS) CPS services.

## **March 2006**

### **DFPS**

- CPS focused on implementing the new kinship policy, which includes certain financial supports when applicable, which went into effect March 1, 2006. This is part of the Department’s revised Kinship Program that is designed to assist more relatives and fictive kin in caring for children in the Department’s custody.

## **April 2006**

### **DSHS**

- DSHS conducts an analysis showing that the number of individuals admitted to a SMHH 3 or more times in 180 days appears to have tapered off (FY2005 = 556), while the percentage of these individuals who have been served at a Texas LMHA has risen dramatically from FY 2001 (81 percent) to 2005 (94 percent). These results are consistent with SB 367 (passed in 2001) that directed TDMHMR, now DSHS, to target individuals with a mental illness admitted 3 or more times in 180 days to a psychiatric hospital and to consider them for community-based services.

### **DFPS**

- Transitional Living Services Initiative representatives presented findings and recommendations to CPS Leadership. The primary goals of the recommendations for services, processes, products, policy and IMPACT needs are to expand and improve services to prepare youth in foster care for adult living, to expand and improve supportive services to foster youth during the young adult years, and to implement a systemic approach in transition/discharge planning and services affecting youth aging out of DFPS foster care.

- Rules for extending care to foster youth up to the age of 22 in order to complete high school education, and rules to extend care to youth up to the age of 21 in order to complete vocational / technical programs were approved

### **May 2006**

- As of May 31, 2006, the Family Group Decision Making program has expanded into the 11 regions in Texas. Each region has a FGDM specialist who coordinates and facilitates the Family Group Decision Making conferences throughout Texas. In over 100 counties, at least one Family Group conference has been conducted.

### **June 2006**

#### **DADS**

- Effective date of rules that were developed in response to HB 626 (79<sup>th</sup> Legislature) regarding legacy TDHS Rider 7b.
- On behalf of the PIAC, staff began facilitation of a subcommittee that is reviewing all materials and processes used by HHS agencies to inform individuals of community-based alternatives. Membership includes representatives of HHS agencies, consumers, families, advocates, and providers. The subcommittee's primary focus is on processes and materials used for consumers living in institutional settings; its secondary focus is on processes and material used at the "front door" with individuals seeking services.

#### **DFPS**

- DFPS has 9 Contractors for Intense Foster Family Services, 26 foster families verified to serve children with intense needs and 26 children with intense needs placed in foster homes.

### **July 2006**

#### **National Recognition**

- Texas is awarded the Council of State Governments, Southern Region, 2006 Innovations Award for its *Money Follows the Person* policy.

#### **DSHS**

- DSHS is actively pursuing a contract with a local vendor who will employ a Housing Relocation Specialists who will assist persons residing in nursing homes to relocate to a more appropriate community setting.

## **DFPS**

- Recommendations to adopt rules for extending care to foster youth up to the age of 22 in order to complete high school education, and rules to extend care to youth up to the age of 21 in order to complete vocational / technical programs were presented to DFPS Council and approved for adoption

## **August 2006**

### **DARS**

- 100 highly trained transition counselors are working in public schools around the state to assist students with disabilities with transitioning from school to work.

## **September 2006**

### **HHSC**

- Senate Bill 566, 79<sup>th</sup> Legislature, Regular Session, 2005, required that the Health and Human Services Commission (HHSC) develop and implement a Medicaid Buy-In (MBI) program for working persons with disabilities. Development was based on a model that emphasizes work and has significant participant cost sharing. The program is based on the Balanced Budget Act of 1997 authority. The program was implemented statewide September 2006.

### **DADS**

- Proposed effective date of rules developed in response to HB 2579 (79<sup>th</sup> Legislature) regarding procedures to ensure the involvement of parents or legally authorized representatives of children placed in institutions.

## **Acknowledgements**

The accomplishments noted in this document could not have been possible without the collaborative working relationships formed with consumers, family members, advocates, providers, other stakeholders, and agency staff.

**APPENDIX C**  
**HEALTH AND HUMAN SERVICES CIRCULAR**  
**C-002**

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## 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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Issued: 10-20-04

Revised: 01-27-05



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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Revised: 01-27-05



- 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.



### **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](mailto:terry.childress@dads.state.tx.us).



# **APPENDIX D**

## **PROMOTING INDEPENDENCE ADVISORY COMMITTEE MEMBERSHIP**

## **MEMBERSHIP OF THE PROMOTING INDEPENDENCE ADVISORY COMMITTEE**

### **Appointed Members**

Mr. Bob Kafka  
ADAPT of Texas  
Represents people with disabilities

Texas Department of Aging and Disability  
Services  
Presiding Officer

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

Ms. Catherine Gorham  
Texas Workforce Commission

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

Ms. Audrey Deckinga  
Health and Human Services  
Commission

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

Ms. Donna Jackson  
Texas Department of Family and  
Protective Services

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

Ms. Erin Ferris  
Texas Department of Housing and  
Community Affairs

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

Ms. Peggy Perry  
Texas Department of State Health Services

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

Mr. Jonas Schwartz  
Texas Department of Assistive and Rehabilitative  
Services

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

Mr. Barry Waller  
Texas Department of Aging and Disability  
Services

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

### **DADS Staff Support**

**Mr. Marc S. Gold**  
**Manager, Promoting Independence**  
**Initiative**

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

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

### **Agency Representatives**

Ms. Adelaide Horn

**APPENDIX E**  
**CONSOLIDATED BUDGET**  
**REIMBURSEMENT OPTIONS: APPENDIX B2.**

(For help accessing the tables in this section, e-mail [marc.gold@dads.state.tx.us](mailto:marc.gold@dads.state.tx.us))

B2. Rate Schedule – Rate Increased Based on Current Review of costs

Program by Budget Agency	Percentage Rate		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>DADS</b>								
Access and Intake - Mental Retardation Service Coordination	0.00%	0.00%	0	0	0	0	0	0
Community Attendant Services	15.24%	15.24%	57,031,244	22,413,279	61,817,465	24,189,174	118,848,709	46,602,453
Community Based Alternatives	16.90%	16.90%	62,986,913	24,753,857	62,986,913	24,646,779	125,973,826	49,400,636
Community Living Assistance and Support Services	11.30%	11.30%	14,506,258	5,700,959	14,593,450	5,710,417	29,099,708	11,411,376
Consolidated Waiver Program	10.40%	10.40%	408,897	160,697	408,897	160,001	817,794	320,698
Day Activity and Health Services - Title XIX	5.00%	5.00%	4,898,002	1,924,915	5,066,531	1,982,534	9,964,533	3,907,448
Deaf-Blind Multiple Disabilities	10.50%	10.50%	761,174	299,141	761,174	297,847	1,522,348	596,989
Home and Community-based Services	9.56%	9.56%	46,028,580	18,093,835	46,028,580	18,001,778	92,057,160	36,095,613
Hospice Payments (NF Related Only)	19.38%	19.38%	32,429,672	12,744,861	35,310,327	13,816,931	67,739,999	26,561,792
Intermediate Care Facilities - Mental Retardation	21.59%	21.59%	73,957,024	29,065,110	73,957,024	28,939,383	147,914,048	58,004,494
Medically Dependent Children Program	29.90%	29.90%	11,714,960	4,603,979	11,714,960	4,584,064	23,429,920	9,188,043

Program by Budget Agency	Percentage Rate Change		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>DADS(continued)</b>								
MR State Schools Services	Increased Operating Costs Included in DADS LAR							
Non-Medicaid Services - Title XX	16.74%	16.74%	12,333,368	12,333,368	12,333,368	12,333,368	24,666,736	24,666,736
Nursing Facility	19.38%	19.38%	436,474,039	171,534,297	435,382,162	170,365,040	871,856,201	341,899,337
Primary Home Care	15.33%	15.33%	59,737,999	23,477,034	61,226,180	23,957,804	120,964,179	47,434,838
Program of All-inclusive Care for the Elderly	4.45%	4.45%	1,305,571	513,089	1,305,571	510,870	2,611,142	1,023,959
Promoting Independence Services	17.31%	17.31%	15,638,864	6,146,074	16,731,012	6,546,845	32,369,876	12,692,919
Texas Home Living Waiver	27.12%	27.12%	3,252,465	1,278,544	3,252,465	1,272,039	6,504,930	2,550,583
<b>Total DADS</b>			<b>833,465,030</b>	<b>335,043,039</b>	<b>842,876,079</b>	<b>337,314,875</b>	<b>1,676,341,109</b>	<b>672,357,914</b>

<b>DARS</b>								
ECI - Case Mgmt.	0.00%	0.00%	0	0	0	0	0	0
ECI - Development Rehab Svcs.	0.00%	0.00%	0	0	0	0	0	0
<b>Total DARS</b>			<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>DFPS</b>								
24-Hr. Residential Child Care (Foster Care)	3.99%	3.99%	17,549,710	6,444,638	18,767,707	6,921,387	36,317,417	13,366,025 See note 3
<b>Total DFPS</b>			<b>17,549,710</b>	<b>6,444,638</b>	<b>18,767,707</b>	<b>6,921,387</b>	<b>36,317,417</b>	<b>13,366,025</b>

Program by Budget Agency	Percentage Rate		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>DSHS</b>								
Children with Special Health Care Needs (CSHCN) - Outpatient Hospital	23.93%	23.93%	773,394	773,394	1,054,314	1,054,314	1,827,708	1,827,708
CSHCN - Ambulance Services	167.68%	167.68%	152,364	152,364	281,032	281,032	433,396	433,396
CSHCN - ASCs/HASCs	7.95%	7.95%	17,129	17,129	20,340	20,340	37,469	37,469
CSHCN - Dental Services	10.00%	10.00%	43,068	43,068	52,113	52,113	95,181	95,181
CSHCN - Drugs/Biological Fees	4.40%	4.40%	426,962	426,962	490,323	490,323	917,285	917,285
CSHCN - Durable Medical Equipment, Prosthetics, Orthotics, Supplies (DMEPOS)	7.55%	7.55%	231,356	231,356	273,705	273,705	505,061	505,061
CSHCN - Home Health Agencies (Therapies)	8.41%	8.41%	450	450	537	537	987	987
CSHCN - Inpatient Hospital - SDA Inflation Only	16.78%	16.78%	2,198,851	2,198,851	2,824,600	2,824,600	5,023,451	5,023,451
CSHCN - Inpatient Hospital Rebasing	20.78%	20.78%	2,723,011	2,723,011	3,617,738	3,617,738	6,340,749	6,340,749
CSHCN - Meals, Transportation, Lodging	3.90%	3.90%	52,706	52,706	60,238	60,238	112,944	112,944

Program by Budget Agency	Percentage Rate Change		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>DSHS (continued)</b>								
CSHCN - Physician/ Professional Services	2.50%	5.00%	137,814	137,814	303,190	303,190	441,004	441,004
CSHCN - Private Duty Nursing	70.15%	70.15%	362,864	362,864	679,154	679,154	1,042,018	1,042,018
Family Planning - DMEPOS	7.55%	7.55%	27,510	27,510	30,741	30,741	58,251	58,251
Family Planning - Drugs/Biologicals	645.71%	645.71%	42,027,843	42,027,843	43,666,929	43,666,929	85,694,772	85,694,772
Family Planning - FQHCs	4.23%	4.23%	53,143	53,143	57,551	57,551	110,694	110,694
Family Planning - Maternity Service Clinics	52.70%	52.70%	1,322,655	1,322,655	2,098,462	2,098,462	3,421,117	3,421,117
Family Planning - Outpatient Hospital	23.93%	23.93%	21,634	21,634	23,016	23,016	44,650	44,650
Family Planning - Physician Services	2.50%	5.00%	1,208,895	1,208,895	2,512,084	2,512,084	3,720,979	3,720,979
Family Planning - RHCs	4.23%	4.23%	902	902	977	977	1,879	1,879
Institutions for Mental Disease	10.06%	10.06%	431,184	169,455	433,906	169,788	865,090	339,243
Maternal and Child Health - Genetics	17.14%	17.14%	242,570	242,570	312,561	312,561	555,131	555,131

Program by Budget Agency	Percentage Rate Change		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>DSHS (continued)</b>								
Maternal and Child Health - Physician Services	2.50%	5.00%	326,590	326,590	718,499	718,499	1,045,089	1,045,089
MH Rehabilitative Services	0.93%	0.93%	334,357	131,402	348,353	136,311	682,710	267,713
MH Targeted Case Management	106.17%	106.17%	12,409,064	4,876,762	13,366,409	5,230,276	25,775,473	10,107,038
Laboratory Fees - Independent Laboratories	15.80%	15.80%	25,532	10,034	33,876	13,256	59,407	23,289
NorthSTAR -- Medicaid Inpatient Hospital - Inflation only	16.78%	16.78%	1,544,867	607,133	1,595,847	624,455	3,140,714	1,231,588
NorthSTAR -- Medicaid Inpatient Hospital - Rebasing	20.78%	20.78%	1,913,131	751,860	1,976,264	773,312	3,889,395	1,525,172
NorthSTAR -- MH Rehabilitative Services	0.93%	0.93%	193,381	75,999	201,476	78,838	394,858	154,837
NorthSTAR -- MH Targeted Case Management	106.17%	106.17%	6,075,539	2,387,687	6,544,260	2,560,769	12,619,800	4,948,456
NorthStar - Physician/ Professional Services	2.50%	5.00%	213,918	84,070	427,836	167,412	641,754	251,482
<b>Total DSHS</b>			<b>75,492,684</b>	<b>61,446,113</b>	<b>84,006,331</b>	<b>68,832,519</b>	<b>159,499,015</b>	<b>130,278,633</b>

Program by Budget Agency	Percentage Rate Change		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>HHSC</b>								
Ambulance Services	167.68%	167.68%	123,602,962	48,575,964	128,423,477	50,252,107	252,026,439	98,828,071
Ambulatory Surgical Center/Hospital Ambulatory Surgical Center	7.95%	7.95%	22,717,673	8,928,046	23,204,658	9,079,983	45,922,331	18,008,028
Birthing Centers	18.75%	18.75%	100,415	39,463	104,581	40,923	204,996	80,386
Children & Pregnant Women - Case Management	60.99%	60.99%	995,982	391,421	1,065,203	416,814	2,061,185	808,235
CHIP (including perinate)	Trend	Trend						
CHIP Dental								
Clinical Lab. Fees - DSHS Lab - EPSDT	30.08%	30.08%	142,559	56,026	186,468	72,965	329,027	128,991
Clinical Lab. Fees - DSHS Lab Newborn Screening	8.48%	8.48%	14,137	5,556	15,336	6,001	29,473	11,557
Clinical Lab. Fees - Independent Labs.	15.80%	15.80%	19,396,519	7,622,832	25,735,371	10,070,251	45,131,890	17,693,083
Dental Services - THSteps - CCP	10.00%	10.00%	52,355,388	20,575,667	57,590,927	22,535,330	109,946,315	43,110,997
Drugs/Biological Fees	4.40%	4.40%	3,143,754	1,235,495	3,192,307	1,249,150	6,336,061	2,484,645
Durable Medical Equipment, Prosthetics, Orthotics, Supplies	7.55%	7.55%	17,513,920	6,882,971	21,957,754	8,592,069	39,471,674	15,475,040
Federally Qualified Health Centers	4.23%	4.23%	5,358,811	2,106,013	5,418,735	2,120,351	10,777,546	4,226,364
Genetic Svcs.	17.14%	17.14%	635,189	249,629	744,060	291,151	1,379,249	540,780

Program by Budget Agency	Percentage Rate Change		Estimated Cost of Rate Change				Estimated Biennial Cost of Rate Change	
	2008	2009	2008		2009		AF	GR
			AF	GR	AF	GR		
<b>HHSC (continued)</b>								
Home Health Services	8.41%	8.41%	10,767,793	4,231,743	11,701,009	4,578,605	22,468,802	8,810,347
Inpatient Hospital - SDA Inflation Only	16.78%	16.78%	825,495,412	324,419,697	852,736,761	333,675,894	1,678,232,172	658,095,591
Inpatient Hospital - SDA Rebasing	20.78%	20.78%	833,540,040	327,581,236	861,046,861	336,927,637	1,694,586,900	664,508,872
Maternity Centers	52.70%	52.70%	187,870	73,833	278,827	109,105	466,697	182,938
Outpatient Hospital	23.93%	23.93%	114,174,354	44,870,521	123,887,020	48,476,991	238,061,374	93,347,512
Personal Care Services / THSteps-CCP	46.05%	46.05%	37,661,211	14,800,856	38,526,444	15,075,398	76,187,655	29,876,253
Physician & Professional Services	2.50%	5.00%	56,217,350	22,093,419	116,819,667	45,711,536	173,037,017	67,804,954
Private Duty Nursing/THSteps - CCP	70.15%	70.15%	108,886,884	42,792,545	137,325,117	53,735,318	246,212,001	96,527,864
Renal Dialysis Facilities	6.01%	6.01%	1,779,628	699,394	1,792,693	701,481	3,572,321	1,400,875
Rural Health Clinics	4.23%	4.23%	5,369,130	2,110,068	5,467,295	2,139,353	10,836,425	4,249,421
STAR+PLUS -- Community Based Alternatives	16.90%	16.90%	32,148,437	12,634,336	34,838,195	13,632,186	66,986,632	26,266,522
STAR+PLUS -- Day Activity and Health Services	5.00%	5.00%	597,687	234,891	647,694	253,443	1,245,381	488,334
STAR+PLUS -- Primary Home Care	15.33%	15.33%	27,657,675	10,869,466	29,971,705	11,727,928	57,629,379	22,597,394
TB Clinics	3.51%	3.51%	3,327	1,308	3,502	1,370	6,829	2,678
<b>Total HHSC</b>			<b>2,300,464,107</b>	<b>904,082,394</b>	<b>2,482,681,667</b>	<b>971,473,336</b>	<b>4,783,145,774</b>	<b>1,875,555,730</b>

Vendor Drug Dispensing Fees	The incremental cost of a \$1 increase in the dispensing fee per prescription dispensed for FY 2008 is \$27,485,420 and for FY 2009 is \$28,759,622. The impact of this increase is not included in the totals shown below above for HHSC or below for HHS.
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<b>Total HHS</b>			<b>3,210,036,307</b>	<b>1,300,355,713</b>	<b>3,411,396,560</b>	<b>1,377,925,220</b>	<b>6,621,432,867</b>	<b>2,678,280,934</b>
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note 3 If TANF funding is available, up to \$2,328,647 of this amount is eligible for TANF funding the remaining \$3,335,417 must be General Revenue

**APPENDIX F**

**PROMOTING INDEPENDENCE ADVISORY  
COMMITTEE'S  
2006 RECOMMENDATIONS DOCUMENT**



**RECOMMENDATIONS FOR SYSTEMS CHANGE:  
Fiscal Years 2008-2009 Funding and Policy Recommendations**

**PROGRAM FUNDING:** recommendations to help fully-fund community services in order for individuals to have a choice in living in the most integrated setting.

***Interest list reduction – Ten year plan for elimination***

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 provided \$ 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 lists at DADS, serving an estimated additional caseload of 9,360 by the end of fiscal year (FY) 2006-07 biennium. DADS' waiver programs and other community programs were impacted by the appropriation. This amount produced an approximate 10% reduction on the overall number of individuals on interest lists. The Promoting Independence Advisory Committee' number one priority is that the emphasis on interest list reduction be continued and enhanced by the 80<sup>th</sup> Legislature.

As of June 30, 2006, there continued to be 100,931 individuals (duplicated count – unduplicated count is 88,864) on the waiver interest lists. For purposes of this accounting, the waiver programs include: Community Based Alternatives (CBA), Community Living Assistance and Support Services (CLASS), Deaf-Blind-Multiple Disability Waiver (DBMD), Deaf Blind Multiple Disabilities (DBMD); Medically Dependent Children's Program (MDCP); and Home and Community-based Services (HCS).

Therefore, PIAC recommends that the 80<sup>th</sup> Legislature appropriately fund all long-term services and supports' community-based based programs in order to eliminate the interest list with a 10 year initiative. PIAC wants to emphasize that no one particular program is given preference over another and that programs should not be in competition with each other for additional funding.

This overarching initiative must include individuals on the interest lists and projected demographic growth. Implementation of this recommendation will result in that at the end of the FY 2017, no new applicant for community-based services will have to wait more than 24 months to receive services.

***Expansion of the “money follows the person” policy for individuals with intellectual disabilities (developmental disabilities/mental retardation) who reside in intermediate care facilities for persons with mental retardation (ICF/MR)***

Texas was the originator of the “money follows the person” (MFP) policy as codified under Subchapter B, Chapter 531, Government Code, 531.082 for individuals living in nursing facilities (NF). This state policy allows individuals in NFs to relocate to the community in order to receive their long-term services and supports predominately delivered through 1915(c) waiver programs. In addition, NF residents do not have to be placed on an interest list for those services and may receive them as soon as they met all program eligibility criteria. Texas is recognized as a national leader in this movement and its policy was the basis for the MFP provisions within the federal Deficit Reduction Act (DRA) of 2005.

A similar provision does not exist for persons residing in intermediate care facilities for persons with mental retardation (ICFs/MR). The reasons for not having this comparable policy are complex. Individuals in state schools and large ICFs/MR (14+ beds) do have an opportunity to access the Home and Community-based Services (HCS) program within six months and twelve months respectively because of the Promoting Independence Plan, however the funding is not transferred.

PIAC recommends that the state expand the current MFP policy to include individuals wanting to leave ICFs/MR. The state should pursue this both as a state policy and submit an application under the Deficit Reduction Act (DRA) of 2005 provisions. Policy developed for this initiative should be developed with stakeholder input and the state should take into consideration: occupancy rate, size, impact on provider network and assessing how access to enhanced federal funding under the DRA affects the budget request.

***Fund an initiative establishing transition funds which would allow large intermediate care facilities for persons with mentally retardation (ICFs/MR) to downsize or to close***

Current policy governing closure and/or downsizing of a large ICF/MR requires the process to be cost neutral. This limitation, in conjunction with other factors, such as funds to support the transition for both consumers and providers, has precluded more active consideration by facility operators.

In order to promote community integration and individual choice, PIAC recommends that the state develop a comprehensive plan to support the closure or downsizing of large ICFs/MR. The plan must address transition funds to support the initiative as well as funds to assure the ongoing cost of services for those individuals moving to the community and for those individuals who are still residing in the facility that is downsizing/closing. Any plan must involve affected stakeholders in its development, and include a review of the information in the October 26, 2002, House Bill 966 Report in addition to other factors and data critical to the successful achievement of the plan.

***Fully fund the resiliency and disease management (RDM) program administered through the Texas Department of State Health Services (DSHS)***

DSHS has recognized the importance of Promoting Independence (PI) and those individuals who have been hospitalized for over a year as part of the PI population. DSHS has also acknowledged that its PI focus should incorporate those individuals who are at risk of hospitalization and those who have been hospitalized two or more times in 180 days. The Promoting Independence Plan formally targets individuals with three or more hospitalizations within the 180 period. Nevertheless, DSHS' RDM allows for services to persons with the two or more hospitalizations in order to help prevent a third hospitalization.

DSHS has determined that the at risk population should be incorporated into the Resiliency and Disease Management System regardless of their diagnosis, and that generally adults are appropriate for service level 4 of RDM. The current appropriations are not adequate to meet the

capacity of the state and a significant number of individuals are being recommended for level 4 but are actually enrolled into a less intensive and expensive level of services.

According to the DSHS strategic plan, an estimated 900,000 adults in Texas met the DSHS mental health priority population definition in 2005; approximately 450,000 are estimated to have the greatest need (targeted priority population). DSHS program service utilization data indicates that less than half of those with the greatest need received mental health services from the state authority (173,983) in 2005.

PIAC recommends that the Legislature fully fund RDM to ensure that individuals who are hospitalized two or more times in 180 days are able to access service level 4 of RDM.

***Increase funding for technology assistance in order that individuals may remain in the community***

The advent of technology has impacted all of our lives. Technology assistance is proving to be another tool in allowing individuals to live independently through simple monitoring through medical and functional supports.

Home technology assistance is an area of growing interest in home and community settings. The Quality Improvement Organizations (QIO) have been instructed by Centers for Medicare and Medicaid Services (CMS) to include technology assistance as part of their eighth scope of work in order to attain the goal of allowing homecare individuals to remain in their homes and foster individual self-care and independence. Studies show other benefits to include a reduction in unscheduled physician office visits; emergency room visits; fewer long-term care placements, and fewer hospitalizations.<sup>1</sup>

In Texas, Texas Tech University Health Science Services Center and the University of Texas Medical Branch have used telemedicine extensively in the correctional health care setting and have shown the technology to be medically efficacious. In January 2006, DADS initiated a Telemedicine Pilot project at Brenham and Richmond State Schools to determine the effectiveness of using technology with consumers at the state schools. The preliminary outcomes are positive.

PIAC recommends that the state pursue creative initiatives, with adequate funding, in the use of technology assistance that will increase the ability of an individual to remain in the community.

**WORKFORCE AND PROVIDER NETWORK STABILIZATION:** the ability of the state to be in compliance with its own PIP is threatened by the ongoing low reimbursement paid to providers of services and consequent low wages and lack of benefits offered to direct support staff. Ultimately, it is the direct support staff who assist individuals who are aging and/or with disabilities to live independently in the community.

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<sup>1</sup> Kaiser Permanente Medical Center's pilot tele-home health project. *Telemedicine Today*, 4(7): 16-1,19.

***Full funding of non-governmental provider rates according to established methodologies, recognizing inflation factors affecting service providers such as high gasoline prices, as well as the growing nursing shortage and tightening labor markets; and fund the specialized nursing rate established by rule in 2003 for 1915(c) waiver programs***

Across the board rate cuts in fiscal years (FY) 2004 and 2005, and no rate increase for several years, have made it difficult for providers to keep up with inflation, respond to wage pressures, or to make quality of service improvements. High staff turnover results in lower quality of service and in additional expenses because of the continuous recruiting, hiring and training.

Nursing rates are under-funded in the 1915(c) waiver programs, and the specialty nursing rate established in a 2003 rule has never been funded, creating difficulty in staffing persons with highly skilled or specialized needs.

***Equalize wage and benefits for non-governmental direct support staff with appropriate state employee pay grade (wage parity)***

There are large disparities in rates for direct support staff across community programs. Total base overall rate and the wage and benefit portion for each program is<sup>2</sup>:

- *Primary Home Care (PHC) Priority*: overall rate range = \$9.93 - \$10.93; attendant wage/benefit/payroll taxes portion of rate range = \$7.59 to \$8.59;
- *PHC Nonpriority*: rate range = \$8.36 - \$9.36; attendant wage/benefit/payroll taxes portion of rate range = \$6.27 to \$7.27;
- *Community-based Alternatives (CBA)*: overall rate range = \$9.93 - \$10.93; attendant wage/benefit/payroll taxes portion of rate range = \$7.17 - \$8.18;
- *Community Living Assistance and Support Services (CLASS)*: overall rate range = \$12.02 - \$13.02; attendant wage/benefit/payroll taxes portion of rate range = \$8.90 - \$9.90;
- *Home and Community-based Services (HCS)*: overall rate = \$15.49<sup>3</sup>; attendant wage/benefit/payroll taxes portion of rate = \$14.35;
- *Texas Home Living (TxHmL)*: rate = \$19.63; attendant wage/benefit/payroll taxes portion of rate = \$14.35

Average starting hourly salaries for direct care workers in state mental retardation facilities are \$9.44/hour<sup>4</sup>. The state does not begin to provide health and other insurance benefits until the first day of the calendar month that begins after the 90<sup>th</sup> day after the date the employee performs services for a state agency. Therefore, the average hourly value of benefits for a full-time direct care worker is \$5.38/hour prior to meeting the 90-day eligibility criteria and after meeting eligibility it is \$7.63<sup>5</sup>. The total average starting attendant/benefit/payroll hourly salary for those workers prior to the 90 day eligibility criteria is \$14.82/hour and after meeting eligibility it equals \$17.07/hour.

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<sup>2</sup> Data provided by the Health and Human Services Commission's Rate Setting Division

<sup>3</sup> Some of the operations/administration costs for this service is contained in the case management rate that is separate from this rate.

<sup>4</sup> Source: SAO State Classification Office, entry level starting salary

<sup>5</sup> Source: SAO Report No. 06-703

***Increase the number of levels available through the wage enhancement option, expand the enhancement option to all Medicaid attendant programs, and fund the ability of all long-term services and support providers to participate in the attendant enhancement option to the highest level***

The 76th Texas Legislature (1999) passed Senate Bill 1, Article II, legacy Department of Human Services, Rider 37, which created the Attendant Compensation Rate Enhancement to give community care providers an incentive to increase compensation for their attendants.

The Attendant Compensation Rate Enhancement is an optional program wherein providers agree to maintain a certain level of attendant compensation spending in return for increased attendant compensation revenues.

The Attendant Compensation Rate Enhancement is available to providers in the following programs: PHC, CBA, CLASS, DBMD, Day Activity and Health Services (DAHS), Residential Care (RC) and Assisted Living/Residential Care (AL/RC). Due to limited funding, participation in the Attendant Compensation Rate Enhancement has been frozen since September 2002. Recent rule amendments limit enrollment in the enhancement for providers who have not met their spending requirements; it is anticipated that these amendments will free enough funding to allow the enrollment freeze to be lifted for FY 2007.

**SERVICE IMPROVEMENT:** there are opportunities within current appropriations and legislation to improve the current service system.

***Investigate the feasibility of consolidating DADS' seven 1915(c) waiver programs and their services along functional need lines with consideration of service rates appropriate to the level of need of the individuals served<sup>6</sup>. The investigation should examine efficiencies in administration; service definitions; and appropriate rate level for services.<sup>7</sup>***

The 1915(c) waivers were developed independently beginning in 1983 with the Home and Community-based Services (HCS) waiver. Development of the subsequent six other waiver programs were based on diagnostic criteria as specific advocate communities requested community-based programming. One of the reasons for this approach to community development was the pre-consolidation (House Bill 2292, 78<sup>th</sup> Legislature, 2003) organization of the health and human service agencies. Individuals with mental retardation were served by legacy Texas Department of Mental Health and Mental Retardation and all other populations were served by legacy Texas Department of Human Services.

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<sup>6</sup> The seven 1915(c) waivers operated by DADS are: Community-based Alternatives; Medically Dependent Children's Program; Community Living Assistance and Support Services; Deaf-Blind with Multiple Disabilities; Home and Community-based Services; Texas Home Living; and Consolidated Waiver Program.

<sup>7</sup> This recommendation was approved by a majority of the PIAC by an 8-2-1 vote. The two organizations who voted against this recommendation are: ARC of Texas, and the Private Providers Association of Texas. The Texas Health Care Association did not vote.

This developmental approach of the seven (c) waiver programs has resulted in mutually exclusive administrative and policy decisions. The unintended consequences are differences in service definitions, regulatory expectations, and monitoring and billing guidelines. This program design requires providers to operate each program separately foregoing any opportunities for administrative efficiency. One example of this disparity is in the provision of case management where there are three different models.

An individual needing long term services and supports may apply for multiple programs and be placed on more than one interest list. This process is often confusing in accessing services and creates multiple administrative functions.

PIAC recommends that the state use historical information learned through the Consolidated Waiver pilot to help guide this investigation.

***Develop the policy of “negotiated risk agreements” which will help alleviate the liability burden for home health agencies in order that they may better serve persons with complex needs in the community.***

One of the barriers to community relocation is the perceived liability of home and community support services agencies (HCSSA) to provide health and safety services twenty-four hours/seven-day a week. The most common citation quoted by a HCSSA to deny service is 40 Texas Administrative Code (TAC) Section 97.401(b) which reads:

“The agency must accept a client for home health services based on a reasonable expectation that the client's medical, nursing, and social needs can be met adequately in the client's residence. An agency has made a reasonable expectation that it can meet a client's needs if, at the time of the agency's acceptance of the client, the client and the agency have agreed as to what needs the agency would meet; for instance, the agency and the client could agree that some needs would be met but not necessarily all needs.”

The citation allows for a “negotiation” between the HCSSA provider and the client. PIAC recommends that DADS work with all stakeholders to ensure appropriate training of DADS staff and HCSSA providers of this ability to negotiate a service plan based on individual choice.

***Investigate a regional management structure to improve access and utilization of the consumer-directed services (CDS) option.***

CDS is a service option that allows individuals more choice and control in how they receive services. This option provides an individual the opportunity to control the hiring, managing, and firing of individuals who provide direct services. In addition, the individual has the opportunity to set wages and work schedules. This service option is available in all of DADS’ (c) waiver programs (Texas Home Living and the Home and Community-based Services program will become effective January 1, 2007); the two Medicaid state plan attendant programs and STAR+PLUS. Currently, DADS holds individual contracts with any willing CDS agency that meets DADS’ criteria.

There has been a low utilization of the CDS option in both of its formats other than in the CLASS waiver program. PIAC believes that part of the problem is the lack of a central systematic outreach and education process and the lack of appropriate incentives.

PIAC wants the principles of Self Determination to be incorporated in all the programs administered by the HHSC Enterprise and the CDS option as part of that delivery system. This delivery system should build on the current system but explore economic and program incentives to allow a balanced choice among home and community service and support delivery system options.

### **EXPAND INDEPENDENT LIVING OPPORTUNITIES AND RELOCATION**

**ACTIVITIES:** Texas is an originator of the “money follows the person” institutional transition policy. In order to help make these transitions successful and to provide enhanced assistance for persons with complex needs, it is necessary to expand the current support system array.

*Addition of targeted case management (TCM) to the state plan or another mechanism to match General Revenue dollars.*

The Texas Department of Aging and Disability Services (DADS) is currently allocated \$1.3 million dollar/year in its 2006-2007 appropriation, under strategy A.4.5: Promoting Independence Plan, for relocation activities. This strategy funds the relocation activities involved in supporting the “money follows the person” policy which is codified under Subchapter B, Chapter 531, Government Code, 531.082. These activities include outreach to current nursing facility residents in order to help identify individuals who want to relocate to the community. Once identified, relocation specialists assist in the facilitation of that relocation. The current relocation activity is administered by DADS through four contracts Centers for Independent Living; a new contract procurement is being initiated and six regional contracts will become effective on January 1, 2007.

Currently, all funding is with General Revenue. PIAC recommends that the state fund these activities through a targeted case management state plan amendment (SPA) which would take advantage of the Federal Medicaid Assistance Percentage (FMAP). FMAP for Texas in Federal fiscal year 2006 is 60.78 – 39.22 percent (match funding). PIAC believes the state plan amendment could be crafted as to limit Texas’ Medicaid exposure and concomitantly increase the number of relocation specialists to assist individuals with complex functional needs. If the state determines that targeted case management will risk current funding, it should at minimum pursue administrative match.

*Increase the current number of relocation specialists’ budget from \$1.3 million/annum (General Revenue) to \$2.6 million/annum (GR).*

The 79<sup>th</sup> Legislature (Senate Bill 1, Regular Session, 2005) allocated \$1.3 million/annum to DADS for purposes of supporting the PIP. DADS has chosen to use these dollars to fund its relocation specialist activity. Relocation specialists provide outreach, advocacy and case management for individuals with complex needs in their transition from nursing facilities to the

community. The relocation specialists also provide ongoing support once the person is transitioned to the community, resulting in a more successful transition.

Current funding only allows for a little more than twenty relocation specialists to support the state-wide effort. Consequently, the current number of relocation specialists has only been able to serve a small percentage of the overall 17,000 plus individuals who have indicated their desire to relocate back into the community according to the Minimum Data Set's (MDS) Question 1a. The MDS is a federally mandated care planning assessment tool used in NFs.

***The state is only partially covered by Centers for Independent Living. Fund an additional 21 CILs in order to provide state-wide coverage.***

The federal Rehabilitation Act which is overseen by the Rehabilitation Services Administration created the development of Centers for Independent Living (CIL)s. The purpose of the independent living programs is to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities and to integrate these individuals into their communities. CILs provide services to individuals with significant disabilities that help them remain avoid long-term institutional settings. There are 21 CILs in Texas funded by federal and General Revenue funds.

However, these 21 CILs only cover 145 counties. This results in many parts of the state, especially in the rural counties, to be without CIL supports (109 counties are without Title VII, Part C, CIL funding).

***Fund community navigators to assist individuals in accessing community based services.***

Texas recently concluded (September 2005) a three-year CMS Real Choice grant that pilot-tested the use of community navigators. The pilot had positive outcomes. It demonstrated that organizing community service organizations and/or providers through a coordinated "front-door" could help individuals get the necessary supports they required to remain in the community.

The community navigators assisted individuals in need of long term services and supports in more easily accessing the appropriate services to support ongoing community living. These navigators were able to educate individuals on the usually less expensive community system versus institutional service.

DADS currently has a CMS Aging and Disability Resource Center (ADRC) grant to promote community coordination and build on the lessons learned from the community navigator grant (see Grants section).

***Increase transportation supports for individuals who are aging and/or have disabilities.***

The statewide network of nursing facility transition teams has identified the lack of reliable transportation as a major barrier to relocation of NF residents into the community. Overall, one in five Texans lack access to reliable vehicles. Individuals who are aging and/or with disabilities are disproportionately affected. Medical (Medicaid) transportation services are offered only after meeting restrictive eligibility criteria and do not provide non-medical services.



**CHILDREN'S SUPPORTS:** many of Texas' children continue reside in institutional settings or are currently receiving community services that are threatened upon aging out of the program.

***Develop and implement a medicaid buy-in program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as allowed in the Deficit Reduction Act of 2005.***

Many children with disabilities are uninsured or underinsured. Often this is due to the fact that the cost to provide insurance for a child with significant disabilities may be unattainable for many families. Additionally, the limitations in many commercial insurance policies do not provide the services needed for a child with disabilities. Consequently, families of children with disabilities often purposely enter into poverty through divorce or employment decisions simply to qualify for publicly funded health insurance for their child. In other cases, families are forced to make the difficult decision to institutionalize their child in order to obtain required services. Expanding Medicaid opportunities, on a sliding-fee basis, to families caring for children with disabilities will prevent families from remaining in or entering into poverty for the sole purpose to obtain medical care for their child, and will prevent institutional placements caused by the lack of needed services. PIAC recommends the development and implementation of a Medicaid Buy-In program for children with disabilities in families with income between 100%-300% of FPL.

***Continue and expand riders 46 and 54 (SB 1, Article II, 79th Legislature) initiatives to ensure funding is available for institutionalized children to have the opportunity to transition to families.***

The 79<sup>th</sup> Legislature passed Riders 46 and 54 to the Department of Aging and Disability Services (DADS) fiscal years 2006-2007 appropriation to provide opportunities for children with disabilities to live with families and avoid institutionalization.

Rider 46 allows for up to 50 children residing in intermediate care facilities for persons with mental retardation (ICF/MR) s to transition to community-based services during the 2006-2007 biennium. The intent of this rider was to ensure that children be given the opportunity to relocate to the community when requested by the parent/guardian.

Rider 54 provides funding for 62 youth aging out of the Department of Family and Protective Services' Child Protective Services foster care program to obtain Home and Community-based Services (HCS) waiver slots to allow them remain in the community and avoid institutionalization.

The only real option available when CPS funding ceases for children with significant disabilities in the foster care system is transferring them to a long-term care facility because of the HCS interest list. All Rider 54 slots will be filled. Therefore, PIAC recommends expanding the number of HCS waiver slots available to youth aging out of the CPS system in order for them to remain in the community.

***Fund additional Department of Assistive and Rehabilitative Services (DARS) transition specialist positions to more effectively facilitate meaningful transition from Independent School Districts' (ISD) secondary school system to appropriate adult supports and services.***

PIAC strongly supports the new DARS initiative to create specialist positions to more comprehensively serve the needs of minors with disabilities. While DARS transition specialists are skilled at addressing employment issues, they currently have limited knowledge of the health and human services system and the supports and services that may be available for youth with disabilities to support their transition into adult services.

Additional transition specialists are needed to meet the demand in our high schools. Additionally, DARS transition specialists must receive the appropriate training to become familiar with the long term services and supports systems. This necessary training will enable them to enhance the opportunities for those individuals who are transitioning into adult services to remain in their communities.

***Increase funding for permanency planning activities. There is a legislative requirement for this activity but it was never fully funded.***

Permanency planning for institutionalized children is a process of communication and planning with families. The purpose is to identify the supports and services needed to enable the child to leave an institution by returning to the birth family or transitioning to a support family. This is a labor-intensive task and must be approached with a specialized skill set. To meet the goals of the legislative mandate, there must be ongoing communication with the family and a proactive effort to remove the systemic barriers that prevent a child from leaving the institution. Current funding does not cover the cost of generating the plans and does not allow permanency planners to actualize the plan by working to remove transitional barriers.

Additionally, the permanency planning process in Texas is a relatively new concept and the institutionalized skill is still being developed. Those individuals responsible for this process must have the training and skill to ensure that permanency planning becomes an acculturated part of the long term services and supports system.

**HOUSING INITIATIVES:** without available, accessible and integrated housing there is no opportunity to remain in or relocate to the community.

***There needs to be an increase in dedicated HOME (Tenant Based Rental Assistance - TBRA) funds for persons who are aging and/or have disabilities.***

Individuals who are leaving nursing facilities or individuals who meet *Olmstead* criteria under the Department of State Health Services (DSHS) provisions must have a stable residence in which to reside. Given that many of the individuals will be living on Supplemental Security Income (SSI) which is \$603/month, financial assistance is required. TBRA is an excellent strategy because it allows the individual to choose where they will live, provides true community integration, and fills the gap between income and fair market rents in our communities.

The state HOME program has been used historically to provide this rental assistance to people meeting *Olmstead* criteria. However, for several reasons, the Texas Department of Housing and Community Affairs (TDHCA) has withdrawn their commitment to provide these resources.

PIAC recommends restoring this commitment, along with accommodations by TDHCA to the specific conditions experienced by the Texas Department of Aging and Disability Services (DADS) contracted relocation specialists. Also, formal training must be provided to relocation specialist and other contractors to increase their performance in finding adequate housing. Finally, PIAC will continue to coordinate the relationship between the health and human service agencies and TDHCA at the state level.

***There needs to be a system of local housing coordinators/navigators to assist individuals and the human services system to locate and develop housing resources.***

PIAC recommends the use of local staff dedicated to: finding housing, assisting people in making community arrangements, and supporting individuals in the housing of their choice. This strategy has proven to be successful in increasing the number of individuals with disabilities to live in an integrated community setting.

PIAC proposes funding a full network of local housing coordinators/navigators working in conjunction with DADS' contracted relocation specialists and case managers across all systems.

### **Increase supportive housing opportunities**

Community integration is very difficult without real, affordable, integrated housing opportunities. PIAC recommends that TDHCA and other agencies look seriously at housing options across the board and create a plan to increase the number of accessible, affordable and integrated housing units available for people with disabilities. Components of this plan should include:

- annual updates to TDHCA's inventory of accessible housing units;
- compliance training and support for accessibility provisions in funded programs;
- minimum requirements and incentives to improve builder and provider performance in the development and operation of housing for people with disabilities; and
- state level coordination of housing activities across agencies.

### **ENSURE THAT PROMOTING INDEPENDENCE PRINCIPLES ARE INCORPORATED IN ALL STATE INITIATIVES:**

There are a number of major state and federal initiatives that are currently being undertaken that will have a significant impact on the aging and/or persons with disabilities. PIAC recommends that HHSC ensure that the "Promoting Independence Initiative" principles are the underlying basis for all future policy development for long term services and supports. PIAC requests that any fundamental change to the state's long term services and supports' system includes external stakeholders in an advisory capacity.

Of special interest are the following initiatives:

### ***Current State Considerations.***

- Implementation of the Deficit Reduction Act (DRA) of 2005 sections pertaining to: Consumer-Direction (CDS); Money Follows the Person (MFP); and State Plan Amendment options:
  - PIAC wants any decision regarding the DRA CDS option to be considered carefully and only pursued if it will enhance the current system.
  - PIAC wants the state to pursue the MFP grant and expansion opportunities for persons with mental retardation and for those with mental illness (see PIAC's recommendation regarding the expansion of Texas' MFP program).
  - PIAC does not want the DRA State Plan Amendment (SPA) option – the 1915 (i) -- substituted for current (c) waiver or state plan amendment programs. The 1915 (i) option should only be considered for populations not yet served by the health and human services system.
- Expansion of the STAR+PLUS model to the Harris/Nueces/Travis/Bexar Service Delivery Areas and creation of the Integrated Care Model (ICM) in Dallas and Tarrant Counties. PIAC is concerned about the accessibility of community-based programs; implementation of Texas' MFP policy; the possible impact to the overall "slot" allocation for (c) waiver services for the Medicaid Assistance Only (MAO) population; and how the ICM implementation will impact DADS' waiver budget because of SSI entitlement to waiver services.
- Reconfiguration of the Medicaid long term services and supports system. PIAC is very concerned about any consideration about a possible 1115 waiver. PIAC is opposed to using an 1115 waiver for purposes of limiting accessibility or reducing services and requests to be consulted in any discussion on the subject.

### ***Pending Federal Considerations***

PIAC encourages HHSC and the state to support the proposed federal legislation:

- S 2409 (The Home and Community based Services Co-payment Equity Act of 2006). The Medicare Modernization Act of 2003 created the Part D drug program which is required of all dual eligible individuals. One aspect of the Part D program which was always considered to be counter to the *Olmstead* decision was the provision which waived the cost-sharing requirement for individuals residing in institutional settings but requiring a cost-share for those accessing community services. S 2409, if passed, would include individuals in (c) waiver programs both in-home and in assisted living/residential care facilities/group homes from cost-sharing requirements.
- S 3677 (Individual Living Act of 2006) eliminates the Medicare in-house restriction for those who need mobility assistance devices outside of their home in order to access work and other community activities.

# **APPENDIX G**

## **MONEY FOLLOWS THE PERSON CLIENT DEMOGRAPHICS**

(For help accessing the tables in this section, e-mail [marc.gold@dads.state.tx.us](mailto:marc.gold@dads.state.tx.us))



# Rider 28 Client Demographics

Data Effective Date: November 30, 2006

Page 1 of 1

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	41
COMMUNITY - ALONE	1,127
COMMUNITY - ALTERNATIVE, LIVING/RES. CARE	1,397
COMMUNITY - W/FAMILY	2,300
COMMUNITY - W/OTHER WAIVER PARTICIPANTS	153
ICF/MR - COMMUNITY	2
OTHER	33
<b>Total</b>	<b>5,053</b>

Note: The "OTHER" category includes those clients with a null living arrangement or a living arrangement of Nursing Facility.

Service Group	Client Count
CBA	4,755
CLASS	37
COMMUNITY CARE	5
MEDICALLY DEPENDENT CHILDREN PROGRAM	192
NURSING FACILITY	1
PACE	1
STAR+PLUS	63
<b>Total</b>	<b>5,053</b>

Age Group	Client Count
0 - 9	137
10 - 17	53
100 +	11
18 - 20	14
21	5
22 - 44	372
45 - 64	1,375
65 - 69	471
70 - 74	530
75 - 79	602
80 - 84	624
85 - 89	515
90 - 94	257
95 - 99	87
<b>Total</b>	<b>5,053</b>

Region	Client Count
00	1
01	207
02	376
03	1,473
04	646
05	276
06	217
07	364
08	618
09	175
10	46
11	654
<b>Total</b>	<b>5,053</b>

Gender	Client Count
FEMALE	3,254
MALE	1,798
UNKNOWN	1
<b>Total</b>	<b>5,053</b>

Ethnicity	Client Count
AMERICAN INDIAN OR ALASKAN NATIVE	18
ASIAN OR PACIFIC ISLANDER	18
BLACK- NOT OF HISP. ORIGIN	640
HISPANIC	1,001
UNKNOWN	143
WHITE- NOT OF HISP. ORIGIN	3,233
<b>Total</b>	<b>5,053</b>

# **APPENDIX H**

## **2004 PROMOTING INDEPENDENCE PLAN: STATUS REPORT**

The 2004 Promoting Independence Plan (Plan) includes 71 recommendations to the Governor and the Legislature. The state agencies made significant progress in the current biennium to comply with these recommendations.

The following provides a status report on each recommendation. All 71 recommendations are listed as in the 2004 Plan and placed into one of four categories: *done*; *partially done*; *ongoing*; or *no legislative direction or appropriations received*. Of the 71 recommendations, 21 did not receive the necessary legislative direction or appropriation.

## **AT RISK OF INSTITUTIONALIZATION**

### ***DONE***

- 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 (January 1, 2007); and the expansion of coverage of more services such as occupational, physical and speech therapies. Service Responsibility Option has been expanded to Bexar County. The Medically Dependent Children's Program (MDCP) has included CDS as an option for respite. CLASS services options (nursing and therapies) are being considered.

### ***PARTIALLY DONE***

- **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**

The 79<sup>th</sup> Legislature did not provide appropriations to fund all aspects of this recommendation. 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.

### ***ONGOING***



- 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 care services, and Title II of the ADA.

**Status**

HHSC is notifying the health and human service agencies in writing that staff or subcontractors assisting aged and disabled individuals be knowledgeable about their issues and programs.

**FUNDING AND CAPACITY ISSUES**

***DONE***

- 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 current biennium and have included *Olmstead* principles in their 2007-2011 strategic plans and legislative appropriations requests (LAR)s.

- **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 79<sup>th</sup> Legislature codified Rider 7b with Senate Bill 626 which had the original language from the 77<sup>th</sup> 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 79<sup>th</sup> 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 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 completed

- 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 79<sup>th</sup> Legislature did include funding for DADS for an additional 9360 waiver “slots”.

- 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 completed.

***PARTIALLY DONE***

- **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 permanent. HHSC expanded the contract with EveryChild, Inc from 12 counties in central Texas to the Houston and Dallas/Longview areas. DADS is working on other issues.

- 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.

#### ***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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 79<sup>th</sup> Legislature did not include this provision in House Bill 1867 as the 77<sup>th</sup> 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 79<sup>th</sup> Legislative Session did not expand Rider 28, now codified as House Bill 1867, to beyond the nursing facility setting. Rider 46 directs DADS to conduct a pilot to move up to 50 children from an intermediate care facility for the mentally retarded (ICF/MR) to a community setting.

- **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.

## CHILDREN'S ISSUES

### *DONE*

- **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.

- 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. Rules implement on September 1, 2006.

- 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.

#### ***PARTIALLY DONE***

- **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 79<sup>th</sup> Legislature did strengthen permanency planning requirements through Senate Bill 40 but did not to the full measure of the recommendation. HB 2579 requires DADS to ensure community and family-based options are provided to families during intake process.

- 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

Rider 54 has been implemented. Rider 54 provided for \$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 from DADS appropriation; Strategy A.3.2

- **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

The 79<sup>th</sup> Legislature attached Rider 54 to DADS appropriation under Strategy A.3.2 for 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 an independent permanency plan be completed prior to a child's placement in a nursing facility.

## Status

House Bill 2579 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.

## *ONGOING*

- 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), TexasHealthSteps access to the most appropriate waiver services in the community.

**Status**

Pending; HHSC is compiling data. 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.

***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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 79<sup>th</sup> 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 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, 77<sup>th</sup> 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 (Rider 46) and \$1.8 million for community services for children with disabilities aging out of foster care (Rider 54). While these funds are not limited to children in the project area, some children in the project area will be eligible for this funding.

## **HOUSING ISSUES**

### ***PARTIALLY DONE***

- 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.

### ***ONGOING***

- 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.

### ***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- TDHCA will restore the *Olmstead* set-aside or make an equivalent commitment of dollars in 2005 and beyond. TDHCA's Board has not made a policy decision on this recommendation.

#### **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 who serve individuals in the *Olmstead* population. However, TDHCA does not advocate policy decisions aimed toward public housing authorities, or any public entity.



## **WORKFORCE ISSUES**

### ***DONE***

- 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 (\$6 million in General Revenue appropriated). Medicaid Buy-In is effective September 1, 2006.

- 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 (see above).

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

### **Status**

HHSC has communicated support.

### ***ONGOING***

- 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**

A Workforce Forum is being planned for late Fall 2006.

- 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 ongoing.

- 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 determined that a provider's inventory is not necessary but a compiling of information about opportunities for university internships is posted to the DADS website effective September 1, 2006.

- 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 worked with HHSC and DADS for the inclusion of the CDS option in the Home and Community-Based Services (HCS) and Texas Home Living waivers which become effective September 1, 2007. Additionally, it is working with both agencies for the expansion of CDS to cover other services such as therapies.

## ***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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.

- **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.

- **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.

- **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**

***DONE***

- 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, 2004, 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 drafting 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 support this recommendation in all of its initiatives.

### ***PARTIALLY DONE***

- **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.

### ***ONGOING***

- **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.

### ***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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 appropriation on this recommendation. However, legacy Department of Human Services community care providers received a rate restoration in response to the rate cut enacted during the 78<sup>th</sup> Legislative Session (a 1.1% rate cut enacted for the 2004-2005 biennium was restored for 2006-2007).

- **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 appropriation.

- **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 (PHC) program.

## **Status**

There was no legislative direction. The PHC does not require a licensed nurse as part of its licensing requirement and therefore can not use nurse delegation.

### **DEPARTMENT OF AGING AND DISABILITY SERVICES**

#### ***DONE***

- 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**

DADS convened the subcommittee which will provide recommendations to PIAC; HHSC and the other appropriate HHS agencies.

- 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 and is an ongoing activity.

- 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 in the aggregate by facility. Nursing facility (NF) Ombudsman and NF social workers and others can refer individuals.

- 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>

- 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.

## *PARTIALLY DONE*

- 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).

## *ONGOING*

- **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

Even though there was no legislative direction nor funding, DADS is working to identify barriers to transitioning populations with complex needs.

## ***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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.

## **DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES**

### ***DONE***

- 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.



***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- 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.

**DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

***DONE***

- 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.

***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

**DEPARTMENT OF STATE HEALTH SERVICES**

***DONE***

- **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 79<sup>th</sup> session. However, DSHS has addressed this issue with ongoing policy as a result of House Bill 2292, 78<sup>th</sup> 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).

## ***ONGOING***

- 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.

***NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS***

- **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 79<sup>th</sup> session. However, DSHS has worked with Advocacy Incorporated and DARS to develop a standard definition for deaf and hard of hearing. In addition, barriers to placement are being dealt on a case-by-case basis given the very small numbers.