

TEXAS HEALTH AND HUMAN SERVICES COMMISSION



**2008
Revised
Texas Promoting
Independence Plan**

In response to

S.B. 367, 77th Legislative Session
Executive Order RP-13

and the

Olmstead vs. L.C. Decision

Submitted to the Governor and the Texas Legislature

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EXECUTIVE SUMMARY

PREFACE

The *2008 Revised Texas Promoting Independence Plan* (Plan) is the third revision of the original Plan submitted in January 2001 as required by Governor George W. Bush's Executive Order GWB 99-2. Texas' Plan is a direct response to the Supreme Court's *Olmstead* decision¹ 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 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.² The revised Plan 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.³ Finally, the Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.⁴

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* 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).⁵

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

¹ *Olmstead v. L.C.*, 527 U.S. 581 (1999)

² 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 B.

³ S.B. 367, 77th Legislature, Regular Session, 2001, Subchapter B, Chapter 531, Government Code.

⁴ Executive Order GWB 99-2, see Appendix B.

⁵ 42 U.S.C § 12131 *et seq.*

development and ongoing implementation of the original Plan.⁶ The first Plan was submitted to the Governor and state leadership on January 9, 2001. The 77th 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 B).

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.⁷

INTEREST LIST AND BUDGETARY INFORMATION

The 80th Texas Legislature (2007) made important progress in serving additional individuals from the Medicaid waiver and non-Medicaid community services interest lists. The 2008-2009 General Appropriations Act (House Bill 1, 80th Legislature, Regular Session, 2007) provides \$71.5 million (General Revenue [GR]), \$173.2 million (All Funds) for DADS to serve an estimated additional caseload of 8,595 by the end of the Fiscal Years (FY) 2008-2009 biennium. In addition, HHSC received \$19 million GR, \$47.8 million All Funds to fund the acute portion of DADS' increased appropriation for its 1915(c) waiver programs and to fund 307 additional 1915(c) Medicaid waiver slots (Medical Assistance Only) for STAR+PLUS. There were 82,050 individuals (unduplicated count) on the Medicaid waiver interest lists as of June 30, 2008. These are individuals who have shown interest in community services, however, they have not been assessed for eligibility and may not meet all community financial/functional criteria.

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 included Exceptional Item 8 with its Legislative Appropriations Request (LAR) which requests an additional \$224 million GR, \$474.4 million (All Funds) to increase the average monthly caseload by 4,646 in FY 2010 and 11,554 in FY 2011 across all the health and human services agencies' interest lists. HHSC also detailed in its *Health and Human Services System Consolidated Budget Fiscal Years 2010-2011* the costs for increasing provider and direct services workers reimbursement.⁸ 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 also included several exceptional Items to their respective LARs to address Promoting Independence activities.

⁶ The PIAC Report to the HHSC may be found at: http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp.

⁷ See Appendix C for the Health and Human Services Circular – 002.

⁸ See Appendix D.

1999-2008: THE TRANSFORMATION TO A LONG-TERM SERVICES AND SUPPORTS SYSTEM OF CHOICE

The Texas long-term services and supports system is very different in 2008 as contrasted to 1999 when the United States Supreme Court rendered its *Olmstead* decision. This ongoing change from an entitled institutionally based system to one of choice of community-based programs is based in statute, policy and appropriations.

- **All Programs:** There has been a significant increase in the number and percentage of individuals being served in community programs versus institutional programs from FYs 1999-2008; this is true for individuals in the A&D programs as well as for those in IDD programs. In FY 1999, 62.3 percent of all individuals (134,905 individuals) were served in community long-term services and supports versus 74.2 percent (232,270 individuals) in FY 2008. From FYs 1999-2008 there was a 72.2 percent increase in the community caseload versus a 1.2 percent decrease in institutional services and supports when Medicare Skilled Nursing and Hospice are included. There was an 11.1 percent decrease in Medicaid NF utilization when considered alone. Spending for community programs was 36.7 percent (\$1,252,337,993) of all expenditures in FY 1999 versus 48.6 percent (\$2,849,327,431) in FY 2008: there was a 127.5 percent increase in community funding from FYs 1999-2008.
- **Aging and Disability Programs:** 62 percent of all individuals in A&D programs (112,146 individuals) were served in the community in FY 1999 versus 74 percent (197,933 individuals) in FY 2008; a 76.5 percent increase in caseload from FY 1999 to FY 2008. In terms of expenditures: 33.5 percent (\$761,750,763) was spent on A&D community programs in FY 1999 versus 48.6 percent (\$2,041,278,692) in FY 2008; there was an 85 percent increase in funding from FYs 1999-2008.
- **Intellectual and Developmental Disability Programs:** 64 percent of all individuals in IDD programs (35,683 individuals) were served in the community in FY 1999 versus 75 percent (45,592 individuals) in FY 2008. In terms of expenditures: 43 percent (\$490,587,230) was spent on IDD programs in FY 1999 versus 49 percent (\$808,048,739) in FY 2008.
- **State Mental Health Hospitals (state hospitals):** For individuals in state hospitals, there has been an overall decrease in the number of individuals hospitalized for more than one year with a civil commitment; in 2001 there were 268 individuals in for more than one year and 216 in November 2008. The number of individuals hospitalized for more than one year with a forensic commitment has increased. The number of individuals admitted three or more times within 180 days into a state hospital has decreased from 293 in August 2005 to 159 in November 2008.

- **Children In Institutional Settings as defined by Chapter 531, Government Code, Subchapter D, Section 531.151⁹:** The following is the status of children (0-21 years of age) in institutional settings as of August 31, 2008 as compared to August 31, 2002¹⁰: The overall number of children in all institutional settings has slightly decreased during the 2002-2008 timeframe (1,675 children as of August 2002 versus 1,624 in August 2008 or a three percent decrease). The total number of children in DADS facilities was 1,508 in August 2002 versus 1,392 in August 2008 or an eight percent decrease. The total number of children in DADS facilities without Home and Community-based Services was 1,196 versus 822 in August 2008 or a thirty-one percent decrease. The total number of children in DFPS facilities was 167 in August 2002 versus 232 in August 2008 or a thirty-nine percent increase.

2008 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 B) and S.B. 367 (77th Legislature, Regular Session, 2001). These directives for the *2008 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 direction and/or funding.

All implementation directives from the 2001, 2002, 2004, and 2006 Plans remain in effect.¹¹ The 2008 directives build upon those made in previous Plans. The directives impact all health and human services agencies and the Texas Department of Housing and Community Affairs. HHSC will make assignments to the health and human services agencies 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 *2008 Stakeholder Report*; however, not all the Committee's recommendations are included in the *2008 Revised Plan* and others may have had a change in the language.¹² In all, there are twenty-three new directives included in the *2008 Revised Plan*.

The major categories included in the *2008 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.

⁹ Chapter 531, Government Code, Subchapter D, Section 531.151 (3) defines institution as: (A) an ICF-MR, as defined by Section 531.002, Health and Safety Code; (B) a group home operated under the authority of the Texas Department of Mental Health and Mental Retardation including a residential service provider under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, that provides services at a residence other than the child's home or foster home; (C) a foster group home or an agency foster group home as defined by Section 42.002, Human Resources Code; (D) a nursing facility; (E) an institution for the mentally retarded licensed by the Department of Protective and Regulatory Services; or (F) another residential arrangement other than a foster home as defined by Section 42.002, Human Resources Code, that provides care to four or more children who are unrelated to each other.

¹⁰ Permanency Planning and Family-Based Alternatives Report (January 2009).

¹¹ 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 or the DADS' website at http://www.dads.state.tx.us/business/pi/ piac_reports/index.html.

¹² 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.

1. *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.

Behavioral Health Directives within Program Funding

There is an increasing concern for the lack of behavioral health services and supports for individuals with dual diagnoses (individuals who are aging and/or with a disability and a mental illness and/or substance abuse issue). These issues, as either stand-alone concerns or coupled with other co-occurring disability issues, present a barrier for a fully-integrated long-term services and supports system. The following three directives (2-4) address this concern.

2. *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.

3. *Requires legislative direction and/or appropriations*

If directed and/or funded by the Legislature, HHSC will work with DSHS to provide services and supports for individuals leaving the state mental health facility (state hospital) system.

4. *Requires legislative direction and/or appropriations*

If directed and/or funded by the Legislature, HHSC will work with DADS to incorporate effective behavioral services and supports in their service arrays.

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

If directed and/or funded by the Legislature, HHSC will work with DADS to ensure flexibility in the service array.

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

If directed and/or funded by the Legislature, HHSC will work with DADS to develop a fully integrated data warehouse.

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

If directed and/or funded by the Legislature, HHSC will work with its operating agencies to expand respite care for family caregivers and increase the average benefit.

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

8. *Requires legislative direction and/or appropriations*

If directed and/or funded by the Legislature, HHSC will increase private provider rates according to established methodologies, recognizing inflation factors.

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

If directed and/or funded by the Legislature, HHSC will fund the full impact of the minimum wage increase, including the “ripple effect”.

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

If directed and/or funded by the Legislature, HHSC will increase support for community direct services and supports workers.

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

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

If directed and/or funded by the Legislature, HHSC will work with DADS to provide the appropriate community-based services to those children (0-17 years of age) at imminent risk of institutionalization and to offer more community-based options to support individual choice.

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

If directed and/or funded by the Legislature, HHSC will work with the Department of Family and Protective Services (DFPS) to expand the Promoting Independence (PI) population to include children in DFPS conservatorship who have disabilities and are residing in select institutions licensed by DFPS.

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

If directed and/or funded by the Legislature, HHSC will work with the appropriate health and human services agencies to develop a pilot project to create emergency shelters for children with intellectual and developmental disabilities needing out-of-home placement.

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

If directed and/or funded by the Legislature, HHSC will work with DADS and DFPS to develop adequate behavioral services to support children (0-21 years of age) coming out of

institutions and to help provide them with community options in order to support individual choice.

15. Requires legislative direction and/or appropriations.

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

Independent Living Opportunities and Relocation Activities: these directives will help make relocation to community living successful and provide enhanced assistance for individuals with complex needs.

16. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to expand its “Promoting Independence Priority Populations” policy to include individuals residing in medium (nine to thirteen bed) community ICFs/MR.

17. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, DARS will add an additional three Centers for Independent Living (CILs).

18. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to increase the relocation activity that assists individuals in nursing facilities to relocate back into their community.

19. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to establish a pilot project, which would support institutional diversion activities in order to avoid initial institutionalization.

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

20. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, the Texas Department of Housing and Community Affairs (TDHCA) will increase the baseline funding for the Texas Housing Trust Fund.

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

If directed and/or funded by the Legislature, HHSC will work with TDHCA to supplement the administrative fee for HOME Vouchers.

22. *Requires legislative direction and/or federal/state appropriations.*

If directed and/or funded by the Legislature or the United States Department of Housing and Urban Development, TDHCA should increase the amount of dedicated HOME vouchers for individuals relocating from institutional settings.

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

If directed and/or funded by the Legislature, TDHCA should establish a separate GR Fund program to provide affordable housing to individuals whose income is up to the 300 percent of the SSI level and who want to relocate from an institutional setting or remain in the community.

CONCLUSION

HHSC is committed to meeting the spirit and goals of the Promoting Independence Initiative (Initiative), the Promoting Independence Plan (Plan), and the United States Supreme Court's *Olmstead* decision. The state is in an ongoing transformation from an institutionally based system to one that offers community options in order that individuals may live in the most integrated setting of their choice (see *1999-2008: The Transformation to a Long-Term Services and Supports System of Choice*).

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 *2008 Revised Texas Promoting Independence Plan (Plan)* is the fourth revision of the original Plan submitted in January 2001 as required by Governor George W. Bush's Executive Order GWB 99-2. Texas' Plan is a direct response to the Supreme Court's *Olmstead* decision¹³ 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 Promoting Independence 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 national recognition for its proactive public policies and support of the Promoting Independence Initiative (Initiative). The Initiative includes the Plan, all policy, programs 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 are significant. The long-term services and supports system continues to evolve and is very different than it was in 2001; see *1999-2008: The Transformation to a Long-Term Services and Supports System of Choice*.

The *2008 Revised Plan* does not attempt to repeat information previously provided and available on state agencies' websites but builds upon the original Plan and the subsequent three revisions. 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. There continues to be much more demand for community-based services than appropriated resources. The Health and Human Services Commission encourages all readers of the *2008 Revised Promoting Independence Plan* to review previous Plans to understand the full scope of Texas' efforts and successes.¹⁴ 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 *2008 Plan* will be monitored by the Committee.¹⁵

¹³ *Olmstead v. L.C.*, 527 U.S. 581 (1999)

¹⁴ 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 or the DADS' website at: http://www.dads.state.tx.us/business/pi/piac_reports/index.html.

¹⁵ See Appendix A for a listing of the Promoting Independence Advisory Committee.

INTRODUCTION AND PURPOSE

The Texas Promoting Independence Plan (Plan) serves several purposes within the state. First, the Plan provides the comprehensive working plan called for as a response to the U.S. Supreme Court ruling in *Olmstead v. L.C.*, (1999). Additionally, the Plan assists with the implementation efforts of the community-based alternatives Executive Order, RP-13, issued by Governor Rick Perry.¹⁶ 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.¹⁷ Finally, the Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for individuals with disabilities.¹⁸

The overarching Promoting Independence Initiative (Initiative) and the Plan are far-reaching in their scope and implementation efforts. The Initiative includes all long-term services and supports and the state's efforts to enhance its community-based services options. The goal is to ensure that the long-term services and supports system in Texas effectively fosters independence for all individuals who are aging and/or with a disability and provides opportunities for individuals to have a quality life in the setting of their choice. The underlying theme of the Initiative is individual choice and the opportunity to live in the most integrated setting.

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

- Individuals 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 accommodate the needs of individuals.
- 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 *Olmstead* throughout the United States¹⁹ and Texas was awarded the Council of State

¹⁶ 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 B.

¹⁷ Senate Bill 367 (77th Legislature, Regular Session, 2001), Subchapter B, Chapter 531, Government Code.

¹⁸ Executive Order GWB 99-2, see Appendix B.

¹⁹ As requested, Texas presented at several national conferences during the last two years including the National Health Policy Forum, Council of State Governments National Meeting, the Administration on Aging's Home and Community-based Services Conference, and the American Health Lawyers Association.

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 institutional-based to a community-based system. This progress has been achieved through policies instituted by previous legislatures, the health and human services system, and through additional funding for community programs by the 79th (2005) and 80th Legislatures (2007). In 2000, Texas had 76,350 institutionally-based residents²⁰ versus 68,314 as of June 30, 2008. Senate Bill 368 (77th Legislature, Regular Session, 2001) defined institutional settings for children and included the Department of Family and Protective Services (DFPS) institutional programs for children and the Home and Community-Based Services (HCS) group home program as institutional settings; in addition to the 68,314 residents, there were 347 in DFPS settings and 333 children in HCS group homes.²¹

In addition, there has been a significant overall decrease in the number of children residing in institutional settings, although there has been an increase in the number of children being admitted into state mental retardation facilities (state schools).²² Please see the section entitled *1999-2008: The Transformation to a Long-Term Services and Supports System of Choice* for more information.

The Initiative has achieved an equally important goal of increasing awareness about community-based options and ensuring that the directives made by the two Executive Orders and Senate Bill 367 (77th 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.

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, meeting the state’s statutes, and complying with the requirements under *Olmstead*. While 72 percent of all individuals are now being served in community settings,²³ 82,050 individuals (unduplicated count) remain on the Department of Aging and Disabilities Services (DADS) and HHSC interest lists as of June 30, 2008.²⁴ These are individuals who have shown interest in community services, however, they have not been assessed for eligibility and may not meet all community financial/functional criteria. The Committee is dedicated to building upon previous achievements, advocating for the ultimate goal of individual self-determination, and availability of community-based options.

²⁰ 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.

²¹ 2008 Promoting Independence Advisory Committee Stakeholder Report. In addition to the 68,314 individuals residing in nursing facilities, State Mental Retardation Facilities, State Mental Health Facilities, and community ICFs/MR, there are 680 children with disabilities in the Department of Family and Protective Services’ institutional programs and the Home and Community-based Services group home program.

²² See Children’s Issue section for more information.

²³ DADS’ 2008-2009 Legislative Appropriations Request.

²⁴ See DADS website at: <http://www.dads.state.tx.us/services/interestlist/index.html>. As of June 30, 2008, 100,192 individuals (duplicated count) remain on DADS’ interest lists; the unduplicated individual count is 82,050.

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* case, which has had far reaching effects for states regarding services for individuals with disabilities. *Olmstead* 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).²⁵

The Court ruled in the *Olmstead* decision that unnecessary institutionalization of individuals with disabilities in state institutions would constitute unlawful discrimination under the ADA. The Court ruled that it is appropriate to place individuals 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.
- The placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with disabilities.

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

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).

²⁵ 42 U.S.C § 12131 *et seq.*

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.”²⁶ 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.
- How the provision of services affects the ability of the state to meet the needs of others with disabilities.²⁷

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.²⁸

The Court, in its opinion, also acknowledged Congress’ findings that discrimination against individuals 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.”²⁹

Following the *Olmstead* decision, then Governor George W. Bush issued Executive Order GWB 99-2 which directed the Health and Human Services Commission (HHSC) to “conduct a comprehensive review of all services and support systems available to people with disabilities in Texas.” HHSC embarked on the Initiative and appointed a Promoting Independence Advisory Board to assist HHSC in crafting the State’s response to the *Olmstead* decision; the Promoting Independence Advisory Board met during Calendar Years 1999 and 2000. This collaboration resulted in the development and ongoing implementation of the original Promoting Independence Plan (Plan).³⁰

²⁶ 28 Code of Federal Regulations (CFR) § 35.130(b)(7)(1998).

²⁷ 119 S.Ct. 2176.

²⁸ 119 S.Ct. 2176.

²⁹ 119 S.Ct. 2176.

³⁰ The PIAC Report to the HHSC may be found at: 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.³¹

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.

Senate Bill (S.B.) 367 (77th Legislature, Regular Session, 2001) was a significant piece of legislation passed during the 77th Legislature. This bill renamed the Promoting Independence Advisory Board to the 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.³² 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 TDHCA, TRC, and TWC.³³

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.

House Bill (H.B.) 2292 (78th Legislature, Regular Session, 2001) had far reaching implications for all of health and human services as it consolidated the twelve health and human services agencies into HHSC as the umbrella agency and four additional operating agencies reporting directly to the Executive Commissioner of HHSC. HHSC Executive Commissioner, Albert

³¹ Executive Order GWB 99-2, see Appendix B.

³² Executive Order RP-13, see Appendix B.

³³ TRC and TCB are now part of the Texas Department of Assistive and Rehabilitative Services.

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. As a result of H.B. 2292, the four operating agencies as well as HHSC have ex-officio representation on the Committee.

Executive Commissioner Hawkins, through Health and Human Services Circular–002, issued on October 24, 2004, 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.
- 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.³⁴

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 Home and Community-Based Services (HCS) and Community Living Assistance and Support Services (CLASS) waiver programs.³⁵ The lawsuit requires HHSC to request additional funding for HCS and CLASS for three consecutive legislative sessions. HHSC requested additional funds in its 2008-2009 Legislative Appropriations Request (LAR) and has included a similar request in its 2010-2011 LAR. The 80th Legislature did increase appropriations to significantly reduce DADS' community interest lists and also included a number of Riders that support the Initiative.

The Texas Promoting Independence Initiative has received national attention since its implementation. In 2006, the Council of State Governments (CSG) awarded Texas the CSG 2006 Innovation Award for one of the Initiative's more prominent policies, "Money Follows the Person" (MFP).³⁶ Also, because of the success of Texas' MFP policy, Congress included Section 6071 in the Deficit Reduction Act of 2005; legislation which lays the groundwork to establish similar efforts across the United States. Congress provided \$1.75 billion in funding to support MFP Demonstration projects through calendar year 2011. Texas is participating in the MFP Demonstration to enhance and expand its own efforts.³⁷

³⁴ See Appendix C for the Health and Human Services Circular – 002.

³⁵ See *Interest List and Budget Information* section for detailed information.

³⁶ See *Community Relocation Policy* section.

³⁷ See *Grants and Innovations* section.

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 *2008 Stakeholder Report* submitted to the Health and Human Services Commission (HHSC) as required by section 531.02441(i), Government Code.³⁸ 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.
- 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 a report to HHSC on an annual basis.
- Advise HHSC on 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.
- Advise HHSC on identifying funding options for the Plan.

The Texas Department of Aging and Disability Services (DADS) provides support to the Committee.³⁹

Since the submission of the previous Plan, Glenda Rodgers, representing Texas Association of Area Agencies on Aging (T4A) and the aging community, resigned and was replaced by Doni Van Ryswyk, also representing T4A and the aging community. See Appendix A for a listing of the current Committee membership.

³⁸ 2006 PIAC Stakeholder Report can be found at: <http://www.dads.state.tx.us/pi>.

³⁹ 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 AND BUDGETARY INFORMATION

INTEREST LISTS

Applicants for the Department of Aging and Disability Services' (DADS) community-based services and the Health and Human Services Commission's managed long-term services and supports system 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, a top priority has been full-funding for community-based services and elimination of all interest lists. Again, this year's top priority is increasing community-based programs' appropriations to increase capacity.

The 80th Legislature, through the Fiscal Years (FY) 2008-2009 General Appropriations Act (Article II, DADS, House Bill [H.B.] 1, Regular Session, 2007), significantly increased the number of individuals who may access 1915(c) Medicaid waivers. H.B. 1 provides \$71.5 million in General Revenue (GR) funds, \$173.2 million All Funds (AF) additional funding for DADS to serve an estimated additional caseload of 8,595 by the end of FY 2008-09 biennium.

The following DADS' waiver programs were impacted:

- Community Based Alternatives (CBA)
- Community Living Assistance and Support Services (CLASS)
- Medically Dependent Children Program (MDCP)
- Deaf-blind with Multiple Disabilities (DBMD)
- Home and Community-Based Services (HCS)

In addition, the Health and Human Services Commission (HHSC) received \$19 million GR, \$47.8 million AF to fund the acute portion of DADS' increased appropriation for its 1915(c) waiver programs and to fund 307 additional 1915(c) Medicaid waiver slots (Medical Assistance Only[MAO]) for STAR+PLUS. Therefore, the 80th Legislature appropriated an additional \$90.5 million GR, \$221 million AF to HHSC and DADS for increased community choice.

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 made only when a CWP vacancy is available.

However, even with the additional funding over the past two legislative sessions (2005 and 2007), as of June 30, 2008, there remained 100,335 individuals on the official interest list for DADS waivers and the non-mandatory managed care waivers; the unduplicated count is 82,050 individuals and the unduplicated count without STAR+PLUS is 79,925 individuals.⁴⁰

It would cost the state \$2 billion AF, \$842.4 million GR annually to serve all unduplicated individuals who were on the interest list as of June 2008. The state would serve at full

⁴⁰ See DADS website at: <http://www.dads.state.tx.us/services/interestlist/index.html> for the most recent information. These are individuals who have shown interest in community services, however, they have not been assessed for eligibility and may not meet all community financial/functional criteria.

implementation an additional 48,208 individuals per month.⁴¹ In addition, DADS/HHSC would need 517 additional full-time employees to serve the increased caseload. However, given the constraints on provider availability, this would not be able to be achieved over a single biennium.

IMPACT OF MANAGED CARE SYSTEMS: STAR+PLUS AND INTEGRATED CARE MANAGEMENT (ICM)⁴²

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 at the supplemental security income (SSI) level. These individuals are served through the managed care delivery systems and are not required to be placed on a waiver interest list to receive community-based services; nor are they required to be a nursing facility resident to access community-based services through "Money Follows the Person".

STAR+PLUS was expanded to four service delivery areas on February 1, 2007 from the original pilot site in Houston.⁴³ ICM was implemented in two service delivery areas on February 1, 2008.⁴⁴ There is less pressure on the interest lists as a result of offering community-based services, upon eligibility, to all managed care members at the SSI income level. Individuals with income between the SSI level and 300 percent of SSI (MAO) are still required to be on an interest list to receive services through managed care.

BUDGETARY INFORMATION AND PROMOTING INDEPENDENCE LEGISLATIVE APPROPRIATIONS REQUESTS' (LAR) EXCEPTIONAL ITEMS

HHSC and DADS submitted their second of three LARs asking for additional waiver funding for the HCS and CLASS waivers as required by the *Travis v. Hawkins* settlement. *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 three regular biennial legislative sessions (the 80th, 81st, and 82nd) HHSC would include in its LAR a request for funding to:

- 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 to ten percent reduction in the number of persons listed on the HCS and CLASS waiver interest lists each year.

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

⁴¹ Not every individual on the interest list is eligible or will accept services if offered. The rates of individuals who are eligible and accept services range from 70 percent for HCS to 30 percent for CBA. The 48,208 is the estimated number of persons who would be expected to actually enroll.

⁴² See section on Health and Human Services Agencies Biennial Report: Health and Human Services Commission for detailed information regarding STAR+PLUS and ICM.

⁴³ 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.

⁴⁴ 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)

preceding biennium and efforts to reduce the HCS and CLASS interest lists each year. There is also recognition that the Texas Legislature is not bound by the settlement.

Therefore, partially in response to the lawsuit settlement and HHSC's ongoing commitment to the Initiative, HHSC's LAR included Exceptional Item 8 which requests funding to significantly increase the overall number of individuals who may access community-based services. In contrast to the LAR submitted prior to the 80th Legislature, HHSC did not break-out its request for additional funding by interest list reduction and demographic growth. These issues were combined and the overall request is for additional community-based slots. HHSC is requesting an additional \$474.4 million AF, \$224 million GR to increase the average monthly caseload by 4,646 in FY 2010 and 11,554 in FY 2011.

Item 8: This item requests funding to continue the effort to reduce or eliminate waiting and interest lists in programs at: the Department of Aging and Disability Services (DADS), the Department of Assistive and Rehabilitative Services (DARS), and the Department of State Health Services (DSHS). Specifically the programs affected are:

- DADS - Home and community-based waivers, non-Medicaid services, and the In-Home and Family Support (IHFS) programs. The home and community-based waivers include: Community Based Alternatives (CBA); Community Living Assistance and Support Services (CLASS); Medically Dependent Children's Program (MDCP); Consolidated Waiver Program (CWP); Deaf-Blind with Multiple Disabilities (DBMD); Home and Community Based Services (HCS); and Texas Home Living (TxHmL).
- DARS - Comprehensive Rehabilitation Services and Independent Living Services.
- DSHS - Child and Adolescent Community Mental Health, and Children with Special Health Care Needs (CSHCN).

The following Tables reflect funding and caseload growth from the 2008-2009 biennium with the 2010-2011 LAR for HHSC's STAR+PLUS program and DADS' community programs. As a point in reference, in FY 2006 the overall amount of appropriations for DADS' community programs (not including STAR+PLUS) was \$1,971,395,768 (AF) which served 164,746 individuals. STAR+PLUS in FY 2006 was limited to Houston.

It is noted that according to DADS' LAR, the "baseline" appropriations request will serve approximately 72.2 percent of its targeted population in a community setting. In accordance with the Legislative Budget Board's LAR instructions, the DADS Baseline request does not include funds to serve 5,772 individuals who are expected to be receiving services in FY 2009.⁴⁵

The following programs reflected in Tables 1 and 2 include: CBA; HCS; CLASS; DBMD; MDCP; CWP; TxHmL; Money Follows the Person (MFP); STAR+PLUS/Managed Care - Waiver (MC: [Waiver]); STAR+PLUS Managed Care - Entitlement (MC: [Entitlement]); Primary Home Care (PHC); and Community Attendant Services (CAS).

⁴⁵ The LAR instructions for Fiscal Years (FY) 2010-2011 only allow the agency to request for non-entitlement services (e.g. waivers, General Revenue programs) base funding the amount of General Revenue-related funds expended in FY 2008 and budgeted in FY 2009. Because interest list enrollments will be ramped-up over the biennium, the base funding level will not be sufficient to maintain services for the number of individuals receiving waiver services at the end of FY 2009.

TABLE 1
DADS Waiver and Attendant Care Appropriations Projected and Requested
HHSC STAR+PLUS Appropriations Projected and Baseline Requested

	FY08 Projected All Funds	FY09 Projected All Funds	FY10 Requested All Funds	FY11 Requested All Funds
CBA	\$414,803,125	\$447,333,277	\$457,961,850	\$464,688,626
HCS	\$552,540,965	\$611,513,646	\$659,442,354	\$687,145,324
CLASS	\$139,211,679	\$146,996,108	\$151,829,745	\$153,348,007
DBMD	\$6,500,437	\$7,445,599	\$8,178,038	\$8,258,988
MDCP	\$37,791,112	\$45,662,420	\$47,790,999	\$48,268,958
CWP	\$4,138,377	\$4,481,487	\$4,691,322	\$4,738,246
TxHmL	\$8,903,657	\$9,587,043	\$10,094,678	\$10,195,485
MFP	\$78,638,683	\$90,206,229	\$97,666,843	\$105,744,359
DADS Total Waivers	\$1,242,528,035	\$1,363,225,809	\$1,437,655,828	\$1,482,387,993
STAR+PLUS (Waiver)	\$177,266,034	\$184,367,946	\$198,894,295	\$215,761,834
TOTAL: Waivers	\$1,419,794,069	\$1,547,593,755	\$1,636,550,123	\$1,698,149,827
PHC	\$427,444,456	\$487,574,077	\$523,041,858	\$560,450,676
CAS	\$333,149,198	\$358,059,542	\$367,586,937	\$379,839,515
DADS Total Attendant Programs	\$760,593,654	\$845,633,619	\$890,628,795	\$940,290,191
STAR+PLUS Entitlement	\$300,601,262	\$371,138,368	\$401,697,360	\$436,504,046
TOTAL: ATTENDANT PROGRAMS	\$1,061,194,916	\$1,216,771,987	\$1,292,326,155	\$1,376,794,237
GRAND TOTAL	\$2,480,988,985	\$2,764,365,742	\$2,928,876,278	\$3,074,944,064

Source Documents:

- FY08 Projected from DADS FY 2010 - 2011 Legislative Appropriations Request
- FY09 Projected from DADS FY 2010 - 2011 Legislative Appropriations Request
- FY10 Requested from DADS FY 2010 - 2011 Legislative Appropriations Request
- STAR+PLUS information from HHS System Forecasting, FY 2010-2011 Legislative Appropriation Request Forecast
- Reductions in PHC and CBA programs are a result of STAR+PLUS; concomitantly, increases in the STAR+PLUS budget/caseloads are the result of the STAR+PLUS expansion in February 2007

TABLE 2
DADS Waiver and Attendant Care Average Monthly Caseload Projected and Requested
HHSC STAR+PLUS Waiver and Attendant Average Monthly Caseload Projected and Baseline
Requested

	FY08 Projected Avg. #/month	FY09 Projected Avg. #/month	FY10 Requested Avg.#/month	FY11 Requested Avg. #/month
CBA	25,208	26,420	26,780	26,904
HCS	13,349	14,781	15,720	16,128
CLASS	3,901	4,106	4,199	4,199
DBMD	138	158	172	172
MDCP	2,392	2,649	2,745	2,745
CWP	181	192	199	199
TxHmL	1,279	1,377	1,436	1,436
MFP	4,751	5,298	5,679	6,088
DADS Total Waivers	51,199	54,981	56,930	57,871
STAR+PLUS Waiver	8,047	9,023	9,245	9,528
TOTAL: Waivers	59,246	64,004	66,175	67,399
PHC	52,177	54,434	57,614	60,921
CAS	42,219	41,991	42,962	44,244
DADS Total Attendant Programs	94,396	96,425	100,576	105,165
STAR+PLUS Entitlement	24,277	25,012	25,791	26,665
TOTAL: Attendant Programs	118,673	121,437	126,367	131,830
GRAND TOTAL	177,919	185,441	192,542	199,229

Source Documents: See above.

CONSOLIDATED BUDGET

The Promoting Independence Advisory Committee (Committee) made wage and provider network stabilization a top priority in its *2008 Stakeholder Report* to HHSC along with increasing community-based funding. The long-term services and supports system providers continue to have difficulty attracting and retaining basic providers and tenured direct services workers with the appropriate skills to provide the standard of support required by state and federal regulations. In general, providers are not being reimbursed at 100 percent of the published methodologies, due to a lack of funding.

Prior to the 80th Legislative Session (2007), most providers had not received an increase in funding for several years. The 80th Legislature took a number of proactive measures. The Legislature passed House Bill 15 (80th Legislature, Regular Session, 2007) which provided rate restoration for CLASS, HCS, and TxHmL providers to FY 2003 amounts. In addition, the Legislature appropriated, on average, a five percent rate increase for providers of community services and supports (\$86.2 million GR, \$203.1 million AF). The 80th Legislature also provided additional funds for “Community Care Rate Enhancements” (\$15.8 million GR, \$38.2 million AF) for direct service staff.

The *Health and Human Services System Consolidated Budget Fiscal Years 2010-2011 (Consolidated Budget)*, Appendix A.1 details the cost of funding rate increases to providers at full funding according to published methodologies and at an estimated biennial cost of a one percent increase. In addition, this is the first Consolidated Budget to address the specific needs of direct services workers. The Committee recommended to HHSC in the *2008 Stakeholder Report* to target these workers directly to underscore their importance to the overall quality of the long-term services and supports system. The Consolidated Budget’s Appendix A.2 details the fiscal impact of increasing attendant wages by \$1.00 per hour and Appendix A.3 shows the impact of increasing attendant rate enhancements. It should be noted that direct care wage enhancements are proposed to be implemented in FY 2011 for the Intermediate Care Facility for Persons with Mental Retardation (ICF/MR), the HCS, and TxHmL programs.⁴⁶

Each of the health and human services agencies included Exceptional Items to their baseline LARs to enhance Promoting Independence activities. The following are a listing of those Items.

Health and Human Services Commission (HHSC) Exceptional Items

Item 1: This item will restore base funding for non-entitlement programs. The LAR instructions for Fiscal Years (FY) 2010-2011 only allow the agency to request for non-entitlement services (e.g., STAR+PLUS) base funding the amount of GR-related funds expended in FY 2008 and budgeted in FY 2009. In addition, this item would fund an enhancement to the current Medicaid Buy-In Program for adults and increased outreach.

Item 8: This item requests funding to continue the effort to reduce or eliminate waiting and interest lists in programs at: DADS, DARS, and DSHS. This exceptional item would serve

⁴⁶ See Appendix D to review Appendix A.1-A.3 or access the Consolidated Budget at: http://www.hhsc.state.tx.us/ConsolidatedBudget_2010-2011.pdf

16,200 individuals by the end of FY 2010 and cost \$224 million GR for the biennium.

Specifically the programs affected are:

- DADS - Home and community-based waivers, non-Medicaid services, and the IHFS programs. The home and community services waivers include: CBA; CLASS; MDCP; CWP; DBMD; HCS; and TxHmL. DADS would receive approximately \$152 million GR to serve an additional 13,719 individuals by the end of the biennium (a 13.9 percent increase in capacity).
- DARS - Comprehensive Rehabilitation Services and Independent Living Services. DARS would receive approximately \$8 million GR to remove 1,212 from these waiting lists.
- DSHS - Child and Adolescent Community Mental Health, and CSHCN. DSHS would receive approximately \$28 million GR to serve an additional 606 individuals for these programs.

Department of Aging and Disability Services (DADS) Exceptional Items

Item 1: This item will restore base funding for non-entitlement programs. The LAR instructions for FY 2010-2011 allow the agency to request for non-entitlement services (e.g., waivers, GR programs) base funding only the amount of GR-related funds expended in FY 2008 and budgeted in FY 2009. Because interest list enrollments will be ramped-up over the biennium, the base funding level will not be sufficient to maintain services for the number of individuals receiving waiver services at the end of FY 2009. Similarly, funding will be insufficient to maintain services for the non-Medicaid, non waiver services. Finally, the Federal share of Medicaid (FMAP) will decrease in FYs 2010 and 2011, which will further reduce the number of individuals that can be served in the waivers at base funding. The total request for the biennium is \$190,682,690 GR (\$440,495,003 AF).

Item 2: This item will increase HCS waiver capacity for individuals choosing to relocate from nine or more bed community ICFs/MR, allow children who are aging out of the foster care program to access HCS, and increases the capacity of the relocation support activity. This exceptional item requests funding to move 500 persons from nine or more bed community ICFs/MR and to serve 120 youth aging out of the foster care program at the Department of Family and Protective Services (DFPS) into the HCS waiver program by the end of FY 2011. Additionally, this item includes funds to assist 250 additional individuals to relocate from nursing facilities to community settings each year. The total request for the biennium is \$16,326,222 GR (\$35,636,700 AF).

Item 3: This item will restore the funding reductions made in FY 2003 for GR services provided by Mental Retardation Authorities (MRAs). These GR services provide much needed, albeit limited, services while individuals wait on various interest lists, or for those individuals who do not qualify for Medicaid but are in need for services such as respite and IHFS. These services protect an individual's health and safety when the individual has an intensive need or is in crisis. The total request for the biennium is \$31,306,800 GR.

Item 4: This item requests additional funding to provide HCS waiver services to 196 children and adults. There are two initiatives associated with this exceptional item – (1) to reduce the number of children admitted into institutions and (2) to continue to serve individuals in the

community who would be at imminent risk of institutionalization in the event of an emergency or crisis situation. This item addresses the increase of children being admitted to state mental retardation facilities (state schools). In FY 2007, 152 children (0- 21 years of age) were admitted into state schools. In order to provide less restrictive environments for these individuals, this item seeks to prevent future placements of children into state schools, as well as allow those already residing in these settings to relocate into the community. This item also seeks to prevent institutionalization, specifically for those on the interest list with imminent risk of institutionalization. It seeks to provide less restrictive environments through waiver services for these individuals in response to aging caregivers, those in poor health, or passing away. The total request for the biennium is \$4,622,648 GR (\$11,078,900 AF).

Item 7: This item will create a new Medicaid waiver for individuals with high cost functional and/or medical needs. There are currently individuals in the DADS 1915(c) waivers who have complex medical conditions that are difficult and expensive to treat outside of a hospital setting in existing programs. With extensive skilled nursing care and medical intervention, these individuals could remain in a home environment. The development of this new waiver would allow the state to provide in the community a high level of nursing services to Medicaid recipients 21 years of age and older who have complex medical needs while maintaining cost neutrality. The total request for the biennium is \$15,146,232 GR (\$36,475,888 AF).

Department of State Health Services (DSHS) LAR Exceptional Items

Item 1: This item requests supplemental funds to continue at FY 2009 levels the Mental Health Crisis Services Redesign initiative and Personal Care Service among other acute services. The total request for the biennium is \$75,813,170 GR (\$76,732,123 AF).

Item 9: This item requests additional funds to support substance abuse prevention and treatment. The substance abuse prevention and treatment block grant and GR dollars fund substance abuse prevention, intervention and treatment service providers across Texas. Current funding levels do not support adequate treatment provider rates and is insufficient to provide needed access to treatment and prevention services; this includes persons with mental health diagnoses who need intensive substance abuse treatment. Currently, the Texas Medicaid Program covers very limited substance abuse treatment services. The funding requested will expand prevention services, increase rates for treatment providers, expand detoxification services, provide recovery support funds and service coordination, expand Outreach, Screening, Assessment and Referral Provider services, expand the availability of detoxification and residential treatment for persons with co-occurring mental health diagnoses, and increase the availability of medication assisted treatment. It will also expand the adult Medicaid substance abuse benefit to include outpatient detoxification and outpatient counseling. The total request for the biennium is \$66,246,178 GR (\$81,669,715 AF).

Item 10: This item will enhance community-based mental health service delivery in Texas. The additional dollars will: continue the crisis redesign implementation begun in FY 2006; help provide an intensive package of engagement and transition services for 4,163 adults and 630 children; and expand the availability of intensive adult and child packages of ongoing services-targeting recipients of the transition services. The total request for the biennium is \$88,336,497 GR.

Department of Family and Protective Services (DFPS) Exceptional Items

Item 7: This item will increase funding in the Relative and Other Designated Caregiver Placement Program, also known as the Kinship Program. This program was authorized in Senate Bill 6, 79th Legislature, Regular Session, 2005, and provides monetary assistance as well as day care and other support services to relatives and other designated caregivers for children in DFPS conservatorship who are placed in their care. This program is designed to promote continuity and stability for children by placing them with a relative or other person who has a longstanding and significant relationship with them. The total request for the biennium is \$10,852,637 GR.

Item 9: This item will provide funds for a pilot to evaluate the effectiveness of a capped caseload for Child Protective Services substitute care workers, targeting youth who have been in care for two or more years, who have major behavioral health needs, and have had multiple placements. The pilot would be conducted in the Harris County/Region 6 area and would allow caseworkers to spend more time working with each youth. This pilot would identify whether these intensive services help to stabilize these youth and ultimately result in better outcomes for them. Region 6 was chosen for this pilot due to the concentration of Residential Treatment Centers in Harris County. The total request for the biennium is \$20,682,709 (\$22,728,952 AF).

Department of Assistive and Rehabilitative Services (DARS) Exceptional Item

Item Priority 3: This item will establish three new centers for independent living in counties without coverage.

Texas Department of Housing and Community Affairs (TDHCA) Exception Item

Item Priority 1: This item is requesting an additional \$20 million in GR per year for the Housing Trust Fund, the only state-funded housing program (\$40 million for the biennium). TDHCA will use the funds for housing and housing-related activities for which federal funds are too limited or restrictive. Potential uses of these funds include, but are not limited to, programs for special needs populations, such as persons with disabilities and veterans; supportive housing; rural rental housing; homeownership activities; and activities to enhance the ability of nonprofits to offer affordable housing options.

1999-2008: THE TRANSFORMATION TO A LONG-TERM SERVICES AND SUPPORTS SYSTEM OF CHOICE

The Texas long-term services and supports system is very different in 2008 as contrasted to 1999 when the United States Supreme Court rendered its *Olmstead* decision. This ongoing change from an entitled institutionally based system to one of choice of community-based programs is based in statute, policy and appropriations. There are still 82,050 individuals (unduplicated count) on an interest list waiting for community-based services and many thousands of individuals waiting for community behavioral health services and supports. The *2008 Promoting Independence Plan Directives* section provides the ongoing direction for Texas during the 2010-2011 biennium to be in full compliance with the *Olmstead* decision. The information below provides an overview of the changes made to the overall long-term services and supports system during fiscal years (FYs) 1999-2008 with the following caveats:

- All data are a “snapshot” in time; individuals move in and out of the system everyday.
- FYs 1999-2003 data are derived from legacy health and human services agencies which occurred prior to the calendar year 2004 health and human services consolidation (H.B. 2292, 78th Legislature, Regular Session, 2003). Legacy agencies for this consideration include the Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Department of Human Services (DHS). The programs and services supporting individuals with intellectual and developmental disabilities administered by TDMHMR and those programs and services supporting individuals who are aging or with a physical disability administered by DHS are now with the Department of Aging and Disability Services (DADS). The data system has evolved with the implementation of DADS and data points and collection of the data between the legacy agencies and DADS may be different. Those programs administered by the mental health division of TDMHMR are now administered by the Department of State Health Services (DSHS).
- The managed care system, which impacts those individuals who are aging and/or with a disability, is administered by the Health and Human Services Commission (HHSC) and does not collect the same information as the fee-for-system programs administered by DADS.

*Notable Policy Changes*⁴⁷

- See *Background* section for more information on the *Olmstead* decision, and the two Governors’ Executive Orders.
- Submission of the original *Promoting Independence Plan (Plan-2001)* and subsequent revised plans (2002, 2004, 2006) prior to a legislative session.
- Significant increase in legislative appropriations for community-based services (see below). The 79th Legislature, Regular Session, 2005 made important progress in serving additional persons from the Medicaid waiver and non-Medicaid community services interest lists. The 2006-2007 General Appropriations Act (Article II, DADS, S.B. 1, 79th Legislature, Regular Session, 2005) provided \$97.9 million in General Revenue (GR) 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 of 8,891 individuals in Medicaid waiver program services. The 80th Legislature, through

⁴⁷ See Appendix E for a chronology of Promoting Independence milestones.

the 2008-2009 General Appropriations Act (Article II, DADS, H.B. 1, Regular Session, 2007), also increased the number of individuals who may access 1915(c) Medicaid waivers. H.B. 1 provided \$71.5 million in GR funds, \$173.2 million All Funds (AF). This additional funding enabled DADS to serve an estimated additional caseload of 8,595 by the end of the 2008-09 biennium. In addition, HHSC received \$19 million GR, \$47.8 million AF, to fund the acute portion of DADS' increased appropriation for its 1915(c) Medicaid waiver programs and to fund 307 additional 1915(c) Medicaid waiver slots (Medical Assistance Only[MAO]) for STAR+PLUS.

- Codification of many of the recommendations from the original Plan by Senate Bills 367 and 368 (77th Legislature, Regular Session, 2001) and the Promoting Independence Initiative.
- Adoption in the overall philosophy regarding the concepts of individual choice for residential setting and “most integrated setting” by all of the health and human services agencies.
- Development of consumer-directed services which are now part of all the Medicaid programs and increased awareness of the concept of “self-determination”.
- Creation of the Money follows the Person (MFP) policy for individuals residing in nursing facilities (NF) and the designation of Promoting Independence Priority Populations for individuals with intellectual and developmental disabilities (IDD) residing in large community Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) and state mental retardation facilities (state schools) – see *Community Relocation Policy* section. These policies allow individuals in NF access to Medicaid waiver programs upon meeting community eligibility criteria and without having to wait on an interest list; and for individuals with IDD to have expedited access to the Home and Community-Based Services (HCS) waiver.
- Expansion of the MFP policy to allow children residing in NFs to access the HCS waiver.
- Development of an infrastructure to support the MFP policy: relocation specialists; transition to live in the community (TLC) funding; transition assistance services (TAS); housing voucher program (Project Access); and community transition teams (CTT).
- Expansion of its' managed long-term services and supports system (STAR+PLUS and Integrated Care Management [ICM]) which provides all eligible individuals at the Supplemental Security Income (SSI) level the opportunity for community-based services without having to go on an interest list. These programs have significantly increased the number of adults who have been able to access community-based programs.
- Inclusion of a rider which allows children (0-21 years of age) aging out of foster care to access community services.
- Creation of the Texas Home Living 1915(c) waiver program for individuals with IDD.
- Development of the Community Living Options Information Process which provides independent information for individuals residing in state schools in order to make an informed choice on where they want to live and receive services.
- Creation of Medicaid Buy-In for the working disabled.
- Creation of permanency planning policies for children residing in institutional settings.
- Increased focus on transition counselors who assist children with disabilities who are aging out of an independent school system.
- Development of the family-based alternatives program which provides services to biological and support families in order to allow a child move back into the community.

- Utilization of the Family Group Decision Making (FGDM) model which, among many of its activities, works with parents to determine their family's services and supports needs in order to keep the child at home with the family instead of in foster care.
- Creation of the Relative and Other Designated Caregiver Placement Program, also known as the Kinship Program, which is designed to promote continuity and stability for children by placing them with a relative or other person who has a longstanding and significant relationship with them instead of placing them in foster care.
- Creation of the housing voucher program and better coordination with the state housing financing agency (Texas Department of Housing and Community Affairs [TDHCA]) and local public housing authorities.
- Inclusion of preferences for individuals leaving institutional settings in the Notice of Funding Availability (NOFA) solicitations (TDHCA) for the administration of Tenant-Based Rental Assistance housing vouchers.
- Increase of the cost cap for the following waivers: Community Based Alternative (CBA) -- from 100 percent of the NF cost cap to 200 percent; Consolidated Waiver Program (CWP) -- from 100 percent of the NF and 80 percent of the ICF/MR cost caps; Community Living Assistance and Supports Services (CLASS) – from 100 percent of the ICF/MR cost cap to 200 percent; Deaf-Blind with Multiple Disabilities (DBMD) – from 100 percent of the ICF/MR cost cap to 200 percent; and HCS – from 80 percent of the ICF/MR cost cap to 200 percent.
- Creation of Aging and Disability Resource Centers (ADRC) which are local community resource centers that provide a coordinated “one-stop shopping” for individuals seeking information about/across the long-term services and supports system.
- Creation of two new Centers for Independent Living (CILs) which serve fourteen new counties and provide resource centers to assist and support individuals with disabilities to live in the community independently.
- Creation of the Resiliency and Disease Management (RDM) program which provides a systematic process for the provision of behavioral health services and supports and has helped to reduce the number of readmissions into state mental health facilities (state hospitals).
- Development of the Crisis Mental Health Redesign program, which provides funding at the local level for individuals who are experiencing a mental health crisis.
- Development of the Youth Empowerment Services (YES) waiver which will allow children with a serious emotional disturbance to access community services versus in-patient hospitalization.

Long-term Services and Supports Caseloads and Expenditures

The following data reflect DADS current programs and include information from legacy TDMHMR and TDHS for FYs 1999 – 2003. With the expansion of HHSC's managed care programs (STAR+PLUS in February 2007 and ICM in February 2008), the state is able to provide more community-based services to individuals. DADS' FYs 2007 and 2008 caseload numbers for the CBA, Primary Home Care (PHC), and Day Activity and Health Services (DAHS) programs are not as high as would have been if managed care were not operational because managed care is now serving a significant part of the population that was historically served by DADS. STAR+PLUS and ICM each offers their own Medicaid(c) waiver which is

very similar to DADS' CBA waiver, and each offers their own attendant program and adult day care which are similar to DADS' PHC and DAHS programs. STAR+PLUS data is provided separately; ICM data is included with DADS.

As stated above, all data are a "snapshot in time". The following caseload data are derived from DHS and DADS monthly forecasts for legacy DHS programs, and agency Legislative Appropriation Requests (LARs) and DADS monthly forecasts for legacy TDMHMR programs.

Other issues to note are:

- All data are as of August 31, 2008 unless otherwise stated.
- "Institutional" is defined as: NF, Medicare Skilled Nursing, Hospice, ICF/MR and state schools.
- Community for individuals who are aging or with a disability (A&D) is defined as: PHC; Community Attendant Services (CAS); DAHS; CBA; Medically Dependent Children's Program (MDCP); CWP; Non-Medicaid Title XX; In-Home and Family Support (IHFS); Program of All-inclusive Care for the Elderly (PACE); MFP.
- Community for individuals with intellectual and developmental disabilities (IDD) is defined as: HCS; Community Living and Support Services (CLASS); Deaf-Blind Multiple Disabilities (DBMD); CWP; Texas Home Living (TxHmL); Mental Retardation Community Services; IHFS-Mental Retardation.

Information in Tables 3 and 4 include managed care data (STAR+PLUS and ICM). STAR+PLUS was implemented during Calendar Year 1998 (FY 1999) in Houston, and its baseline data for FY 1999, for purposes of these Tables, is considered 0.

TABLE 3

**DADS' Long-Term Services and Supports Expenditures (All Funds):
Comparing FY 1999 to FY 2008
(Percentages are of Grand Total for FY)**

PROGRAMS/CASELOAD	FY 1999	FY 2008
Community Services/A&D	\$761,750,763(22.3%)	\$2,041,278,692(34.8%) ¹
Nursing Facility – Only	\$1,420,464,751(41.6%)	\$1,834,499,758(31.3%)
TOTAL: A&D INSTITUTIONAL	\$1,509,502,368(44.3%)	\$2,160,800,369(36.9%)
TOTAL: A&D PROGRAMS	\$2,271,253,131(66.6%)	\$4,202,079,061(71.7%)
Community Services/IDD	\$490,587,230(14.4%)	\$808,048,739(13.8%)
ICF/MR	\$352,046,664(10.3%)	\$342,612,190(05.8%)
State Schools	\$296,709,192(08.7%)	\$509,489,481(08.7%)
TOTAL: IDD INSTITUTIONAL	\$648,755,856(19.0%)	\$852,101,671(14.5%)
TOTAL: IDD PROGRAMS	\$1,139,343,086(33.4%)	\$1,660,150,410(28.3%)
TOTAL: COMMUNITY	\$1,252,337,993(36.7%)	\$2,849,327,431(48.6%)
TOTAL : INSTITUTIONAL	\$2,158,258,224(63.3%)	\$3,012,902,040(51.4%)
GRAND TOTAL	\$3,410,596,217(100%)	\$5,862,229,471(100%)²

¹ HHSC's STAR+PLUS program was implemented during FY 1999, and only in Houston, and therefore its baseline for FY 1999 is \$0 for purposes of Table 3. Because managed care is paid through premiums, it is more difficult to extract the exact number for expenditures for the day activity and attendant programs through the (b) waiver for FY 2008.

² The Consolidated Waiver Program is not included in Table 3. CWP is a community-based program that serves both individuals who are aging and/or with a disability and individuals with IDD in Bexar County only: in FY 2008, \$4,138,377 was expended for CWP.

TABLE 4

**DADS' Long-Term Services and Supports Caseloads:
Comparing FY 1999 to FY 2008
(Percentages are of Grand Total for FY)**

PROGRAMS/CASELOAD	FY 1999	FY 2008
Community Services/A&D	112,146 (51.8%)	197,933(63.3%) ¹
Nursing Facility – Only	63,645(29.4%)	56,582(18.1%)
TOTAL: A&D INSTITUTIONAL	68,650(31.7%)	69,378(22.2%)
TOTAL: A&D PROGRAMS	180,796(83.5%)	267,311(85.4%)
Community Services/IDD	22,759(10.5%)	34,337(11.0%)
ICF/MR	7,626(3.5%)	6,412(02.0%)
State Schools	5,298(2.4%)	4,843(01.5%)
TOTAL: IDD INSTITUTIONAL	12,924(6.0%)	11,255(03.6%)
TOTAL: IDD PROGRAMS	35,683(16.5%)	45,592(14.6%)
TOTAL: COMMUNITY	134,905(62.3%)	232,270(74.2%)
TOTAL : INSTITUTIONAL	81,574(37.7%)	80,633(25.8%)
GRAND TOTAL	216,479(100%)	312,903(100%)²

¹ HHSC's STAR+PLUS program was implemented during FY 1999, and only in Houston, and therefore its baseline for FY 2008 is 0 for purposes of Table 4. Because managed care is paid through premiums, it is more difficult to extract the exact number for expenditures for the day activity and attendant programs through the (b) waiver for FY 2008.

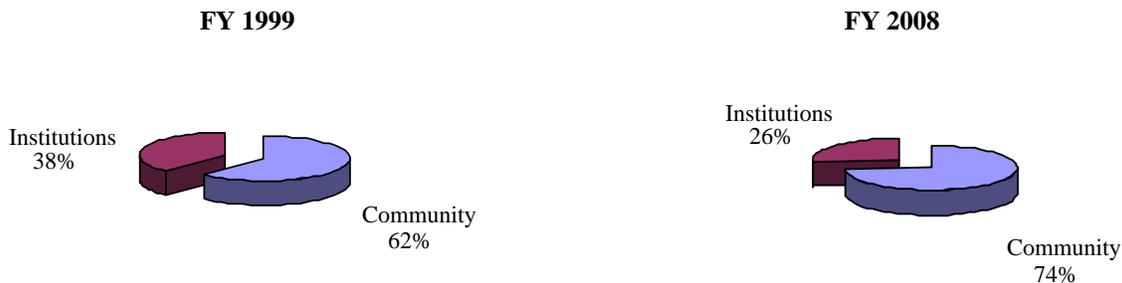
² The Consolidated Waiver Program is not included in Table 4. CWP is a community-based program that serves both individuals who are aging and/or with a disability and individuals with IDD in Bexar County only: in FY 2008, 181 individuals received services.

Notes on Data

- **All Programs:** There has been a significant increase in the number and percentage of individuals being served in community programs versus institutional programs from FYs 1999-2008; this is true for individuals in the A&D programs as well as for those in IDD programs. In FY 1999, 62.3 percent of all individuals (134,905 individuals) were served in community long-term services and supports versus 74.2 percent (232,270 individuals) in FY 2008. From FYs 1999-2008 there was a 72.2 percent increase in the community caseload versus a 1.2 percent decrease in institutional services and supports when Medicare Skilled Nursing and Hospice are included. There was an 11.1 percent decrease in Medicaid NF utilization when considered alone. Spending for community programs was 36.7 percent (\$1,252,337,993) of all expenditures in FY 1999 versus 48.6 percent (\$2,849,327,431) in FY 2008: there was a 127.5 percent increase in community funding from FYs 1999-2008.

FIGURE 1

Percent of Total Caseload for All Programs



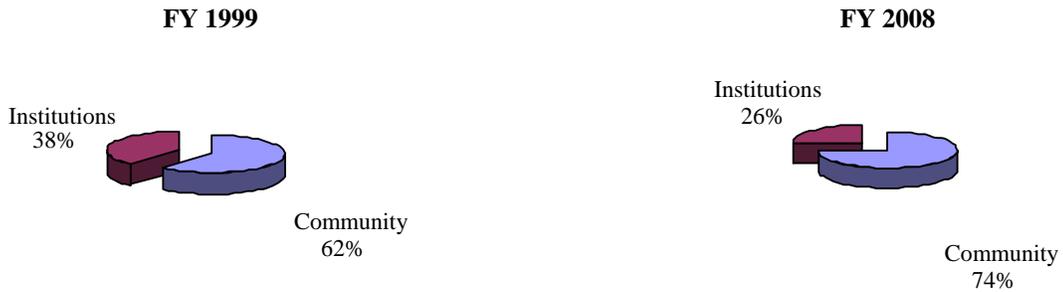
Percent of Total Expenditures for all Programs



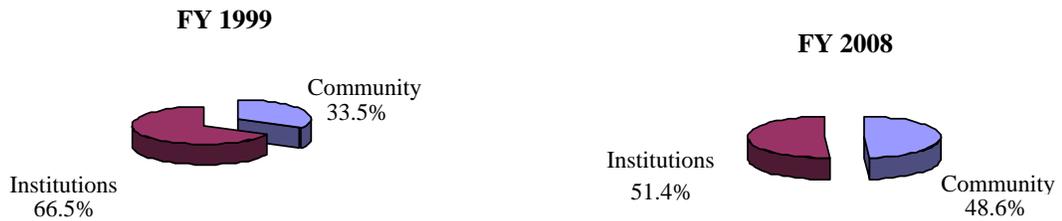
Aging and Disability Programs: 62.0 percent of all individuals in A&D programs (112,146 individuals) were served in the community in FY 1999 versus 74.0 percent (197,933 individuals) in FY 2008; a 76.5 percent increase in caseload from FY 1999 to FY 2008. In terms of expenditures: 33.5 percent (\$761,750,763) was spent on A&D community programs in FY 1999 versus 48.6 percent (\$2,041,278,692) in FY 2008; there was an 85 percent increase in funding from FYs 1999-2008.

FIGURE 2

Percent of Total Caseload for A&D Programs



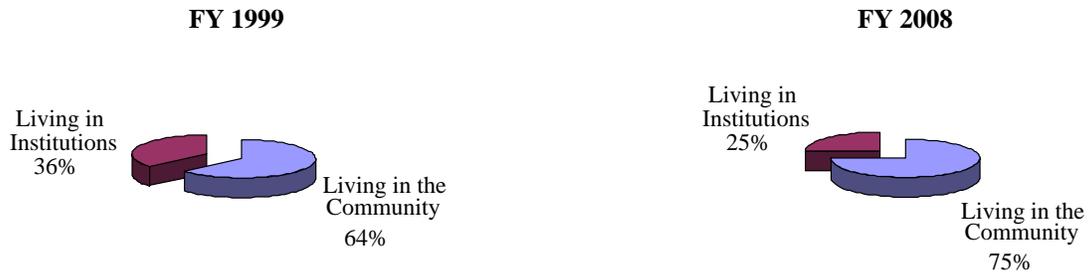
Percent of Total Expenditures for A&D Programs



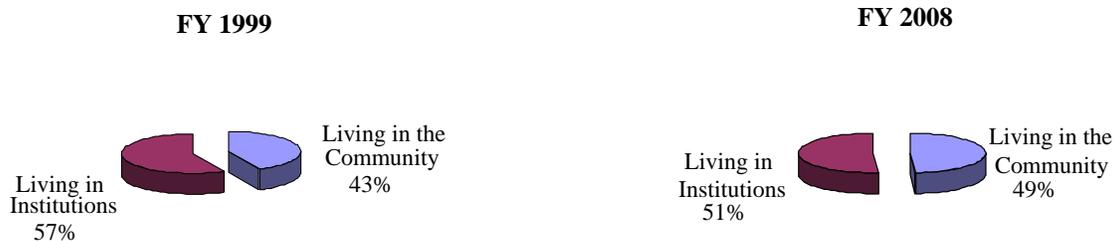
Intellectual and Developmental Disability Programs: 64 percent of all individuals in IDD programs (35,683 individuals) were served in the community in FY 1999 versus 75 percent (45,592 individuals) in FY 2008. In terms of expenditures: 43 percent (\$490,587,230) was spent on IDD programs in FY 1999 versus 49 percent (\$808,048,739) in FY 2008.

FIGURE 3

Percent of Total Caseload for IDD Programs



Percent of Total Expenditures for IDD Programs



- A&D Institutional includes Medicaid co-payments for Medicare Skilled Nursing and Hospice which have accounted for the overall increase in institutional caseloads. While Hospice may be provided in the community, in Texas, Medicaid Hospice is primarily provided in a nursing facility. It is interesting to note that while NF caseloads have decreased by 7,603 or 1.1 percent; Medicare Skilled Nursing’s caseload has increased by 3,444 or 105 percent; and Hospice’s caseload has increased by 4,347 or 250 percent.
- The primary NF waiver, CBA, had an increase in caseload by 2,613 or 12 percent; however, the expansion of STAR+PLUS skews the data because, as of February 2007, four major service delivery areas now provide the STAR+PLUS waiver versus CBA. If you include individuals served by the STAR+PLUS waiver (a projected 8,047 in FY 2008), then the overall increase in caseload is 10,660 individuals or 47.2 percent.

- In addition, the MFP policy which allows immediate access to certain Medicaid(c) waivers, has been funded through its own budget line item in DADS' appropriation (Strategy A.1.6.4). Approximately eighty-five percent of the overall MFP caseload utilizes the CBA, STAR+PLUS or ICM waivers which provide comparable service arrays and eligibility requirements. The remainder utilizes either the MDCP or CLASS waivers. MFP did not exist in FY 1999; however, in FY 2008, the MFP program projected a caseload of 4,751 individuals and a \$78,638,683 budget. Adding the approximately eighty-five percent utilization from the MFP caseload (4,038) to the projected FY 2008 CBA (25,208) and STAR+PLUS (8,047) caseloads realizes an overall increase in the CBA-like Medicaid waivers at 14,698 individuals. This is a sixty-five percent increase from FY 1999 versus a twelve percent increase for CBA only.
- There was an increase of \$145,051,362 for CBA through FY 1999-2008, representing a 54 percent increase versus the 12 percent increase in caseload. When STAR+PLUS and MFP are included there was an increase of \$389,160,277; a 144.3 percent increase from FYs 1999-2008.⁴⁸ Even with this increase, 29,316 individuals remain on the CBA interest list and 2,380 individuals on the managed care interest lists as of June 30, 2008.
- The primary ICF/MR waiver, HCS, had an increase in caseload by 8,369 or 168 percent. There was an increase of \$314,158,325 for HCS through FY 1999-2008 which represented a 132 percent increase in expenditures versus the 168 percent increase in caseload.

Interest Lists

The data available prior to the health and human services consolidation are not as reliable as the data that are available since the beginning of FY 2005 (September 1, 2004) when DADS became fully operational. In FY 2005, there were 63,182 individuals on the CBA interest list versus 31,704 on the CBA, ICM, and STAR+PLUS waivers interest lists as of June 30, 2008 (29,316 on CBA; 263 on ICM⁴⁹; and 2,125 on STAR+PLUS); this represents a fifty percent decrease in the numbers of individuals on the interest lists. STAR+PLUS was expanded on February 1, 2007 to four service delivery areas and ICM was implemented on February 1, 2008 in the Tarrant and Dallas Medicaid service area. Individuals at the SSI level do not have to go on an interest list to receive waiver services. This policy has significantly impacted those interest lists.

In FY 2005, there were 28,867 on the HCS waiver versus 37,187 as of June 30, 2008; this represents a 28.8 percent increase.

⁴⁸ The MFP expenditures, at eighty-five percent is an approximation because individuals may also access the CLASS, and MDCP waivers, and children (0-21 years of age) may access HCS.

⁴⁹ The ICM Interest List numbers are overstated due to the inclusion of SSI individuals who were on the interest list prior to ICM implementation. SSI individuals were converted to the ICM Interest List and are being closed by workers as they are found.

State Mental Health Facility (State Hospital) Admissions

Individuals Hospitalized for more than One Year

Historical state hospital data reflects that in 1997 there were a total of 742 individuals in Texas state hospitals over a year. In 1999, when the former TDMHMR began to collect *Olmstead* data, there were 427 individuals in state hospitals; therefore, the numbers of individuals hospitalized for more than one year had already begun to trend downwards. In August 2004 the decreasing trend of individuals hospitalized for more than a year stopped and the numbers began to increase. An analysis of that population indicated that patients with forensic (court) commitments accounted for the increase in the number of patients who were remaining in the hospital for more than a year.

In 2001 there were 130 individuals with forensic commitments in state hospitals. Individuals with forensic commitments started being tracked separately in November 2005, when there were 162 individuals with forensic commitments on the list. This represents an average increase of eight forensic commitments a year from 2001 until 2005. This number represents the overall hospital population and not admissions. From 2005 to 2008 there was an average increase of forty individuals with forensic commitments per year. The number of individuals with forensic commitments has steadily increased and as of November 2008 there were 283 individuals with a forensic commitment. From 2001 through 2004 the average increase of forensic admissions was 78 per year and from 2004 through 2008 it was 140.

In 2001 the number of individuals with a civil commitment was 268. The lowest number of individuals hospitalized with a civil commitment for more than a year was in August 2007 at 190 individuals. Since August 2007, there has been a slow upward trend and in November of 2008 there were 216 individuals admitted with a civil commitment. The trend has been slow, but the numbers remain less than the 268 individuals with a civil commitment who were hospitalized in 2001.

Individuals Admitted Three or More Times within 180 Days

In response to the original Promoting Independence Plan, individuals admitted three or more times to state hospitals within 180 days have been monitored. In April 2003 there were 215 individuals who met this criterion. In February 2005 the number reduced to 124 individuals. In August 2005 the data collection criteria was modified to also include individuals readmitted to state funded community hospitals as well as state hospital admissions. With this additional category, the overall number of individuals meeting these criteria has increased to 293. In December 2006, there was a reduction in readmissions to 262, followed by a subsequent reduction in December 2007 of 230 readmissions, and in November 2008 of 159 readmissions. A major reason for the decline in number of readmissions may be attributed to the implementation of the Resiliency and Disease Management Program (RDM) authorized by the 78th Legislature (2003) and the Crisis Mental Health Redesign, which was authorized by the 80th Legislature (2007).

Children in Institutional Settings as defined by Chapter 531, Government Code, Subchapter D, Section 531.151⁵⁰

The following is the status of children (0-21 years of age) in institutional settings as of August 31, 2008 as compared to August 31, 2002⁵¹:

The overall number of children in all institutional settings has slightly decreased during the 2002-2008 timeframe (1,675 children as of August 2002 versus 1,624 in August 2008 or a three percent decrease). The total number of children in DADS facilities was 1,508 in August 2002 versus 1,392 in August 2008 or an eight percent decrease. The total number of children in DADS facilities without HCS was 1,196 versus 822 in August 2008 or a thirty-one percent decrease. The total number of children in Department of Family and Protective Services (DFPS) licensed facilities (formally known as institutions for persons with mental retardation) was 167 in August 2002 versus 232 in August 2008 or a thirty-nine percent increase.

- HCS group homes: 570 (83 percent increase since August 2002).
- 0-8 bed ICF/MR: 267 (36 percent decrease).
- 9-13 bed ICF/MR: 39 (0 percent change).
- 14+ bed ICF/MR: 62 (77 percent decrease).
- State School: 345 (43 percent increase: 88 children, or 25.5 percent, are alleged offenders under either the Family Code, Chapter 55, or under the Code of Criminal Procedures, Article 46B).⁵²
- Nursing Facility: 109 (53 percent decrease).
- DFPS facilities: 232 (39 percent increase).

Family Group Decision Making (FGDM)

Family Group Decision Making describes a variety of practices to work with and engage families in problem solving, including Family Group Conferences (FGC), Circles of Support (COS), and Family Team Meetings (FTM). This program helps keep children with families versus placement in foster care. DFPS began using FGDM in the conservatorship stage of service in 2003, and expanded the practice into the investigative stage in 2007. More than 7,000 Texas families have participated in FGDM to help ensure the protection and safety of their children, and to keep them at home.

⁵⁰ Chapter 531, Government Code, Subchapter D, Section 531.151 (3) defines institution as: (A) an ICF-MR, as defined by Section 531.002, Health and Safety Code; (B) a group home operated under the authority of the Texas Department of Mental Health and Mental Retardation including a residential service provider under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, that provides services at a residence other than the child's home or foster home; (C) a foster group home or an agency foster group home as defined by Section 42.002, Human Resources Code; (D) a nursing facility; (E) an institution for the mentally retarded licensed by the Department of Protective and Regulatory Services; or (F) another residential arrangement other than a foster home as defined by Section 42.002, Human Resources Code, that provides care to four or more children who are unrelated to each other.

⁵¹ Permanency Planning and Family-Based Alternatives Report (January 2009).

⁵² Fifty-seven children (0-17 years of age) are committed under the Family Code, Chapter 55; thirty-one are 18-21 years of age, with twenty-two committed under the Family Code, Chapter 55 and nine committed under the Code of Criminal Procedure, Article 46B.

Relative and Other Designated Caregiver Program (Kinship Program)

The Kinship Program includes a variety of supportive services for relatives and other designated caregivers who are caring for children in DFPS conservatorship. Kinship placements help children stay connected with their relatives and communities when they must be out of their homes for their safety, and promote the placement of children with relatives versus in foster care. The Kinship Program was implemented statewide on March 1, 2006. Children were served in this program prior to March 1, 2006; however, there was no financial assistance to the relative caregivers except for a small pilot program. The program has grown from 6,240 children placed with kinship caregivers in FY 2006, to 7,907 children in FY 2007, and 8,801 children in FY 2008.

Centers for Independent Living (CILs)

In FY 2001, there were nineteen CILs covering 141 counties compared to twenty-three CILs in FY 2008 covering 161 counties.

Transitional Vocational Counselors

The Texas Commission for the Blind (TCB) and the Texas Rehabilitation Commission (TRC) became part of the Department of Assistive and Rehabilitative Services (DARS) in 2004. In FY 2001, there were no Transition Vocational Rehabilitative Counselor (TVRC) positions in the TRC program compared to a hundred positions in FY 2008. The TCB program had sixteen TVRC positions in FY 2001 compared to twenty-two and a half positions in FY 2008.

2008 PROMOTING INDEPENDENCE PLAN DIRECTIVES

The following directives are made for program funding and service system delivery and are designed to meet the intent of the *Olmstead* decision, two Executive Orders (see Appendix B) and Senate Bills (S.B.) 367 and 368 (77th Legislature, Regular Session, 2001). These directives for the *2008 Revised Promoting Independence Plan* (Plan) continue the work of the original Plan and will help Texas reach its ultimate goal of individual choice and self-determination.

All implementation directives from the 2001, 2002, 2004, and 2006 Plans remain in effect.⁵³ The 2008 directives build upon those previous Plans. The *2008 Plan* groups twenty-three directives in five general categories. Within each category, several recommendations are made with background information. The Health and Human Services Commission (HHSC) will make health and human service agency assignments and coordinate activities across state agencies as necessary. It is recognized that many of the directives are contingent upon Legislative direction and, when necessary, appropriations. The Promoting Independence Advisory Committee (Committee) will monitor agency progress in implementing each directive.

HHSC, based on the Committee's recommendations made in its *2008 Stakeholder Report*, has included the following implementation directives that address the barriers identified in providing community-based programs and promoting individual choice. The directives are numbered for ease of reference and do not reflect level of importance in relation to the other directives. It should be noted that the following directives do not include all the recommendations made by the Committee and in some instances language has been modified.⁵⁴

PROGRAM FUNDING: *These are directives to help fund community services and institute certain structural changes in order for individuals to have a choice in living in the most integrated setting.*

1. *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.

In response to the *Travis* lawsuit settlement regarding two DADS programs and its long-standing commitment to the principles of the Promoting Independence Initiative, HHSC has requested additional appropriations to reduce community-based programs interest lists administered by HHSC, DADS, DSHS and DARS. HHSC is requesting \$127,344,766 (All Funds) in fiscal year (FY) 2010 and \$347,070,515 (All Funds) in FY 2011. This will increase the average monthly caseload more than 4,600 in FY 2010 and 11,500 in FY 2011.

⁵³To 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 or the DADS' website at: http://www.dads.state.tx.us/business/pi/piac_reports/index.html.

⁵⁴ See DADS' website at: <http://www.dads.state.tx.us/business/pi> for the *2008 Stakeholder Report*; for the Promoting Independence Advisory Committee's full text of all its recommendations, or see Appendix F.

Behavioral Health Directives within Program Funding

There is an increasing concern for the lack of behavioral health services and supports for individuals with dual diagnoses (individuals who are aging and/or with a disability and a mental illness and/or substance abuse issue). These issues, as either stand-alone concerns or coupled with other co-occurring disability issues, present a barrier for a fully-integrated long-term services and supports system. The following three directives (2-4) address this concern.

2. 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 four or more in the past two years, are eligible for ACT, as part of RDM. The original Plan (2001) recommended three psychiatric-related hospitalizations within 180 days to be the impetus for more intensive behavioral health services; the legacy Department of Health decided to include individuals with two or more hospitalizations within 180 days in their reports to the Mental Health Authorities.

DSHS has determined that the at-risk population should also be incorporated into the RDM System regardless of diagnosis, and that generally adults are appropriate for service level 4 of ACT. The current appropriations are not adequate to meet the capacity of the state and a significant number of individuals are being recommended for ACT level 4 but are actually enrolled into a less effective level of service. According to the DSHS strategic plan, an estimated 923,536 adults in Texas met the DSHS mental health priority population definition in 2007; approximately 444,655 are estimated to have the greatest need (targeted priority population). DSHS program service utilization data indicates that approximately one fourth of those with the greatest need received mental health services from the state authority (111,782) in 2007.

3. Requires legislative direction and/or appropriations

If directed and/or funded by the Legislature, HHSC will work with DSHS to provide services and supports for individuals leaving the state mental health facility (state hospital) system.

Many individuals leaving the state hospital system have no community residence or the required services to help them re-integrate back into community living. This lack of services and housing options results in individuals being discharged from the state hospital into a nursing facility. The state then works with those individuals through the “money follows the person” policy to have them return to their community setting of choice. This process is costly to the state and does not provide the highest level of quality of life to the individual. Community services and supports such as Cognitive Adaptation Training and Substance Abuse Services help to optimize the individual’s opportunity for a successful relocation and lower the risk for recidivism.

4. *Requires legislative direction and/or appropriations*

If directed and/or funded by the Legislature, HHSC will work with DADS to incorporate effective behavioral services and supports in their service arrays.

The current 1915(c) service arrays do not adequately cover intensive behavioral health services and supports. Therefore, community options are limited for those individuals with intense behavioral health needs and co-occurring aging and/or disability needs. The addition of these services will most likely increase the individual service plan cost.

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

If directed and/or funded by the Legislature, HHSC will work with DADS to ensure flexibility in the service array.

1915(c) waiver programs have set service arrays to help manage utilization and overall costs. There are many other support services that could be offered that would enhance success in community living and an individual's quality of life. Examples of services currently not offered are intense behavioral health supports, services to support an individual with traumatic brain syndrome, services to support an individual with autism, and other supports.

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

If directed and/or funded by the Legislature, HHSC will work with DADS to develop a fully integrated data warehouse.

The long-term services and supports system crosses several health and human services operating agencies. DADS, the lead operating agency for long-term services and supports, is in the process of enhancing its "data warehouse" which provides individual service level information for purposes of providing data to make evidence-based policy decisions. However the managed care system, which has expanded into all of the major urban service delivery areas and is administered by HHSC, maintains its own data collection process. It is important to create a single "data warehouse" which will integrate both the fee-for-service and managed care data. There is a significant need to characterize the entire long-term services and supports systems within a single system, and discuss in an evidence-based manner, the commonalities and differences of the two funding systems.

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

If directed and/or funded by the Legislature, HHSC will work with its operating agencies to expand respite care for family caregivers and increase the average benefit.

Respite for caregivers is an effective means of delaying and/or avoiding institutional care for consumers. In Texas, the National Family Caregiver Support Program, as authorized under the Older Americans Act, is administered by DADS and implemented by 28 area agencies on aging (AAAs). Education, information, and support services are provided to individuals, or caregivers

of individuals, 60 years of age and over and other high-risk populations who provide assistance for their family members; caregivers may be of any age. This program enables individuals who are aging and/or with a disability to remain in a home environment and "age in place."

Although AAAs offer respite services, the intensity and duration of services are limited by funding constraints. AAAs' average respite benefit for state fiscal year 2007 was \$667⁵⁵ which is helpful but inadequate to meet the needs of unpaid caregivers who provide on-going and intensive assistance.

WORKFORCE AND PROVIDER NETWORK STABILIZATION: *These are directives to increase reimbursement rates in order to help stabilize the direct service workforce.*

The opportunities for community living are limited without a functional, available, and qualified workforce and provider network. Significant turnover rates for direct service staff result in a diminished quality of care and a significant additional expense for advertising for and training of new employees. Lack of sufficient funds to provide living wages for direct service workers has a negative impact on the quality of services provided and the availability of a qualified provider base from which an individual may choose to receive services.

8. Requires legislative direction and/or appropriations

If directed and/or funded by the Legislature, HHSC will increase private provider rates according to established methodologies, recognizing inflation factors.

Between 1997 and 2007 the Chained-Type Price Index for Personal Consumption Expenditures (PCE) increased by 23.69 percent. While the rate adjustments provided by the 80th Legislature (2007) provided some relief, the adjustments did not meet the increase in the CPI. Current inflationary pressures include, but are not limited to, cost increases in gasoline, transportation (vehicles), food and utilities, which are all necessary for service delivery. The inability to adequately address these needs negatively impacts: the quality of services provided to individuals; a provider's ability to maintain compliance with regulations; and more importantly, the availability of an array of viable service providers from whom consumers may choose to receive services.

The 80th Legislature (2007) appropriated, on average, a five percent rate increase for providers of community services and supports (\$86.2 million General Revenue, \$203.1 million All Funds). In addition, the Legislature provided for "Community Care Rate Enhancements" (\$15.8 million General Revenue, \$38.2 million All Funds) for direct service staff, and passed House Bill 15 (80th Legislature, Regular Session, 2007), which provided rate restoration for Community Living Assistance and Support Services (CLASS), Home and Community-Based Services (HCS), and Texas Home Living providers to FY 2003 amounts. However, these additional appropriations did not fully fund the cost of these programs. HHSC has detailed the implications of provider rate increases in its Consolidated Budget.⁵⁶

⁵⁵ Department of Aging and Disability Services, Access & Intake – Area Agencies on Aging SFY 2007 data for Caregivers Respite Care.

⁵⁶ See Appendix D.

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

If directed and/or funded by the Legislature, HHSC will fund the full impact of the minimum wage increase, including the “ripple effect”.

The third \$0.70 increment in the federal minimum wage will occur on July 24, 2009, and will require pro forma adjustments to the rates that would otherwise be reflected in HHSC’s rate methodology estimates for FYs 2010-2011.

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

If directed and/or funded by the Legislature, HHSC will increase support for community direct services and supports workers.

The ability to recruit and retain direct service workers is at a critical juncture in Texas. It is difficult to have quality community-based services and supports system without tenured and trained direct services workers. HHSC’s 2008 Consolidated Budget details cost implications for increasing direct service workers’ wages.

CHILDREN’S SUPPORTS: *The following recommendations are aimed at decreasing the number of children with disabilities in Texas institutions, increasing access to quality permanency planning and family-based options, and reducing new admissions of children to these facilities.*

Reducing the number of children with disabilities residing in large, congregate care facilities continues to be a priority for the health and human services system. This goal can only be accomplished by addressing the barriers that prevent children from leaving these facilities, and ensuring that the appropriate community supports and services are available that prevent the initial placement of a child in a facility.

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

If directed and/or funded by the Legislature, HHSC will work with DADS to provide the appropriate community-based services to those children (0-17 years of age) at imminent risk of institutionalization and to offer more community-based options to support individual choice.

Many families/guardians feel as though they have no option during a crisis situation other than institutionalization. Funding of “crisis services” to provide intervention, stabilize the current situation, and the provision of behavioral training to the family/guardian would have a significant impact on the ability of the family/guardian to continue to support the child at home, if that is their choice.

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

If directed and/or funded by the Legislature, HHSC will work with the Department of Family and Protective Services (DFPS) to expand the Promoting Independence (PI) population to

include children in DFPS conservatorship who have disabilities and are residing in select institutions licensed by DFPS.

Being designated as a PI population provides a child with expedited access to Medicaid 1915(c) waiver programs. Currently, the PI population includes only individuals in nursing facilities, state schools, and large (fourteen or more bed) community intermediate care facilities for persons with mental retardation (ICFs/MR). Some institutions licensed by DFPS provide services specifically to children in DFPS conservatorship who have intellectual and developmental disabilities. These facilities were previously licensed as “institutions for persons with mental retardation” and serve a population with needs similar to those who are placed in ICFs/MR.

13. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with the appropriate health and human services agencies to develop a pilot project to create emergency shelters for children with intellectual and developmental disabilities needing out-of-home placement.

This directive is intended to ensure adequate time to assess the child and develop an appropriate family-based alternative for children who are at risk of being institutionalized.

14. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS and DFPS to develop adequate behavioral services to support children (0-21 years of age) coming out of institutions and to help provide them with community options in order to support individual choice.

Many children have an intensive co-occurring behavioral health need in addition to their intellectual and developmental disability. Because Texas’ Medicaid waivers and other community programs have limited behavioral health services and supports, the ability to live in the community is often not a viable option. It is important that the service arrays in Medicaid waivers include the appropriate behavioral health supports to give parents/guardians the option to keep their child at home or with an alternative family.

15. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will develop and implement a Medicaid Buy-In (MBI) program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as authorized 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 prohibitive 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 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 prevent families from remaining in or entering into poverty for the sole purpose of obtaining medical care for their child, and will prevent insitutional placements caused by the lack of needed community services.

INDEPENDENT LIVING OPPORTUNITIES AND RELOCATION ACTIVITIES: *These directives will expand opportunities to move into the community, will help make relocations to the community more successful, and will provide enhanced assistance for individuals with complex need.*

16. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to expand its “Promoting Independence Priority Populations” policy to include individuals residing in medium (nine to thirteen bed) community ICFs/MR.

The original Promoting Independence Plan (2001) made recommendations to allow individuals residing in state mental retardation facilities (state schools) and large (fourteen or more bed) community ICFs/MR to have expedited access to the HCS waiver program. Individuals in state schools may access HCS within six months of referral and those living in large community ICFs/MR within twelve months of referral. Currently, this option is not available for those living in medium community ICFs/MR.

17. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, DARS will add an additional three Centers for Independent Living (CILs).

The federal Vocational Rehabilitation Act of 1973, which is overseen by the Rehabilitation Services Administration, created the development of Centers for Independent Living (CILs). 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 currently 23 CILs in Texas, funded by federal dollars and state General Revenue (GR), which cover 161 counties. Nevertheless, this still results in many parts of the state, especially in rural counties, being without CIL coverage (93 counties are without Title VII, Part C, CIL funding).

18. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to increase the relocation activity that assists individuals in nursing facilities to relocate back into their community.

Currently, DADS receives \$1.3 million in GR to fund the relocation specialist activity and the support program “Transition to Life in the Community (TLC)”; HHSC also provides additional dollars for these support services. These activities are crucial in: the identification of individuals who want to relocate; education; facilitation; and coordination of the relocation process. However, individuals with more complex functional and medical needs require intensive supports in their relocation. The number of individuals accessing the “Money Follows the Person” policy continues to grow, and there are an increasing number of those individuals who require this type of assistance.

19. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with DADS to establish a pilot project, which would support institutional diversion activities in order to avoid initial institutionalization.

Individuals often seek institutionalization because they are in a crisis situation due to an acute episode or pending an immediate discharge from an acute care facility. The community-based services and supports are not in place to provide temporary assistance to avoid institutionalization. The State, subsequently, pays relocation contractors to work with the individual in order for them to relocate back into the community. This process is both cumbersome and expensive. Additionally, this process increases the risk that the individual will lose their community residence and informal support system.

HOUSING INITIATIVES: *These directives will help individuals remain in the community or assist them in their relocation from an institutional placement into the community. Without available, accessible, and integrated housing, there is no opportunity for self-determination and choice.*

Affordable, accessible and integrated housing is an essential requirement for individuals who want to relocate back into their communities. Individuals, who are relocating from nursing facilities, ICFs/MR, or individuals who are in the targeted *Olmstead* populations under the DSHS provisions, must have accessible, integrated and affordable community housing. There are two substantial barriers – the poverty of individuals who are living at the Supplemental Security Income (SSI) level (\$674/month effective January 2009) which severely limits housing choices, and/or the lack of easy access to wrap-around supports and services.

20. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, the Texas Department of Housing and Community Affairs (TDHCA) will increase the baseline funding for the Texas Housing Trust Fund.

Texas does not provide a significant amount of discretionary GR funding for housing. The Housing Trust Fund is one of those limited funding sources and is allocated to TDHCA. During the 80th Legislative Session, TDHCA received \$5 million in GR for the Housing Trust Fund (2008-2009 General Appropriations Act, Article VII, TDHCA, H.B. 1, 80th Legislature, Regular Session, 2007). However, this amount is not adequate to provide housing voucher incentives or increase the overall housing inventory for individuals who exist at the Supplemental Security Income (SSI) level and are aging and/or with disabilities.

21. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, HHSC will work with TDHCA to supplement the administrative fee for HOME Vouchers.

The HOME vouchers, which include Section 8 and Tenant-based Rental Assistance (TBRA), are expensive and difficult to administer. There is a minimal amount of administrative overhead allowed in the overall funding made by the United States Department of Housing and Urban Development (HUD). This limited amount for administrative activities is a barrier in getting qualified contractors willing to administer the program.

HUD will only provide a four percent administrative fee which is supplemented with an additional two percent from TDHCA. In 2002, HHSC also provided funding (an additional four percent) to supplement the administrative fee to allow contractors to spend up to ten percent of the award on administrative activities. The lack of appropriations caused HHSC to discontinue providing the additional four percent in funding.

22. Requires legislative direction and/or federal/state appropriations.

If directed and/or funded by the Legislature or the United States Department of Housing and Urban Development, TDHCA should increase the amount of dedicated HOME vouchers for individuals relocating from institutional settings.

These vouchers include Section 8 permanent housing vouchers and TBRA two-year vouchers.

23. Requires legislative direction and/or appropriations.

If directed and/or funded by the Legislature, TDHCA should establish a separate GR Fund program to provide affordable housing to individuals whose income is up to the 300 percent of the SSI level and who want to relocate from an institutional setting or remain in the community.

Often, even with a voucher, individuals who are very poor can not find affordable, accessible, and integrated housing. Supplemental funds are necessary to help increase the overall housing inventory that is available and provide “bridge funds” to supplement HOME vouchers.

COMMUNITY RELOCATION 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” (MFP) concept. This policy allows for individuals residing in nursing facilities relocating back into a community setting to receive community-based services; primarily the Community Based Alternatives (CBA), STAR+PLUS, and the Integrated Care Management waivers. The 77th Legislature attached Rider 37 to the 2002-2003 General Appropriations Act 2001 (Title II, Department of Human Services [DHS], Senate Bill 1, Regular Session, 2001), which created the MFP policy. The Rider 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 Department of Human Services (DHS) implemented the program on September 1, 2001.

The 78th Legislative Session attached Rider 28 to the 2004-2005 General Appropriations Act (Article II, DHS, House Bill 1, Regular Session, 2003), which continued MFP for the next biennium. 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 79th Legislature codified the rider policy into law as Texas Government Code, section 531.082 and gave MFP its own line item within the Department of Aging and Disability Services (DADS) appropriation. This policy 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.⁵⁷

As of August 31, 2008, 16,306 individuals have transitioned back to the community. Of that number, 7,190 continue to receive their long-term services support in a community-based setting. Overall, fifty-seven percent of the total population that relocates back into the community are sixty-five or older; forty-three percent are sixty-four or younger. Among the remarkable statistics are the numbers of individuals who are over eighty-five years of age who have chosen to relocate back to a community setting.

⁵⁷ See Appendix G for more detailed information regarding those individuals who have utilized MFP since September 2003 and are still actively using community services.

INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION

While MFP has proven successful for individuals residing in nursing facilities, individuals residing in intermediate care facilities for persons with mental retardation (ICFs/MR) are not afforded the same mechanism. However, the original Promoting Independence Plan (Plan) gave a priority to individuals living in large (fourteen beds or more) community ICFs/MR and state mental retardation facilities (state schools) and who desire a living arrangement other than the institution.

The state created separate target groups within the Home and Community-Based Services (HCS) waiver, which provides expedited access to HCS waiver slots, although expedited access is contingent on available funds. This is not the same as the MFP process in nursing facilities where 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 referral while those residing in a large community ICFs/MR may access an HCS slot within twelve months of referral.

This process is effective in meeting the demand as long as there is new funding and attrition slots. Individuals in state schools have had expedited access to HCS since August 1999; as of August 31, 2008, 1,233 individuals have moved from the state school system. For those in large community ICFs/MR, 949 have moved into HCS during the period of September 1, 2001 through August 31, 2008.

Individuals in other settings, such as small (0-8 bed) and medium (9-13 bed) ICFs/MR, are not currently covered under the Promoting Independence Priority Populations policy.

STATUS REPORTS: INTRODUCTION

The following sections provide status updates on the state's progress during the 2008-2009 biennium in complying with its Promoting Independence Plan (Plan). Texas' state administrative agencies made significant progress in meeting the goals of the *2006 Revised Promoting Independence Plan*. Among the many achievements made and/or being made during the 2008-2009 biennium are the following:

- On average, an approximate ten percent increase in funding for the Department of Aging and Disability Services' (DADS) community programs.
- Expansion of the consumer-directed services model to the Home and Community-based Services and Texas Home Living waivers.
- Relocation of 2,664 individuals residing in nursing facilities (NF) into community-based services through "Money Follows the Person (MFP) in FY 2008, and over 16,000 NF residents since September 2001.
- Relocation of 206 individuals residing in state mental retardation facilities (state schools) into community-based services, and 175 individuals residing in large (fourteen or more bed) community Intermediate Care Facility for Persons with Mental Retardation (ICFs/MR) in FY 2008, and over 2,000 individuals from both large community ICFs/MR and state schools since FY 1999.
- Implementation of the Money Follows the Person Demonstration grant received from the Centers for Medicare and Medicaid Services (CMS).
- Implementation of the new Community Living Options Information Process (CLOIP) which is enhancing information provided to state school residents in order that those individuals may make better informed decisions regarding their choice in where to live.
- Expansion of the STAR+PLUS (capitated) and Integrated Care Management (ICM- non-capitated) managed care systems which allow individuals on Supplemental Security Income (SSI) to access community-based services immediately upon eligibility.
- Receipt of a Medicaid Infrastructure Grant from CMS to increase utilization of Texas' Medicaid Buy-In program.
- Implementation of the Crisis Mental Health project financed by the 80th Legislature (2007) which appropriated \$82 million (General Revenue) to provide local behavioral health services.
- Decrease in number of individuals admitted to state mental health hospitals (state hospital) in FY 2008 from FY 2007: there were 477 individuals admitted to a state hospital three or more times within 180 days in FY 2008, compared to the 542 admitted in FY 2007.
- Development of two new Centers for Independent Living (CILs) in Laredo and Abilene which cover fourteen additional counties.
- 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.
- Decrease in the number of individuals admitted to a state hospital 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 (LMHAs).
- Implementation of the three original Aging and Disability Resource Centers (ADRCs) and expansion of the program with five additional ADRCs.

See Appendix H for a complete status review on each directive from the *2006 Plan*. There were twenty-five directives made in the *2006 Plan*, of those: five have been completed; three are partially completed; four are ongoing; one was not done; and twelve did not receive legislative appropriations or policy direction.

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 (HHSC)
 - Texas Department of Aging and Disability Services (DADS)
 - Texas Department of State Health Services (DSHS)
 - Texas Department of Family and Protective Services (DFPS)
 - Texas Department of Assistive and Rehabilitative Services (DARS)
- Children's Issues
- Housing Issues
- Workforce Issues

THE HEALTH AND HUMAN SERVICES COMMISSION (HHSC)

The mission of 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 - 2001), HHSC has been charged with the responsibility of monitoring and coordinating the implementation of the Plan. Effective October 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.⁵⁸

HHSC receives approximately \$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 Years 2008 and 2009, HHSC Executive Commissioner Hawkins, through the authority of Rider 13(c) which was attached to the 2008-2009 General Appropriations Act (Title II, HHSC, House Bill [H.B.] 1, 80th Legislature, Regular Session, 2007), 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.

⁵⁸ See Appendix C.

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.⁵⁹ HHSC submitted Exceptional Item 8 with its Legislative Appropriations Request (LAR) that requested additional funding to increase community-based services and programs for DADS, the Department of State Health Services (DSHS) and the Department of Assistive and Rehabilitative Services (DARS). Exceptional Item 8 requests \$474.4 million (All Funds), \$224 million (General Revenue) to increase the average monthly caseload by 4,646 in Fiscal Year (FY) 2010 and 11,554 in FY 2011.

Managed Care Options: STAR+PLUS⁶⁰ and Integrated Care Management⁶¹

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 2292 (78th Legislature, Regular Session, 2003) directed 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.

The 79th Legislature (2005) built upon House Bill 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, 79th Legislature, Regular Session, 2005) establishes conditions for the use of capitated managed care models.

The 79th Legislature also established the 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.⁶² The Integrated Care Management (ICM) model was required to be implemented in Dallas County; however other counties could opt for this model.

HHSC, as directed, worked with local officials to decide whether the new STAR+PLUS model or the ICM model would be administered in a specific county. Through this process STAR+PLUS was expanded to four Texas services areas February 1, 2007; the expansion areas include the Bexar, Travis, Nueces and Harris service delivery areas.⁶³ ICM was chosen by Tarrant County instead of STAR+PLUS; ICM became effective on February 1, 2008 in the two services delivery areas of Tarrant and Dallas Counties.⁶⁴

⁵⁹ See *Interest List and Budgetary Information* section.

⁶⁰ 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>.

⁶¹ For more information on the Integrated Care Management model can found on HHSC's website at:

http://www.hhsc.state.tx.us/pubs/031505_fpicmm.html.

⁶² House Bill 1771 (79th Legislature, Regular Session, 2005).

⁶³ 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).

⁶⁴ 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).

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 had an immediate impact on DADS' Community Based Alternatives' (CBA) interest list. All STAR+PLUS members and those served through ICM who are at the SSI level (\$674/month) have immediate access to 1915(c) services upon meeting eligibility and do not go on a Medicaid waiver interest list. This has increased the overall utilization of 1915(c) waiver services.

Texas Medicaid Buy-In (MBI) Program

Senate Bill 566 (79th Legislature, Regular Session, 2005) required that HHSC develop and implement a MBI program for working persons with disabilities that will allow them to 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 healthcare coverage.

The MBI 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. Individuals in MBI 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 in September 2006.⁶⁵ The Department of Assistive and Rehabilitative Services (DARS) in collaboration with HHSC received a Medicaid Infrastructure Grant (MIG) in November 2007 from CMS to increase statewide enrollment in MBI.

Consumer Directed Services (CDS) and Permanency Planning

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

Permanency Planning

HHSC continues to collect information for the Permanency Planning Reports and inform the legislature of the progress of this deinstitutionalization effort. The total number of children (0-21 years of age) in institutions has remained around 1,600; institutions is defined by S.B. 368 (77th

⁶⁵ 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.

Legislature, Regular Session, 2001), which includes Home and Community-Based Services (HCS) supervised living and residential support. However, there has been a significant shift in the distribution patterns, as sizable numbers of children are moving back to their families, to family-based alternatives, or to other smaller, less restrictive environments.

The data show an overall increase in the number of children moving to families or smaller settings with two notable exceptions being state mental retardation facilities (state schools) and select Department of Family and Protective Services' (DFPS) licensed facilities. In each, the number of individuals has increased in the past two years as compared to six years ago. However, the total number of children living in all DADS non-HCS facilities, which include community ICFs/MR, and nursing facilities has declined by thirty-one percent in the past six years, and is down eight percent in the past two years. Meanwhile, the number of children in all DFPS and all non-HCS DADS facilities combined has declined by two percent in the past two years, and twenty-three percent since August 2002.⁶⁶

Consumer Direction Workgroup

HHSC continues to lead the Consumer Direction Workgroup. The workgroup adopted operating procedures and was expanded to include consumers and family members from outside Austin and an advocate for elder Texans. The workgroup prepared its first biennial report to the Legislature⁶⁷ and provided input to HHSC in the development of the consumer direction effectiveness report submitted to the Legislature. The workgroup continues to provide support for the expansion of the Consumer Directed Services (CDS) and Service Responsibility Option (SRO) options. The workgroup provided support to DADS in making the CDS option available in the HCS and the Texas Home Living (TxHmL) waiver programs. The workgroup continues to assist the health and human services agencies in identifying and developing strategies to overcome barriers to participation in consumer direction.

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 (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.

⁶⁶ Permanency Planning and Family-Based Alternatives Report (January 2009); see the HHSC website: http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_dateorder.asp

⁶⁷ See HHSC's website for the complete report at: <http://www.hhsc.state.tx.us/reports/ConsumerDirectionWorkgroupBiennialReport.pdf>

Children's Policy Council

The Council was established by House Bill 1478 (77th Legislature, Regular Session, 2001) to assist 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 September 2008 report, *Recommendations for Improving Services for Children with Disabilities in Texas*.⁶⁸

Family-based Alternatives Initiative

The Family-based Alternatives Project was authorized by Senate Bill 368 (77th Legislature, Regular Session, 2001), and supported by Governor Rick Perry in Executive Order RP-13, which formalized the state's efforts to promote family life for children with disabilities. 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.

Parents of children not in state conservatorship who use a family-based alternative are not required to relinquish custody of their children; the use of family-based alternatives 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 contracted with EveryChild, Inc. in Fiscal Year 2003 to manage the Family-based Alternative Project and competitively re-bid this contract and re-awarded it to EveryChild, Inc. in September 2007. The project primarily serves children residing in facilities in and around the metropolitan areas of Houston, San Antonio, Austin-Temple region, Dallas, and Longview.

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, DFPS staff, facilities and other local community organizations.

HHSC's collaboration with EveryChild, Inc. 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 520 children with disabilities moving from various institutions into families over the past two years.

⁶⁸ The September 2008 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/news/CPC_Report_0808.pdf.

Medical Transportation Services

Effective May 1, 2008, the Medical Transportation Program (MTP) transferred from the Texas Department of Transportation (TxDOT) to HHSC. This transfer was a result of passage of SB 10 (80th Legislative Session, Regular Session, 2007) which required HHSC to directly supervise the administration and operation of the program. Working with HHSC Facilities and the Texas Facilities Commission, plans are underway to relocate MTP employees from TxDOT facilities into HHSC locations. MTP operations are located in Austin, San Antonio, McAllen and Dallas. In addition, contract specialists are located throughout the state to focus on contract monitoring. MTP will be increasing access to care by adding staff to the call centers to respond to the escalating calls requesting transportation services. Also, MTP will be conducting a business process review (BPR) this next year. The BPR is intended to provide an assessment of the current MTP environment with recommendations to enhance, modify and strengthen operations and processes to meet the inherent business risks and regulatory requirements. It is anticipated to be completed by the end of Fiscal Year 2009.

Supported Employment

In October 2006, the Children's Policy Council submitted a report to the Texas Legislature that included recommendations regarding employment for transitioning youth with disabilities.⁶⁹ House Bill (H.B.) 1230 (80th Legislature, Regular Session, 2007) codified some of the recommendations of the Council. The legislation focuses on improving the services provided to Texas youth with disabilities as they transition from school to adult living, with an emphasis on transition into successful employment. H.B. 1230 is comprised of three sections.

- Section 1 requires HHSC to monitor programs offered through health and human services (HHS) agencies, to consider whether programs or services result in positive outcomes in employment, community integration, and quality of life, and to collect information regarding the outcomes of the transition process.
- Section 2 requires DARS to provide specialized training to employees who provide transition services.
- Section 3 requires the formation of a workgroup and development and implementation of a plan to improve the services and outcomes for Texas youth with disabilities and cooperation among agencies and community providers.

In response to Section 1, HHSC has collected data for state fiscal years 2007 and 2008 from HHS agencies regarding enrollment levels, health insurance, community living status, and employment status of youth with disabilities. At the request of legislative staff, HHSC, under a contract with the University of North Texas (UNT), also conducted focus groups and a telephone survey of Texas youth with disabilities to better understand their transition experiences. UNT is in the final phase of the telephone survey, and results of data collected from the agencies are being compiled. A report on HHSC monitoring activities is expected to be finalized in February 2009 and will be submitted to the designated legislative committees at that time.

⁶⁹ See HHSC's website at: http://www.hhsc.state.tx.us/news/CPC_Report1006.pdf for the full report.

In response to Section 2, DARS has completed development of its curricula for training. Digital Versatile Disc (DVD) and support materials were distributed to Transition Vocational Rehabilitation Counselors (TVRCs) in June 2008. This information will be supplemented with quarterly half-day training forums for DARS' TVRCs to improve knowledge and skills in this area.

In response to Section 3 of H.B. 1230 HHSC convened a workgroup to develop a plan to:

- Ensure that a youth with a disability who is transitioning into post-schooling activities, services for adults, or community living has choices about the individual's work and career, and has the opportunity with necessary supports, to seek individualized, competitive employment in the community.
- Improve the collaboration between health and human services agencies, other state agencies, the community, and local service providers to maximize existing supported employment resources.
- Increase the quality and quantity of available supported employment services and opportunities.

This plan was issued by stakeholders who participated in the workgroup, including recognized experts in supported employment, advocates, family members, physicians, providers of 1915(c) Medicaid waiver services, employers currently offering supported employment opportunities, and others. State agency members of the workgroup provided technical assistance and program information to the stakeholder group that produced the plan and the recommendations.

In January 2009, HHSC submitted a report on the implementation status of the recommendations in this plan to appropriate legislative offices.

Long Term Care Partnership

The Long-Term Care Partnership is a joint effort between private long-term care insurers and Texas state agencies. The partnership encourages people to plan for their long-term care needs, by purchasing Long-Term Care Insurance instead of relying on Medicaid. Through the Partnership program, the state offers individuals who purchase partnership qualified policies access to Medicaid (if they meet the eligibility criteria) without the need to impoverish themselves should additional long-term care coverage be needed, beyond what the policy provides. Individuals receive resource protection at the time of Medicaid eligibility and estate recovery in the amount of benefits paid under the policy.

The federal Deficit Reduction Act of 2005 (DRA) authorized all states to establish Long-Term Care Partnership programs. The Texas Legislature passed S.B. 22 (80th Legislature, Regular Session, 2007) which requires HHSC, the Texas Department of Insurance (TDI) and DADS to coordinate efforts to implement a Partnership in Texas. Requirements also include training for insurance agents, education for consumers, and an amount of inflation protection depending on consumer's age. Approximately thirty-five states have or are developing LTC Partnership programs as a result of the passage of the DRA.

In preparation for implementation, the three state agencies have accomplished a great deal, including approval of a State Plan Amendment, adoption of Medicaid rules, receipt of a Technical Assistance Grant from the Centers for Health Care Strategies, Strategic Communication training from the Robert Wood Johnson Foundation, development of agent training materials⁷⁰, training of Health Insurance Counseling and Advocacy Program benefits counselors, establishment of a steering committee, and publication of TDI rules. All three agencies are working on an outreach and awareness campaign and staff dedicated to the Partnership was hired and is housed at HHSC.

Medicaid Reform

Senate Bill 10 (80th Legislature, Regular Session, 2007) sets the stage for a comprehensive package of Medicaid reforms designed to increase the percentage of Texans with health care coverage, focus on prevention and emphasize individual choice. The reforms will transform Texas' health care infrastructure, optimize health investments and provide affordable coverage options for uninsured Texans.

HHSC submitted a waiver request to the CMS on April 16, 2008. The waiver request outlines the state's plan to expand health coverage options in the state, reduce reliance on expensive emergency room visits for basic care, and make it easier for the working poor to buy into employer-sponsored coverage

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 Promoting Independence 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.

Money Follows the Person (MFP) Rebalancing Demonstration (Demonstration)

In January 2007, Texas obtained CMS' approval to participate in a MFP Demonstration that is designed to build on existing Promoting Independence initiatives. This project will assist in the relocation of 2,999 individuals from institutional settings through Calendar Year 2011: 1,400 individuals who are aging and/or with a physical disability and/or with behavioral health needs in nursing facilities, and 1,599 individuals in nine or more bed institutions serving individuals with intellectual and developmental disabilities.

The Demonstration includes:

- Individuals residing nursing facilities, large (fourteen or more bed) community ICF/MR, and state schools.

⁷⁰ Training materials are posted at: <http://www.ownyourfuturetexas.org/professionals.html>

- Behavioral Health supports: two new specialized supports services (Cognitive Adaptation Training and Substance Abuse Services) for individuals with co-occurring behavioral health needs who live in the San Antonio service delivery area.
- “Overnight companion service”: allows an individual with complex medical/functional needs to hire an attendant during normal sleeping hours; this service is limited to Cameron, Hidalgo, and Willacy counties.
- Voluntary Closure: assistance to providers of nine or more bed community ICFs/MR who want to voluntarily close their facilities and take those beds off-line and provide each resident with a choice in where they want to live.
- Post-relocation services: ongoing contacts with individuals once they have left a nursing facility to help ensure a successful relocation to the community.
- Housing initiatives: development of linkages between the long-term services and supports system with the housing system to result in increased dedicated housing vouchers for the *Olmstead* population, and the development of more integrated, accessible, and affordable housing.

The Operational Protocol, which details the state’s implementation of the MFP Demonstration, was approved in January 2008. The MFP Demonstration began enrolling participants on February 1, 2008; the Behavioral Health pilot began in April 2008, the Voluntary Closure process began in May 2008, and the Overnight Companion Support Service pilot began in June 2008⁷¹. Through October 2008, there have been 522 enrollments into the MFP Demonstration (61 percent were nursing facility transitions and 39 percent were ICF/MR transitions).

Relocation to the Community Activities

Relocation activities include the following three major initiatives to assist individuals in nursing facilities (NFs), large community ICFs/MR and state schools with access to community-based services⁷²:

- MFP for Medicaid eligible residents of nursing facilities.
- Promoting Independence priority population for residents of ICFs/MR.
- Promoting Independency priority population for residents of state schools.

Nursing facility residents may access CBA; Community Living Assistance and Support Services (CLASS); or Medically Dependent Children’s Program (MDCP) waivers without having to first be placed on an interest list. NF residents must meet all eligibility considerations. From September 1, 2001, to August 31, 2008, 16,306 individuals who lived in nursing facilities had transitioned to a community program. Of those, 7,190 individuals moved to community-based waiver services.

Residents of large ICFs/MR have access to 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.⁷³ From September 1, 2001 through August 31, 2008, 949 individuals moved from large community ICFs/MR to the community.

⁷¹ See the MFP Demonstration website at: <http://www.dads.state.tx.us/providers/pi/index.html>

⁷² See *Community Relocation Policy* section of this Plan for more detail.

⁷³ See DADS Exceptional Item Priority 4 for amount requested in its 2010-2011 Legislative Appropriations Request

Residents of state schools have access to an HCS waiver slot within six months of a referral. From August 19, 1999, through August 31, 2008, 1,233 individuals had moved from a state school.

On May 7, 2008, providers of nine or more bed community ICFs/MR were informed of program details that were developed for the MFP Demonstration Voluntary Closure initiative. Residents of these community ICFs/MR, whose provider chooses to participate in this initiative, will have a choice offered to them for movement to another facility or program, including: another community ICF/MR; a state school; or HCS waiver program.

Relocation Specialists

Legacy agency Department of Human Services began the relocation specialist activity in 2002 through a transfer of Promoting Independence dollars from HHSC. Relocation specialists help 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 wants to move to the community needs relocation services, but for those without housing, community supports, or for those who have a complex functional and/or medical need, a specialist can provide assistance to secure housing and household goods; identify community supports; and coordinate 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 with Centers of Independent Living (CIL).

With the use of additional funds transferred from HHSC on September 1, 2006, DADS was able to expand the number of sites from four to six. DADS awarded the contracts to six local community-based organizations in December 2006 with an effective date of January 1, 2007. These additional sites allowed contractors to provide more focused attention to a larger population. During Fiscal Year 2008, the relocation contractors completed 1,284 assessments, 644 relocations to the community, and approved 424 Transition to Life in the Community (TLC) and 363 Transition Assistance Services (TAS) requests.

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 a Long-Term Care (LTC) Ombudsman.

LTC Ombudsmen are trained to provide information to families and individuals in nursing facilities about the process to transition out of the facility. LTC Ombudsmen also link individuals and their family members with a relocation specialist in one of the relocation contracted agencies who can coordinate the complete process.

Once the decision is made to transition out of a nursing facility, the AAA has two additional 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 Caregiver Respite Voucher Program was implemented in fiscal year 2002, ensuring the facilitation of consumer choice through the provision of respite services. The Homemaker Voucher Services Program was implemented in fiscal year 2007.

The Office of the State LTC Ombudsman and the network of 28 AAAs continue to actively support the Promoting Independence Initiative. Training and program updates were provided for LTC Ombudsman staff during state-level trainings. Every year since 2003, LTC Ombudsman received training on the relocation process and new initiatives in Promoting Independence. The State LTC Ombudsman participates in coordinating calls to the relocation contractors and facilitates training opportunities with other AAA programs.

Community Transition Teams

Texas was the recipient of a 2003 Real Choice System Change Grant from CMS to establish regional Community Transition Teams (CTTs) to assist in the elimination of systematic barriers to community transition and help nursing facility residents with complex needs return to their communities.⁷⁴ These CTTs are public-private local community teams that help secure community transitions outside the traditional service array.

The grant ended on September 1, 2006. However, DADS committed to the continuation of this vital community activity and was able to maintain a local team in each of its ten regions plus an additional three teams to serve more rural regions.

Dedicated Home and Community Based Services (HCS) Waiver Slots

The 2008-09 General Appropriations Act (Article II, DADS, S.B. 1, 80th Legislature, Regular Session, 2007) provided dedicated HCS slots for children either residing in an ICF/MR (Rider 43) or who were aging out of DFPS’ foster care program (Rider 37).

DADS has implemented both and HCS waiver slots were targeted in accordance with each rider. DADS enrolled twenty-four children (0-21 years of age) as of October 17, 2008 through Rider 43, which allows for up to 50 slots for children residing in community ICFs/MR. Children continue to have the opportunity to leave large community ICFs/MR and state schools through Promoting Independence priority HCS slots.

Rider 37 allowed for 120 HCS slots for children aging out of Department of Family and Protective Services’ (DFPS) foster care program. As of August 31, 2008, DADS had enrolled 58 children.

⁷⁴ Community 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.

Permanency Planning

Senate Bill 368 (77th Legislature, Regular Session, 2001) codified Texas' public policy position regarding permanency planning for individuals 0-21 years of age who have a developmental disability and who reside in a designated Texas institution.⁷⁵ HHSC, DADS, and DFPS have worked cooperatively to strengthen permanency planning efforts for these individuals 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. They also worked with DFPS to develop a family reimbursement rate for children needing services at the "Intense Level." DADS is responsible for the permanency planning process for individuals 0-21 years of age residing in ICFs/MR and nursing facilities, and individuals receiving residential assistance services in HCS.

HHSC worked with DADS regarding the implementation of two legislative directives from the 79th Legislature, Regular Session, 2005, which strengthened the original permanency planning legislation in S.B. 368 (77th Legislature, Regular Session, 2001). S.B. 40 (77th Legislature, Regular Session, 2005) 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 House Bill 2579 (77th Legislature, Regular Session, 2005), DADS defined the role of the ICF/MR, HCS, and state school 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 "A Message to Families" document with families who are considering residential placement for individuals under 22 years of age. HHSC submitted a comprehensive report, *Permanency Planning Report*, on permanency planning in July 2008 to the Governor and the Texas Legislature.⁷⁶

⁷⁵ Chapter 531, Government Code, Subchapter D, Section 531.151 (3) defines institution as: (A) an ICF-MR, as defined by Section 531.002, Health and Safety Code; (B) a group home operated under the authority of the Texas Department of Mental Health and Mental Retardation including a residential service provider under a Medicaid waiver program authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, that provides services at a residence other than the child's home or foster home; (C) a foster group home or an agency foster group home as defined by Section 42.002, Human Resources Code; (D) a nursing facility; (E) an institution for the mentally retarded licensed by the Department of Protective and Regulatory Services; or (F) another residential arrangement other than a foster home as defined by Section 42.002, Human Resources Code, that provides care to four or more children who are unrelated to each other.

⁷⁶ The July 2008 Report, *Permanency Planning Report*, may be found on the HHSC website at: http://www.hhsc.state.tx.us/reports/SB368_PermanencyPlanningReport_0708.pdf

Community Living Options Information Process (CLOIP)

Senate Bill 27 (80th Legislature, Regular Session, 2007), directed DADS to delegate to local MRAs the implementation of a community options information process for adult residents at state schools. In response DADS, with the advice and assistance of a stakeholder workgroup, created a process currently known as the CLOIP. The CLOIP was designed to be implemented through contract with each of the thirteen MRAs with a state school in its service area. A budget was developed for the contract, CLOIP information materials were produced and staff training provided. On January 2, 2008, CLOIP was fully operational in accordance with the provisions outlined in S.B. 27. Through the month of August 2008, MRAs initiated the CLOIP process for 2,703 adult residents, with 9,978 contacts by CLOIP Service Coordinators.

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 CDS which is managed by DADS with policy oversight by HHSC (see previous discussion for further information). CDS allows the individual more control in the selection, training, and supervision of their direct services and supports.

The CDS option was implemented in July 2002 in multiple Medicaid home and community-based waiver programs in response to Senate Bill 1586 (76th Legislature, Regular Session, 1999) after a successful pilot in the Client-Managed Personal Attendant Services (CMPAS) program. The model allows consumers or their guardians or designated representatives to be legal employers of record for the service providers. Under the CDS option, individuals have greater control of and responsibility for their services.

House Bill 2292 (78th 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.⁷⁷ S. B. 153 (78th Legislature, Regular Session, 2003) mandated the formation of a CDS Workgroup to assist in the continued implementation of the CDS option. Senate Bill 1766 (80th Legislature, Regular Session, 2007) extended the workgroup beyond its sunset date, changed the name to Consumer Direction Workgroup (CDW) and required consumer representatives on the workgroup from each of the HHS enterprise operating agencies.

⁷⁷ The 2008 Report may be found at the HHSC website at: http://www.hhsc.state.tx.us/pubs/020105_CDS_Update2.html.

Currently there are two options for CDS in the Texas Medicaid program; the original CDS model and the pilot SRO developed through a 2003 CMS Real Choice Systems Grant. In the CDS option, 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 service providers but the provider agency keeps the fiscal and personnel functions.

With the implementation of the CDS option in the HCS and TxHmL waivers, the CDS option is available in the Primary Home Care, the STAR+PLUS programs, and all seven DADS waiver programs, with the exception of the CWP which operates only in Bexar County. As of August 31, 2008, 2,741 individuals use the CDS option.⁷⁸

The SRO option is scheduled to be expanded to adults receiving Primary Home Care services in managed care and non-managed care areas in early 2009, with the adoption of the SRO rules, pending approval of the 1915 (j) state plan amendment.

Interest List Procedures

Procedures for managing DADS Interest Lists were reviewed and several revisions have been made to streamline and standardize procedures among five of DADS' waiver programs. Examples include, a standardized notification letter that provides verification of the date an individual's name was added to the interest list, and the programs for which their name was added, an official form listing all DADS Long-term Services and Supports programs, a listing of contact information by county of three areas within DADS Access and Intake, including Regional and Local Services, AAAs, and MRA. A DADS' official form with contact information is provided to individuals when their name is added to the interest list, and anytime an individual inquires about services. The information is also available on the DADS website.

DADS implemented a process for transferring names to another waiver interest list when the individual was determined ineligible for the original waiver. The original interest list date remains the same and is transferred to the new interest list.

The HCS and CLASS program staff have developed an information gathering tool to assist in determining when individuals contacting DADS about having their name added to a particular interest list may benefit from other DADS services as well, and to document referrals to other DADS services.

DADS was budgeted for 2,497 additional slots in Fiscal Year 2008 for its Medicaid waiver programs. As of August 2008, 2,394 of these slots were filled.

⁷⁸ Based on reports from COGNOS (drawn from Service Authorization System) and CARE (Client Assignment and Reporting System).

Employment Initiative

In October 2007, DADS and DARS signed a revised Memorandum of Understanding (MOU) to improve the coordination of employment services between the two agencies. The MOU outlines the following processes:

- Communicating the status of a DARS eligibility determination
- Providing services during a pending DARS eligibility determination
- Deciding which agency should provide services at what time
- Sharing consumer information

DARS sent a directive to its regional directors, with information on the new coordination procedures, and instructions to establish or re-establish relationships with DADS regional staff and providers. DADS, in turn, sent letters to its providers explaining these new processes, which should further the goal of this interagency collaboration: to provide seamless service delivery from the consumer's perspective.

Since June 2006, DADS has been a member of the State Employment Leadership Network (SELN). Established by the Institute for Community Inclusion and the National Association of the State Development Disability Directors, SELN provides a forum for its fourteen member states to share information. The SELN also offers guidance on policies and practices in an effort to improve employment services. Ultimately, these two initiatives are designed to improve employment outcomes for individuals receiving DADS services. Such efforts will help maintain their independence in the community.

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. However, DSHS utilizes a more stringent formula by providing Assertive Community Treatment (ACT) services to adults who have two or more psychiatric-related hospitalizations in the past 180 days or four or more in the past two years.

Resiliency and Disease Management Program

House Bill 2292 (78th 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 better matches services to mental health consumers' needs, and to use limited resources most effectively. The intention is to provide the right service to the right individual 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. All recommendations for community mental health services are based on a uniform assessment process known as the Texas Recommended Assessment Guidelines (TRAG).

One intensive service component of the RDM is Assertive Community Treatment (ACT) that provides comprehensive services delivered by a multi-disciplinary team to individuals 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). In fiscal year 2007 the ACT program underwent some revisions in order to better align with the nationally recognized evidence based practice. The first set of changes consisted of making a distinction between our ACT teams in urban and rural settings due to the various differences between the two. Overall, both types of ACT teams have to provide the same amount of service hours to their clients but some of the other programmatic requirements have been changed. The second part of this effort to improve ACT services across the state included:

- Increasing the number of contacts per week.
- Increasing the amount of team communication.
- Ensuring a housing and vocational specialist be a part of the team.
- Increasing the percentage of degreed or credentialed team members.
- Requiring that a licensed clinician be the team lead.
- Requiring a psychiatrist be available for the ACT team consumers at all times.

Mental Health Crisis Redesign

DSHS requested and received \$82 million from the 80th Legislature for the FY 2008-2009 Biennium to redesign the public mental health crisis system. For FY 2008, \$27,317,890 was received and for FY 2009 \$54,683,110 is allocated. The Crisis Redesign Goals are to establish better local systems to serve persons in crisis; reduce utilization of emergency rooms, state hospital and other inpatient beds; reduce overtaxing of law enforcement resources, and improve consumers' access to appropriate services. Services include: (1) an accredited 24 hours a day, 7 days a week hotline, mobile outreach services which operate in conjunction with crisis hotlines and, (2) emergency care and crisis follow-up in the community. Both these programs were implemented in FY 08. Enhanced services include Extended Observation Services (up to 48 hours) and Crisis Stabilization Units.

Statistical Data on State Mental Health Hospital Utilization

DSHS monitors the number of individuals in State Mental Health Hospitals (state hospitals). As of August 31, 2008, the nine state hospitals averaged a daily census of 2,339 with 17, 088 admissions in FY 2008.

A quarterly DSHS report is generated that identifies all individuals who have been hospitalized for more than a year. The reports are sent to the respective hospitals, that verify the status of each patient and any barriers that may exist impeding the discharge of the individual. The SMHH and the LMHA prepare a revised Continuity of Care Plan for persons with identified barriers. In FY 2008 the Over 365 report was also sent to all LMHAs so they are well informed of all patients in the hospital over a year with or without a barrier. As of August 31, 2008, 477 patients were in the hospitals over a year, 438 needed continued hospitalization, 8 had been accepted for placement, 15 had a barrier to placement, and 16 had court involvement. Two adolescents at Waco Center for Youth had been there over one year and no additional individuals under the age of 18 had been hospitalized more that a year at other hospitals. There continues to be increases in the number of forensic patients hospitalized for more than a year from 242 in May of 2007 to 265 in August of 2008.

Individuals who are deaf and hard-of-hearing

DSHS implemented a system for monitoring deaf and hard-of-hearing individuals. These numbers are so small the monitoring is done every six months. As of May 31, 2008, there were only two patients.

Individuals with three or more hospitalizations within 180 days

There were 477 individuals admitted to state hospitals three or more times within 180 days in FY 2008, less than the 542 admitted in FY 2007.

An analysis was conducted showing that of the 1,365 persons who had three or more SMHH admissions in 180 days since 2006, where the third admission was in FY 2006, FY 2007, or FY 2008 only 15% (206) had 3 or more SMHH admissions in the 180 days that occurred in multiple years.

DSHS also prepares a quarterly report for the Promoting Independence Committee, *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*. According to the FY 2008 Quarter 4 report, of the 3,186 adults readmitted three or more times in 180 days since FY 2001, 1,375 were receiving community mental health services as of August 31, 2008. Also, of the 250 children readmitted three or more times in 180 days since FY 2001, 56 were receiving community mental health services as of August 31, 2008.

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 as a subcommittee to the Mental Health Planning Advisory Committee. This committee solicits policy input regarding mental health services for adults and children to prevent unnecessary institutional care. The Promoting Independence Mental Health Advisory Committee 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 a state hospital and/or a state funded community hospital 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 incomes less than 200 percent of the federal poverty level, or meet the 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, 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.

CSHCN Services Program funds are limited and there may be a waiting list for health care benefits. Families of children with special health care needs, including those on the waiting list for the CSHCN Services Program health benefits, may be eligible to receive case management services at DSHS regional offices throughout Texas and through community-based services contractors in some areas of the state.

Money Follows the Person Demonstration (Demonstration) – Behavioral Health Pilot

In January 2007, CMS approved the Texas MFP Rebalancing Demonstration proposal. DSHS collaborated with DADS on the Demonstration application, and developed a pilot project within the larger MFP Demonstration proposal to relocate adults with behavioral health (mental health

or substance abuse) needs from nursing facilities to the community. DSHS has put up the state match. CMS will provide an 80 percent federal match for services and a 50 percent match for administration. The pilot was implemented in April 2008. Up to fifty individuals are served each year in the San Antonio area. In addition to extensive assistance from DADS, participants will also receive special demonstration services. The services are Cognitive Adaptation Training (a specialized, evidence-based service that provides community-based and in-home assistance to help individuals with co-occurring psychiatric and/or substance abuse disorders establish daily routines, organize their environment and function independently) and Substance Abuse Services. The pilot also includes training for DADS and DSHS-funded providers so they can more effectively collaborate.

DSHS decided to participate in the Demonstration because state mental health hospital data indicated that in Fiscal Year 2005, over 350 individuals requiring long-term supports and services were discharged from State Mental Health Hospitals to nursing facilities. Ninety-seven percent of those individuals were adults. The majority of individuals (71 percent) were non-elderly adults, between the ages of 21 to 64. These individuals had significant physical disabilities, which qualified them medically for nursing facility placement. Only 15 percent were married, suggesting potential deficits in natural support systems. Comparing DADS nursing facility records to DSHS community mental health records resulted in an even more dramatic finding. Over 7,000 adults in nursing facilities received DSHS-funded community mental health services, institutional and/or substance abuse services in the past five years before entering the facilities.

DSHS developed a process evaluation and conducted a site visit with DADS and HHSC in FY 2008. CMS visited the project in November, 2008 and was impressed with the implementation. Continued bi-weekly teleconferences with state and local partners are occurring.

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 eight other states were awarded these grants. These grants 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 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 fourteen agencies, four consumer and family

organizations/individuals representatives, two legislators and a representative of the Governor's Office, signed a Memorandum of Understanding (MOU) reflecting their initial agreement that Texas partners 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.

Grant funds in the amount of \$2,730,000 per year, for the first three years, were made available to Texas. The grant program extends for up to five years, and the award period began October 1, 2005. The grant is in its third year of operation and has two years remaining. Year 1 activities included: conducting an in depth needs assessment and resource inventory across all TWG agencies, and then developing a Comprehensive Mental Health Plan (CMHP) for the State to attain the goals described in the President's New Freedom Commission report. Second and third year activities included implementing the CMHP by forming state level workgroups and working with the Texas Health Institute (the State's contractor) to select seven Community Collaboratives.

On behalf of the TWG, the Texas Health Institute competitively selected eight communities that demonstrated the ability to collaborate and become learning laboratories for local level mental health transformation. These Community Collaboratives (CCs), that represent urban, suburban, rural, and frontier communities, have been planning and implementing transformation initiatives.⁷⁹

Demonstration to Maintain Independence and Employment (Working Well)

“Working Well” is a research study that examines whether working individuals with significant health/functional conditions can remain employed and independent if provided health benefits and employment services. This study provides an opportunity to intervene before working people with significant health/functional problems become permanently disabled and dependent on federal programs such as SSI and Social Security Disability Insurance (SSDI). Working Well is a partnership between the State and the Harris County Hospital District (HCHD), the fourth largest hospital district in the nation, which serves over 500,000 people each year. Participants in Working Well are working adults under age 60 enrolled in HCHD's “Gold Card” program, which provides discounted access to health care for Harris County Residents.

As of August 31, 2008, there were over 1,600 participants in the study; the data obtained from Working Well has yielded positive results and promises to further advance the field of knowledge of working individuals with health problems.

The grant will operate through September 2009, although CMS has provided verbal confirmation that funding will continue for the evaluation component in order to complete all planned data collection. The evaluation team (UT Austin Addiction Research Institute), in conjunction with DSHS, will continue the process of analyzing and disseminating the results of Working Well.

⁷⁹ Descriptions are available at www.mhtransformation.org

DSHS created a website for Working Well. This site is used to communicate study information and findings to the general public as well as state and national policy makers. In addition to the website, DSHS has created three issue briefs that discuss various findings of the study to date.

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 curriculum for Child Protective Services (CPS) caseworker training continues to be revised and improved as needed in regard to disability issues. DFPS committed to developing a one-day workshop for direct-delivery staff on disability issues and to including the training as an ongoing option to meet the requirements of worker or supervisor certification. Through an agreement with the Protective Services Training Institute (PSTI) and the University of Texas Center for Disability Studies (TCDS), a workshop titled “*Best Practices with Children with Developmental Disabilities*” was developed. The workshop was offered to CPS staff for the first time in February 2005 and continues to be offered throughout the year.

Transition Centers

The number of transition centers in Texas has increased to a total of nine. The centers provide a central clearinghouse for many partners to serve the diverse needs of older youth, ages 15 and a half to 25, who are in the process of aging out or have aged out of foster care. Funded and supported by a partnership between DFPS, the Texas Workforce Commission, and the Casey Family Programs Foundation, the centers serve as locations for DFPS services such as Preparation for Adult Living (PAL), employment readiness, job search classes and assistance, and mentoring. Other partners also provide services at the centers, including substance abuse counseling, housing assistance, and leadership training. The centers are located in Austin, Beaumont, central Texas (Belton, Killeen, and Temple), Corpus Christi, Dallas, El Paso, Houston, Kerrville, and San Antonio. More than 2,900 youth in foster care and alumni of foster care received transition center services in fiscal year 2008.

Family Group Decision Making

Family Group Decision Making (FGDM) offers a variety of approaches for working with and engaging youth and families in service planning and decision making. Increasing the involvement of extended family members in a child’s well being results in more children being placed with relatives or reunified with their families in the weeks following an FGDM conference and five to 18 months later.

Inherent principles of FGDM include:

- Develop partnerships between families and other agencies that may be required to participate, including DFPS, so that service planning and decision-making are collaborative.
- Allow families and youth to help decide, based on their strengths and resources, what services they need to meet the child's needs and ensure the child's safety.
- Recognize that families possess the information needed to make well-informed decisions, and that families have a responsibility for their children's security and sense of belonging.
- Emphasize that it is the family's responsibility to care for their children and give them a sense of identity.
- Develop a connection between families and their communities and help establish an avenue for communities to support families.
- Encourage voluntary participation in a meeting that is family-centered, culturally relevant, community-based, and oriented to the family's strengths.

CPS began using FGDM in the conservatorship stage of service in 2003 and has continued to expand its use. In 2007, CPS began using FGDM in the investigative stage. More than 7,000 Texas families have participated in FGDM to help ensure the protection and safety of their children.

The FGDM models used by DFPS include:

- **Family Team Meetings (FTM)** – A Family Team Meeting is a way to address safety concerns early on. The child's family, members of the child's community, and other caregivers meet to make critical decisions about the child's safety and placement during the earliest stages of DFPS involvement, often while the child is still living with the family.
- **Family Group Conferences (FGC)** – A Family Group Conference occurs most often when children are removed from their families for a short time. It is up to the families to decide whether to hold a conference. During a conference, the families confer with relatives, friends, and supportive community members to develop a plan that ensures that the children are cared for and protected from future harm. Giving families private time during the conference, to meet without professionals, gives the families decision-making authority and responsibility.
- **Circles of Support (COS) Meetings** – Older youth in foster care are required to meet with the supportive persons in their lives to plan the youth's transition from foster care to adulthood. The supportive persons may include foster parents, teachers, siblings, pastors, and relatives. The meeting connects youth to caring adults, but is driven by the youth and focuses on the youth. It is required for sixteen years of age or older, but may be held for youth as young as fourteen.

CPS incorporated FGDM into the conservatorship stage of service in December 2003, specifically using Family Group Conferences and Circles of Support. The effort began as a pilot program in five cities and is now offered in every DFPS region. Since 2003, over 9,700

conferences have been held to involve families in safety and permanency planning for their children in substitute care, and over 4,400 conferences have been held to help youth make the transition from foster care to adulthood.

An evaluation of FGDM made in October 2006 indicates that when compared to children involved in cases where more traditional approaches to case planning were used, children involved in FGDM were placed more frequently with relatives immediately following a family group conference, had shorter stays in care, and were more likely to return to their families. Although improvement was seen for all children, the findings were especially pronounced for African-American and Hispanic children whose transition from foster care to permanent placement has historically been slower than that of Anglo children.

In March 2006, CPS began planning to use the FGDM process during the investigation stage of service, through the use of Family Team Meetings. A limited number of positions were dedicated to conducting Family Team Meetings during investigations.

In 2007, the 80th Texas Legislature allocated resources to use the FGDM model statewide to achieve the following objectives:

- Engage families more effectively during the investigation stage to ensure safety and avoid placing children in substitute care.
- Provide Family Team Meetings in twelve percent of the confirmed investigations in FY 2008 and in eleven percent in FY 2009.
- Reduce the number of children coming into substitute care.
- Offer Family Group Conferences to all families who have a child removed from the home.
- Develop realistic and effective service plans that place more children with relatives after removal and decrease the length of time it takes to find the child a permanent home.

In spring 2007, CPS, Casey Family Programs, and the American Humane Association developed a four-day training on FGDM facilitation skills. That summer, CPS hired additional FGDM staff and sent them to the facilitation skills training. Beginning October 2007, CPS began using Family Team Meetings to engage families in case planning and decision-making during the investigation stage of service. Since January 2008, over 8,000 Family Team Meetings have been held to involve families in critical child safety decisions during investigations. Family Team Meetings have proven to be effective in averting children from removal. A preliminary evaluation of the Family Team Meeting model was completed in December 2008.

Strengthening Families Initiative

The intent of Strengthening Families Through Enhanced In-home Support is to prevent the removal of children from their homes or, when removals are necessary, to reunite children and families quickly. The initiative helps keep families together by providing those who qualify with financial assistance to help them meet their children's needs, keep their children safe, relieve stress in the family, and enhance the families' strengths and ability to function. The families determine during a Family Team Meeting convened by FGDM staff, how they will use the assistance they receive. The initiative has been serving families since January 2008. It is supported by federal Temporary Assistance to Needy Family (TANF) funds.

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 CPS was created in response to the passage of S.B. 6 (79th Legislature, Regular Session, 2005). The law requires CPS to establish an initiative responsible for leading and monitoring DFPS's cultural shift toward 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 of children by providing direct and support services to their caretakers, whether they are biological caretakers or are caretakers through affinity. The Family Focus Initiative addresses two primary needs:

- Increase the parent's participation in service planning
- Strengthen an extended-family's ability to provide safe and permanent living arrangements within their kinship structure.

Relative and Other Designated Caregiver Program (Kinship Program)

In March 2006, DFPS expanded the Relative and Other Designated Caregiver Program, also known as the Kinship program. The Kinship program provides caregivers with training, support groups, case management services, and limited financial assistance for those who are eligible, as well as information, referral, and assistance on applying for public assistance benefits. The program also provides other support services, such as supportive family counseling and child care for children who are eligible.

Staff Training on Aging and Disability Issues

HHSC directed DFPS to ensure that any entity contracted with to help individuals make decisions about their services will be knowledgeable about aging and disability issues, 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 DFPS's 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 developed an Adult Protective Services (APS) specific course on domestic violence as it relates to persons with disabilities. This course discusses the issues faced by persons with a disability and their relationship to a caregiver who is abusive.

Study on Least-Restrictive Alternatives

DFPS is developing a research project to evaluate APS's use of nursing home placements as a service option and to evaluate and explore increasing the use of less-restrictive alternatives. APS will analyze case and client characteristics in cases involving nursing home placement. APS will determine whether less-restrictive alternatives may have been appropriate and develop criteria to assist workers in identifying least-restrictive alternatives in the future.

DFPS and DSHS Data Project

The APS division of DFPS and DSHS are conducting a study of client characteristics and types of services received by people who receive both APS and DSHS mental health services. New data compiled and completed in June 2008 will enable APS to examine the types of services APS and DSHS provide to clients being served by both agencies. APS expects to complete data analysis by early FY 2009 and to publish a report by January 2009.

Staff Training on Aging and Disability Issues – APS Conference

The 25th Annual APS Conference was held in November 2008 in San Antonio. The conference offered the opportunity for DFPS staff to network with others who serve, treat, or represent individuals who have been victims of abuse, neglect, or exploitation. The conference offered three general sessions and 39 workshops on a variety of topics to assist APS workers and investigators in working with people who are elderly or have disabilities.

TEXAS 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.

Transition Vocational Rehabilitation

In an effort to expand and improve services and in response to federal oversight entities, the Division for Rehabilitation Services (DRS) redesigned the Transition Program. This program helps students with disabilities (excluding blindness) successfully transition from school to work. To accomplish this, DRS Transition Vocational Rehabilitation Counselors (TVRCs) provide consultative and technical assistance to public school personnel and help eligible students who have disabilities develop a plan for independence after they graduate from high school.

By 2007, DRS had created a hundred TVRC positions. These new TVRC positions were created by redeploying existing staff from other positions. These transition counselors remain in schools primarily all day. The Division for Blind Services employs twenty-three counselors to provide transition services to students who are blind.

Independent Living Services (ILS)

Texas continues to experience a significant population growth with an increase in the aging and/or disabled population. As a result, the demand for rehabilitation and ILS has increased. Along with increased demand, increasing costs for services, including medical services and sophisticated assistive technology, also affect program resources. Because funding for the ILS

program has not been equal to the demand, a waiting list for services has formed. DARS is seeking funding in the 81st Legislative Session to eliminate the ILS waiting list.

CILs are community-based nonresidential organizations that serve people with disabilities and educate/support individuals on how to live independently. There are twenty-three CILs in Texas; however they do not provide statewide coverage. The Promoting Independence Advisory Committee included in its *2008 Stakeholder Report* a recommendation for three additional CILs and this recommendation is included in this *2008 Revised Promoting Independence Plan*. DARS is seeking additional funding in the 81st Legislative Session to expand and strengthen this network. CIL services include independent living skills training, individual and systems advocacy, peer counseling, and information and referral. These services help people with disabilities locate housing, learn to use public transportation and para-transit services, access other community services, use relocation services, and achieve full community integration.

Comprehensive Rehabilitation Services (CRS)

There is an increased need for CRS. Like other medical costs, rehabilitation costs are rising. After the 80th Legislature provided funds to eliminate the CRS waiting list, there was an increase in referrals to the program. Utilization of rehabilitation services increased as services were being provided in a more timely manner. This response results in better outcomes, but comes at a higher cost. The combination of increased referrals and higher-than-expected costs resulted in the establishment of a new CRS waiting list. DARS included an exceptional request with its Legislative Appropriations Request (LAR) for additional funding to reduce its waiting list for CRS.

Medicaid Infrastructure Grant (MIG)

The DARS MIG program, in collaboration with HHSC, is developing the infrastructure for a comprehensive system of competitive employment support for people with disabilities. This program, administered by CMS, was created by the Ticket to Work and Work Incentives Improvement Act of 1999. One MIG goal is to increase statewide enrollment in MBI, which HHSC implemented in September 2006. The MBI program allows individuals of any age who have a disability and are working to receive Medicaid by paying a monthly premium.

A portion of the grant funds will be used for marketing of MBI and other programs that support employment for persons with disabilities. A minimum annual grant of \$500,000 is available for qualifying states through 2011. Texas has been awarded the MIG grant for 2009, in the amount of \$750,000.

Assistive Technology

One million dollars for a new Assistive Technology initiative will serve clients who are at risk of entering nursing homes or similar institutions. The funding was appropriated by the 80th Legislature to DARS's two independent living programs.

DARS Activities for the 2010-2011 Biennium:

- In collaboration with Rehabilitation Continuing Education Program Region 6, the State Independent Living Council (SILC), and the Texas CILs, DARS transition counselors will continue to provide referrals to all community-based initiatives that help youth with disabilities transition from school to adult services. DARS FY 2010 and FY 2011 Legislative Appropriation Request includes funding for forty-three additional transition counselors.
- DARS will continue to work with SILC and other interested stakeholders to improve and market our Institution to Community Coordination (ICC) program to help individuals transition from nursing facilities and other institutions into the community; ICC assists individuals with disabilities who want to relocate from a nursing facility and enter the workforce.
- DARS FY 2010 and FY 2011 LAR includes funding to expand the statewide network of CILs, thereby increasing their capacity to help individuals transition from nursing homes and other institutions into the community.
- The 2008 MIG infrastructure project offers many opportunities to develop new partnerships, analyze areas of strength, and improve the supports, services, and incentives that help people with disabilities find and maintain competitive employment. The Texas 2009 MIG plan builds on last year's accomplishments and includes the following goals:
 - Increase participation in MBI and Personal Assistance Services.
 - Map and analyze system services and evaluate system needs.
 - Continue partner collaboration.
 - Sustain and improve efforts to inform consumers.
 - Sustain and improve efforts to inform employers.

CHILDREN'S ISSUES

The Promoting Independence Plan (Plan) and Initiative have helped to bring attention to the number of children (0-21 years of age) 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 as defined by S.B. 368 (77th Legislature, Regular Session, 2001). 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.

Family life has become the reality for many children formerly institutionalized or at risk of institutionalization because of 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. All of these changes are helping to promote a system of supports and services that provide better opportunities for children and families.

More than 2,200 children (0-21 years of age) have relocated from institutions to families or to a less restrictive setting since the passage of S.B. 368 (77th Legislature, Regular Session, 2001): of these children more than 1,200 have returned to their birth family or have moved to a support or alternate family. Additionally, more than 1,000 children have transitioned from nine or more bed community Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR) to less restrictive, smaller group homes⁸⁰. These opportunities have significantly improved the lives of children and their families.

While there has been incredible progress in the movement of children out of institutional settings, the total number of children who continue to reside in institutions remains high and there continues to be new admissions. There has been an increase in the number of children being admitted to state mental retardation facilities (state schools) during the last several years. In Fiscal Year (FY) 2007, 152 children/youth under the age of 0-21 years of age were admitted to state schools; 111 of those children were 0-17 years of age. This admission rate is a thirty-eight percent increase from FY 2005 through a two year period ending in August 2007; and there was a fifty percent increase for those children 0-17 years of age.⁸¹ During FY 2008, the total number of children in the state schools rose from 301 in FY 2007 to 345, another fifteen percent increase.⁸²

⁸⁰ *Permanency Planning Report. July 2008*-- http://www.hhsc.state.tx.us/reports/SB368_PermanencyPlanningReport_0708.pdf

⁸¹ *Children in State Schools Report* – a report made by a select workgroup as requested by the Promoting Independence Advisory Committee and Children's Policy Council.

⁸² *Permanency Planning Report. January 2009*—<http://www.hhsc.state.tx.us/reports>.

Table 5 contrasts the number of children in the Department of Aging and Disability Services (DADS) and the Department of Family and Protective Services (DFPS) licensed institutional settings (formally known as institutions for persons with mental retardation) from August 2002 to August 2008 and the percent decrease⁸³:

TABLE 5

Trends in Number of Children in Institutions by Type of Facility

Institution Type	Baseline Number as of August 31, 2002	Number as of August 31, 2008	Percent Change since August 2002
HCS Group Home	312	570	83%
Small ICF/MR	418	267	-36%
Medium ICF/MR	39	39	0%
Large ICF/MR	264	62	-77%
State MR Facilities	241	345 ⁸⁴	43%
Nursing Facilities	234	109	-53%
DFPS Facilities	167	232	39%
Total DADS Facilities	1,508	1,393	-8%
Total DADS Facilities without HCS	1,196	822	-31%
Total DADS and DFPS Facilities	1,675	1,624	-3%
Total DADS and DFPS without HCS	1,363	1,054	-23%

As a result of an increase in the admissions of children to state owned and operated institutions both the Promoting Independence Advisory Committee (Committee) and the Children’s Policy Council requested the appointment of a workgroup to review and analyze the data regarding children’s admissions to state schools, identify barriers for having children remain in state schools or return to a community setting, and make recommendations for increasing the opportunities for children to remain/return to their families or move to a family-based alternative setting. Executive Commissioner Hawkins appointed a “Children in State Schools Workgroup (Workgroup)” in November 2007, and the Workgroup completed and submitted a final report to the Executive Commissioner in August 2008.⁸⁵

⁸³ Ibid.

⁸⁴ Eighty-eight children (0-21 years of age) or 25.5 percent are alleged offenders. Fifty-seven children (0-17 years of age) are committed under the Family Code, Chapter 55; thirty-one children are 18-21 years of age with twenty-two committed under the Family Code, Chapter 55 and nine committed under the Code of Criminal Procedure, Article 46B.

⁸⁵ The full *Children in State School Report* may be found in Appendix G of the *Promoting Independence Advisory Committee 2008 Stakeholder Report* which may be found at: http://www.dads.state.tx.us/providers/pi/piac_reports/PIAC-2008.pdf

The Workgroup found that the primary reason for the continued placement of children in facilities is the lack of access to needed family and community-based supports. The major barriers to access include the availability of funding, the availability of providers with the needed expertise, and the ability to access the most appropriate services. Additionally, Texas has limited capacity to address intensive behavioral health issues in children – a much needed service for many children that are admitted to institutions.

DADS included two Legislative Appropriations Request Exceptional Items to address a number of the recommendations made by the Workgroup:

- Item 3: This item will restore the funding reductions made in FY 2003 for General Revenue services provided by the MRAs; these services help an individual who has an intensive need or who is in crisis.
- Item 4: This item requests funding, in part, to reduce the number of children admitted to institutions (see the “Community Services 2008-2009 Projected Funds and 2010-2011 Requested Funds and Average Monthly Caseloads” section for more detail on “Exceptional Items” across the health and human services system).

The Committee also identified several other barriers to a coordinated system of supports for children including: lack of access to the appropriate services and supports as individuals aging-out of children services; the need for effective permanency planning that includes ongoing efforts to implement the plan; 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 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:⁸⁶

- ***If directed and/or funded by the Legislature, HHSC will work with DADS to provide the appropriate community-based services to those children (0-17 years of age) at imminent risk of institutionalization and to offer more community-based options to support individual choice.***
- ***If directed and/or funded by the Legislature, HHSC will work with the Department of Family and Protective Services (DFPS) to expand the Promoting Independence (PI) population to include children in DFPS conservatorship who have disabilities and are residing in select institutions licensed by DFPS.***
- ***If directed and/or funded by the Legislature, HHSC will work with the appropriate health and human services agencies to develop a pilot to create emergency shelters for children with disabilities needing out-of-home placement***

⁸⁶ See 2008 *Promoting Independence Plan Implementation Directives – Children’s Supports* section for more detailed information.

- *If directed and/or funded by the Legislature, HHSC will work with DADS and DFPS to develop adequate behavioral services to support children (0-21 years of age) coming out of institutions and to help provide them with community options in order to support individual choice.*
- *If directed and/or funded by the Legislature, HHSC will develop and implement a Medicaid Buy-In (MBI) program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as authorized in the Deficit Reduction Act of 2005.*

HHSC will continue to support: 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. In addition, HHSC will work with DADS and the Department of State Health Services to seek out ways to increase behavioral health supports for all individuals with co-occurring behavioral health needs.

HOUSING ISSUES

Affordable, accessible and integrated housing is an essential base requirement for individuals who want to relocate back into their communities. Individuals who are relocating from nursing facilities or individuals who are in the targeted *Olmstead* populations under the Department of State Health Services' (DSHS) provisions must have affordable, accessible and integrated community housing.

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 Housing Vouchers. There are two substantial barriers to housing – the poverty of individuals who are living at the Supplemental Security Income (SSI) level (\$674/month) which limits their choice of housing, and/or the lack of easy access to community-based supports and services. In addition, Texas has approximately 475 public housing authorities (PHAs), which get their funding directly from HUD. The Texas Department of Housing and Community Affairs (TDHCA), the state housing financing agency, has no jurisdiction over the PHAs which makes the development of an overall housing plan difficult; it should be noted that TDHCA is also one of the PHAs.

Efforts to expand housing choices for people with disabilities fall within one of three strategies:

- Development of new housing units.
- Affordability of existing housing units.
- Changes to public policy that facilitate development and/or access to housing.

The Promoting Independence Initiative (Initiative) has focused its efforts on: providing access to existing housing units, making changes to allocation plans, and the development of public policy that will lead to more available and accessible housing. The lack of Section 8 housing vouchers (permanent rental assistance) has forced the Initiative to focus on the tenant-based rental assistance (TBRA) program. TBRA does not provide permanent housing; it only provides two years of rental assistance and is meant to be a bridge toward a more permanent solution. Nevertheless, TBRA vouchers are significantly more available than Section 8 housing vouchers, and make it possible for individuals to return to a community setting. In addition, TBRA provides true community integration, and fills the gap between income and fair market rents in our communities. The TBRA administrative process is relatively fast and easy to use.

Specific activities during the 2008-2009 biennium were in the following areas:

- Implementation and monitoring of *Project Access* vouchers from TDHCA.
- Advocacy, planning, training, and implementation of TDHCA's HOME funds.
- Collaborations with the local Public Housing Authorities.
- Annual review of PHA plans:
 - Five-Year Action Plan.
 - One-Year Action Plan.
 - Low-Income Housing Tax Credit Qualified Action Plan.
- Development of a Housing Inventory/Registry.

Housing Trust Fund Update

The 2008-2009 General Appropriations Act (Article VII, House Bill 1, 80th Legislature, Regular Session, 2007) provided TDHCA with approximately \$5 million over the biennium for the Housing Trust Fund (Fund); these are much needed but limited General Revenue dollars to fund state initiated housing programs. Based on stakeholder feedback, one activity that was included in the Housing Trust Fund Notice of Fund Availability (NOFA) is barrier removal; these funds were made available in Fiscal Year 2008.

Project Access

Texas continues to have Project Access vouchers made available by TDHCA. When HUD, in 2003, ceased funding of this valuable voucher program for the *Olmstead* population, TDHCA utilized vouchers from their Section 8 housing voucher program to keep this housing assistance available for individuals with disabilities who reside in institutions. As of August 31, 2008, over 94 households have been assisted through an original allocation of thirty-five vouchers, with vouchers currently reserved for an additional twenty households as they complete the application process and locate a home.

This outstanding performance is due to the generosity of local public housing authorities in maintaining assistance to households and returning the previously used Project Access voucher to the state for re-allocation. In 2008, TDHCA expanded the number of vouchers from 35 to 50 in recognition of demand for these vouchers⁸⁷. TDHCA recently amended its Project Access rules to allow those vouchers to become available to individuals with disabilities who are currently using TDHCA's TBRA vouchers that are within 90 days of expiration; as of December 1, 2008 there was a waiting list for Project Access vouchers.

HOME Funds

In addition to the *Project Access* program, the state HOME program has been used historically to provide rental assistance to individuals meeting *Olmstead* criteria, as well as the general disabled population. In 2008, TDHCA made available \$4 million for persons with disabilities, including \$2 million in direct housing assistance for individuals with disabilities, \$500,000 for rental development, and \$1.5 million for TBRA and Homebuyer Assistance (HBA) with optional rehabilitation. As of the date of the preparation of this report, the 2008 NOFA for the TBRA and HBA funds is still under development and the type of incentive for applications that include a preference for assisting people transitioning from institutions has not yet been finalized by TDHCA.

The Promoting Independence Advisory Committee (Committee) requested that TDHCA ask HUD to clarify its Fair Housing policy to allow preferences for individuals leaving institutional settings as the result of *Olmstead*, as indicated in a July 2000 HUD letter. The HUD Office of

⁸⁷ The average annual amount of rental assistance is \$7843 per individual: TDHCA reported total HOME funds of \$9,032,466 used to assist 1153 families.

Fair Housing did confirm that TDHCA may allow a preference to offer TBRA funds on a non-competitive basis for applicants that intend to commit at least 50 percent of the TBRA funds for individuals relocating from institutions. The TDHCA draft NOFA includes an application preference for the first 90 days from the opening date of the NOFA.

Collaboration with local Public Housing Authorities

Public Housing Authorities (PHAs) receive direct funding from HUD for the development, maintenance, and operation of rental housing and also receive funding for housing rental vouchers. The vouchers provide financial assistance for individuals living in privately owned housing.

As part of the Money Follows the Person Demonstration (Demonstration), Promoting Independence (PI) staff has been working to help PHAs understand the long-term services and supports system and obtain support for providing housing opportunities for individuals wanting to move out of institutional care settings.

PI staff has met with thirteen PHAs in Fiscal Year (FY) 2008, and as a result of these meetings, the Fort Worth Housing Authority (FWHA) has committed to set-aside ten public housing units and ten housing vouchers for people who choose to relocate from a nursing facility into a community setting. PI staff is following up with two other PHAs that have verbally indicated an interest to set-aside public housing units under the Demonstration.

Unfortunately, HUD recently promulgated new regulations on how funding for vouchers is calculated. As a result of these new regulations, the FWHA has instituted a six month suspension of the ten housing vouchers set aside for the Demonstration. FWHA and many other PHAs have closed their housing voucher waiting lists due to new funding calculations.

Annual Review of Public Housing Agency Plans

A Public Housing Agency (PHA) Plan is a comprehensive guide to a PHAs policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the Plan: the Five Year Plan and an Annual Plan. It is through the Annual Plan that a PHA receives its funding and prioritizes its activities.

The PHA Plan must include the following components:

- Assessment of the housing needs of the community.
- Identification of the financial and other resources available to the PHA to help address those needs.
- Establishment of goals and strategies for addressing the needs identified.
- Transformation of the strategies into policies and programs.

All PHA Plans must afford individuals interested in housing issues the opportunity to review and provide comments to the PHA Plan. As part of the Demonstration, the Committee will review TDHCA's housing plans, in its role as a PHA, to provide comments on the increasing need for affordable, accessible, and integrated housing opportunities for people with disabilities. The Committee will also review at least three other local PHA Plans each year to help prepare advocates for their own review and comments at public hearings of PHAs.

Development of a Housing Inventory/Registry

DADS is working in partnership with the Texas Low Income Housing Service and other private and government organizations to develop a housing inventory/registry, which will help people find affordable, accessible, and integrated housing.

The database will assist individuals in locating housing by geographical area and the database will be updated regularly through information provided by TDHCA, Texas State Affordable Housing Corporation (TSAHC), Texas Bond Review Board (BRB), HUD, United States Department of Agriculture, Rural Development Division, and the United Cerebral Palsy of Texas.

Housing Summit

DADS' Promoting Independence Office helped sponsor the 2008 Texas Housing Summit that was organized by the Texas Disability Policy Consortium. This two day event was attended by over 150 consumers, advocates, and housing professionals with the goal of increasing the stock of affordable, accessible and integrated housing for people with disabilities.

The first day of the summit was dedicated to educating consumers and advocates on housing issues such as:

- Housing programs and policies used to develop housing.
- Challenges in accessing affordable, accessible, and integrated housing.
- Home adaptations and assistive technology.

The second day was devoted to discussion of innovative methods of developing affordable, accessible, and integrated housing. Housing experts from across the country were invited to present successful approaches to the development of housing for people with disabilities. The second half of the day was dedicated to a panel discussion about how these programs might be replicated in Texas.

The Texas Disability Policy Consortium will prepare a White Paper to help educate people about housing program and policy changes that will help increase the number of affordable, accessible, and integrated housing stock in Texas.

Integrated Housing

The Initiative recognizes the need for affordable, accessible housing that is integrated. Integrated housing is defined as normal, ordinary living arrangements typical of the general population. Integration is achieved when individuals with disabilities choose ordinary, typical housing units that are located among individuals who do not have disabilities or other special needs.

The focus on integration is based on the Americans with Disabilities Act (ADA) and the *Olmstead* decision. Segregated housing restricts the ability of residents to interact with the community and offers support to "...unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life..." (*Olmstead v. L.C.*, 28 CFR, pt 35, App.A, p. 450). The ADA requires that public systems provide services to people with disabilities in "regular settings", even where the same services are available in segregated settings. In other words, separate but equal is as wrong for people with disabilities as it is for people in other protected classes.

The Initiative supports TDHCA's Integrated Housing Rule and suggests that any changes contemplated result in an increase in integrated housing units.

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

- ***If directed and/or funded by the Legislature, TDHCA will increase the baseline funding for the Texas Housing Trust Fund.***
- ***If directed and/or funded by the Legislature, HHSC will work with TDHCA to supplement the administrative fee for HOME Vouchers.***
- ***If directed and/or funded by the Legislature or the United States Department of Housing and Urban Development, TDHCA should increase the amount of dedicated HOME vouchers for individuals relocating from institutional settings.***
- ***If directed and/or funded by the Legislature, TDHCA should establish a separate General Fund program to support individuals whose income is only up to the 300 percent of the Supplemental Security Income level and who want to relocate from an institutional setting or remain in the community.***

WORKFORCE ISSUES

The Promoting Independence Initiative (Initiative) is dedicated to making workforce issues a top priority for Fiscal Year 2009 and in the upcoming 2010-2011 biennium. The Promoting Independence Committee (Committee) has made *Workforce and Provider Network Stabilization* one of its two top priorities in this report (see section on *2008 Promoting Independence Plan Directives*). Addressing workforce issues is critical to successful compliance with the *Olmstead* decision and to the Initiative because a stable direct service workforce (DSW) is necessary for individuals who choose to live in the community. Without a stable provider base and tenured direct service workers, there can not be a quality long-term services and supports system.

The Health and Human Services Commission's (HHSC) *Consolidated Budget, Fiscal Years 2010-2011 (Consolidated Budget)*, Appendix A.1 details the cost of funding rate increases to providers at full funding according to published methodologies and at an estimated biennial cost of a one percent increase. In addition, Appendix A.2 details the fiscal impact of increasing attendant wages by \$1.00 per hour and Appendix A.3 shows the impact of increasing attendant rate enhancements (see section on *Interest List and Budgetary Information*).

HHSC's Legislative Appropriations Request Exception Item 1 requests more money to enhance the *Medicaid Buy-In* program. Medicaid Buy-In allows individuals with disabilities to continue working and still remain eligible to receive certain Medicaid services. The Texas Department of Assistive and Rehabilitative Services in conjunction with HHSC has secured a Center for Medicare and Medicaid Services' (CMS) Medicaid Infrastructure Grant (MIG) to expand Texas' Medicaid Buy-In program.

Similar efforts are being conducted by the Department of State Health Services (DSHS) in its development of the Texas Demonstration to Maintain Independence and Employment (Working Well) project in Harris County under a CMS grant and an in-kind match from the Harris County Hospital District (HCHD). Working Well serves working individuals 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 (See Grants and Innovations section for more information).

In Fiscal Year (FY) 2006, the Department of Aging and Disability Services (DADS) and HHSC received a technical assistance workforce grant from the CMS National DSW Resource Center. Texas was one of five states to receive the first group of grants the National DSW Resource Center awarded. HHSC delegated daily management and completion of the DSW Initiative to DADS (see Grants section for more information).

Texas DSW Initiative

The National DSW Resource Center provided technical assistance to help DADS develop and complete the Texas DSW Initiative. The purpose of the initiative was to identify both barriers and potential solutions to improving turnover of the paraprofessional DSW in Texas. The Committee's workforce subcommittee served as the DSW Advisory Committee (DSWAC) – to

advise the DSW Initiative and make recommendations for reducing turnover and improving recruitment and retention. DSWAC committee members included Committee members, and expanded it to include a community group representative, and paraprofessional direct service workers.

DADS conducted a stakeholder forum and focus groups to obtain stakeholder input on DSW issues. The DSW Stakeholder Forum was held in Austin, Texas in November 2006. The DSW Forum brought together national DSW experts, lead state agency representatives, service providers/employers, community groups, advocates, direct service workers, and consumers. In addition, DADS held four focus group discussions across the state in July 2007 – one each in El Paso, Houston, Progreso, and San Angelo.

Through the forum and the focus groups, DADS identified three broad themes stakeholders suggested that would improve recruitment, retention, and the perceived paraprofessional status of the DSW in Texas: *compensation*, *opportunity*, and *support* for direct service workers. These themes were further categorized into fourteen overarching stakeholder recommendations:

Compensation

- Offer direct service workers a livable wage and adopt measures to ensure investment in the DSW.
- Offer benefits to direct service workers.
- Offer direct service workers 40 hours work per week.

Opportunity

- Offer training to direct service workers.
- Make training accessible to direct service workers.
- Employ effective recruitment strategies such as involving direct service workers in the development of Best Practices and targeted recruitment.
- Improve stakeholder collaboration to address DSW issues.
- Offer direct service workers a career ladder.

Support

- Create networking and mentor opportunities for direct service workers.
- Establish direct service worker job standards.
- Provide realistic job preview for potential direct service workers.
- Recognize and reward the contributions of paraprofessional direct service workers.
- Improve direct service worker-consumer match.
- Improve oversight of the DSW.
-

DADS presented the stakeholder recommendations to the DSWAC in January 2008; DSWAC prioritized, selected, and then submitted six of the fourteen recommendations to the Committee for consideration. DSWAC's priority recommendations included the following: (1) offer direct service workers a livable wage and adopt measures to ensure investment in the DSW; (2) offer direct service workers benefits; (3) make training accessible to direct service workers; (4)

employ effective recruitment strategies, including involving direct service workers in the development of Best Practices and targeted recruitment; (5) establish direct service worker job standards; and (6) recognize and reward the contributions of paraprofessional direct service workers.

With input from the National DSW Resource Center and the Paraprofessional Healthcare Institute⁸⁸ (PHI), DADS is examining additional information which support the recommendations made by the Texas DSW Initiative. The final DSW Initiative report was published June 2008⁸⁹.

The Initiative is committed to the ongoing goals:

- HHSC and the Texas Workforce Commission (TWC) will 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 and want to work.
- HHSC and TWC will study “best practices” in recruitment, training, and retention in the United States and disseminate results.
- HHSC and TWC will continue to 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.

HHSC included in this Promoting Independence Plan the following directives:

- ***If directed and/or funded by the Legislature, HHSC will increase non-governmental provider rates according to established methodologies, recognizing inflation factors.***
- ***If directed and/or funded by the Legislature, HHSC will increase provider rates to address inflation.***
- ***If directed and/or funded by the Legislature, HHSC will fund the full impact of the minimum wage increase.***
- ***If directed and/or funded by the Legislature, HHSC will increase support for community direct services and supports workers.***

⁸⁸ Paraprofessional Healthcare Institute and Catholic Health Association of the United States (2003). *Finding and keeping direct care staff*. <http://www.phinational.org/publications/findkeep.pdf>.

⁸⁹ http://www.dads.state.tx.us/news_info/publications/studies/DSW-june2008.pdf

GRANTS AND INNOVATIONS

Information in this section includes grants/innovations already stated in other sections for different purposes; the *Grants and Innovations* section details all the previous stated information into one section.

MONEY FOLLOWS THE PERSON (MFP) REBALANCING DEMONSTRATION (DEMONSTRATION)

In January 2007, Texas obtained the Centers for Medicare and Medicaid Services (CMS) approval to participate in a MFP Demonstration that is designed to build on existing Promoting Independence initiatives. This project will assist in the relocation of 2,999 individuals from institutional settings through Calendar Year 2011: 1,400 individuals who are aging and/or with a physical disability and/or with behavioral health needs in nursing facilities, and 1,599 individuals in nine or more bed institutions serving individuals with intellectual and developmental disabilities.

The Demonstration includes:

- Individuals residing nursing facilities, large (fourteen or more bed) community intermediate care facilities for persons with mental retardation (ICF/MR), and state mental retardation facilities (state schools).
- Behavioral Health supports: two new specialized supports services (Cognitive Adaptation Training and Substance Abuse Services) for individuals with co-occurring behavioral health needs who live in the San Antonio service delivery area.
- “Overnight companion service”: allows an individual with complex medical/functional needs to hire an attendant during normal sleeping hours; this service is limited to Cameron, Hidalgo, and Willacy counties.
- Voluntary Closure: assistance to providers of nine or more bed community ICFs/MR who want to voluntarily close their facilities and take those beds off-line, and provide each resident with a choice in where they want to live.
- Post-relocation services: ongoing contacts with individuals once they have left a nursing facility to help ensure a successful relocation to the community.
- Housing initiatives: development of linkages between the long-term services and supports system with the housing system to result in increased dedicated housing vouchers for the *Olmstead* population, and the development of more integrated, accessible, and affordable housing.

The Operational Protocol, which details the state’s implementation of the MFP Demonstration, was approved in January 2008. The MFP Demonstration began enrolling participants on February 1, 2008; the Behavioral Health pilot began in April 2008, the Voluntary Closure process began in May 2008, and the Overnight Companion Support Service pilot began in June 2008⁹⁰. Through October 2008, there have been 522 enrollments into the MFP Demonstration (61 percent were nursing facility transitions and 39 percent were ICF/MR transitions).

⁹⁰ See the MFP Demonstration website at: <http://www.dads.state.tx.us/providers/pi/index.html>

AGING AND DISABILITY RESOURCE CENTER (ADRC) GRANT

The ADRC grant is jointly funded by the Administration on Aging (AoA) and CMS to provide communities financial support to develop and implement streamlined access to publicly funded long-term services and supports. In Texas, there are three projects which are located in: (1) Bexar County, (2) Tarrant County, and (3) Central Texas (Bell, Coryell, Hamilton, Lampasas, and Milam Counties).

All three have established partnership agreements with local agencies that provide access services, including advocacy, to the target populations of individuals who are aging and/or with disabilities and their caregivers. These local agencies include: Medicaid eligibility regional offices; DADS regional offices; Centers for Independent Living; Mental Retardation Authorities (MRA); local United Way agencies, and other aging and disability organizations.

These partners have agreed to work collaboratively to establish a “no-wrong door” approach to service delivery, by streamlining application procedures and referral protocols. All projects have: at least one system navigator to assist individuals and their caregivers with finding community services and with benefits and options counseling; developed extensive cross-training for staff; established advisory councils; developed referral protocols; worked on streamlining application processes with their partners; and developed local marketing and outreach strategies.

All three ADRC sites became functional in 2007. One of the major differences among the three sites is where staff is housed. The Bexar location uses a “virtual” co-location model; Central Texas uses a co-location model in offices adjacent to the Central Texas Area Agency on Aging; and Tarrant County uses a combination of both the Bexar and Central Texas models with virtual co-location achieved through the development of a data warehouse of client information and other telecommunication innovations.

In the second quarter of FY 2009, DADS provided funding for up to five additional ADRC projects. The funding to support this expansion was derived through unexpended FY 2008 State Unit on Aging administrative funds from AoA. The additional projects will be funded for one year, with an option to continue for a second year. Eligible applicants included non-profit, public, or private organizations providing or capable of providing services to individuals who are aging and/or with disabilities. The projects are required to develop strong community partnerships to implement the mission and goals of the national ADRC initiative. The new ADRC sites will include:

- City of Houston and the Area Agency on Aging of Harris County (Harris County).
- Community Healthcore (Gregg, Harrison, Marion, Panola, Rusk, and Upshur Counties).
- Lubbock Mental Health Mental Retardation Center (Lubbock County).
- Metrocare Services (Dallas County).
- North Central Texas Council of Governments and the Area Agency on Aging of North Central Texas (Collin, Denton, Hood, and Somervell Counties).

Additionally, DADS will provide continuation funding for one year to the three existing projects. Continuation funding will support the current ADRC projects in providing cross-training for staff of the ADRC and its partners; implementing marketing and outreach strategies; and enhancing and refining automated information systems that support the integration and streamlining of access to services. Twenty counties will be covered under ADRCs in FY 2009.

TECHNICAL ASSISTANCE FOR LONG-TERM CARE INSURANCE

DADS, HHSC, and the Texas Department of Insurance (TDI), were awarded a technical assistance grant from the Center for Health Care Strategies to assist with the design and implementation of a long-term care (LTC) partnership program in Texas. LTC partnerships are public-private partnerships, authorized by the Deficit Reduction Act (DRA) of 2005, to offer affordable, high quality LTC insurance to individuals of moderate incomes, and to reduce Medicaid expenditures by delaying or eliminating the need for some individuals to rely on Medicaid to pay for LTC services. The grant is part of an initiative to promote expansion of the LTC partnership model, and provides extensive technical assistance, as well as funding up to \$50,000 over an 18-month period (plus a 12 month measurement and reporting period).

TECHNICAL ASSISTANCE FOR DIRECT SERVICE WORKERS

Texas received an intensive technical assistance (TA) grant from CMS-sponsored Direct Service Workforce Center in FY 2006 and FY 2007. The purpose of this effort was to identify barriers and potential solutions to improve recruitment, retention, and the perceived status of paraprofessional direct service workers in Texas; this grant did not provide funding, only technical assistance. The Texas project focused on non-monetary recommendations.

Direct service workers (DSW) include nursing assistants, home health aides, personal and home care aides, and personal attendants who provide services to enable individuals who are aging and/or with disabilities who choose to live in the community. 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, HHSC received the award and designated DADS to lead the project. DADS relied on expertise of existing advisory groups, primarily the workforce subcommittee of the Promoting Independence Advisory Committee, in developing and implementing the project.

DADS undertook two major data collection activities to obtain stakeholder input on DSW issues. The first activity was a DSW Forum, which was held in November 2006. This forum included national DSW experts, lead state agency representatives, service providers/employers, community groups, advocates, direct service workers, and consumers. The second activity was a series of small focus groups, which were held in July 2007. A single focus group was held in each of these cities: El Paso, Houston, Progreso, and San Angelo.

Analysis of stakeholder input resulted in three major themes for enhancing the position of direct service workers: (1) compensation, (2) opportunity, and (3) support. These broad themes were further categorized into fourteen overarching recommendations to improve turnover and the perceived status of the DSW. All the stakeholder recommendations focused on improving job quality for paraprofessional direct service workers.⁹¹

TEXAS HEALTHY LIFESTYLES

Texas Healthy Lifestyles is a three-year, \$850,000 grant funded by the Administration on Aging and the National Council on Aging. It's one of several evidence-based chronic disease self-management grants nationwide in support of evidence-based programs. These programs reach out to seniors who have at least one chronic condition, to give them information about the risks associated with disease, and also tools to develop a healthy lifestyle. Outcomes include reduced use of emergency rooms, reduced visits to medical professionals, increased independence and stamina.

The grant is in its third and final year. Texas Healthy Lifestyles consists of three partners providing local services: the Bexar Area Agency on Aging (AAA); the Brazos Valley AAA; and Neighborhood Centers Inc., or NCI. All three of these programs provide evidence-based chronic disease self-management programs (CDSMP) including CDSMP workshops; the falls prevention program called A Matter of Balance, also known as AMOB; EnhanceFitness classes, and other services. The Texas A&M Evaluation Center provides ongoing, in-depth evaluation of Texas Healthy Lifestyles, in order to ensure sustainability of the programs after grant funding comes to an end July 31, 2009.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA) GRANT

The Department of State Health Services (DSHS) received a second SAMHSA grant for *Olmstead* for \$60,000 over a three-year period from October 1, 2006 through September 31, 2009. DSHS is contracting with the Coastal Bend Independent Living Center for the development and implementation of a program that will: identify individuals who reside in nursing facilities; have a history of a behavioral health issue (mental illness and/or substance abuse); and are considering relocating to a community-based setting. The funds are to facilitate a "Community Integration" specialist in the identification, assessment, service plan for relocation and community integration, housing services, and technical assistance to community-based providers.

⁹¹ The final report, *Stakeholder Recommendations to Improve Recruitment, Retention, and the Perceived Status of Paraprofessional Direct Service Workers in Texas* is on the DADS website at: http://www.dads.state.tx.us/news_info/publications/studies/DSW-june2008.pdf.

DEMONSTRATION TO MAINTAIN INDEPENDENCE AND EMPLOYMENT (WORKING WELL)

“Working Well” is a research study that examines whether working individuals with significant health/functional conditions can remain employed and independent if provided health benefits and employment services. This study provides an opportunity to intervene before working people with significant health/functional problems become permanently disabled and dependent on federal programs such as Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI). Working Well is a partnership between the State and the Harris County Hospital District (HCHD), the fourth largest hospital district in the nation, which serves over 500,000 people each year. Participants in Working Well are working adults under age 60 enrolled in HCHD’s “Gold Card” program, which provides discounted access to health care for Harris County Residents.

Participants are randomly assigned into one of two groups. The control group receives services normally available through HCHD. The intervention group receives case management, employment services, and has access to additional medical, dental, vision, mental health, and substance abuse treatment services. Both groups are studied to determine the effects of the additional health and employment supports. There are currently over 1,600 participants in the study and already, the data obtained from Working Well has yielded positive results and promises to further advance the field of knowledge of working individuals with health problems.

The grant will continue through September 2009, although CMS has provided verbal confirmation that funding will continue for the evaluation component in order to complete all planned data collection. The evaluation team (UT Austin Addiction Research Institute), in conjunction with DSHS, will continue the process of analyzing and disseminating the results of Working Well.

DSHS is in the process of creating a website for Working Well. This site will be used to communicate study information and findings to the general public as well as policy makers and will focus on the study’s potential for informing state and national health policy. In addition to the website, DSHS has created issue briefs that will discuss study participants and study outcomes.

MENTAL HEALTH TRANSFORMATION GRANT

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 eight other states were awarded these grants. These grants 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 fourteen agencies, four consumer and family organizations/individual representatives, two legislators and a representative of the Governor's Office, signed a Memorandum of Understanding (MOU) reflecting their initial agreement that the Texas partners 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.

Grant funds in the amount of \$2,730,000 per year, for the first three years, were made available to Texas. The grant program extends for up to five years, and the award period began October 1, 2005. The grant is in its third year of operation and has two years remaining. Year 1 activities included: conducting an in depth needs assessment and resource inventory across all TWG agencies, and then developing a Comprehensive Mental Health Plan (CMHP) for the State to attain the goals described in the President's New Freedom Commission report. Second and third years activities included implementing the CMHP by forming state level workgroups and working with the Texas Health Institute (the State's contractor) to select seven Community Collaboratives.

On behalf of the TWG, the Texas Health Institute competitively selected eight communities that demonstrated the ability to collaborate and become learning laboratories for local level mental health transformation. These Community Collaboratives (CCs), that represent urban, suburban, rural, and frontier communities, have been planning and implementing transformation initiatives.⁹²

MEDICAID INFRASTRUCTURE GRANT

The Department of Assistive and Rehabilitative Services (DARS) Medicaid Infrastructure Grant (MIG) program, in collaboration with HHSC, is developing the infrastructure for a comprehensive system of competitive employment support for individuals with disabilities. This program, administered by CMS, was created by the Ticket to Work and Work Incentives Improvement Act of 1999. One MIG goal is to increase statewide enrollment in Medicaid Buy-In (MBI), which HHSC implemented in September 2006. The MBI program allows individuals of any age who have a disability and are working to receive Medicaid by paying a monthly premium.

A portion of the grant funds will be used for marketing of MBI and other programs that support employment for persons with disabilities. A minimum annual grant of \$500,000 is available for qualifying states through 2011. Texas has been awarded the MIG grant for 2009, in the amount of \$750,000.

TEXAS NURSING HOME DIVERSION MODERNIZATION GRANT

In October 2008, AoA approved DADS' application for an eighteen-month grant for the Texas Nursing Home Diversion Modernization project targeted to older persons at imminent risk for nursing home placement and Medicaid spend-down and their caregivers. The grant will provide

⁹² Descriptions are available at www.mhtransformation.org

\$923,708 in federal funds with a match of \$295,269 in non-federal resources for the project to be used in a collaborative effort with the Area Agency on Aging of Central Texas, Central Texas Aging and Disability Resource Center (ADRC), and Scott and White HealthCare for older individuals and their caregivers in Bell, Coryell, Milam, Lampasas, and Mills Counties.

The goal of this project is to establish a nursing home diversion program for individuals, including veterans, at imminent risk for nursing home placement and Medicaid spend-down using more flexible administrative processes and funding mechanisms funded by the Older Americans Act. The objectives of the project are to:

- Modify the current administration of OAA funds management infrastructure and processes for planning, budgeting, purchasing (including consumer directed services), and reporting OAA services.
- Use evidence-based interventions, identify the high risk consumers and their caregivers early enough to provide diversion from nursing home placement through Scott and White Healthcare hospital discharge planning staff and the Central Texas ADRC staff and its partners.
- Use the *Care Transitions Intervention* developed by University of Colorado Health Science Center to assist consumers with managing the challenges of changing care settings (i.e., hospital to home or hospital to intended short-stay nursing home to home). The care transitions intervention protocols will result in a care plan for the consumer and his caregiver. Care Transition Specialists will follow the consumers for a minimum of twelve months.

In addition to the funding from the Administration on Aging, the Veterans Administration will provide funding on a fee-for-service basis for these services once the project is established. The funds will be provided to the Central Texas Area Agency on Aging to purchase support services to maintain older veterans and their caregivers in the community from the Central Texas aging network of providers. The available funding will be up to \$910,518 to be used for patients/consumers in the Olin E. Teague Medical Center in Temple at-risk for nursing home placement who are referred by the Veteran's Directed Home and Community-based Services of the Central Texas Veterans Healthcare System.

The goal of this partnership is to provide early identification of veterans at-risk for nursing home placement and to develop care planning and relocation supports for long-term services for the veterans and their caregivers.

CONCLUSION

As in the original (2001) and the three revised Promoting Independence Plans (Plan: 2002, 2004, 2006), the Health and Human Services Commission (HHSC) is committed to a continuing relationship with the Promoting Independence Advisory Committee and all of its stakeholders who participate on many health and human services workgroups and advisory committees. HHSC Executive Commissioner Hawkins will continue to determine the number of members of the Promoting Independence Advisory Committee (Committee) and appoint members who represent the health and human services agencies, individual and family advocacy groups, related workgroups, and service providers.

With the support of the Department of Aging and Disability Services (DADS), the Committee will continue to study and make recommendations to HHSC on the development of the comprehensive Plan in order to ensure appropriate care settings for individuals with disabilities and advise HHSC on the implementation of the Plan.

HHSC is committed to meeting the spirit and goals of the Promoting Independence Initiative (Initiative), the Plan, and the United States Supreme Court's *Olmstead* decision. The state is in an ongoing transformation from an institutionally based system to one that offers community options in order that individuals may live in the most integrated setting of their choice (see *1999-2008: The Transformation To A Long Term Services And Supports System Of Choice*). The primary philosophy of the Initiative is that each individual exercise the principles of self-determination in choosing where they want to live to receive their long-term services and supports.

The state has made significant progress in offering Texans community-based alternatives to institutional placement with a ninety percent increase in community funding from FY 1999-2008 and with a forty-eight percent increase in the number of individuals served in the community; this data reflects DADS programs and does not include managed care data.

However, even with all the funding and policy commitments, there remains a large number of individuals who still do not have a community choice and remain on an interest list for Medicaid waiver services.⁹³ HHSC and all its operating agencies have included Exceptional Items with their Legislative Appropriations Requests for additional funding to meet the goals of the Initiative. In addition, HHSC has detailed the costs of increasing reimbursement to long-term services and supports' providers and direct service workers in its *Health and Human Services System Consolidated Budget Fiscal Years 2010-2011*. HHSC is also recommending in this *2008 Revised Plan* twenty-three new funding/policy directives (contingent upon legislative funding and/or policy direction) under the major categories of:

- Program Funding.
- Workforce and Provider Network Stabilization.
- Children's Supports.
- Independent Living Opportunities and Relocation Activities.
- Housing Initiatives.

⁹³ As of June 30, 2008 there are 82,050 individuals (unduplicated count) on the Interest List: Interest List data made by found on the DADS' website at: <http://www.dads.state.tx.us/services/interestlist/index.html>.

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. This commitment was acknowledged with the *Council of State Governments' 2006 Innovation Award* for its Money Follows the Person (MFP) policy and inclusion of Texas' MFP policy as the basis for the federal MFP program (Deficit Reduction Act of 2005; Section 6071).

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 *2008 Revised Promoting Independence Plan* and the Promoting Independence Initiative. HHSC would also like to thank those members of the public who responded to its invitation for comment at each Committee meeting.

The health and human services agencies will continue 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, make the principles of self-determination a reality, and provide the choice to live in the most integrated setting

: PROMOTING INDEPENDENCE ADVISORY COMMITTEE MEMBERSHIP
MEMBERSHIP OF THE PROMOTING INDEPENDENCE ADVISORY
COMMITTEE

Appointed Members

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

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

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

Mr. Bob Kafka
ADAPT of Texas
Represents individuals with physical disabilities

Mr. Mike Bright
Association of Retarded Citizens
Represents advocates for individuals with intellectual and developmental disabilities

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

Ms. Ann Denton
Advocates for Human Potential
Represents advocates for individuals with behavioral health needs and housing

Ms. Carole Smith
Private Providers Association of Texas
Represents intellectual and developmental disability service providers

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

Ms. Doni Van Ryswyk
President, Texas Association of Area Agencies on Aging
Represents people who are aging

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

Agency Representatives

Ms. Catherine Gorham
Texas Workforce Commission

Ms. Peggy Perry
Texas Department of State Health Services

Ms. Audrey Deckinga
Health and Human Services Commission

Mr. Glenn Neal
Texas Department of Assistive and Rehabilitative Services

Ms. Donna Stephans
Texas Department of Family and Protective Services

Mr. Barry Waller
Texas Department of Aging and Disability Services

Ms. Brenda Hull
Texas Department of Housing and Community Affairs

DADS Staff Support: Mr. Marc S. Gold, Director, Promoting Independence Initiative

: GOVERNOR'S EXECUTIVE ORDERS

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



HHS Circular C-002

The Promoting Independence Initiative and Plan

Purpose

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

Directive

In this capacity, DADS will be responsible for:

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

Background

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

The Americans with Disabilities Act

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

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

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

The *Olmstead* Decision

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

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

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

GWB-99

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

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

Senate Bill 367

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

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

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

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

RP-13

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

Summary

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

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

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

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Issued: 10-20-04
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: 2008 HEALTH AND HUMAN SERVICES CONSOLIDATED BUDGET

VIII. APPENDICES

A1. Rate Schedule – Rate Increase Based on Current Review of Costs

KEY - A - Access based
 B - Based on rates from other Medicaid programs
 BR - Blue Ribbon file of claims data
 CD - Percent of claims data
 CR - Cost Reports used for prospective rate - trend to FY 2010/2011
 T - Trending from current rate to FY 2010/2011
 M - Based on Medicare rates
 PA - Pro forma analysis

Impact of Rate Increase Based on Current Review of Costs and Cost of 1 Percent Rate Increase

Program by Budget Agency	Date of Last Rate Increase	Percent of Last Rate Increase	Method of Determining Rate Change	Estimated Current Biennial Cost		Percentage Rate Change		Estimated Biennial Cost of Rate Change		Estimated Biennial Cost of 1 Percent Rate Increase	
				AF	GR	2010	2011	AF	GR	AF	GR
DADS											
Access and Intake - Mental Retardation Service Coordination	1/1/2002	2.00%	T	34,947,091	12,063,196	3.84%	3.84%	1,288,172	535,879	335,461	139,552
Community Attendant Services without Minimum Wage	9/1/2007	5.49%	CR			0.48%	0.48%	3,594,697	1,495,545		
Community Attendant Services Minimum Wage Only	8/1/2008	8.80%	PA			7.61%	7.61%	56,876,968	23,663,237		
Community Attendant Services Total				691,208,740	283,462,256	8.09%	8.09%	60,471,665	25,158,782	7,474,866	3,109,862
Community Based Alternatives without Minimum Wage	9/1/2007	6.06%	CR			4.80%	4.80%	44,115,240	18,352,775		
Community Based Alternatives Minimum Wage Only	8/1/2008	3.82%	PA			5.16%	5.16%	47,423,238	19,728,964		
Community Based Alternatives Total				862,136,402	343,657,011	9.96%	9.96%	91,538,478	38,081,737	9,190,610	3,823,468
Community Living Assistance and Support Services without Minimum Wage	9/1/2007	4.05%	CR			5.61%	5.61%	17,120,636	7,122,408		
Community Living Assistance and Support Services Minimum Wage Only	8/1/2008	0.23%	PA			4.46%	4.46%	13,610,945	5,662,330		
Community Living Assistance and Support Services Total				286,207,787	114,366,569	10.07%	10.07%	30,731,581	12,784,737	3,051,796	1,269,587
Consolidated Waiver Program without Minimum Wage	9/1/2007	3.73%	B			1.85%	1.85%	174,420	72,561		
Consolidated Waiver Program Minimum Wage Only	8/1/2008	3.82%	B			4.79%	4.79%	451,667	187,900		
Consolidated Waiver Program Total				8,619,864	3,445,006	6.64%	6.64%	626,087	260,460	94,290	39,226

KEY - A - Access based
 B - Based on rates from other Medicaid programs
 BR - Blue Ribbon file of claims data
 CD - Percent of claims data
 CR - Cost Reports used for prospective rate - trend to
 FY 2010/2011
 T - Trending from current rate to FY 2010/2011
 M - Based on Medicare rates
 PA - Pro forma analysis

**Impact of Rate Increase Based on Current Review of Costs
 and
 Cost of 1 Percent Rate Increase, continued**

Program by Budget Agency	Date of Last Rate Increase	Percent of Last Rate Increase	Method of Determining Rate Change	Estimated Current Biennial Cost		Percentage Rate Change		Estimated Biennial Cost of Rate Change		Estimated Biennial Cost of 1 Percent Rate Increase			
				AF	GR	2010	2011	AF	GR	AF	GR	AF	GR
DADS, continued													
Day Activity and Health Services - Title XIX without Minimum Wage	9/1/2007	1.79%	CR			1.33%	1.33%	2,877,040		1,196,932			
Day Activity and Health Services - Title XIX Minimum Wage Only	8/1/2008	0.66%	PA			2.09%	2.09%	4,521,648		1,881,131			
Day Activity and Health Services - Title XIX Total				203,867,136	74,625,355	3.42%	3.42%	7,398,688		3,078,063	900,018		
Deaf-Blind Multiple Disabilities without Minimum Wage	9/1/2007	3.76%	B			4.08%	4.08%	663,783		276,142			
Deaf-Blind Multiple Disabilities Minimum Wage Only	8/1/2007	Chore; 0.23% Habilitation	B			2.27%	2.27%	369,311		153,638			
Deaf-Blind Multiple Disabilities Total				13,946,036	5,575,706	6.35%	6.35%	1,033,094		429,780	67,682		
Home and Community-based Services without Minimum Wage	9/1/2007	5.00%	CR			3.84%	3.84%	50,346,317		20,945,133			
Home and Community-based Services Minimum Wage Only	NA	NA	PA			0.27%	0.27%	3,563,008		1,482,212			
Home and Community-based Services Total				1,164,054,611	459,708,271	4.11%	4.11%	59,909,325		22,427,344	13,103,936		
Hospice Payments (NF Related Only) without Minimum Wage	9/1/2008	4.00%	B			14.90%	14.90%	61,872,304		25,743,267			
Hospice Payments (NF Related Only) Minimum Wage Only	NA	NA	B			1.01%	1.01%	4,171,573		1,735,654			
Hospice Payments (NF Related Only) Total				388,006,894	155,094,664	15.91%	15.91%	66,043,877		27,478,920	4,152,018		
											1,727,533		

Impact of Rate Increase Based on Current Review of Costs

and

Cost of 1 Percent Rate Increase, continued

KEY - A - Access based
 B - Based on rates from other Medicaid programs
 BR - Blue Ribbon file of claims data
 CD - Percent of claims data
 CR - Cost Reports used for prospective rate - trend to
 FY 2010/2011
 M - Trending from current rate to FY 2010/2011
 PA - Based on Medicare rates
 PA - Pro forma analysis

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				AF	GR	2010	2011	AF	GR	AF	GR	AF	GR
DADS, continued													
Intermediate Care Facilities - Mental Retardation without Minimum Wage	9/1/2007	7.50%	CR			3.11%	3.11%	22,841,974	9,502,261				
Intermediate Care Facilities - Mental Retardation Minimum Wage Only	NA	NA	PA			1.53%	1.53%	10,322,985	4,294,358				
Intermediate Care Facilities - Mental Retardation Total				685,176,998	265,842,183	4.64%	4.64%	33,164,959	13,796,619	7,149,508	2,974,194		
Medically Dependent Children Program without Minimum Wage	9/1/2007	unknown	B			0.98%	0.98%	941,426	391,645				
Medically Dependent Children Program Minimum Wage Only	8/1/2008	3.82% PAS No Delegation; 3.49% PAS Delegation	B			4.13%	4.13%	3,967,294	1,650,445				
Medically Dependent Children Program Total				83,453,532	33,376,837	5.11%	5.11%	4,908,720	2,042,091	960,611	399,626		
Non-Medicaid Services - Title XX without Minimum Wage	9/1/2007	various	CR			1.87%	1.87%	3,385,020	3,385,020				
Non-Medicaid Services - Title XX Minimum Wage Only	8/1/2008	various	PA			4.42%	4.42%	8,003,826	8,003,826				
Non-Medicaid Services - Title XX Total				171,200,419	19,939,806	6.29%	6.29%	11,388,846	11,388,846	1,810,627	1,810,627		
Nursing Facility without Minimum Wage	9/1/2008	5.00%	CR			12.40%	12.40%	599,438,725	249,369,191				
Nursing Facility Additional Funds for Fixed Capital	NA	NA	PA			2.50%	2.50%	120,854,582	50,276,047				
Nursing Facility Subtotal without Minimum Wage						14.90%	14.90%	720,293,307	299,645,237				
Nursing Facility Minimum Wage Only	NA	NA	PA			1.01%	1.01%	48,573,095	20,206,406				
Nursing Facility Total				3,807,077,063	1,522,826,000	15.91%	15.91%	768,866,402	319,851,644	48,336,764	20,108,296		

Impact of Rate Increase Based on Current Review of Costs
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Cost of 1 Percent Rate Increase, continued

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				AF	GR	2010	2011	AF	GR	AF	GR	AF	GR	
														AF
DADS, continued														
Primary Home Care without Minimum Wage	9/1/2007	5.49%	CR			0.47%	0.47%	5,093,042	2,119,149					
Primary Home Care Minimum Wage Only	8/1/2007	0.66%	PA			7.61%	7.61%	82,451,382	34,307,178					
Primary Home Care Total				915,018,533	365,819,834	8.08%	8.08%	87,544,424	36,426,327	10,834,706	4,508,209			
Program of All-inclusive Care for the Elderly without Minimum Wage	9/1/2007	various	CD			16.57%	16.57%	13,807,328	5,743,849					
Program of All-inclusive Care for the Elderly Minimum Wage Only	9/1/2007	various	CD			1.75%	1.75%	1,459,960	607,343					
Program of All-inclusive Care for the Elderly Total				61,155,469	24,435,340	18.32%	18.32%	15,267,288	6,351,192	833,211	346,616			
Promoting Independence Services without Minimum Wage	9/1/2007	various	B			4.18%	4.18%	8,502,355	3,537,860					
Promoting Independence Services Minimum Wage Only	8/1/2008	various	B			4.98%	4.98%	10,129,939	4,215,102					
Promoting Independence Services Total				168,844,912	67,505,830	9.16%	9.16%	18,632,294	7,752,962	2,034,093	846,393			
Texas Home Living Waiver without Minimum Wage	9/1/2007	5.00%	B			39.48%	39.48%	8,010,640	3,332,529					
Texas Home Living Waiver Minimum Wage Only	NA	NA	B			2.58%	2.58%	521,610	216,990					
Texas Home Living Waiver Total				18,490,700	7,389,698	42.06%	42.06%	8,532,250	3,549,519	202,842	84,385			
Total DADS (with totals only included)									1,261,346,150	531,394,902	111,891,391	47,606,770		

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Cost of 1 Percent Rate Increase, continued

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				AF	GR	2010	2011	AF	GR	AF	GR
DARS											
ECI - Case Management	2/1/2000	New Service	T	29,872,238	12,116,180	6.17%	6.17%	1,835,566	763,771	297,499	123,788
ECI - Development Rehabilitative Services	4/4/2003	62.69%	T	68,860,114	27,929,662	6.17%	6.17%	5,914,453	2,460,976	958,582	398,861
Total DARS								7,750,019	3,224,747	1,256,081	522,649
DFPS											
24-Hr. Residential Child Care (Foster Care) - Foster Family	9/1/2007	4.30%	CR	40,685,150	22,561,920	23.27%	23.27%	10,030,613	5,806,851	431,055	249,544
24-Hr. Residential Child Care (Foster Care) - Child Placing Agency	9/1/2007	4.30%	CR	475,260,612	295,727,647	16.83% see note	16.83% see note	84,130,529	53,097,664	4,999,980	3,156,584
24-Hr. Residential Child Care (Foster Care) - Residential Treatment Facility	9/1/2007	7.00%	CR	174,991,490	120,655,263	39.04%	39.04%	67,455,153	47,858,456	1,824,878	1,288,885
24-Hr. Residential Child Care (Foster Care) - Emergency Shelter	9/1/2007	9.90%	CR	48,875,009	33,005,587	34.73%	34.73%	18,036,507	12,418,346	519,338	357,571
24-Hr. Residential Child Care (Foster Care) - Total All Provider Types	9/1/2007		CR	739,812,261	471,950,417	22.81%	22.75%	179,652,802	119,181,317 see note 2	7,775,251	5,052,584 See Note 4
Psychiatric Transition (Intensive Psychiatric Step Down)	New Service	NA	PA	5,674,843	4,274,557	47.70%	47.70%	6,152,126	4,727,640 see note 3	128,978	99,114 See Note 5
Adoption Subsidies	NA	NA	PA	277,666,114	149,753,071	3.84%	3.84%	12,397,125	6,784,542	3,228,418	1,766,808
Total DFPS								198,202,053	6,784,542	11,132,647	6,918,506

Note 1 The percentage rate change for 24-Hr. Residential Child Care (Foster Care) - Child Placing Agency is the weighted average of a 23.27 percent increase for the foster family pass-through component of the rate, and a 9.27 percent increase for the Child Placing Agency component.

Note 2 If TANF funding is available, up to \$47,922,137 of this amount is eligible for TANF funding the remaining \$71,259,180 must be GR

Note 3 If TANF funding is available, up to \$1,801,742 of this amount is eligible for TANF funding the remaining \$2,925,898 must be GR

Note 4 If TANF funding is available, up to \$1,966,976 of this amount is eligible for TANF funding the remaining \$3,086,608 must be GR

Note 5 If TANF funding is available, up to \$37,773 of this amount is eligible for TANF funding the remaining \$61,341 must be GR

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 Cost of 1 Percent Rate Increase, continued**

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DSHS											
Children with Special Health Care Needs (CSHCN) - Outpatient Hospital	NA	NA	B	10,137,569	6,570,093	21.00%	21.00%	913,414	913,414	43,496	43,496
CSHCN - Ambulance Services	9/1/2007	55.50%	B	35,843	23,229	43.49%	43.49%	457,620	457,620	10,523	10,523
CSHCN - ASCs/HASCs	9/1/1995	Changed to Fee Schedule	B	221,031	143,249	36.37%	36.37%	76,391	76,391	2,101	2,100
CSHCN - Dental Services	9/1/2007	52.50%	B	364,403	236,167	25.00%	25.00%	195,559	195,559	7,822	7,822
CSHCN - Durable Medical Equipment, Prosthetics, Orthotics, Supplies	Various 2008	10.00%	B	2,939,119	1,904,823	25.00%	25.00%	4,455,269	4,455,269	178,210	178,210
CSHCN - Drugs/Biologicals	10/1/2008	3.59%	B	31,165,411	20,198,098	5.00%	10.00%	760,414	760,414	100,167	100,167
CSHCN - Inpatient Hospital Releasing	9/1/2008	14.00%	B	9,169,812	5,942,894	24.46%	24.46%	4,679,067	4,679,067	191,295	191,295
CSHCN - Clinical Laboratory	4/1/2008	2.60%	B	985,680	638,813	3.00%	6.00%	32,181	32,181	7,065	7,065
CSHCN - Nursing	11/1/2002	various	B	5,974	3,872	2.50%	2.50%	1,050	1,050	420	420
CSHCN - Physician & Professional Services - Other	9/1/2007	27.50%	B			4.30%	4.30%	115,093	115,093	2,942	2,942
CSHCN - Physician & Professional Services - Medicare	9/1/2007	27.50%	B			33.33%	33.33%	891,848	891,848	22,797	22,797
CSHCN - Physician & Professional Services - Total				4,713,343	3,054,666	37.63%	37.63%	1,006,941	1,006,941	25,739	25,739
CSHCN - Therapies	9/1/2007	8.41%	B	NA	NA	0.00%	0.00%	0	0	0	0

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DSHS, continued											
Family Planning - Durable Medical Equipment, Prosthetics, Orthotics, Supplies	Various 2008	10.00%	B	1,127,800	180,448	25.00%	25.00%	313,595	313,595	12,544	12,544
Family Planning - Drugs/Biologicals	10/1/2008	3.59%	B	14,302,008	2,288,321	5.00%	10.00%	1,207,116	1,207,116	159,072	159,072
Family Planning - FQHCs	1/1/2008	Medicare Economic Index (MEI) or MEI+1.5%	B	6,767,990	1,082,869	3.20%	3.20%	234,425	234,425	73,257	73,258
Family Planning - Clinical Laboratory	4/1/2008	2.60%	B	17,874,012	2,859,842	3.00%	6.00%	905,161	905,161	198,801	198,801
Family Planning - Physician & Professional Services - Children - Other	9/1/2007	27.50%	B			4.30%	4.30%	395,554	395,554	10,837	10,837
Family Planning - Physician & Professional Services - Children - Medicare	9/1/2007	27.50%	B			33.33%	33.33%	3,065,118	3,065,118	83,978	83,978
Family Planning - Physician & Professional Services - Children - Total				7,754,436	1,240,710	37.63%	37.63%	3,460,672	3,460,672	94,815	94,815
Family Planning - Physician & Professional Services - Adults - Children/Adults Parity	9/1/2007	12.50%	B			7.99%	7.99%	2,317,636	2,317,636	30,704	30,704

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DSHS, continued											
Family Planning - Physician & Professional Services - Adults - Medicare	9/1/2007	12.50%	B			33.33%	33.33%	9,663,584	9,663,584	237,928	237,928
Family Planning - Physician & Professional Services - Adults - Total				24,243,632	3,878,981	41.32%	41.32%	11,981,220	11,981,220	268,632	268,632
Institutions for Mental Disease	9/1/2007	32.65%	T	17,004,028	6,704,028	6.92%	6.92%	1,655,433	688,730	239,338	99,574
Maternal and Child Health - Clinical Lab	4/1/2008	2.60%	B	8,071,954	4,602,580	3.00%	6.00%	593	593	131	131
Maternal and Child Health - Durable Medical Equipment, Prosthetics, Orthotics, Supplies	Various 2008	10.00%	B	119,059	57,732	25.00%	25.00%	36,223	36,223	1,449	1,449
Maternal and Child Health	10/1/2008	3.59%	B	49,252	23,882	5.00%	10.00%	4,548	4,548	599	599
Maternal and Child Health - Dental	9/1/2007	52.50%	B	3,710,209	1,799,073	25.00%	25.00%	825,733	825,733	33,030	33,030
Maternal and Child Health - Physician & Professional Services - Children - Other	9/1/2007	27.50%	B			4.30%	4.30%	99,258	99,258	23,083	23,083
Maternal and Child Health - Physician & Professional Services - Children - Medicare	9/1/2007	27.50%	B	6,013,570	2,916,032	37.63%	37.63%	868,397	868,397	23,077	23,077
Maternal and Child Health - Physician & Professional Services - Total											

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DSHS, continued											
Maternal and Child Health - Physician & Professional Services - Adults - Children/Adults Parity	9/1/2007	12.50%	B			7.99%	7.99%	2,258,998	2,258,998	282,729	282,729
Maternal and Child Health - Physician & Professional Services - Adults - Medicare	9/1/2007	12.50%	B			33.33%	33.33%	9,421,447	9,421,447	282,671	282,671
Maternal and Child Health - Physician & Professional Services - Adults - Total				23,102,891	7,105,756	41.32%	41.32%	11,680,445	11,680,445	282,682	282,682
Mental Health (MH) Targeted Case Management	9/1/2004	New Service	T	24,941,447	9,962,861	3.84%	3.84%	680,187	283,021	177,132	73,703
MH Rehabilitative Services	9/1/2004	New Service	T	141,226,564	56,412,951	3.84%	3.84%	4,484,130	1,865,802	1,167,742	485,886
NorthSTAR -- Medicaid Inpatient Hospital - Standard Dollar Amount (SDA) Rebasing	9/1/2008	14.00%	B	105,748	42,783	24.46%	24.46%	992,622	413,022	40,581	16,885
NorthSTAR -- MH Rehabilitative Services - Children	9/1/2004	New Service	T	9,614,818	3,889,935	3.84%	3.84%	253,087	105,308	65,908	27,424
NorthSTAR -- MH Rehabilitative Services - Adults	9/1/2004	New Service	T	17,596,746	7,119,240	3.84%	3.84%	110,230	45,866	28,706	11,944
NorthSTAR -- MH Targeted Case Management - Children	9/1/2004	New Service	T	3,726,838	1,507,793	3.84%	3.84%	72,780	30,283	18,953	7,886

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DSHS, continued											
NorthSTAR -- MH Targeted Case Management - Adults	9/1/2004	New Service	T	2,768,555	1,120,094	3.84%	3.84%	3,723	1,549	969	403
NorthSTAR - Physician & Professional Services - Other	9/1/2007	27.50%	M,CD			4.30%	4.30%	67,305	28,006	1,999	832
NorthSTAR - Physician & Professional Services - Medicare	9/1/2007	27.50%	M,CD			33.33%	33.33%	521,542	217,009	15,486	6,444
NorthSTAR - Physician & Professional Services - Total				60,615,858	24,523,789	37.63%	37.63%	588,847	245,015	17,485	7,276
NorthSTAR -- Medicaid Institutions for Mental Disease	9/1/2007	32.65%	B	49,365	19,972	6.92%	6.92%	364,657	151,731	52,721	21,937
Total DSHS (with totals only included)				53,301,730	47,926,360	33.33%	33.33%	53,301,730	47,926,360	3,524,462	2,467,845

The amounts shown for DSHS for Children with Special Health Care Needs (CSHCN), Family Planning and Maternal and Child Health programs in the "Estimated 2008-2009 Biennial Cost" all funds (AF) column include expenditures used in the computation of maintenance of effort requirements of the federal government. The amounts computed for the "estimated Cost of Rate Change" and "Estimated Biennial Cost of 1 Percent Rate Increase" are computed showing the general revenue cost of the rate increases and not the amounts needed for maintenance of effort requirements.

HHSC											
Ambulatory Services	9/1/2007	55.50%	M	130,648,854	52,873,592	43.49%	43.49%	449,290,416	186,946,167	10,330,890	4,298,601
Center/Hospital Ambulatory Surgical Center	9/1/2007	2.50%	M	262,894,534	106,630,023	43.94%	43.94%	128,480,748	53,459,820	2,923,935	1,216,626
Birthing Centers	9/1/2007	2.50%	M	588,016	238,499	37.00%	37.00%	235,470	97,971	6,365	2,648

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HHSC, continued											
Children & Pregnant Women - Case Management	9/1/2007	55.50%	B	1,730,470	700,322	3.84%	3.84%	96,851	40,296	25,221	10,493
Childrens Health Insurance Program (CHIP) (including perinate)	9/1/2007	41.10%	T	286,725,478	116,037,800	Trend	Trend	102,238,950	29,778,719	3,506,137	1,010,747
CHIP Dental	9/1/2007	41.10%	T	4,476,202	1,267,660	25.00%	25.00%	3,040,333	885,691	121,613	35,075
Dispensing Fee (\$9.40 Dispensing Expense + 2%)	9/1/2007	44.80%	PA	285,933,964	80,976,499	21.68%	21.53%	8,755,378	2,549,604	405,256	116,766
Clinical Laboratory Fees	4/1/2008	2.60%	M	711,232,840	287,835,930	3.00%	6.00%	36,017,637	15,017,465	7,910,573	3,291,526
Dental Services - THSteps - CCP	9/1/2007	52.50%	A,CD	1,026,124,682	415,272,658	25.00%	25.00%	885,707,178	368,599,900	35,428,287	14,743,996
Drugs/Biological Fees	10/1/2008	3.59%	A,M	203,552,270	82,377,604	5.00%	10.00%	20,991,063	8,752,172	2,766,167	1,150,980
Durable Medical Equipment, Prosthetics, Orthotics, Supplies	Various 2008	10.00%	CD,M	621,497,078	251,519,844	25.00%	25.00%	172,812,503	71,905,907	6,912,500	2,876,237
Family Planning Services - Other	9/1/2007	22.50%	A,CD,M			6.72%	6.72%	6,075,470	607,547	180,763	18,076
Family Planning Services - Medicare	9/1/2007	22.50%	A,CD,M			26.89%	26.89%	24,301,882	2,430,188	723,055	72,306
Family Planning Services - Total	9/1/2007	22.50%	A,CD,M	81,261,586	32,886,564	33.61%	33.61%	30,377,352	3,037,735	903,818	90,382
Federally Qualified Health Centers	1/1/2008	Medicare Economic Index (MEI) or MEI+1.5%	T	172,498,186	69,965,264	3.20%	3.20%	6,139,326	2,554,525	1,918,540	798,290
Freestanding Psychiatric Hospitals	1/1/2008	18.18%	T,M	239,038,249	96,953,914	7.36%	7.36%	19,638,217	8,171,367	2,667,698	1,110,017
Home Health Services	11/1/2002	Various	A,CD,M	162,370,664	65,711,408	2.50%	2.50%	4,838,771	2,013,385	1,935,508	805,354

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 and

Cost of 1 Percent Rate Increase, continued

Program by Budget Agency	Date of Last Rate Increase	Percent of Last Rate Increase	Method of Determining Rate Change	Estimated Current Biennial Cost		Percentage Rate Change		Estimated Biennial Cost of Rate Change			Estimated Biennial Cost of 1 Percent Rate Increase				
				AF	GR	2010	2011	FY 2010-2011		FY 2010-2011		FY 2010-2011			
								AF	GR	AF	GR	AF	GR		
HHSC, continued															
Inpatient Hospital - SDA Rebased	9/1/2008	14.00%	BR	7,562,476,366	3,027,310,551	24.46%	24.46%	1,602,470,581	666,775,288	65,513,924	27,259,824				
Medical Transportation Program	6/1/2008	16.77%	T	242,923,926	98,311,313	18.37%	36.74%	53,442,516	22,281,807	1,921,668	799,553				
Outpatient Hospital	9/1/2007	2.50%	CD	2,841,198,615	1,152,390,158	21.00%	21.00%	663,610,534	276,123,075	31,600,502	13,148,718				
Physician & Professional Services - Children - Other	9/1/2007	27.50%	M,CD			4.30%	4.30%	120,358,978	50,080,791	3,143,980	1,308,059				
Physician & Professional Services - Children - Medicare	9/1/2007	27.50%	M,CD			33.33%	33.33%	932,650,452	388,071,360	24,362,402	10,136,020				
Physician & Professional Services - Children - Total	9/1/2007	27.50%	M,CD	2,507,315,870	1,014,710,732	37.63%	37.63%	1,053,009,430	438,152,151	27,506,382	11,444,079				
Physician & Professional Services - Adults - Children/Adult Parity	9/1/2007	12.50%	M,CD			7.99%	7.99%	121,632,325	50,609,845	2,766,114	1,150,986				
Physician & Professional Services - Adults - Medicare	9/1/2007	12.50%	M,CD			33.33%	33.33%	507,283,524	211,074,978	11,536,440	4,800,338				
Physician & Professional Services - Total	9/1/2007	12.50%	M,CD	1,373,532,582	555,868,636	41.32%	41.32%	628,915,849	261,684,823	14,302,554	5,951,324				
Renal Dialysis Facilities	9/1/2007	2.50%	CD	111,514,139	45,230,135	25.00%	25.00%	127,719,842	53,146,059	5,108,794	2,125,842				
Rural Health Clinics	1/1/2008	Medicare Economic Index (MEI)	T	154,601,176	62,706,237	1.70%	1.70%	2,923,129	1,216,291	1,719,488	715,465				
STAR+PLUS -- Community Based Alternatives without Minimum Wage	9/1/2000	2.20%	B			4.80%	4.80%	14,623,261	6,085,006						
STAR+PLUS -- Community Based Alternatives Minimum Wage Only	8/1/2008	3.82%	PA			5.16%	5.16%	14,304,950	5,952,552						

KEY - A - Access based
 B - Based on rates from other Medicaid programs
 BR - Blue Ribbon file of claims data
 CD - Percent of claims data
 CR - Cost Reports used for prospective rate - trend to FY 2010/2011
 M - Based on Medicaid rates
 T - Trending from current rate to FY 2010/2011
 PA - Pro forma analysis

Impact of Rate Increase Based on Current Review of Costs
 and

Cost of 1 Percent Rate Increase, continued

Program by Budget Agency	Date of Last Rate Increase	Percent of Last Rate Increase	Method of Determining Rate Change	Estimated Current Biennial Cost		Percentage Rate Change		Estimated Biennial Cost of Rate Change		Estimated Biennial Cost of 1 Percent Rate Increase	
				AF	GR	2010	2011	AF	GR	AF	GR
HHSC, continued											
STAR+PLUS -- Community Based Alternatives Total				270,904,022	108,281,507	9.96%	9.96%	28,928,211	12,037,558	2,904,439	1,208,590
STAR+PLUS -- Day Activity and Health Services without Minimum Wage	9/1/2002	1.30%	B			1.33%	1.33%	1,248,496	519,522		
STAR+PLUS -- Day Activity and Health Services Minimum Wage Only	8/1/2008	0.66%	PA			2.09%	2.09%	1,360,908	566,299		
STAR+PLUS -- Day Activity and Health Services Total				88,992,654	35,571,072	3.42%	3.42%	2,609,404	1,085,821	762,984	317,492
STAR+PLUS -- Primary Home Care without Minimum Wage	9/1/2000	1.20%	B			0.47%	0.47%	2,253,626	937,775		
STAR+PLUS -- Primary Home Care Minimum Wage Only	8/1/2007	52.50%	PA			7.61%	7.61%	2,026,473	843,253		
STAR+PLUS -- Primary Home Care Total				468,381,070	187,275,043	8.08%	8.08%	4,280,099	1,781,027	529,716	220,424
THSteps Medical Checkups	9/1/2007	27.50%	A,M			3.00%	3.00%	8,052,077	3,350,431	2,684,025	1,116,810
THSteps Personal Care Services - Minimum Wage	8/1/2008	3.78%	B			4.86%	4.86%	8,567,841	3,565,037		
THSteps Personal Care Services - Other	8/1/2008	3.78%	B			5.70%	5.70%	4,652,436	1,935,856		
THSteps Personal Care Services - Total				54,990,840	22,029,959	10.56%	10.56%	13,220,277	5,500,893	1,251,920	520,917
THSteps Private Duty Nursing	7/1/2008	15.00%	B			0.00%	0.00%	0	0	0	0
THSteps Therapies	9/1/2007	0.50%	A,M			0.00%	0.00%	0	0	0	0
TB Clinics	9/1/1996	NA	M	160,192	64,974	264.09%	264.09%	470,519	195,780	1,781	741
Vendor Drug Dispensing Fee (\$9.40 Dispensing Expense + 2%)	9/1/2007	44.80%	PA	4,792,763,440	1,939,631,364	20.82%	20.44%	116,453,781	48,448,916	5,646,066	2,349,099
Total HHSC (with totals only included)				6,174,766,441	2,545,590,644	239,216,751	239,216,751	7,695,366,393	3,258,830,152	367,021,332	156,252,386
Total HHS											

KEY - A - Access based
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 CD - Percent of claims data
 CR - Cost Reports used for prospective rate - trend to
 FY 2010/2011
 T - Trending from current rate to FY 2010/2011
 M - Based on Medicare rates
 PA - Pro forma analysis

**Impact of Rate Increase Based on Current Review of Costs
 and
 Cost of 1 Percent Rate Increase, continued**

Program by Budget Agency	Date of Last Rate Increase	Percent of Last Rate Increase	Method of Determining Rate Change	Estimated Current Biennial Cost		Percentage Rate Change		Estimated Biennial Cost of Rate Change		Estimated Biennial Cost of 1 Percent Rate Increase			
				AF	GR	2010	2011	AF	GR	AF	GR	AF	GR
DADS - Direct Care Staff Rate Enhancement													
Nursing Facility Direct Care Wage Enhancements	NA	NA	PA	NA	NA	2.39%	2.38%	115,242,989	47,941,084	48,341,833	20,110,419		
Community Care Attendant Wage Enhancements	NA	NA	PA	NA	NA	Varies because enhancement encompasses multiple programs		62,578,840	26,032,797	NA	NA		
Intermediate Care Facility/Mental Retardation Direct Care Staff Wage Enhancements	NA	NA	PA	NA	NA	0.00%	0.73%	2,695,196	1,128,209	NA	NA		
Home and Community-based Services Direct Care Staff Wage Enhancements	NA	NA	PA	NA	NA	0.00%	0.76%	5,032,103	2,106,438	NA	NA		
Texas Home Living Direct Care Staff Wage Enhancements	NA	NA	PA	NA	NA	0.00%	5.13%	523,000	218,928	NA	NA		
Total Direct Care Wage Enhancements								186,072,128	77,427,456	NA	NA		
Note: Direct Care Wage Enhancements are proposed to be implemented in FY 2011 for the Intermediate Care Facility/Mental Retardation, Home and Community-based Services and Texas Home Living Programs.													

: PROMOTING INDEPENDENCE CHRONOLOGY

Texas Promoting Independence Initiative Appendix E Accomplishments 1999 - 2008

House Bill (H.B.) 2292, 78th 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

- 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

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 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

- 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

- 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 79th 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 (77th Legislature, 2001) and Rider 28 (78th 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 (79th 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, 79th 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 (79th Legislature) regarding procedures to ensure the involvement of parents or legally authorized representatives of children placed in institutions.
- Received a transfer of funds from HHSC to expand the number of relocation contractors from four to six

December 2006

DADS

- Using a competitive bid process, awarded additional relocation contracts with expanded catchment areas to be effective January 2007

January 2007

DADS

- Approved new CDS rules, Texas Administrative Code, Title 40, Part 1, Chapter 41 which created a new support service, Support Consultation, for individuals who self-direct their services and allowed for CDS option expansion to nursing, professional therapies and adaptive aids and minor home modifications.
- Received the Centers for Medicare and Medicaid Services Money Follows the Person Demonstration Award for \$17 million in enhanced funding.

February 2007

HHSC

- Roll-out of STAR+PLUS into the Austin, Houston, San Antonio, and Corpus Christi service delivery areas.

May 2007

DADS

- Established the “individual responsibility agreement” (IRA) to allow individual with complex needs who want to move to the community to accept responsibility for certain needs rather than the home health agency.

June 2007

DADS

- DADS’ local partners and state staff organized and began a series of Community Roundtables, the goal of which are to determine what DADS’ partners can do together (both at the state and local level) to integrate the agency’s services in a way that enhances access for consumers. The focus of the roundtables included Regional and Local Services field office staff, Area Agencies on Aging, and Mental Retardation Authorities. While each community has been unique, many local partners have committed to streamlining access and intake processes, such as the use of electronically-shared referral forms; the development of formal interagency training plans; and the implementation of united marketing activities. Like the Aging and Disability Resource Centers, several communities are considering the designation of system navigators in each agency to help consumers make their way across the DADS system of services and programs. Throughout 2007, DADS convened eight roundtables throughout the state.

September 2007

DADS

- Senate Bill 1766 (80th Legislature, 2007) reinforces current CDS initiatives and continued the statewide Consumer Direction Workgroup.
- The 2008-09 General Appropriations Act (Article II, Section 1, DADS, S.B. 1, 80th Legislature, Regular Session, 2007) provided dedicated HCS slots for children either residing in an intermediate care facility for persons with mental retardation (Rider 43) or who were aging out of DFPS’ Child Protective Services’ foster care program (Rider 37).

January 2008

DADS

- DADS convened a workgroup made up of representatives from health and human services agencies and consumer and advocacy groups to identify and develop a plan to address the issues that result in the admission of children/youth to state schools and barriers that prevent children/youth in state schools from returning to their families/communities.
- Received approval for the Texas CMS MFP Demonstration Operational Protocol.
- DADS implemented the Community Living Options Information Process.

February 2008

- Began implementation of the Integrated Care Management (ICM) model.

DADS

- Implemented the CDS option in the Home and Community-based Services (HCS) and the Texas Home Living waivers and implemented Support consultation as a new support service for individuals who self-direct their services.
- The agency continued its series of Community Roundtables around the state, with plans to convene eight more throughout 2008.
- Began implementation of the MFP Demonstration.

April 2008

DADS

- Developed rules in response to Rider 45, 2008-2009 General Appropriations Act (Article II, DADS, H.B. 1,80^h Legislature, Regular Session, 2007) which raises the individual cost caps of most waivers to 200 percent of the equivalent institutional costs (the Medically Dependent Children's Program cost cap is set at 50 percent) and requires DADS to develop utilization management and utilization review practices to ensure the appropriate level and scope of services are provided to individuals and to ensure compliance with federal cost-effectiveness requirements.

DFPS

- DFPS in collaboration with HHSC contracted with Superior HealthPlan Network to implement the STAR Health Program. STAR Health is a comprehensive statewide system designed to meet the medical and behavioral health needs of children in foster care, kinship care, and other forms of DFPS conservatorship.

June 2008

DADS

- Developed rules for the Services Responsibility Options which was named as a form of consumer direction.
- The agency issued a request for proposals to fund up to five additional Aging and Disability Resource Centers, beginning October, 2008.

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.

: PROMOTING INDEPENDENCE ADVISORY COMMITTEE 2008 RECOMMENDATIONS

RECOMMENDATIONS FOR SYSTEMS CHANGE: Fiscal Years 2010-2011 Funding and Policy Recommendations

The Promoting Independence Advisory Committee (Committee) is very appreciative of the groundwork established by the previous Committees, of the various advocate, consumer and provider communities and of legislative, executive, and governmental officials. The Committee strongly believes that the state has made progress since the original Promoting Independence Plan in 2001.

However, the current Committee recognizes the importance for a continued focus on policy and funding initiatives before Texas can claim full compliance with the intent of the two Executive Orders (see Appendix B), Senate Bills 367 and 368 (77th Legislature, Regular Session, 2001), and Texas' Promoting Independence Initiative (Initiative). More than ever, the Committee recognizes the relevancy of its task to continue to provide advice and monitor the state's progress in its' *Olmstead* compliance.

Therefore, the Committee makes the following policy and budget recommendations for Fiscal Years (FY) 2010-2011.⁹⁴ *Increase In Medicaid 1915(c) Slots – Eight Year Plan For Elimination Of Current Interest Lists* and *Workforce and Provider Network Stabilization* are the top priorities. However, all recommendations are important to meeting the goals of *Olmstead* and the Texas Initiative. It is strongly urged that all the recommendations made in this report be included in the *2008 Revised Promoting Independence Plan* by the Health and Human Services Commission. Twenty-six of the recommendations were sent to you in April 2008 for your consideration during the Legislative Appropriations Request (LAR) process; two new recommendations are added.

For the 2008 Report, recommendations are grouped in five general categories. It is the expectation that HHSC will make agency assignments according to which agency is most appropriate for implementing the recommendation. Within each category, several recommendations are made with background information. These recommendations have been approved by a majority of the Committee's membership;⁹⁵ any vote against or those abstaining are noted for each specific recommendation. The Committee's recommendations to Executive Commissioner Hawkins are:

⁹⁴ These recommendations reflect the views and opinions of a consensus of members of the Committee. The Committee for purposes of these recommendations refers only to those members named to the Committee by the Health and Human Services Commission's (HHSC) Executive Commissioner and does not include agency representatives. Unless otherwise noted, the views and options expressed in these recommendations do not necessarily reflect the policy of HHSC, the Texas Department of Aging and Disability Services, or any state agency represented on the Committee.

⁹⁵ See Appendix A for a listing of the current committee membership

PROGRAM FUNDING

▪ **INCREASE IN MEDICAID 1915(C) SLOTS – EIGHT YEAR PLAN FOR ELIMINATION OF CURRENT INTEREST LISTS⁹⁶.**

The 80th Legislature passed the 2008-2009 General Appropriations Act (Article II, Department of Aging and Disability Services [DADS], House Bill [H.B.] 1, 80th Legislature, Regular Session, 2007), which significantly increased the number of individuals receiving services in DADS' Medicaid waiver programs. H.B. 1 provides \$71.4 million in General Revenue (GR) funds (\$173.2 million in All Funds), which will allow an additional 8,598 individuals to be served in community-based programs by the end of 2008-09 biennium. All of DADS' waiver programs are impacted by this appropriation, which provides an approximate ten percent decrease in the community-based services interest list.

The Committee's number one priority is that the emphasis on increasing community-based services be continued and enhanced by the 81st Legislature. Even with the increased funding for community "slots" as of June 30, 2008, there remains 100,192 individuals on the official interest list for DADS waivers and the non-mandatory managed care waivers; the unduplicated count is 82,050 individuals and the unduplicated count without STAR+PLUS is 79,925 individuals.⁹⁷

Therefore, the Committee recommends that the 81st Legislature increase funding for community-based based programs in order to eliminate all interest lists within an eight year period; this would include sufficient funding to actualize a cumulative one hundred percent decrease in the overall interest lists through the 84th Legislative Session (2017). This overarching initiative will include both individuals on the interest list and projected demographic growth. Implementation of this recommendation will result in no new applicant for community-based services having to wait more than six months to receive services by the end of FY 2017.

▪ **FUND BEHAVIORAL HEALTH SERVICES AND SUPPORTS FOR HEALTH AND HUMAN SERVICES ENTERPRISE PROGRAMS**

There is an increasing concern for the lack of behavioral health services and supports for individuals with dual diagnoses (individuals who are aging and/or with a disability and a mental illness and/or substance abuse issue). These issues, as either stand-alone concerns, or coupled with co-occurring other disability issues presents a barrier for a fully-integrated long-term services and supports system. It is difficult to be in full compliance with the *Olmstead* decision when many of the barriers to community integration and relocation from institutional settings are dependent on limited behavioral health funding. The Committee makes the following three recommendations:

⁹⁶ Vote: 9-0-2: Tim Graves, the Texas Health Care Association (THCA) and Jean L. Freeman, Ph.D., DADS Council abstaining.

⁹⁷ See DADS website at: <http://www.dads.state.tx.us/services/interestlist/index.html> for the most recent information.

Recommendation 1: Fully Fund the Assertive Community Treatment (ACT) Service Packages as part of the Resiliency and Disease Management (RDM) Program administered through the Texas Department Of State Health Services (DSHS).⁹⁸

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 the focus should incorporate those individuals who are at risk of hospitalization and for individuals 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; however, 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 RDM System regardless of diagnosis, and that generally adults are appropriate for service level 4 of ACT. The current appropriations are not adequate to meet the capacity of the state and a significant number of individuals are being recommended for ACT level 4 but are actually enrolled into a less intensive and expensive level of services. According to the DSHS strategic plan, an estimated 923,536 adults in Texas met the DSHS mental health priority population definition in 2007; approximately 444,655 are estimated to have the greatest need (targeted priority population). DSHS program service utilization data indicates that an approximate one fourth of those with the greatest need received mental health services from the state authority (111,782) in 2007.

The Committee recommends that the Legislature adequately fund ACT as part of RDM to ensure that individuals who are hospitalized two or more times in 180 days are able to access service level 4 of RDM.

Recommendation 2: Provide services and supports for individuals leaving the state mental health facility (state hospital) system.⁹⁹ Many individuals leaving the state hospital system have no community residence or the required services to help them re-integrate back into community living. This lack of services and housing options result in individuals being discharged from the state hospital into a nursing facility. The state then works with those individuals through the "money follows the person" policy to have them return to his/her community setting of choice. This process is costly to the state and does not provide the highest level of a quality of life to the individual. *The Committee recommends that DSHS be provided sufficient funding to provide the necessary community services and supports, such as Cognitive Adaptation Training and Substance Abuse Services, to optimize the individual's opportunity for a successful relocation and lower the risk for recidivism.*

Recommendation 3: Increase funding for the current 1915(c) waivers in order to incorporate behavioral services and support in their service arrays.¹⁰⁰ The current 1915(c) service arrays do not adequately cover behavioral health services and supports.

⁹⁸ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

⁹⁹ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹⁰⁰ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

Therefore, community options are limited for those individuals with behavioral health needs and co-occurring aging and/or disability needs. ***The Committee recommends that all Medicaid 1915(c) waiver programs provide behavioral health services and supports as a service option under the service array.*** While the addition of this service option may increase the individual service plan cost, this could be a short-term activity until the individual stabilizes or may offset other service costs as a result of a reduction in the need for other available services.

- **Increase funding to all the existing 1915(c) waiver programs in order to ensure flexibility in the service array.**¹⁰¹

1915(c) waiver programs have set service arrays to help manage utilization and overall costs. Many of these programs currently exist with the same service arrays that were established in the 1980s and 1990s when the programs were first created. Through experience, there are many other support services that could be offered that would enhance success in community living and an individual's quality of life. Examples of services currently not offered are behavioral health supports, services to support an individual with traumatic brain syndrome, services to support an individual with autism, and other specific supports. These additional services and supports would not increase the overall cost cap but rather provide increased flexibility and opportunity for an individual's self-determination.

- **Fund an integrated Data Warehouse.**¹⁰²

The long-term services and supports system crosses several health and human services operating agencies. DADS, the lead operating agency for long-term services and supports, is in the process of enhancing its "data warehouse" which provides individual service level information for purposes of providing data to make evidence-based policy decisions. However the managed care system, which has expanded into all of the major urban service delivery areas and is administered by HHSC, maintains its own data collection process. It important to create a single "data warehouse" which will integrate both the fee-for-service and managed care data. There is a significant need to characterize the entire long-term services and supports systems within a single system, and discuss in an evidence-based manner, the commonalities and differences of the two funding systems.

- **Expand respite care for family caregivers and increase the average benefit.**¹⁰³

The Committee recommends that the family caregiver support program be expanded to provide more intensive and/or ongoing respite for the caregiver, with an average benefit of \$1,200 per annum. Respite is an effective means of delaying and/or avoiding institutional care.

¹⁰¹ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹⁰² Vote 10-0-1: Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹⁰³ Vote 8-0-1-1: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining; Ann Denton not voting.

In Texas, the National Family Caregiver Support Program, as authorized under the Older Americans Act, is administered by DADS and implemented by 28 area agencies on aging (AAAs). Education, information, and support services are provided to caregivers 60 and over and other high-risk populations who provide assistance for their family members; caregivers may be of any age. This program enables individuals who are aging and/or with a disability to remain in a home environment and "age in place." By receiving care in the home in a safe and secure environment, consumers retain dignity and choice. To the fullest extent possible they retain their independence.

Family members and friends who donate care are the backbone of the nation's long-term supports and services. According to 2004 data compiled by the National Family Caregiver Association, the economic value of informal care giving in the United States is \$306 billion.¹⁰⁴ This care is provided by 29 million caregivers providing 31 billion hours per year. This "free" care is not without cost, however. Caregivers are at risk of experiencing declines in their own physical and mental health as a direct result of their care giving responsibilities.

Although area agencies on aging offer respite services, the intensity and duration of services are limited by funding constraints. AAAs' average respite benefit for state fiscal year 2007 was \$667,¹⁰⁵ which is helpful but inadequate to meet the needs of unpaid caregivers who provide on-going and intensive assistance.

WORKFORCE AND PROVIDER NETWORK STABILIZATION

The opportunities for community living are limited without a functional, available, and qualified work force and provider network. Significant turnover rates for direct services and supports staff result in a diminished quality of care and a significant additional expense for advertising and training new employees. Other additional costs include overtime wages for employees who must cover vacant positions. Providers must have adequate funds to address these workforce challenges and costs. In addition, providers are also faced with other operational demands, such as transportation, food, insurance and other related operating needs. Lack of sufficient funds to address these expense items have an equally negative impact on the quality of services provided and the availability of a qualified provider base from which an individual may choose to receive services.

The Committee recommends the following workforce and provider measures to stabilize the current workforce, ensure a viable provider base and meet the needs of those Texans who are aging and/or disabled during the 2010-2011 biennium.

Recommendation 1: Fully fund the 2007 Consolidated Budget's 2008-2009 rate methodology requests.¹⁰⁶ Prior to the 80th Legislature, the Legislature faced challenges in appropriating adequate funds to provide rate increases in accordance with promulgated

¹⁰⁴ National Family Caregivers Association & Family Caregiver Alliance (2006). Prevalence, Hours and Economic Value of Family Care giving, Updated State-by-State Analysis of 2004 National Estimates by: San Francisco, CA: FCA.

¹⁰⁵ Department of Aging and Disability Services, Access & Intake – Area Agencies on Aging SFY 2007 data for Caregivers Respite Care.

¹⁰⁶ Vote 10-0-1: Jean L. Freeman, Ph.D., DADS Council, abstaining.

reimbursement methodologies. These challenges were, in part, the result of limited resources and budgetary shortfalls within the state's budget.

To address this issue, the 2007 Consolidated Budget presented to the 80th Legislature by the Health and Human Services Commission (HHSC) stated that the funding increases necessary to fully fund HHSC's rate methodologies for community-based programs in Fiscal Years (FY) 2008 and 2009 were: Primary Home Care (PHC), 15.33 percent; Community-based Alternatives (CBA), 16.9 percent; Community Living and Assistive Support Services (CLASS) 11.3 percent; Medically Dependent Children's Program (MDCP) 29.9 percent; Home and Community-based Services (HCS) 9.56 percent; and Day Activity and Health Services (DAHS) 5 percent.

However, the Legislature only appropriated, on average, a five percent rate increase for providers of community services and supports (\$86.2 million General Revenue, \$203.1 million All Funds). In addition, the Legislature provided for "Community Care Rate Enhancements" (\$15.8 million General Revenue, \$38.2 million All Funds) for direct service staff, and passed H.B. 15 (80th Legislature, Regular Session, 2007), which provided rate restoration for CLASS, HCS, and Texas Home Living providers to FY 2003 amounts. The funds restored rates for the last 8 months of FY 2007.

It is important to note that the appropriations did not include funds to address the minimum wage bill passed by Congress in May 2007. The 80th Legislature (2007) specified under Section 57 (Article II, Special Provisions, Regular Session, 2007) the funds appropriated for rate increases in H.B. 1 or H.B. 15. These funds were intended to provide a rate increase and, in part, to cover any required increases in hourly wages or salaries established under federal minimum wage laws or regulations. The intent of the appropriations was not accomplished and the lack of funding is serious; for example, Primary Home Care has the lowest rate and providers had to use almost the entire FY 2008-2009 increase to cover the minimum wage requirements.

In summary, although the 80th Legislature (2007) appropriated funds to provide rate adjustments, the funds were not appropriated at the levels requested and necessary to adequately address the complex challenges related to workforce issues and infrastructure and minimum wage. *Therefore, the Committee recommends that the 81st Legislature (2009) immediately address the FYs 2008-2009 shortfall, and to fully fund all community-based programs in accordance with their respective promulgated methodologies.*

Recommendation 2: Increase provider rates to address inflation. Cost inflation is inevitable for even the most efficient providers.¹⁰⁷ Between 1997 and 2007 the Consumer Price Index (CPI) increased by 26 percent. While the rate adjustments provided by the 80th Legislature (2007) provided some relief, the adjustments did not meet the increase in the CPI. The current national economy is indicating that inflation rates are trending upward, and a conservative preliminary inflation estimate for providers during the 2010-2011 biennium would be three percent per year. Current inflationary pressures include, but are not limited to, cost increases in gasoline, transportation

¹⁰⁷ Vote 10-0-1: Jean L. Freeman, Ph.D., DADS Council, abstaining.

(vehicles), food and utilities, all which are necessary for service delivery. The inability to adequately address these needs negatively impacts: the quality of services provided to individuals; a provider's ability to maintain compliance with regulations; and more importantly, the availability of an array of viable service providers from whom consumers may choose to receive services.

Recommendation 3: Fund the full impact of the minimum wage increase.¹⁰⁸ The third \$0.70 increment in the federal minimum wage will occur on July 24, 2009, and will require pro forma adjustments to the rates that would otherwise be reflected in HHSC's rate methodology estimates for FYs 2010-2011. The "ripple effect" of that third increment is an economic fact, and must be recognized in the 2010-2011 General Appropriations Act.

Recommendation 4: Fund community direct services and supports workers.¹⁰⁹ The ability to recruit and retain direct services and supports workers is at a critical juncture in Texas. In the development of the FYs 2010-2011 Consolidated Budget, the level of funding for wages and benefits for community direct services and supports workers, must be sufficient to effectively recruit and retain community workers in order to meet the needs of individuals who are aging and/or with a disability, as identified in the Legislative Appropriations Requests (LARs) of the Health and Human Services operating agencies.

CHILDREN'S SUPPORTS

▪ FULLY FUND LONG-TERM SERVICES AND SUPPORTS IN ORDER TO AVOID THE INSTITUTIONALIZATION OF ANY CHILD.

The Committee believes that the health and human services system must address the number of children with disabilities who continue to remain in Texas institutions. Equally important to the Committee is to ensure that children with disabilities at risk of institutionalization may remain with families. The Committee will make recommendations and monitor the health and human services system for progress on these issues.

Reducing the number of children with disabilities residing in large, congregate care facilities continues to be a top priority for Committee as well as for other disability advocates throughout Texas. This goal can only be accomplished by addressing the barriers that prevent children from leaving these facilities, and ensuring that the appropriate community supports and services are available that prevent the initial placement of a child in a facility.

While the number of children living in large (fourteen or more bed) community ICFs/MR has significantly decreased over the past six years, the total number of children residing in institutional settings, as defined by Senate Bill 368 (78th Legislature, Regular Session, 2001), has remained fairly constant. Additionally, the number of children with

¹⁰⁸ Vote 10-0-1: Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹⁰⁹ Vote 10-0-1: Jean L. Freeman, Ph.D., DADS Council, abstaining.

intellectual and developmental disabilities being admitted to state schools has increased dramatically (152 admissions during FY 2007 – a thirty-eight percent increase from August 2005 through August 2007).

The following recommendations are aimed at decreasing the number of children with disabilities in Texas institutions, increasing access to quality permanency planning and family-based options, and preventing new admissions of children to these facilities:

Recommendation 1: Provide the appropriate community-based services to those at imminent risk of institutionalization and prevent the placement of children/youth (0-17 years of age) in large community ICFs/MR and state schools.¹¹⁰ This recommendation is consistent with the Center for Disease Control and Prevention’s *Healthy People 2010 Objectives for People with Disabilities*.¹¹¹ Many families/guardians feel as though they have no option during a crisis situation other than institutionalization. Funding of “crisis services” to provide intervention, stabilize the current situation, and the provision of behavioral training to the family/guardian would have a significant impact on the ability of the family/guardian to continue to support the child/youth at home. This recommendation will require both a statutory change and appropriations.

Recommendation 2: Expand the Promoting Independence (PI) population to include children in institutions licensed by the Department of Family and Protective Services (DFPS) for children in state conservatorship.¹¹² Being designated as a PI population provides a child/youth with immediate or expedited access to Medicaid 1915(c) waiver programs. Currently, the PI population only includes individuals in nursing facilities, state schools, and large community ICFs/MR.

Recommendation 3: Create and fund a Permanency Planning/Promoting Independence unit for children at DADS.¹¹³ S. B. 368 (77th Legislature, Regular Session, 2001) created permanency planning as a public policy in 2001; subsequent legislation reinforced and strengthened the policy. However, the function was never fully funded and staff assigned can not fully actualize this activity as intended. A permanency planning unit would have responsibility for: (1) developing the infrastructure and the expertise needed to address the institutionalization of a child in a crisis situation; (2) providing technical assistance to mental retardation authorities (MRAs) who have responsibility for permanency planning by developing increased expertise at local MRAs (on-going training and support); (3) developing meaningful accountability for quality permanency planning and crisis intervention; and (4) increasing efforts to relocate children currently placed in state schools to less restrictive, family-based alternatives.

Recommendation 4: Develop a pilot to create emergency shelters for children with disabilities needing out-of-home placement.¹¹⁴ This is intended to ensure adequate

¹¹⁰ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹¹ *Healthy People 2010, Chapter 6, Disability and Secondary Conditions, Objective 6-7b:*
http://www.healthypeople.gov/document/HTML/Volume1/06Disability.htm#_Toc486927305

¹¹² Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹³ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹⁴ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

time to assess the child and develop an appropriate family-based alternative.

Recommendation 5: Develop adequate behavioral services to support children/youth coming out of institutions and to help prevent them from having to be admitted.¹¹⁵

See recommendation under issues pertaining to “Fund Behavioral Health Services and Supports for Health And Human Services Enterprise Programs.”

Recommendation 6: Develop and implement A Medicaid Buy-In (MBI) program for children with disabilities in families with income between 100 percent to 300 percent of the federal poverty level (FPL) as stipulated in the Deficit Reduction Act of 2005.¹¹⁶

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 of obtaining medical care for their child, and will prevent insitutional placements caused by the lack of needed services. *The Committee recommends the development and implementation of a Medicaid Buy-In program for children with disabilities in families with income between 100 percent-300 percent of FPL.*

INDEPENDENT LIVING OPPORTUNITIES AND RELOCATION ACTIVITIES

Recommendation 1: Expansion of the “Promoting Independence Priority Populations” policy for individuals with intellectual and developmental disabilities who reside in intermediate care facilities for the mentally retarded (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 a 1915(c) waiver program. 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.

¹¹⁵ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹⁶ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

A similar provision does not exist for individuals residing in ICFs/MR. The reasons for not having this comparable policy are complex. Individuals in state mental retardation facilities (state schools) and large (fourteen or more bed) community ICFs/MR do have an opportunity to access the HCS program within six months and twelve months respectively because of the Promoting Independence Plan; however, this is not a MFP policy.

Recommendation 3: Expand the opportunity for expedited access to HCS for all individuals residing in ICFs/MR regardless of the size of the ICF/MR.¹¹⁷ The Committee recommends sufficient funding in order that all individuals residing in ICFs/MR have an opportunity for expedited HCS access. Currently, expedited access for HCS is limited to individuals residing in large community ICFs/MR or state schools.

Recommendation 4: Eliminate the time period requirement for expedited access.¹¹⁸ The Committee recommends full funding for the “Promoting Independence Priority Populations” (those with intellectual and developmental disabilities) that will result in individuals residing in community ICFs/MR or in state schools having immediate access to HCS slots.

Recommendation 5: Fund DARS in order to add an additional three Centers for Independent Living (CILs).¹¹⁹ The federal Rehabilitation Act, which is overseen by the Rehabilitation Services Administration, created the development of Centers for Independent Living (CILs). 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.

Prior to the 80th Legislative Session (2007), there were 21 CILs in Texas funded by federal and General Revenue funds which covered only 145 counties. The 80th Legislature (2007) added funding to the 2008-2009 General Appropriations Act (Title II, DARS, H.B. 1, 80th Legislature, Regular Session, 2007) to create two new CILs which will be developed in Laredo and Abilene. These two new CILs cover an additional fourteen counties. Nevertheless, this still results in many parts of the state, especially in rural counties, being without CIL coverage (93 counties are without Title VII, Part C, CIL funding).

The Committee recommends that the 81st Legislature (2009) fund the addition of three more CILs.

¹¹⁷ Vote 9-1-2: Carole Smith, Private Providers Association of Texas, against; Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹⁸ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹¹⁹ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

Recommendation 5: Provide increased funding for the relocation activity that assists individuals in nursing facilities to relocate back into their community.¹²⁰

Currently, DADS receives \$1.3 million in General Revenue (GR) to fund the relocation specialist activity and the support program “Transition to Life in the Community (TLC)”; HHSC also provides additional dollars for these support services. These activities are crucial in: the identification of individuals who want to relocate; education; facilitation; and coordination of the relocation process. However, individuals with more complex functional and medical needs require intensive supports in their relocation and there are an increasing number of these individuals who require assistance. With the advent of the “Targeted Case Management” rules by the Centers for Medicare and Medicaid Services, proposals to match relocation GR dollars are now tentative; this makes it even more imperative for the state to increase its GR funding. It has been demonstrated that it costs less to serve an individual in the community versus in a nursing facility. *The Committee recommends increased GR funding for relocation in order to assist more individuals back into the community, especially those with complex functional/medical needs.*

Recommendation 6: Funding should be provided to HHSC/DADS to establish a pilot project, which would support institutional diversion activities in order to avoid initial institutionalization.¹²¹

Individuals often seek institutionalization because they are in a crisis situation either due to an acute episode or a pending immediate discharge from an acute facility. The community-based services and supports are not in place to provide temporary assistance to avoid institutionalization. The state, subsequently, pays relocation contractors then to work with the individual in order for them to relocate back into the community. This process is expensive and there are many risks that the individual will lose their community residence and informal support system. *The Committee is recommending funding to support a pilot project that would work with hospital discharge planners to establish linkages with the long-term services and supports systems to provide the necessary community-based supports.*

Recommendation 7: Remove barriers to relocation from a State School and expedite the overall process.¹²²

Individuals residing in state schools are currently provided a Home and Community-based Services (HCS) waiver slot upon six months of request and referral by the Interdisciplinary Team (IDT). This requires an individual to remain in the state school during this six month period. The Committee recommends that the state remove barriers to community placement for individuals residing in the state school system. Barriers may include but are not limited to lack of housing and insufficient behavioral health supports. If barriers to community placement exist, the state school staff and Community Living Options Information Process (CLOIP) Mental Retardation Authority service coordinators must work to remove those barriers as soon as possible.

¹²⁰ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹²¹ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹²² Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

HOUSING INITIATIVES

Affordable, accessible and integrated housing is an essential requirement for individuals who want to relocate back into their communities. The Committee continues to advocate for the creation of housing units for individuals designated as Texas' *Olmstead* population.

Individuals who are relocating from nursing facilities, intermediate care facilities for persons with mental retardation, or individuals who are in the targeted *Olmstead* populations under the Department of State Health Services' (DSHS) provisions must have integrated and affordable community housing. There are two substantial barriers – the poverty of individuals who are living at the Supplemental Security Income (SSI) level (\$637/month), and/or the lack of easy access to wrap-around supports and services. The Committee makes the following recommendations:

Recommendation 1: Increase the baseline funding for the Texas Housing Trust Fund.¹²³ Texas does not provide a significant amount of discretionary General Revenue funding for housing; the Housing Trust Fund is one of those limited funding sources. This funding is allocated to the Texas Department of Housing and Community Affairs (TDHCA,) and during the 80th Legislative Session, TDHCA received \$5 million in General Revenue for the Housing Trust Fund (2008-2009 General Appropriations Act, Article VII, H.B. 1, 80th Legislature, Regular Session, 2007). However, this amount is not adequate to provide housing voucher incentives or increase the overall housing inventory for individuals who exist at the Supplemental Security Income (SSI) level and are aging and/or with disabilities.

Recommendation 2: HHSC should supplement the administrative fee for HOME Vouchers.¹²⁴ The HOME vouchers, which include Section 8 and Tenant-based Rental Assistance (TBRA), are expensive and difficult to administer. There is a minimal amount of administrative overhead allowed in the overall funding made by the United States Department of Housing and Urban Development (HUD). This limited amount for administrative activities is a barrier in getting qualified contractors willing to administer the program.

HUD will only provide a four percent administrative fee which is supplemented by TDHCA with an additional two percent. In 2002, HHSC also provided funding (an additional four percent) to supplement the administrative fee to allow contractors to spend up to ten percent of the award on administrative activities. HHSC no longer provides the additional four percent in funding. ***The Committee recommends that HHSC's four percent additional support be reinstated.***

¹²³ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹²⁴ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

Recommendation 3: TDHCA should continue to increase the amount of dedicated HOME vouchers for individuals relocating from institutional settings.¹²⁵

Recommendation 4: The 81st Legislature (2009) should establish a separate General Fund program to support individuals whose income is only up to the 300 percent of the Supplemental Security Income level and who want to relocate from an institutional setting or remain in the community.¹²⁶

¹²⁵ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

¹²⁶ Vote 9-0-2: Tim Graves, THCA, and Jean L. Freeman, Ph.D., DADS Council, abstaining.

: MONEY FOLLOWS THE PERSON DATA

	TEXAS Department of Human Services	<h2 style="margin: 0;">Rider 28 Client Demographics</h2> <p style="margin: 0;">Data Effective Date: November 30, 2008</p>	Page 1 of 1
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Description: Demographic information about currently active Rider 28 Clients. Rider 28 clients are those individuals who have an 'Enrolled From' code 12 entered in SAS on or after September 1, 2003, AND who has not previously been identified as a Rider 37 client.

Living Arrangement	Client Count
COMMUNITY - ADULT FOSTER CARE	43
COMMUNITY - ALONE	1,541
COMMUNITY - ALTERNATIVE LIVING/RES. CARE	1,348
COMMUNITY - W/FAMILY	3,151
COMMUNITY - W/OTHER WAIVER PARTICIPANTS	143
ICF/IMR - COMMUNITY	1
OTHER	36
Total	6,263

Note: The "OTHER" category includes those clients with a null living arrangement or a living arrangement of Nursing Facility.

Service Group	Client Count
CBA	4,126
CLASS	48
COMMUNITY CARE	4
MEDICALLY DEPENDENT CHILDREN PROGRAM (958
NURSING FACILITY	1
STAR+PLUS	1,126
Total	6,263

Age Group	Client Count
0 - 9	691
10 - 17	239
100 +	17
18 - 20	43
21	3
22 - 44	448
45 - 64	1,712
65 - 69	521
70 - 74	521
75 - 79	629
80 - 84	640
85 - 89	454
90 - 94	258
95 - 99	87
Total	6,263

Region	Client Count
00	3
01	277
02	373
03	1,716
04	754
05	361
06	476
07	601
08	650
09	175
10	121
11	756
Total	6,263

Gender	Client Count
FEMALE	3,695
MALE	2,568
Total	6,263

Ethnicity	Client Count
AMERICAN INDIAN OR ALASKAN NATIVE	24
ASIAN OR PACIFIC ISLANDER	51
BLACK- NOT OF HISP. ORIGIN	880
HISPANIC	1,305
UNKNOWN	298
WHITE- NOT OF HISP. ORIGIN	3,705
Total	6,263

: 2006 PROMOTING INDEPENDENCE PLAN STATUS REPORT

STATUS REPORT: 2006 PROMOTING INDEPENDENCE PLAN DIRECTIVES

The Health and Human Services Commission (HHSC), based on the Promoting Independence Advisory Committee's (Committee) recommendations made in its' 2006 *Stakeholder Report*, included the following implementation directives in the *Revised 2006 Texas Promoting Independence Plan (Plan)*.¹²⁷ The directives are numbered for ease of reference and do not reflect level of importance in relation to the other directives. The Plan categorized the recommendations into the following areas:

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.

THE FOLLOWING RECOMMENDATIONS (1-3) RECEIVED NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS

1. Required 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).

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

Even though there is was not direction to create a MFP process for individuals residing in ICFs/MR, there are related activities which will help promote individual choice and movement into community-based services. The state included as part of their MFP Demonstration proposal an initiative to work with providers of nine or more bed community ICFs/MR who want to change their business model and take those current beds off-line; see status on the following recommendation for more detail. Individuals will be given a choice to remain in an ICF/MR or move into the Home and Community-based Services (HCS) program.

In addition, Senate Bill 27 (80th Legislature, 2007) amends and strengthens the community living options process which is now known as the "Community Living Options Information Process (CLOIP)". The legislation requires that DADS transfer the administration of the CLOIP process from state school staff and delegate that function to the local mental retardation authority (MRA) to help ensure a more independent information process; CLOIP is only for adults residing in the state school system and

¹²⁷ For the full report see DADS' website at: <http://www.dads.state.tx.us/business/pi>; see Appendix C for the Promoting Independence Advisory Committee's full text of its recommendations.

became effective January 1, 2008. The anticipated effect is that more individuals will choose the HCS program.

2. Required 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.

The 80th Legislature (2007) did not provide policy direction or appropriations.

However, the 80th Legislature was supportive of HHSC's and DADS' submission of the *Money Follows the Person Rebalancing Demonstration's (Demonstration) Operational Protocol (OP)*. As part of the OP, HHSC and DADS proposed a limited program to test the concept of "voluntary closure" of nine or more bed ICFs/MR. The 80th Legislature attached Section 7(a) to the 2008-2009 General Appropriations Act (Article II, Special Provisions, Regular Session, 2007), which allows HHSC to utilize the enhanced funding resulting from the Demonstration in order to support the Demonstration's activities.

3. Required 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

However, the 80th Legislature did provide \$82 million General Revenue to fund (Mental Health) Crisis Redesign (2008-2009 General Appropriations Act, Title II, DSHS, H.B. 1, Regular Session, 2007).

THE FOLLOWING RECOMMENDATION IS COMPLETED

4. Required 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.

Status

The 80th Legislature provided \$71.4 million General Revenue for DADS community-based Medicaid (c) waiver programs which results in 8,598 new community "slots". In addition, the Health and Human Services Commission received \$19 million General

Revenue, \$47.8 million All Funds to fund the acute portion of DADS' increased appropriation for its 1915 (c) waiver programs and to fund 304 additional 1915 (c) Medicaid waiver slots for STAR+PLUS.

DARS was appropriated funds to serve everyone on the Comprehensive Rehabilitation Services Program waiting list; currently there is no one waiting. DARS also received \$.6 million to reduce the waiting list for the Independent Living Services Program; a waiting list still remains.

DSHS did not receive any funds to reduce the adult waiting list; however, it was given a special appropriation to reduce the children's community mental health waiting list. The Legislature appropriated \$2,188,994 General Revenue for this program which will provide an additional 432 "slots" over the biennium. The 80th Legislature also appropriated funds to DSHS for the Children with Special Health Care Needs Services Program. The 2008-2009 General Appropriations Act (Article II, DARS, Special Provisions, H.B. 1, 80th Legislature, Regular Session, 2007) provided \$2,484,666 General Revenue in Fiscal year (FY) 2008 to serve 343 individuals and \$4,969,332 General Revenue in FY 2009 to serve 646 individuals in the Children with Special Health Care Needs Services Program.

THE FOLLOWING RECOMMENDATION IS PARTIALLY COMPLETED

5. Required 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.

Status

The 80th Legislature (2007) did not provide appropriations. However, HHSC received legislative direction to work on both issues. HHSC is planning to revise its Medicaid telemedicine rules/policies. In addition, HHSC received a Medicaid transformation grant (\$4 million) to enhance the health passport for children in foster care.

In addition, the 80th Legislature attached Rider 30 to the 2008-2009 General Appropriation Act (Title II, DARS, House Bill 1, Regular Session, 2007). Rider 30 directs \$2 million over the biennium to be spent for the purpose of providing assistive technologies, devices, and related training to those with significant disabilities to remain in the community.

WORKFORCE AND PROVIDER NETWORK STABILIZATION: these are directives to increase reimbursement rates in order to help stabilize the direct services and supports professional workforce.

THE FOLLOWING RECOMMENDATIONS (6-7) RECEIVED NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS

6. *Required 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).

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

7. *Required 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

THE FOLLOWING RECOMMENDATION IS COMPLETED

8. *Required legislative direction and/or appropriations.*

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

Status

Legislative direction was not required. HHSC has approved these rates. The nursing rates in general were increased above what was initially funded to align them with other HHSC nursing rates.

THE FOLLOWING RECOMMENDATION IS PARTIALLY COMPLETED

9. *Required 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.

Status

The 80th Legislature appropriated dollars for an approximate five percent increase for providers of community-based services.

SERVICE IMPROVEMENT: these are directives to improve the current services system.

THE FOLLOWING RECOMMENDATION IS COMPLETED

10. 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.

Status

DADS conducted a “complex needs initiative” during most of Fiscal Year 2007. One of the products from that initiative was the development of the “individual responsibility agreement” (IRA). DADS conducted formal training with providers and DADS staff regarding how to work with individuals with complex needs who want to relocate; part of that training focused on the IRA.

THE FOLLOWING RECOMMENDATION IS ONGOING

11. 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.¹²⁸ The investigation should examine efficiencies in administration, service definitions, and appropriate rate level for services.

Status

DADS has an ongoing initiative to review its waiver programs.

THE FOLLOWING RECOMMENDATION WAS NOT DONE

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

Status

There has been no directive at this time to investigate different management structures. However, Senate Bill 1766 (80th Legislature, 2007) reinforces current CDS initiatives and

¹²⁸ 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.

continued the statewide CDS Workgroup. In addition, HHSC and DADS worked through FY 2007 to include the CDS option in the Home and Community-based Services (HCS) and the Texas Home Living waivers. In addition, HHSC and DADS are working towards a statewide expansion of the “service responsibility option” (SRO).

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.

THE FOLLOWING RECOMMENDATIONS (13-15) RECEIVED NO LEGISLATIVE DIRECTION AND/OR APPROPRIATION

13. Required 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).

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

14. 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

However, DADS is administering the Aging and Disability Resource Center (ADRC) grant which is currently testing three models of “one-stop shopping” and community collaboration, which includes community navigators; see section on Grants in this report for more information. DADS will be expanding the ADRC program to five additional sites in Fiscal Year (FY) 2009 for one year and continue the three original sites during FY 2009.

15. Requires legislative direction and/or appropriations.

i.1.1.1 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations; however, Medicaid transportation was transferred from the Texas Department of Transportation to HHSC.

THE FOLLOWING RECOMMENDATION IS ONGOING

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

Status

HHSC and DADS began researching how to match the General Revenue dollars that fund the relocation activity. However, the final interim rules from the Centers for Medicare and Medicaid Services (CMS) regarding targeted case management/case management would make this activity administratively burdensome. However, through the Money Follows the Person Demonstration, relocation dollars are being matched at the enhanced federal medical assistance percentage.

THE FOLLOWING RECOMMENDATION IS PARTIALLY COMPLETED

17. Required 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 80th Legislature included Rider 29 to the 2008-2009 General Appropriation Act (Title II, DARS, H.B. 1, Regular Session, 2007) which directs DARS to use \$1 million General Revenue to be used to establish two new CILs.

The new Independent Living Centers funded during the 80th Legislative Session, Rider 29, continue to develop. South Texas Advocacy and Accessibility Resource Services (STAARS) and Not Without Us (NWU) will serve people with disabilities by providing peer counseling, independent living skills training, systems advocacy, and information and referral services. Both will also offer relocation services for persons with disabilities who want to move from an institutional facility into a community setting, American Sign Language classes, and interpreting programs for consumers.

South Texas Advocacy and Accessibility Resource Services (STAARS) -- Laredo

The Valley Associates for Independent Living (VAIL) from McAllen is the contractor for the South Texas Advocacy and Accessibility Resource Services (STAARS) in Laredo. STAARS proposes to provide independent living services for persons with significant disabilities in Dimmit, Duval, Jim Hogg, La Salle, Maverick, Webb, Zapata and Zavala counties. Their headquarters is in Laredo.

VAIL is still in the process of beginning STAARS operations. After issues with a number of potential locations, STAARS secured office space in two buildings virtually across the street from one another. One will be the administrative building and the other will be used for consumer services. The consumer services building needs some modifications to make classroom and meeting rooms accessible. STAARS is currently working to get utilities activated in the buildings and furniture currently in storage at VAIL will be delivered this week. The website name and e-mail address have been reserved and will be staarscil.org.

Not Without Us (NWU) -- Abilene

The Lubbock based LIFE/RUN is the contractor for Not Without Us in Abilene. Not Without Us will provide services for persons with significant disabilities in Callahan, Eastland, Jones, Shackelford, Stephens, and Taylor counties. LIFE/RUN has been serving Abilene and the surrounding area since March of 2004, under a relocation contract with the Texas Department of Aging and Disability Services (DADS). As a result, LIFE/RUN already had an established office located in the service area at 3303 N. 3rd St., Suite B, Abilene, TX 79603.

NWU is almost fully staffed and is in the process of forming the advisory board; four individuals have expressed interest and became operational on April 1, 2008.

CHILDREN'S SUPPORTS: these directives will help many of Texas' children to reside in community settings.

THE FOLLOWING RECOMMENDATIONS (18-20) RECEIVED NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS

18. 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations; however, the Health and Human Services Commission did add an Exceptional Item to its 2010-2011 Legislative Appropriations Request to fund this program during the next biennium.

19. Required 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

20. Required legislative direction and/or appropriations.

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

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

THE FOLLOWING RECOMMENDATION IS COMPLETED

21. Required legislative direction and/or appropriations.

i.1.2 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 80th Legislature included the following riders in the 2008-2009 General Appropriations Act (Article II, DADS, H.B. 1, Regular Session, 2007):

- Rider 41: allows an individual under 22 leaving a nursing facility under “money follows the person” to access any 1915 (c) waiver upon conditions of eligibility.
- Rider 42: allows for an individual 21 years or younger, seeking to leave an intermediate care facility for persons with mental retardation (ICF/MR), and is ineligible for services under the home and community-based services (HCS) program, to be offered services under another 1915 (c) waiver, as long as they meet those eligibility criteria.

- Rider 43: continues Rider 46 (2006-07 General Appropriations Act, Article II, Department of Aging and Disability Services, S.B. 1, Article II, 79th Legislature, Regular Session, 2005) that was attached to DADS' General Appropriation for FY 2006-2007. This Rider establishes a pilot program for 50 individuals under the age of 22 to leave an intermediate care facility for persons with mental retardation (ICF/MR) and have expedited access to community programs.

The 80th Legislature also appropriated \$6.6 million General Revenue, \$16.6 million All Funds, for 300 additional dedicated HCS slots for individuals leaving fourteen or more bed ICFs/MR (180 slots) and children aging out of foster care (120 slots).

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.

THE FOLLOWING RECOMMENDATION RECEIVED NO LEGISLATIVE DIRECTION AND/OR APPROPRIATIONS

22. *Required 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.

Status

The 80th Legislature (2007) did not provide policy direction or appropriations.

THE FOLLOWING RECOMMENDATION IS COMPLETED

23. *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.*

Status

See **HOUSING** section of this 2008 Stakeholder Report.

THE FOLLOWING RECOMMENDATION IS ONGOING

24. *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.*

Status

The plan has not been developed. The state agencies were working on the Demonstration's OP during most of FY 2007 and included a significant section on housing where the state commits to having a plan.

PROMOTING INDEPENDENCE PRINCIPLES: this directive reinforces HHSC's commitment to the Promoting Independence Initiative.

THE FOLLOWING RECOMMENDATION IS ONGOING

25. HHSC will ensure that the Promoting Independence Initiative's (Initiative) 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.

Status

This recommendation is ongoing. HHSC is very supportive of the Promoting Independence Initiative philosophy and has instructed its operating agencies to include the Initiative's principles in all of its activities.