TEXAS HEALTH AND HUMAN SERVICES COMMISSION

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

The Revised Texas Promoting Independence Plan

In Response to SB 367, 77th Legislative Session,
Executive Order RP-13,
and the
***Olmstead vs. L.C.* Decision**

Submitted to the Governor and the Texas Legislature

December 2004

Table Of Contents

I. Executive Summary 1

II. Introduction and Purpose 14

III. Background 15

IV. The Promoting Independence Initiative Current Status 21

A. A Summary Of Relevant Legislation, 78th Session 21

B. A Summary of Health and Human Services Legacy Agencies and other Related Agencies Promoting Independence Plan Activities 27

1. Health and Human Services Commission 27

2. Legacy Texas Department of Human Services 30

3. Legacy Texas Department of Mental Health and Mental Retardation 40

4. Legacy Texas Department on Aging 46

5. Legacy Texas Department of Health 47

6. Legacy Texas Department of Protective and Regulatory Services 48

7. Legacy Texas Rehabilitation Commission 52

8. Texas Department of Housing and Community Affairs 53

9. Texas Workforce Commission 53

V. Budgetary Information 54

VI. "At Risk of Institutionalization" and Funding and Capacity Issues and Implementation Steps. 55

VII. Children's Issues and Implementation Steps 59

VIII. Housing Issues and Implementation Steps 61

IX. Workforce Issues and Implementation Steps 62

X. Agency Specific Implementation Steps by Health and Human Services Commission and Departments 64

A. Health and Human Services Commission.....64

B. Department of Aging and Disability Services 65

C. Department of State Health Services 67

D. Department of Assistive and Rehabilitative Services 67

E. Department of Family and Protective Services.....67

XI. Conclusion 68

Appendix A: Executive Order RP-13.....69

Appendix B: Executive Order GWB-99-2 73

Appendix C: PIAC 2004 Recommendations Document.....76

Appendix D: Agency Accomplishments Chronology, 1999-2004 86

Appendix E: Community Care Clients Served: Appropriated vs. Actual/Budgeted.....103

Appendix F: HHSC Consolidated Budget Options to Address Interest/Waiting Lists 105

Appendix G: Legacy TDHS Rider 28 Client Demographics 110

Appendix H: DFPS Pertinent Statistics Chart.....112

EXECUTIVE SUMMARY

INTRODUCTION AND PURPOSE:

The Texas Promoting Independence Plan serves several purposes within the state. First, 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.* Additionally, the Promoting Independence Plan assists with the implementation efforts of the community-based alternatives Executive Order, RP-13, from Governor Rick Perry.[1] The Promoting Independence Plan Revision also meets the requirements of the report referenced in Senate Bill (S.B.) 367, 77th Legislature, Regular Session, 2001, which directs the Health and Human Services Commission (HHSC) to report the status of the implementation of a plan to ensure appropriate care settings for persons with disabilities, and the provision of a system of services and supports that foster independence and productivity, including meaningful opportunities for a person with a disability to live in the most appropriate care setting.[2] Finally, the Promoting Independence Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.[3] 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 programs in Texas effectively foster independence and acceptance of people with disabilities and provide opportunities for people to live productive lives in their home communities.

BACKGROUND:

To fully understand the purpose, comprehensive nature, and implications of the Promoting Independence Initiative within the state we must start with the history of the initiative and include relevant information related to the *Olmstead* decision.

The U.S. Supreme Court ruled in *Olmstead v. L.C.* that unnecessary institutionalization of persons with disabilities in state institutions would constitute unlawful discrimination under the Americans with Disabilities Act (ADA)(42 U.S.C. 12132). The Court ruled that states are required to place persons with disabilities in community settings, rather than in institutions, when:

1. the state's treatment professionals have determined that community placement is appropriate;
2. the transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and
3. the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with disabilities. (119 S.Ct. 2176, 2190).

---

[1] 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 LTC services and supports, make appropriate recommendations, and implement specific Gubernatorial directives. See Appendices A and B.
[2] S.B. 367 – 77th Session of the Texas Legislature, Subchapter B, Chapter 531, Government Code.
[3] Executive Order GWB 99-2. See Appendix B.

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, 2187), and that the state's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not boundless (119 S.Ct. 2176, 2188).

The United States Congress instructed the U.S. 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." (28 CFR § 35.130(b)(7)(1998)). Fundamental alteration of a program takes into account three factors:

- The cost of providing services to the individual in the most integrated setting appropriate;
- The resources available to the state; and
- How the provision of services affects the ability of the state to meet the needs of others with disabilities. (119 S.Ct. 2176, 2188 -2189)

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. (119 S.Ct. 2176, 2189 - 2190).

Following the *Olmstead* decision, HHSC embarked on the Promoting Independence Initiative and appointed the Promoting Independence Advisory Board, as directed by Executive Order GWB 99-2. The Promoting Independence Advisory Board met during fiscal years 1999 and 2000 and assisted HHSC in crafting the state's response to the *Olmstead* decision. This was accomplished by the development and on-going implementation of the original Promoting Independence Plan and the Revised Promoting Independence Plan,[4] delivered to the Texas Legislature in January 2001 and December 2002, respectively.

A significant piece of legislation passed during the 77th Session of the Texas Legislature, Senate Bill (S.B.) 367. The goal of this bill was to continue the efforts of the Promoting Independence Plan, and among other things, it re-named the Promoting Independence Advisory Board to the

[4] The Promoting Independence Plans may be found at:
http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp.

S.B. 367 Interagency Task Force on Appropriate Care Settings for Persons with Disabilities (S.B. 367 Task Force"). During the 78th Legislative Session, House Bill (H.B.) 2292 was enacted, and it required HHSC to certify various advisory committees as exempt from abolition. HHSC Executive Commissioner Albert Hawkins certified the S.B. 367 Task Force as exempt from abolition, although HHSC and stakeholders agreed to simplify its name. The SB. 367 Task Force is now referred to as the Promoting Independence Advisory Committee (PIAC).

H.B. 2292 has had far reaching implications for all health and human services programs as it consolidates the twelve health and human services agencies into four departments reporting directly to the Executive Commissioner of HHSC. As of September 1, 2004, the departments and their official consolidation dates are:

- Department of Aging and Disability Services (DADS), 9-1-04
- Department of State Health Services (DSHS), 9-1-04
- Department of Assistive and Rehabilitative Services (DARS), 3-1-04
- Department of Family and Protective Services (DFPS), 2-1-04

In this Plan, when referencing activities and/or accomplishments that occurred prior to the consolidation dates noted above, the legacy agencies will be cited: Texas Department of Human Services (TDHS); Texas Department of Mental Health and Mental Retardation (TDMHMR); Texas Department of Health (TDH); Texas Department on Aging (TDoA); Texas Department of Protective and Regulatory Services (TDPRS); and Texas Rehabilitation Commission (TRC).

Effective September 1, 2004, Executive Commissioner Hawkins has directed and authorized DADS to act on behalf of and in consultation with HHSC in all matters relating to the Promoting Independence Initiative. 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, serving as a direct report for this purpose to the HHSC Executive Commissioner.

THE PROMOTING INDEPENDENCE INITIATIVE STATUS, BUDGET REQUEST, AND REVISED IMPLEMENTATION STEPS:

HHSC has coordinated the PIAC efforts, and the committee met at least quarterly during fiscal years (FY) 2003 and 2004. During this time the PIAC monitored the implementation of recommendations from the Promoting Independence Plan, formed necessary workgroups to assist with the overall continued development of the Promoting Independence Plan, and made

further advisory recommendations to ensure the comprehensiveness and effectiveness of the plan. The PIAC's efforts culminated in a legislatively mandated report[5] to the HHSC, including all of the committee's recommendations for the revision of the Promoting Independence Plan.[6]

Each health and human service agency and other related agencies involved in the Promoting Independence Initiative have worked diligently during the past two years to make the Promoting Independence Initiative a reality in Texas. The agencies' activities have spanned efforts that are vast in scope and varied in activity. The agencies have accomplished such implementation steps as: (1) the legacy TDHS renewal and statewide expansion of relocation specialists contracts; (2) permanency planning for children in nursing facilities being assumed by Medically Dependent Children Program (MDCP) staff familiar with the special needs of children; (3) the addition of Transition Assistance Services and Support Family Services to certain Medicaid waiver programs; (4) the continuation of legacy TDHS Rider 37, now legacy TDHS Rider 28, to allow funds to follow the individual from the nursing facility to purchase desired community-based services; (5) the legacy TDMHMR provision of waiver services to individuals within the Intermediate Care Facility for people with Mental Retardation (ICF/MR) program who have received referral through the Community Living Options process; (6) the development and implementation of the Texas Home Living Waiver; (7) the legacy TDMHMR behavioral health services development of strategies for individuals with three hospitalizations within 180 days at a state mental health facility; (8) the legacy TDPRS efforts related to permanency planning and children within the conservatorship of TDPRS and improved caseworker training; (9) DARS launching of a pilot "Institution to Community Coordination" (ICC) service in the Dallas – Ft Worth metroplex; (10) the Texas Department of Housing and Community Affairs (TDHCA) set-aside HOME funds for the provision of housing vouchers to individuals affected by the *Olmstead* decision; and (11) a variety of other activities undertaken by the legacy TDoA, Texas Workforce Commission (TWC), and legacy TDH Children with Special Health Care Needs (CSHCN).

Many of the accomplishments during the past two years have resulted in system changes, including but not limited to: (1) the implementation and continuation of five Real Choice Systems Change Grants received from the Centers for Medicare and Medicaid Services (CMS); (2) the continuation of the Family Based Alternatives (FBA) project; and (3) other significant policy and program initiatives that have continued to change the way the state approaches service delivery for people with disabilities and their families.[7] Within the body of this revised plan is a detailed account of each agency's activities related to the Texas Promoting Independence Initiative.

BUDGETARY INFORMATION:

HHSC is responsible for coordinating specific budget requests related to the Promoting Independence Initiative and for the second consecutive session has submitted a consolidated budget reflecting the need for additional funding to support the Promoting Independence Initiative. During the last biennium, there was limited growth in community care allocations resulting in lower average monthly consumers served in some community care waiver

[5] The PIAC Stakeholder Report to the HHSC may be found at: http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp.
[6] For a list of all PIAC 2004 recommendations, see Appendix C.
[7] Agency Accomplishments Chronology, see Appendix D.

programs.[8] The FY 2006 – 07 biennium HHSC Consolidated Budget Request totals $306 million in general revenue for exceptional items to accomplish two critical goals: (1) supporting community services for people with disabilities; and (2) reducing waiting/interest lists for services and avoiding the creation of waiting/interest lists in some instances.[9]

In addition to these exceptional items, DADS' base budget request for the FY 2006-07 biennium includes $2.6 million in general revenue for community outreach and relocation services. HHSC's base request for Promoting Independence Activities includes $3.6 million in general revenue for the biennium.

IMPLEMENTATION STEPS OF REVISED PLAN:
HHSC, based on PIAC recommendations, has included the following implementation steps that are directed at addressing the barriers identified to providing community-based programs that effectively foster independence for people with disabilities. They have been organized by issue and agency to ensure specific agency responsibility for implementation.

"At Risk of Institutionalization" Issues Implementation Steps:

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

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

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

Funding and Capacity Issues Implementation Steps:

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

- *Requires legislative direction and/or appropriations.*
  If made permanent by the Legislature, HHSC would implement Section 18, Special Provisions Rider, to allow the use of funds appropriated for long-term care waiver slots to DADS for a) the establishment and maintenance of long-term care waiver slots; b) the provision of wraparound services that are specifically associated with such slots and that

[8] Community Care Clients Served: Appropriated vs. Actual/Budgeted, see Appendix E.
[9] HHSC Consolidated Budget, Options to Address Interest/Waiting Lists, see Appendix F.

relate to transitional services, access to immediate housing, and transportation services; or c) the development of family-based alternatives for children leaving institutions.

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

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

- *Requires legislative direction and/or appropriations.*
  If directed and/or funded by the Legislature, DADS would re-integrate the legacy TDHS Rider 28 "slots" into the base waiver numbers as was done prior to the 2004-05 biennium.

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

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

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

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

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

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

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

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

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

Children's Issues Implementation Steps:

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

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

- *Requires legislative direction and/or appropriations.*
  If directed and/or funded by the Legislature, HHSC would work with DADS to target 20% of newly appropriated Home and Community-Based Services (HCS) waiver slots (FY 2006 and FY 2007), for children placed on the waiver waiting/interest list as a result of S.B. 368 permanency planning efforts and for those children living in institutions within the Family Based Alternatives Project.

- HHSC will work with DADS and DFPS to examine all funding options including, but not limited to, allowing for appropriate waiver slots to be made available for children in Child Protective Services (CPS) custody, particularly for those placed in CPS licensed institutions for children with physical and cognitive disabilities.

- HHSC will work with appropriate HHSAs in order that the S.B. 367 Memorandum of Understanding (MOU) required for coordination of services for individuals transitioning from nursing facilities include the Early Childhood Intervention (ECI) agency to address those individuals from ages zero to two.

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

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

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

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

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

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

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

Housing Issues Implementation Steps:

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

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

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

- HHSC will, upon request, assist TDHCA in reanalyzing the distribution of HOME funds designated to the *Olmstead* population considering an RFP process to find a contractor for a statewide long-term contract instead of on an annual basis.

Workforce Issues Implementation Steps:

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

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

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

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

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

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

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

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

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

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

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

Agency Specific Implementation Steps:

HHSC Implementation Steps:

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

- In the Promoting Independence Initiative, HHSC has defined "individuals at imminent risk of institutionalization" as those individuals presenting at the front door for institutional services, who without these services have no supports in the community, have no natural support network, and have an immediate need for this level of care.

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

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

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

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

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

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

- HHSC will work with the identified responsible agency for guardianship to: (1) identify the number of individuals that Adult Protective Services (APS) places in nursing facilities; and (2) identify barriers in finding less restrictive placements.

DADS Implementation Steps:

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

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

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

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

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

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

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

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

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

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

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

DSHS Implementation Steps:

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

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

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

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

DARS Implementation Steps:

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

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

DFPS implementation Steps:

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

CONCLUSION:
In accordance with S.B. 367, 77th Legislature, Regular Session, 2001, on December 1 of each even numbered year, HHSC will use the information gleaned from the PIAC meetings and annual committee reports, agency reports and information, and continued public comment in order to revise the Texas Promoting Independence Plan. This biennial revision allows for the state's efforts to stay vibrant and effective in meeting the changing needs of individuals with disabilities. HHSC will continue to seek public input into its plan in order to obtain a variety of stakeholders' opinions and views. HHSC would like to thank all members of the PIAC and state agency staff, who have dedicated their time, resources, knowledge, abilities, and work in the development of this Plan and Initiative.

INTRODUCTION AND PURPOSE

The Texas Promoting Independence Plan serves several purposes within the state. First, 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*, 119 S.Ct. 2176 (1999). Additionally, the Promoting Independence Plan assists with the implementation efforts of the community-based alternatives Executive Order, RP-13, from Governor Rick Perry.[10] The Promoting Independence 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.[11] Finally, the Promoting Independence Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for people with disabilities.[12] 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 programs in Texas effectively foster independence and acceptance of people with disabilities and provide opportunities for people to live productive lives in their home communities.

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

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

[10] 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 Appendices A and B.
[11] SB 367 – 77th Session of the Texas Legislature, Subchapter B, Chapter 531,Government Code.
[12] Executive Order GWB 99-2, see Appendix B.

BACKGROUND

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

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

1. the State's treatment professionals have determined that community placement is appropriate;
2. the transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and
3. the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with disabilities. (119 S.Ct. 2176, 2190).

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, 2187), and that the state's responsibility, once it provides community-based treatment to qualified persons with disabilities, is not boundless (119 S.Ct. 2176, 2188).

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; and c) being regarded as having such an impairment. Examples of major life activities include caring for oneself, walking, seeing, hearing, speaking, breathing, working, performing manual tasks and learning, as well as basic activities such as thinking, concentrating, interacting with others, and sleeping. Age alone is not equated with disability; however, if an elderly person has a physical or mental impairment that substantially limits one or more of his or her major life activities, has a record of such impairment, or is regarded as having such impairment, he or she would be protected under the ADA. To be a "qualified" individual with a disability, the person must meet the essential eligibility requirements for receipt of services or participation in a public entity's programs, activities, or services (42 U.S.C. §§ 12131 (2), 12132).

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

Under another ADA regulation, states are obliged to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity." (28 CFR § 35.130(b)(7)(1998)). Fundamental alteration of a program takes into account three factors:

- The cost of providing services to the individual in the most integrated setting appropriate;
- The resources available to the state; and
- How the provision of services affects the ability of the state to meet the needs of others with disabilities. (119 S.Ct. 2176, 2188-2189)

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. (119 S.Ct. 2176, 2189-2190).

The Court in its opinion also acknowledged Congress' findings that discrimination against people with disabilities includes segregation, isolation, and institutionalization and that under the ADA an individual with disabilities has the legal right to be served in the most integrated setting. The Court stated that "confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment." (119 S.Ct. 2176, 2187).

Following the *Olmstead* decision, the Health and Human Services Commission (HHSC) embarked on the Promoting Independence 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 (FY) 1999 and 2000 and assisted HHSC in crafting the State's response to the *Olmstead* decision. This was accomplished by the development and on-going implementation of the original Promoting Independence Plan,[13] delivered to the 77th Texas Legislature in January 2001.

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

The first Promoting Independence Plan was submitted to the Governor and state leadership on January 9, 2001. The original Promoting Independence 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.[14] 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 who did not constitute a fundamental alteration in the state's services to live in the community. 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 Promoting Independence Plan recommendations and to ensure the continued revision of the Promoting Independence Plan in order to facilitate timely and effective implementation.

A significant piece of legislation passed during the 77th Session of the Texas Legislature was S.B. 367. Among other things, this bill re-named the Promoting Independence Advisory Board to the S.B. 367 Interagency Task Force on Appropriate Care Settings for Persons with Disabilities ("S.B. 367 Task Force"). The Commissioner of Health and Human Services appoints the task force members and its presiding officer. The HHSC Commissioner determines 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 his own Executive Order to further the state's efforts regarding its Promoting Independence Initiative and community-based alternatives for individuals with disabilities. Executive Order RP-13[15] highlights the areas of housing, employment, children's services, and community waiver services. The Executive Order includes coordination with the Texas Department of Housing and Community Affairs (TDHCA), the Texas Rehabilitation Commission (TRC), the Texas Commission for the Blind (TCB), and the Texas Workforce Commission (TWC). As a result of this order the S.B. 367 Task Force was expanded to include the appointments of a representative from the TDHCA, the TRC and the TWC.

A Revised Promoting Independence 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.

During the 78th Legislature, Regular Session, 2001, House Bill (H.B.) 2292 was passed. This bill has had far reaching implications for all of health and human services as it consolidates the twelve health and human services agencies into four departments reporting directly to the

[14] Executive Order GWB 99-2, see Appendix B.
[15] Executive Order RP-13, see Appendix A.

Executive Commissioner of HHSC. As of September 1, 2004, the departments and their official consolidation dates are:

- Department of Aging and Disability Services (DADS), 9-1-04
- Department of State Health Services (DSHS), 9-1-04
- Department of Assistive and Rehabilitative Services (DARS), 3-1-04
- Department of Family and Protective Services (DFPS), 2-1-04

In this report, when referencing activities and/or accomplishments that occurred prior to consolidation dates noted above, the legacy agencies will be cited: Texas Department of Human Services (TDHS); Texas Department of Mental Health and Mental Retardation (TDMHMR); Texas Department of Health (TDH); Texas Department on Aging (TDoA); Texas Department of Protective and Regulatory Services (TDPRS); and Texas Rehabilitation Commission (TRC).

Within H.B. 2292 there was language requiring HHSC to certify various advisory committees as exempt from abolition. HHSC Executive Commissioner Albert Hawkins certified the S.B. 367 Task Force as exempt from abolition, although HHSC and other stakeholders agreed to simplify its name. The S.B. 367 Task Force is now referred to as the Promoting Independence Advisory Committee (PIAC). The PIAC continues to be the forum to provide input related to the state's Promoting Independence Plan and Initiative.

Effective September 1, 2004, Executive Commissioner Hawkins has directed and authorized DADS, in consultation with HHSC, to act on behalf of HHSC in all matters relating to the Promoting Independence Initiative. 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, serving as a direct report for this purpose to the HHSC Executive Commissioner.

MEMBERSHIP OF THE PROMOTING INDEPENDENCE ADVISORY COMMITTEE

Fiscal Year 2004 PIAC Membership is as follows:

Mr. Bob Kafka
ADAPT

Ms. Colleen Horton
Texas Center for Disabilities Studies
University of Texas, Austin

Ms. Ann Denton
Advocates for Human Potential

Ms. Candice Carter
AARP

Dr. Richard Garnett
ARC of Texas

Ms. Catherine Gorham
Texas Workforce Commission Commissioner Designee

Ms. Terry Durkin Wilkinson
Texas Department of Human Services
Board Representative

Ms. Marilyn Eaton
Texas Department of Human Services
Commissioner Designee

Mr. Dick O'Connor
Texas Department of Mental Health and
Mental Retardation, Board Representative

Mr. Barry Waller
Texas Department of Mental Health and
Mental Retardation
Commissioner Designee

Ms. Sara Dale Anderson
Texas Department of Housing and
Affairs Representative

Ms. Martha Bagley
Texas Rehabilitation Commission Community
Commissioner Designee

Ms. Adelaide Horn
Health and Human Services Commission
Commissioner Representative
Presiding Officer

Mr. Terry Childress
Health and Human Services Commission
Long-Term Care Services and Supports
Program Administrator

The PIAC has met on a regular basis during the last two years to continue the work of the former S.B. 367 Task Force and the state's development and implementation of the Promoting Independence Plan.

S.B. 367 provided specific charges related to the recommendations of the original Promoting Independence Plan. The charges include:

- To study and make recommendations on developing the comprehensive, effectively working plan required by S.B. 367 to ensure appropriate care settings for persons with disabilities;
- To identify appropriate components of the pilot program established by S.B. 367 for coordination and integration among the Texas Department of Human Services (TDHS), the Texas Department of Mental Health and Mental Retardation (TDMHMR), and the Texas Department of Protective and Regulatory Services (TDPRS);
- To advise HHSC giving primary consideration to methods to identify and assess each person who resides in an institution but chooses to live in the community and for whom a

transfer from an institution to the community is appropriate, as determined by the person's treating professionals;

- To advise HHSC on determining the health and human services agencies' availability of community care and support options relating to all persons described in S.B. 367; and
- To advise HHSC on identifying funding options for the plan.

THE PROMOTING INDEPENDENCE INITIATIVE CURRENT STATUS AND RELATED ACTIVITIES

HHSC has coordinated the PIAC efforts, and the committee met at least quarterly during FY 2003 and 2004. During this time the PIAC monitored the implementation of recommendations from the Promoting Independence Plan, formed necessary workgroups to assist with the overall continued development of the Promoting Independence Plan, and made further advisory recommendations to ensure the comprehensiveness and effectiveness of the plan. PIAC's efforts culminated in a legislatively mandated report[16] to HHSC, including all of its recommendations for the revision of the Promoting Independence Plan.[17]

A SUMMARY OF RELEVANT LEGISLATION PASSED IN THE 78TH SESSION

Reorganization Provisions of H.B. 2292

Through the enactment of H.B. 2292, the Governor and the Legislature directed Texas health and human services agencies to consolidate organizational structures and functions, eliminate duplicative administrative systems, and streamline processes and procedures that guide the delivery of health and human services to Texans.

The operations of the existing twelve health and human services agencies are re-aligned by consolidating similar functions into five agencies. The agencies within the health and human services system are:

- Health and Human Services Commission (HHSC)
- Department of State Health Services (DSHS)
- Department of Aging and Disability Services (DADS)
- Department of Assistive and Rehabilitative Services (DARS)
- Department of Family and Protective Services (DFPS)

In addition to consolidating administrative functions for all health and human services agencies into HHSC, H.B. 2292 also:

- Consolidates eligibility determination for health and human services programs into HHSC;
- Transfers responsibility for TANF policy to HHSC; and
- Abolishes advisory committees unless required by federal law or determined to be necessary by the HHSC Executive Commissioner.

An Executive Commissioner appointed by the Governor for a two-year term and confirmed by the Senate will oversee the operations of the Health and Human Services Commission. The

[16] The PIAC Stakeholder Report to the HHSC may be found at: http://www.hhsc.state.tx.us/about_hhsc/reports/search/search_LTC.asp.
[17] For a list of all PIAC 2004 recommendations, See Appendix C.

operations of each of the other agencies within the health and human services (HHS) delivery system will be supervised by a Commissioner, who is appointed by the HHSC Executive Commissioner with the approval of the Governor, and will report to the HHSC Executive Commissioner. A council composed of nine gubernatorial appointees will be created for each agency to provide advice on agency policies and programs. The Commissioners of the individual agencies will assist in the development of rules for their respective agencies, although the authority to adopt rules for each HHS agency is delegated to the Executive Commissioner of HHSC.

The transition to the consolidated system will be governed by a "Transition Plan" to be developed by HHSC and submitted to the Governor and the Legislative Budget Board. The Transition Oversight Committee will solicit public input in the development of the transition plan and must hold public hearings on the proposed transition plan no later than November 1, 2003. The final plan must be submitted to the Governor and Legislative Budget Board no later than December 1, 2003.

Medicaid Provisions of H.B. 2292
Provisions include but are not limited to:

- Maintains term of children's coverage (continuous eligibility period) at six months through 9/1/05 (Section 2.101).
- Allows more thorough methods to verify assets (such as using information from consumer reporting agencies, appraisal districts, or vehicle registration records) to be implemented (Section 2.85).
- Allows recertification through telephone interview or mail correspondence, unless HHSC determines a personal interview is necessary; allows adoption of rules based on risk-based factors to require a personal interview for recertification in those cases in which there is a high probability that eligibility will not be recertified (Section 2.99).
- Allows establishment of cost-sharing (i.e., co-pays and monthly premiums) based on federal maximum levels, to the extent it is cost-efficient (Section 2.103).
- Allows HHSC to establish prior authorization for high-cost medical services (Section 2.16).
- Makes provision of services under the Medically Needy Program subject to appropriation of funds (Section 2.96).
- Eliminates requirement for providing services by podiatrists, psychologists, and licensed marriage and family therapists (Section 2.156 - repeal of Human Resources Code, Sections 32.027 (b) and (e)).
- Allows establishment of four brand-name and 34-day brand-name supply limits for clients previously eligible for unlimited prescriptions (does not affect current three-prescription limits for certain clients) (Section 2.97).
- Allows establishment of rules for purchase and distribution of over-the-counter medications if more cost-effective than the prescription alternative (Section 2.107).
- Requires HHSC to establish a consumer-directed services program to provide a monthly stipend for certain Medicaid waiver clients receiving home and community-based services to direct the delivery of those services (Section 2.202).

Nursing Home Provisions of H.B. 2292
Provisions include but are not limited to:

- Allows Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation and good standing to satisfy the requirements for nursing home license renewal, as a pilot program (Sections 2.57 and 2.146)
- Requires development of minimum standards for nursing facilities and contract performance measures (Section 2.92).
- Prohibits excluding nursing home residents from receiving medical transportation for renal dialysis treatment (Section 2.87).
- Subject to availability of appropriated funds after money is allocated to base rate reimbursements, allows HHSC to operate a voluntary incentive program for increasing direct care wages and benefits (Sections 2.102 and 2.148).
- Establishes nursing facility quality assurance team to make recommendations for promoting high-quality care for nursing home residents (Section 2.109).
    - Team consists of 9 gubernatorial appointees who must be appointed by 1/1/04.
    - Team must make recommendations to TDHS by 5/1/04.
    - If determined appropriate, TDHS must implement recommendations by 9/1/04.

Mental Health and Mental Retardation Provisions of H.B 2292
Provisions include but are not limited to:

- Allows private Intermediate Care Facilities for people with Mental Retardation (ICF/MR) facilities and home and community-based support services flexibility to use Medicaid payments cost-effectively in the event of a rate reduction (Section 2.03).
- Imposes a quality assurance fee on state-owned ICF/MR facilities and makes conforming changes for calculation and reporting of patient days (Sections 2.64, 2.65, and 2.66).
- Expands uses of money in the quality assurance fund to other HHS purposes (Sections 2.67 and 2.156-repeal of Health and Safety Code Sections 252.206(d) and 252.207(b)).
- Requires privatization of ICFs/MR and all related waiver programs, but not before August 31, 2006; allows local authorities to serve as a provider only as a last resort (Sections 2.74, 2.82, and 2.82A).
- Requires local authorities to ensure provision of disease management practices with jail diversion strategies for adults with bipolar disorder, schizophrenia, or severe depression and children with serious emotional illnesses (Section 2.75).
- Modifies allocation of the duties of providers, local mental retardation authorities (MRAs), and the Department of Mental Health and Mental Retardation (TDMHMR) under the MRLA waiver program (Section 2.76):

    - Requires the provider of services to develop the plan of care and conduct case management.
    - Requires the MRA to manage waiting lists, perform functions related to consumer choice and enrollment, and conduct case management with regard to funding disputes.
    - Requires TDMHMR to perform surveying, certification and utilization review functions, and manage the appeals process.

    - Requires TDMHMR to review screening and assessment of level of care, case management fees paid to a community center, and administrative fees paid to a service provider.
    - Requires TDMHMR to allocate reimbursement funds related to case management between provider and local authority.
- After 8/31/04 and before 9/1/05, allows state mental retardation facilities or state mental health facilities to be privatized if services can be provided at a 25% reduction in cost and quality levels can be maintained at least at the levels indicated in the most recent ICF/MR survey or JCAHO accreditation determination (Sections 2.77 and 2.78).

Home Health and Community Support Services Provisions of H.B. 2292
Provisions include but are not limited to:

- Renames the "frail elderly program" the "community attendant services" program for home and community-based services provided to functionally disabled persons (Section 2.101).
- Exempts from licensure as a home and community support services agency (HCSSA) persons who provide services under a home and community-based services (HCS) waiver that is funded by TDMHMR (Sections 2.55, 2.56, 2.68, 2.69, 2.73, 2.113, 2.198, and 2.156-repeal of Health and Safety Code Sections 142.009(i), 142.0176, and 142.006(d), (e), and (f)). Exempt HCSSAs must still check employee misconduct registry and notify employees about registry.
- Employees exempt from licensure are not exempt from being listed on employee misconduct registry.
- TDHS may establish initial and renewal compliance fees for providers exempt from licensure.
- Exempts from licensure as an HCSSA a person providing home health as the employee of a consumer or entity or the employee of an entity acting as a consumer's fiscal agent (Section 2.55).
- Defines personal care services as personal assistance services and restricts the use of the term "personal assistance services" by a provider (Sections 2.193 and 2.194).

- Allows HCSSA employees who are nurses to purchase, store, and transport flu vaccines (Section 2.195).
- Allows investigation of alleged abuse or neglect by an HCSSA to be conducted without an on-site survey (Section 2.197).
- Allows home health services in the Comprehensive Care Program to be provided by non-Medicare certified providers (Section 2.204).

Transportation Service Provisions of H.B. 2292
Provisions include but are not limited to:

- Requires HHS agencies to contract with Texas Department of Transportation (TxDOT) for client transportation services; makes contracting with TxDOT optional for the Department of Protective and Regulatory Services (Sections 2.127-2.134).

- Requires TxDOT to hold at least one public hearing on the transition of transportation services (Sections 2.127).
- Allows TxDOT to contract with any public or private transportation provider or regional broker for providing transportation services (Section 2.127).
- Requires separate accounting and budgeting for TxDOT funds used to implement transportation services (Section 2.159).
- Requires transfer of medical transportation program from the Texas Department of Health to HHSC (Section 2.149).

Miscellaneous Provisions of H.B. 2292
Provisions include but are not limited to:

- Allows HHSC flexibility to set rates in accordance with HHSC rules and levels of appropriated funds (Section 2.03).
- Allows the permanent fund for health and tobacco education to be used for preventive medical and dental services to children in the Medicaid program (Sections 2.31 and 2.32).
- Allows the permanent fund for children and public health to be used for early childhood intervention (ECI) coverage for children with developmental delays and for providing grants to schools of public health (Section 2.33).
- Allows establishment of a sliding fee schedule for ECI services (Section 2.114).
- Moves the Transitional Planning Program into Vocational Rehabilitation Services to qualify for federal matching funds (Section 2.116).

HHSC Rider 13 (c), Limitation: Medicaid and CHIP Transfer Authority
As an exception to limitations on transfers, up to a total of $7.5 million in general revenue per fiscal year from Medicaid and Goal C, Insure Children, may be transferred to fund any of the following programs: PeopleSoft, Promoting Independence, Guardianship Program, Family-Based Alternatives, Community Resources Coordination Group (CRCG), and the Texas Integrated Funding Initiative (TIFI).

HHSC Rider 44, Evaluation of Mental Retardation Services
HHSC Rider 44 directs the Commission to work with providers, advocates, appropriate agency staff, and other persons or entities to: a) evaluate its current regulatory and administrative functions and those of agencies under its jurisdiction, relating to the provision of mental retardation services; b) review its current statutory authority and rules, regulations and procedures and those of agencies under its jurisdiction, relating to the provision of mental retardation services, to identify those which exceed federal requirements, add no value to current programs, are duplicative, or are overly burdensome or costly; and c) report its findings and recommendations to the Legislature not later than October 1, 2004.

HHSC Rider 55, Study of Facility Closures and Consolidations
During the 2004-05 biennium, HHSC shall study the feasibility of closure and consolidation of facilities funded by the TDMHMR (state mental health facilities and state mental retardation facilities). The Commission shall take into account information from clients, clients' representatives and families, service providers, advocates, and other interested parties in developing the recommendations. The Commission shall provide a report with site-specific

recommendations on closures and consolidations when the 2006-07 Legislative Appropriations Request is submitted to the Legislature.

Legacy TDMHMR Rider 53, Home and Community-Based Services Mid-Range Waiver
TDMHMR, in conjunction with HHSC, is authorized to seek approval from the Centers for Medicare and Medicaid Services (CMS) for a Home and Community-Based Services "mid-range" waiver to provide services and supports to persons with mental retardation who do not require out-of-home residential support.

Legacy TDMHMR Rider 54, Provision of Information About All Care Alternatives
TDMHMR shall provide to a person with mental retardation who is seeking residential services, or that person's legally authorized representative, information regarding the full continuum of care alternatives that are available, as well as information regarding spaces available in all care settings.

Legacy TDMHMR Rider 70, Feasibility Study for Six Bed Waiver Settings
In order to make TDMHMR waiver services more cost effective and maximize the number of persons served, the department shall study the feasibility, cost, and benefits of converting waiver residential services to six bed settings, beginning in fiscal year 2006. The study shall consider required provider rates, the transition costs to providers, and the impact on consumers. The study shall be developed with the assistance of a workgroup, which shall include department staff members, representatives of public providers, private providers, and advocates. The department shall complete the study by March 31, 2004, and will report its findings to the Legislature.

Legacy TDHS Rider 28, 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.

Legacy TDHS Rider 37, Community Care Waiver Slots
TDHS will not expand the base number of appropriated waiver slots through legacy TDHS Rider 28 transfers. Clients utilizing legacy 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. Legacy 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 legacy TDHS Rider 28 client leaves the waiver program, any remaining funding for the biennium shall remain in the nursing facility strategy. If legacy TDHS determines available revenue within community care strategies requires a reduction in the base number of slots for waiver programs, the department shall utilize attrition to meet appropriated levels.

Legacy TDHS Rider 7(b), Nursing Home Program Initiatives

- TDHS may not disallow or jeopardize community services for individuals currently receiving services under Medicaid waivers, if: (1) those services are required for the individual to live in the most integrated setting; (2) the reimbursement rate paid for

needed services does not exceed 133.3 percent of the reimbursement rate that would have been paid for that same individual to receive comparable services in an institution over a six month period; and (3) the department continues to comply with the CMS cost-effectiveness requirements.

Special Provisions Relating to All Health and Human Services Agencies - Sec. 18, Limitation on Appropriations for Long-Term Care Waiver Slots.

None of the funds appropriated to TDHS and TDMHMR for long-term care waiver slots may be utilized for purposes other than the following, unless the alternative purpose was previously authorized by the Legislative Budget Board and the Governor:

a. the establishment and maintenance of long-term care waiver slots;
b. the provision of wraparound services that are specifically associated with such slots and that relate to transitional services, access to immediate housing, and transportation services; or
c. the development of family-based alternatives for children leaving institutions as authorized in Government Code § 531.055, as added by Acts 2001, 77th Legislature, Chapter 590.2.

A SUMMARY OF RELATED AGENCY PROMOTING INDEPENDENCE PLAN ACTIVITIES

THE HEALTH AND HUMAN SERVICES COMMISSION

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

HHSC is identified as the lead agency related to the Texas Promoting Independence Initiative. Since the development of the original Promoting Independence Plan, HHSC has been charged with the responsibility of monitoring and coordinating the implementation of the plan. Effective September 1, 2004, HHSC Executive Commissioner Albert Hawkins has directed and authorized DADS, in consultation with HHSC, to act on behalf of HHSC in all matters relating to the Promoting Independence Initiative, including coordinating the activities of the participating HHSAs and those agencies outside the purview of health and human services such as the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Workforce Commission (TWC), which may have programs, services, and policies that affect the Promoting Independence Initiative.

In FY 2004, HHSC Executive Commissioner Hawkins, through the authority of Rider 13(c), 78th Legislature, Regular Session, 2001, transferred $1.5 million to fund Promoting Independence activities. Of the $1.5 million, HHSC transferred $1.2 million to legacy TDHS to continue and expand relocation services, $160,000 to TDHCA to assist in the distribution of HOME funds,

and $140,000 to the Family-Based Alternatives Project. Executive Commissioner Hawkins has requested permission from the Legislative Budget Board (LBB) to transfer similar funding for FY 2005.

HHSC continues to assist and provide leadership related to innovations in the area of community-based long-term care services and supports. One such initiative is the Texas Real Choice Systems Change Grant administered by HHSC. The grant, which includes $1,385,000 dollars of funding for a three-year period, is being used to pilot infra-structure changes to the state's delivery system of long-term care, which in turn will assist people with disabilities and people who are aging in accessing community-based services in order to prevent unnecessary institutionalization and to facilitate self-determination and community inclusion. The main goal of the grant is to develop and pilot implementation of a "system navigator function" at the community level, which will assist individuals in accessing the appropriate services. This system navigator will help to overcome the fragmentation, varying eligibility criteria for services, duplicate intake and service administration barriers. Now in the grant's third year, Texas is testing the concept of system navigation, using two models: (1) system navigators located within a "single access point"; and (2) system navigators located across multiple, but highly coordinated access points. The piloting of these models is timely in relation to the new DADS agency. Aspects of the new models will inform DADS as it moves to provide fully integrated front door access for all long-term care services.

During FY 2002 and 2003 HHSC directed and coordinated the development of a new waiver, Texas Home Living (TxHmL), to serve individuals with mental retardation and related conditions. Together with the legacy TDMHMR, HHSC's goal was to preserve the individual's natural support network, while providing a much-needed package of essential services to individuals in the community who were currently eligible for Medicaid. It is believed that the provision of these services will allow individuals to remain in the community, in their homes, with their families, and therefore possibly prevent institutionalization. The TxHmL waiver was approved by CMS, and legacy TDMHMR received final state approval on May 21, 2004.

HHSC is responsible for coordinating specific budget requests related to the Promoting Independence Initiative and for the second consecutive session has submitted a consolidated budget reflecting the need for additional funding to support the Promoting Independence Initiative. This budget request totals $306 million in general revenue for exceptional items to accomplish two critical goals: (1) supporting community services for people with disabilities; and (2) reducing waiting/interest lists for services and avoiding the creation of waiting/interest lists in some instances.

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 those needs, HHSC established a Children's Long-Term Care Services and Supports Director position within HHSC in 2001. To further the focus on the unique needs of children, in 2004, 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. 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 (CGRC), which at the local level addresses service needs for children requiring multi-agency services. This office continues responsibility for the coordination of children's long-term care activities, including the Children's Policy Council, and various efforts related to community-based services for children, including: the monitoring of permanency planning activities at HHS agencies; coordination of the Family-Based Alternatives Project; and assistance to appropriate HHSAs regarding legislative directions, rules and operational procedural changes.

Children's Policy Council

The Children's Policy Council assists the HHSC 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 been examining issues relating to promoting opportunities for children with disabilities to grow up in families. The most recent recommendations were reported in the September 2004 report "Making Children a Priority."[18]

Senate Bill 368, 77th Legislature, Regular Session, 2001

HHSC, legacy TDHS and DFPS have worked cooperatively to strengthen permanency-planning efforts for children in institutions. HHSC worked with agencies to create permanency planning instruments and a technical assistance guide designed to help direct care staff in developing comprehensive, individualized plans. HHSC worked with legacy TDHS to help plan for the development of support family services in the CLASS waiver, and worked with DFPS to develop a family rate option for children at the Intense Level.

Family-Based Alternatives Initiative

The Family-Based Alternatives Project was authorized by S.B. 368, 77th Legislature, Regular Session, 2001, and supported by Governor Rick Perry in Executive Order RP-13, which operationalized the state's efforts to promote family life for children with disabilities. 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 system. Use of a family-based alternative does not require parents to relinquish custody of their children and does not limit parental choice but enables and encourages family life for children. The system values birth parents as an integral part of the process and encourages parents who are participating in this program to participate in all decisions affecting their children.

[18] The September 2004 Report, "Making Children a Priority," may be found on the HHSC website at: http://www.hhsc.state.tx.us/si/C-LTC/ltc_home.html.

LEGACY TEXAS DEPARTMENT OF HUMAN SERVICES
(Department of Aging and Disability Services 9-1-04)

Notification of Long-Term Care Options to Current Medicaid Nursing Facility Residents
Legacy TDHS informed all Medical Assistance Only (MAO) and Supplemental Security Income (SSI) nursing facility residents of long-term care options and their eligibility to bypass the interest list for the Community-Based Alternatives (CBA) Waiver program. To facilitate this process, legacy TDHS developed and deployed the Promoting Independence Procedural Guide in December 2000. All legacy TDHS field staff involved in the Promoting Independence activities completed training by May 2001.

Beginning in December 2000, legacy TDHS Medicaid Eligibility (ME) staff mailed the Long-Term Care Options Notices (LTCON) to current MAO nursing facility residents at the time of the Medicaid annual review. The notification included the ME Worker's telephone number and/or the region's customer service toll free number. This notification activity was completed in February 2002. Beginning in March 2001, legacy TDHS State Office staff sent the LTCON to all current SSI nursing facility residents. The notification included the State Office toll free number. This notification activity was completed in May 2002.

Notification of Long-Term Care Options to New Nursing Facility Applicants
Beginning in December 2000, LTCONs were included with all nursing facility applications and legacy TDHS ME staff were required to inform nursing facility applicants and/or their representatives, during the eligibility interview, of all long-term care options**,** the new CBA by-pass rule, and the benefits of legacy TDHS Rider 37/28.

Notification of Long-Term Care Options to Children in Nursing Facilities
Effective December 1, 2003, Medically Dependent Children's Program (MDCP) staff familiar with children and their needs are conducting Permanency Planning for children residing in nursing facilities and informing families of options. Major issues discussed with families include: the reason(s) for the child's placement in the facility; the relationship the family has with the child; the strengths and limitations of the child, family and home environment; the benefits of community-based services; and available resources to enable the child to move home or to a family-based alternative.

Computer Based Training
The Promoting Independence Computer Based Training (PICBT) for legacy TDHS staff was implemented in November 2000 and completed in May 2001 to ensure awareness of community-based services and the Promoting Independence Initiative, and to ensure sensitivity to persons with disabilities. New staff complete the training as a part of their Basic Jobs Skills Training. Legacy TDHS expanded the training to include Permanency Planning and the Community Awareness and Relocation Pilot Program components. As of May 2002, the training is available on the Internet. DADS will expand the CBT by the end of November 2004 to include information about additional services and supports available through the CMS Community-Integrated Personal Assistance Services and Supports (C-PASS) and Money Follows the Person Grants. The CBT will also include a component on Mental Retardation Services and Support

Options as well as supports available through the Ombudsman Program to individuals and their families who transition from the nursing facility to community living.

Real Choice System Change Grants for Community Living

Legacy TDHS was awarded two Real Choice Systems Change grants: 1) "Money Follows the Person" to educate agency staff and stakeholders about community care options and to establish transition workgroups at a statewide level; and 2) "Community-Integrated Personal Assistance Services and Supports" (C-PASS) to conduct a research and demonstration grant to further extend support systems to individuals interested in hiring, training, and managing their own attendants. The Money Follows the Person Initiative was awarded $730,422, and C-PASS was awarded $599,763. The funds may be expended over a 36-month period.

The goals of the Money Follows the Person initiative include: 1) ensuring all programs are considered when an individual decides to make the transition by educating and informing agency staff and interested stakeholders; and 2) establishing nursing facility transition workgroups at the local level to enable individuals to transition from the nursing facility to the community. Activities for this grant began by hiring the grant coordinator in January 2004. Other activities include: convened the Grants General Stakeholder meeting to inform about grant activities and identify Grant Task Force members; established the Money Follows the Person Task Force; published an RFP to procure the grant contractor; reviewed proposals and selected the Center on Independent Living (COIL) in San Antonio as the grant contractor to establish transition workgroups in every region; completed the Community Care Options and Person-Centered Planning curriculum and delivered the state office stakeholder Community Care Options training; posted the Community Care Options training material to the Promoting Independence web-page for public access http://www.dhs.state.tx.us/providers/pi/index.html; and held the second semi-annual stakeholder meeting to provide status of grant activities. Regional training on Community Care Options and establishment of transition workgroup activities began July 2004.

Progress of grant activities as of September 2004 include:

1) TDHS/DADS delivered the Community Care Options Stakeholder training to the Houston, Beaumont, and Edinburg areas. These areas will train long term care services staff interacting with consumers by December 2004. These trainings promote the education of staff, consumers, providers, and other stakeholders regarding choice, available community care options, principles of person-centered planning, and funding that follows the person. Stakeholders attending the training are using the training materials to train staff within their own organizations and other stakeholders in their communities. The knowledge and awareness about community care options will enable stakeholders to consider all options when assisting a consumer and/or family. It is also anticipated that increased awareness about community care options will also serve to divert some individuals at risk of institutionalization.

2) The contractor has established transition workgroups in the Houston, Beaumont, and Edinburg areas. Transition workgroups are comprised of DADS local staff, relocation contracted staff, and community stakeholders. These transition workgroups are coordinating services and supports for nursing facility residents with significant transition barriers.

The goal of the C-PASS initiative is to develop a system that provides a full array of choice in the degree and control Primary Home Care consumers have in their personal attendant care. Activities for this grant began by hiring the grant coordinator in January 2004. Other activities include: the grant contract was awarded for curriculum development (including video) to explain the continuum of attendant management options for the Service Responsibility Option (SRO) pilot and to provide a 1-800 number for consumers; semi-annual stakeholder meeting was held to provide an update on SRO activities to all interested stakeholders; and the contractor held focus groups in the Lubbock/Amarillo area, with consumers, providers, and TDHS/DADS staff to obtain input for training material and handouts. Informational meetings were held in Lubbock and Amarillo to introduce the project to local stakeholders and to begin to recruit providers for the SRO option.

Permanency Planning

In April 2001, legacy TDHS published a Request for Proposal (RFP) to procure a contractor(s) to provide permanency-planning services for all individuals under 22 years of age residing in nursing facilities. Legacy TDHS received one proposal, which was determined to be non-responsive to the RFP criteria. Under the Non-Competitive Procurement for Permanency Planning Services, legacy TDHS awarded the Permanency Planning Contract in November 2001, and the contract with the provider was finalized in January 2002.

The Permanency Planning contractor began training activities and the development of an automated reporting system in January 2002. Permanency planning activities began in March 2002, with 249 initial plans and 350 semi-annual reviews completed as of August 31, 2003. The Permanency Planning contractor and the Relocation Specialist contract staff established a referral system for the individuals identified through the permanency planning process and worked with the HHSC's contractor for Family-Based Alternatives (FBA) to refer children residing in nursing facilities (located in the initial FBA catchment area) to support families, if returning to the natural family home is not possible. The permanency planning contract ended on November 30, 2003. Beginning December 1, 2003, the legacy TDHS Medically Dependent Children Program (MDCP) staff, familiar with children and their needs, were assigned responsibility for permanency planning for children residing in nursing facilities. MDCP staff conducts these planning meetings using a team approach with social workers and a registered nurse. During the reporting period of September 1, 2003 through February 28, 2004, there were 204 completed plans resulting in: 12 children returning home, 1 child being moved to a family-based alternative setting, and 3 children being moved to non-family based alternatives.

Relocation and Community Awareness Pilot Sites

Legacy TDHS published an RFP in August 2001 to procure provider(s) for Community Awareness and Relocation Services (CARS). The providers were selected in April 2002, and the contracts finalized in May 2002. The contractors provided relocation services, including identification and assessment services, to 100 nursing facility residents at selected pilot sites. The three pilot sites include counties in the Austin, Houston, Crockett, Temple, and Corpus Christi areas. The contractors also conducted Community Awareness Services in the same locations. The duration of the pilot was for one year, but DADS extended the contracts through November 2003 to ensure continuity of relocation services to individuals already identified and

assessed by the CARS project. CARS contractors reported the following community awareness and relocation activities as of November 2003:

- Completed outreach material;
- Conducted outreach activities with nursing facility (NF) staff, residents, families, non-profit organizations, social workers, planners, physicians, hospitals and specialty clinics staff;
- Contacted and provided relocation information to pastoral communities, senior centers service centers, private businesses, community leaders, and other local state agencies such as the Department of Health Regional Offices and Local Workforce Development Boards;
- Coordinated relocation services with local home health agencies, and NF residents and family councils;
- Presented information at the President's Summit and received national media coverage;
- Identified 451 NF residents for transition;
- Completed 370 assessments; and
- Transitioned 130 NF residents from the NF to the community.

Following the end of the pilot, legacy TDHS published another RFP for statewide relocation services in December 2003. The providers were selected in February 2004, and the contracts were finalized March 1, 2004. Legacy TDHS contracted with four Independent Living Centers to transition 115 individuals statewide from March 1, 2004 through August 31, 2004. The contracts were renegotiated and extended through February 28, 2005. Statewide relocation activities as of August 31, 2004 include:

- 662 individuals identified;
- 408 individuals assessed; and
- 95 individuals transitioned.

Legacy TDHS Rider 37

During the 77th Session of the Texas Legislature legacy TDHS Rider 37 was passed for TDHS appropriations, which allowed the general revenue used to purchase NF services to follow the individual into the community and purchase community services.

The legacy TDHS Rider 37 and the HHSC Promoting Independence Plan garnered national recognition and interest. Therefore, TDHS has included some detailed information in this Plan related to how the agency implemented this rider. Legacy TDHS periodically transferred funds (on a retrospective basis) from the Nursing Facility funding strategy to the Community Care strategy. The amount transferred is equal to the actual amount expended on the individual for Community Care services he/she receives after he/she leaves the facility, rather than the amount that was being spent on the individual when he/she was in the facility. Funds are monitored, analyzed, and transferred on a global basis, i.e., the agency looks at expenditure levels for legacy TDHS Rider 37 individuals as a group, rather than on an individual-by-individual basis.

While Texas limits the number of "regular" 1915(c) waiver slots based upon the number of slots funded by the State Legislature, the waiver slots funded through legacy TDHS Rider 37 were allowed to increase based upon demand.

Between September 1, 2001 and August 31, 2003, a total of 3,206 individuals accessed community care services through legacy TDHS Rider 37. The chart below indicates the number of individuals who accessed services through legacy TDHS Rider 37 by fiscal year and remain actively enrolled in the respective program. The number of individuals will continue to decline as individuals leave the programs and no new legacy TDHS Rider 37 individuals are added. (Legacy TDHS Rider 28 was passed during the 78th Session of the Texas Legislature, replacing legacy TDHS Rider 37.)

Individuals Accessing Services through Legacy TDHS Rider 37 by State Fiscal Year[19]

Community Care Program	**SFY 2002**	**SFY 2003**	**SFY 2004**
Community Based Alternatives (CBA)	1,153	2,960	1,955
Community Living Assistance and Support Services (CLASS)	4	11	11
Medically Dependent Children Program (MDCP)		3	2
Community Care Services for the Aged and Disabled (CCAD)	3	3	4
Consolidated Waiver		1	1
TOTAL	**1,159**	**2,978**	**1,972**

Legacy TDHS Rider 28

With legacy TDHS Rider 28, 78th Legislature, Regular Session, 2003, the "money follows the person" concept continues, however, the Legislature also passed a **new legacy TDHS Rider 37** that directed TDHS not to expand the base number of appropriated waiver slots through legacy TDHS Rider 28 transfers. Clients utilizing legacy 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. Legacy 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 legacy TDHS Rider 28 client leaves the waiver program, any remaining funding for the biennium shall remain in the nursing facility strategy. If legacy TDHS determines available revenue within community care strategies requires a reduction in the base number of slots for waiver programs, the department shall utilize attrition to meet appropriated levels.

It is important to note that the occupancy rate for Texas nursing homes is low. Therefore, the potential for "backfilling," or refilling a Nursing Facility bed when an individual leaves with legacy TDHS Rider 28 services, is lower than it would be in states that have high occupancy levels and waiting lists. The fact that the agency transfers only the amount expended for services in the community-setting—which is less than the amount expended on the individuals when they

[19] Counts may be duplicative across fiscal years. Program attrition accounts for decreases; new enrollments account for increases across fiscal years.

were in a nursing facility—gives the agency a cushion to at least partially offset the cost of "backfilling."

Beginning September 1, 2003, through August 31, 2004, a total of 2,503 individuals accessed services through legacy TDHS Rider 28.

Individuals Accessing Services through Legacy TDHS Rider 28 by State Fiscal Year[20]

Community Care Program	**SFY 2004**
Community Based Alternatives (CBA)	2,467
Community Living Assistance and Support Services (CLASS)	18
Medically Dependent Children Program (MDCP)	16
Community Care Services for the Aged and Disabled (CCAD)	1
Consolidated Waiver	0
TOTAL	**2,502**

Legacy TDHS Rider 7

Legacy TDHS Rider 7 also passed during the 78th Session of the Legislature. This rider has several elements as follows:

a. Nursing Home Income Eligibility Cap. It is the intent of the Legislature that the income eligibility cap for nursing home care shall be maintained at the federal maximum level of 300 percent of Supplemental Security Income (SSI). Further, it is the intent of the Legislature that any cost-of-living increase in social security or other benefits sponsored by the federal government or that any increase in other pension plans should not result in the termination of Title XIX benefits for persons already eligible for services. TDHS is hereby authorized to expend general revenue funds to the extent necessary to insure the continuation of benefits to persons eligible.

b. Limitation of Per Day Cost of Alternate Care.

1. Subject to the exception in (2), no funds shall be expended by TDHS for alternate care where the cost per patient per day exceeds the average Medicaid nursing or ICF/MR facility rate or the patient's nursing or ICF/MR facility rate, whichever, is greater, except for cases individually exempted by the Board of TDHS or by the Executive Commissioner of HHSC.

2. TDHS may not disallow or jeopardize community services for individuals currently receiving services under Medicaid waivers, if those services are required for the individual to live in the most integrated setting, the reimbursement rate paid for needed services does not exceed 133.3 percent of the reimbursement rate that would have been paid for that same individual to receive comparable services in an institution over a six month period, and the department continues to comply with the cost-effectiveness requirements from the Centers for Medicare and Medicaid Services.

[20] For additional Rider 28 Client Demographics, see Appendix G.

c. Establishment of a Swing-bed Program. Out of the funds appropriated above for nursing home vendor payments, DHS shall maintain a "swing-bed" program, in accordance with federal regulations, to provide reimbursement for skilled nursing patients who are served in hospital settings in counties with a population of 100,000 or less. If the swing beds are used for more than one 30-day length of stay per year per patient, the hospital must comply with the regulations and standards required for nursing home facilities.
d. Nursing Home Bed Capacity Planning. It is the intent of the Legislature that DHS shall establish by rule procedures for controlling the number of Medicaid beds and for the de-certification of unused Medicaid beds and for reallocating some or all of the decertified Medicaid beds. The procedures shall take into account a facility's occupancy rate.
e. Nursing Facility Competition. It is the intent of the Legislature that DHS encourage competition among contracted nursing facilities.

As of August 31, 2004, 257 individuals qualified for a legacy TDHS Rider 7b. An individual qualifies under a legacy TDHS Rider 7b, if the total estimated cost of services exceeds the cost ceiling for that individual. The legacy TDHS Rider 7b cost is the amount equal to the cost ceiling minus the estimated cost of authorized services (not actual expenditures). Each waiver program has a cost ceiling, either a fixed amount (CLASS) or an amount determined by the individual's level of service (TILE).

Waiver	**# Rider 7(b)[21]**	**Total Amount Over Cost Ceiling**
Community Based Alternatives (CBA)[22]	195	$2,278,401
Community Living Assistance and Support Services (CLASS)[23]	58	$523,552
Deaf-Blind with Multiple Disabilities (DBMD)[24]	4	$85,853
Medically Dependent Children Program (MDCP)[25]	0	0
Rider 7b TOTALS	**257**	**$2,887,806**

Transitional Funding

Beginning in 2002, legacy TDHS implemented a statewide service, Transition to Living in the Community (TLC), to specifically target individuals moving from nursing facilities into the community. The TLC Program allowed legacy TDHS to provide one-time assistance of up to $2,500 to individuals who established a community residence. Transitional costs included items

[21] Does not include individuals with no plan cost ceiling (STAR+PLUS consumers).
[22] Cost ceiling based on TILE (Texas Index of Level of Effort).
[23] Does not include individuals with no plan cost ceiling (STAR+ PLUS consumers); Cost ceiling based on TILE (Texas Index of Level of Effort); Cost ceiling equal to $63,369.
[24] Cost ceiling equal to $59,750.
[25] Cost ceiling based on TILE, but cannot exceed $25,000.

such as utility deposits, essential furnishings, etc. Last year, as of August 31, 2003, 91 grants were approved for a total amount of $178,560.73. The average grants amount was $1,962.21. In March 2004, legacy TDHS contracted with relocation services providers to administer the TLC services. From March 2004 through August 31, 2004, 63 grants were approved through relocation services contracts.

Effective September 1, 2004, DADS included Transitional Assistance Services (TAS) in its waiver renewals and for MDCP, CBA, CLASS, and DBMD. (Approval is pending for the CWP). TAS provides for household items necessary to establish community residence, some minor home modifications, utility deposits, and other one time purchases to enable an individual to move from the nursing facility back to the community. The cost of this service will be part of the client's cost cap.

DADS will use existing TLC funds to provide transition assistance to individuals returning to the community under a non-waiver program. DADS is also exploring the possibility of using existing TLC funds to cover first month's rent, rent deposits and essential food items for individuals transitioning into waiver and non-waiver programs. TAS does not provide assistance for these items.

Evaluation of Legacy TDHS Promoting Independence Initiatives

In October of 2002, legacy TDHS contracted with the University of Texas to begin evaluating Promoting Independence activities. Staff and stakeholders are currently meeting with the university representatives in order to develop the evaluation tool, which was developed to identify outcomes achieved through the legacy TDHS Promoting Independence efforts. The Community Awareness and Relocation Services (CARS) evaluation was completed on August 31, 2003. Outcomes identified by the Evaluation include:

- By implementing the Community Awareness and Relocation Services pilot project in diverse areas of the state, Texas has taken significant steps toward responding to the *Olmstead* decision and providing opportunities for individuals to access community care and increase their independence.
- The project provided valuable insights into best practices for community awareness and relocation services, as well as improvements in consumer quality of life.
- Community awareness activities targeted nursing facility residents who desired to relocate to community settings as well as individuals with disabilities at risk of nursing facility placement. Activities performed to increase community awareness were diverse: articles in professional newsletters, outreach to nursing facilities and staff, face-to-face and phone contact, presentations, conferences, meetings, luncheons, public service announcements, and direct mailing of colorful and informative brochures were all utilized in the project. Relocating individuals from the nursing facility into community settings required labor-intensive processes at each project site. Some of these processes included screening, assessing, assisting with applications, coordinating activities between agencies, and adhering to complex policies and procedural guidelines. A total of 443 consumers were referred to the CARS project. Of the 443 referrals, 236 (53%) received relocation services and 97 (22%) were relocated from the nursing facility to the community for the period covering June 2002 through May 2003. Of l6 consumers

interviewed, all but one reported improvement in health, mood, life satisfaction, and social relationship after their transition.

- Lessons learned include:
  recognize that capacity to transition individuals depends greatly on inter-organizational collaboration;
  - employ experienced professional transition staff;
  - use a holistic assessment;
  - use a local advisory council;
  - collaborate with housing officials/representatives;
  - use a single point of contact with the state agency;
  - expect high administrative intensity and leadership; and
  - develop efficient reporting and monitoring.
- Evaluation Recommendations include:
  - conduct a follow-up study of a large sample of consumers who transitioned six months after leaving the nursing facility;
  - research trade-offs on the quality of the assessment tool to ensure health and safety;
  - seek legislative and executive support;
  - include strong advocacy groups;
  - develop incentives or other methods to foster collaboration at the local level; and
  - establish and maintain relationship with housing authority representatives.

Community Awareness

Legacy TDHS has expanded the Promoting Independence Computer Based Training to include the Permanency Planning and Community Awareness and Relocation Pilot Program components and is available via the Internet to DHS staff, other agencies, and the general public.

Legacy TDHS Regional and State Office staff inform a variety of individuals and entities about Long-Term Care Options and Promoting Independence activities through presentations at conferences, public forums, meetings and by request to other legacy TDHS program areas, other agencies, community organizations, and interest groups. Community Awareness activities performed by relocation contractors include, but are not limited to: training Ombudsman Volunteers; meeting with providers and the Long-Term Care Association; starting a housing project with Home of the Free; mailing community alternatives information letter to all nursing facilities in the pilot sites; and conducting outreach activities with Council of Governments, school administrators, MHMR Centers, adult caregiver groups, and over 68 nursing facilities.

Legacy TDHS/DADS is promoting the education of agency staff, consumers, providers, and stakeholders regarding choice, community care options, principles of person-centered planning, and funding that follows the person through the statewide Community Care Options training. This training was implemented May 2004 through the CMS grant for “Money Follows the Person.” The training is scheduled to be completed by the end of FY 2005.

Pilot Site Memorandum of Understanding
S.B. 367 required that legacy TDHS, legacy TDMHMR, and legacy TDPRS enter into a Memorandum of Understanding (MOU) to facilitate the coordination and implementation of a pilot program to provide a system of services and supports that fosters independence and productivity and provides meaningful opportunities for persons with disabilities to live in the community. The MOU was completed by involved agencies and the pilot program was implemented in June 2002. The MOU was presented to the legacy TDHS Board on January 10, 2003. The MOU was adopted by rule and published in the *Texas Register* with an effective date of January 30, 2003. DADS will initiate plans to revise this MOU to include DSHS and DFPS.

Housing Memorandum of Understanding
S.B. 367, 77th Legislature, Regular Session, 2001, requires that HHSC coordinate with legacy TDHS, legacy TDMHMR, and TDHCA to develop a housing assistance program to assist persons with disabilities in moving from institutional housing to integrated housing. The roles, responsibilities, and activities of each agency are described in the MOU. The commissioners of all involved agencies signed the MOU in May 2002.

TDHCA was selected to receive 35 housing vouchers from the U.S. Department of Housing and Urban Development (HUD). TDHCA and legacy TDHS implemented a system to distribute the vouchers statewide to eligible individuals with disabilities under 62 years of age who are moving from nursing facilities to the community. Legacy TDHS created a housing voucher waiting list and communicates the wait list information to TDHCA. TDHCA qualifies the individual and forwards the information to the appropriate Public Housing Authority (PHA) to issue the voucher. A Housing Workgroup was formed with representatives from the involved agencies, the S.B. 367 Task Force, and other interested stakeholders to facilitate the timely issuance of the vouchers and assist in building a system infrastructure to issue future vouchers if they become available.

Legacy TDHS, in collaboration with TDHCA and HUD conducted the Housing Voucher Program training, which included information regarding accessible, affordable, and integrated housing options. The training was completed in November 2002.

TDHCA issued the 35 vouchers (when?), however, some local housing authorities are assuming the cost of the vouchers through the local housing budget. This is allowing TDHCA to recycle the initial 35 vouchers. TDHCA has also dropped the “under 62 years of age” criteria for all recycled vouchers. This change allows nursing facility residents of any age to participate in the Housing Voucher Program as vouchers become available. Statistics through August 31, 2004, include 140 referrals and 51 approved vouchers.

LEGACY TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION
(Department of Aging and Disability Services 9-1-04)

MENTAL RETARDATION SERVICES
Community Living Options Process
State Mental Retardation Facilities (SMRFs) formally implemented the Community Living Options process in March 2000. Revisions to the MR Continuity of Services rule, that became effective in March 2002, requires that the Living Options review be conducted annually for children and adults, consistent with S.B. 367. The ICF/MR State Standards of Participation were revised to reference the MR Continuity of Services rule, effective January 1, 2002. The legacy TDHS/DADS surveys of SMRFs include this element as of January 1, 2002.

As of October 23, 2004, Client Assignment and Registration System (CARE) information indicated that of 5,011 persons residing in SMRFs, 99.6% have a current Living Options review date entered into the CARE system, indicating that living options have been discussed with almost all individuals and legally authorized representatives. The remainder is attributed to individuals recently admitted to a SMRF and for whom the living options discussion will occur within 30 days of admission. Approximately 27% of alternate living options discussions included Local Mental Retardation Authority (LMRA) participation in the process.

In community ICFs/MR the annual Living Options process was implemented by rule December 3, 2000. The ICF/MR provider was required to notify the LMRA when the individual or legally authorized representative preferred an alternative living option. During the past two years this process was monitored by DHS survey teams. Citation data regarding Living Options was reviewed monthly by legacy TDMHMR. In addition, if the number of a particular citation reaches a pre-determined threshold, the legacy TDMHMR could require the facility to develop a Directed Plan of Correction, in accordance with the legacy TDMHMR rules regarding ICF/MR Programs (25 TAC §419.266).

As of October 23, 2004, CARE information indicated that of 7,466 persons residing in community ICFs/MR, almost 92% have a current Living Options review date entered into the CARE system, indicating that living options have been discussed with most individuals and legally appointed representatives. Approximately 18% of individuals have a continued or new referral to the LMRA.

State Mental Retardation Facilities (SMRFs)
As of August 19, 1999, there were approximately 409 individuals residing in SMRFs who were recommended for and expressed an interest in community placement. Legacy TDMHMR had committed to make community placement options available to these individuals by August 31, 2001. A tracking system was established for the purpose of monitoring all individuals in this group. Additional tracking systems were in place for individuals who did not move by August 31, 2001, and continued to have a referral for an alternative living arrangement. Closure was obtained for all individuals in this group as of March 22, 2002. For most of the individuals, the community alternative placement was achieved or the individual's referral was withdrawn per an

Inter-Disciplinary Team (IDT) decision or at the request of the individual or legally appointed representative.

Another group of 236 individuals was referred for an alternate living arrangement, as of September 1, 2001, with a projected move date no later than February 28, 2002. As of November 2, 2002, of these individuals: 150 have moved to the HCS waiver program; 2 have moved to a small ICF/MR; 1 has moved to a medium ICF/MR; 1 has moved home to live with family, with supports/services provided by the local authority; 1 has moved to a private pay group home; 1 individual died; 79 have had their referrals withdrawn; and 1 individual is currently referred. Citizenship issues were resolved for this individual and she was recently determined Medicaid eligible, allowing the movement process to be initiated..

For individuals referred September 1, 2001 or later, legacy TDMHMR has committed to provide opportunities for community alternatives within 180 days of the request and recommendation for community placement. As of August 31, 2004, the number of additional referrals was 357. Of these individuals: 255 have moved to the HCS waiver program; 4 have moved to a small ICF/MR; 1 has moved to the Deaf-Blind Waiver program; 4 have moved home to live with family with supports/services being provided by the LMRA; 64 have had their referrals withdrawn; and 29 are currently referred.

Monitoring the Transition of Individuals from SMRFs

The legacy TDMHMR Performance Contract with Local Community Mental Health and Mental Retardation Centers was revised to include the 180 days timeframe for community placement. In order to ensure movement within 180 days from referral, oversight was provided by legacy TDMHMR through SMRF and Community Systems Management staff and a cross divisional Management Team within Central Office. A CARE report was available to the Local Mental Retardation Authority (LMRA) staff regarding individuals in SMRFs with a recommendation for an alternate living option. SMRF staff enter a new referral in CARE within 72 hours of the Interdisciplinary Team (IDT) decision and provide written notification to the LMRA within 5 working days of the decision.

Monitoring the Process for Referrals of Individuals in SMRFs

A Special Review Team (SRT) process was developed and implemented for individuals who had their referral withdrawn by the IDT. The SRT was designed to meet within 10 working days of an IDT decision to remove an individual from the referral list to review the determination and the IDT decision-making process. The SMRF Continuity of Services (COS) Steering Committee next reviewed the SRT documentation, providing feedback to the facility. A baseline review of Living Options documentation was accomplished for a 1% sample of SMRF residents, and facility-wide Living Options training (including permanency planning, when applicable) was conducted in January of 2002. Effective September 1, 2002, the SMRF division implemented a facility self-assessment process, which involves the use of a standardized monitoring instrument in reviewing a sample of Living Options summaries, per quarter. The facility self-assessment process was reviewed as part of the annual Quality Enhancement review that was coordinated by the department office for State MR Facilities.

Community ICF/MR Facilities (14 Beds or Larger):
As of September 1, 2002, there were 358 persons on the HCS waiting list and residing in a large community ICF/MR. Over the next two years this number increased to a high of 493 individuals but gradually began to decrease by August 31, 2004, primarily through the use of 396 HCS waiver slots that were created through the use of existing funds. Legacy TDMHMR initiated the release of these slots in June 2004. As of August 31, 2004, there were 454 individuals in large community ICFs/MR waiting for waiver services, with 57% waiting over one year. After all 396 waiver slots are filled, all individuals waiting over one year will have received an offer of HCS waiver services.

Legacy TDMHMR Operating FY 2003-04 Biennium
Legacy TDMHMR did not receive additional appropriations for additional waiver slots for the 2003-04 biennium; however, as noted above, it was able to create 396 additional waiver slots using existing funds for persons in large community ICFs/MR. Recycled waiver program slots enabled some additional individuals to move to community services.

Enrollment into Waiver Services
Responsibilities of the Local Mental Retardation Authority (LMRA) and related timelines for enrollment into waiver services continue to be defined in the performance contract for residents of SMRFs referred for an alternative living arrangement and residents of large, community ICF/MR facilities waiting for waiver services. LMRAs that do not meet the applicable timeframes are subject to penalties, as described in the performance contract.

Choice
In accordance with S.B. 367, 77th Legislature, Regular Session, 2001, legacy TDMHMR revised Texas Government Code, §531.042 to require at least one family member of an individual be informed of all care and support options available before the individual is placed in a care setting. If the individual has a legally appointed representative, information is to be provided to the representative. Previously, this statute required only that the individual and his or her guardian be provided with this information. Rules that were impacted include legacy TDMHMR's rules on HCS waiver program services, Continuity of Services for SMRFs, and Diagnostic Eligibility for Services and Supports – MR Priority Population and Related Conditions. During the past two years, legacy TDMHMR has continued to emphasize the importance of ensuring choice for consumers. In coordination with LMRAs the department developed a single document for use by LMRAs in providing the explanation of services and supports to individuals, legally appointed representatives, and family members. This document was incorporated into the performance contract, and legacy TDMHMR subsequently conducted a focused survey to assess consistency across LMRAs.

Permanency Planning
In accordance with Senate Bill 368, 77th Legislature, Regular Session, 2001, legacy TDMHMR revised the existing waiver program rules, the ICF/MR Program rules, and the Continuity of Services – State MR Facilities rules.

Revisions to these rules accomplished:

- An expanded definition of "institution" to encompass waiver program services when the individual resides in a setting other than the family or foster home – 3-4 bed homes;

- An expanded definition of “child” to include individuals with developmental disabilities under 22 years of age;
- Provisions that require an admission to an “institution” as temporary (i.e., six months). (In order to assist with implementation of this provision, legacy TDMHMR developed an oversight review and monitoring process, utilizing a combination of existing staff resources and the CARE system.);
- No later than the third day after admission to services, the program provider must notify certain entities of the initiation of services (i.e., the MRA, the community resource coordination group (CRCG) for the county in which the individual’s legally authorized representative resides; and the local school district, if the individual is at least three years of age, or the local early childhood intervention (ECI) program, if the individual is under three years of age);
- An MRA, upon receiving notification that an individual under 22 years of age has been admitted to an institution, may contact the individual’s parent or guardian to ensure that the parent or guardian is aware of: 1) services and supports that could provide alternatives to the institution; 2) available alternative living arrangements; and 3) opportunities for permanency planning;
- A volunteer advocate shall be designated to assist in developing a permanency plan for an individual admitted to an institution in a program administered by the department if: 1) the parent or guardian requests the assistance; or 2) the institution is unable to locate the parent or guardian of an individual; and
- Individual’s name is placed on waiting list for waiver services.

Legacy TDMHMR, in coordination with HHSC and other HHSAs, identified critical data elements on which regular reports are provided to HHSC. This information is used to inform the system and assist in the identification of resources needed for persons under 22 years of age. In addition, legacy TDMHMR developed a Technical Assistance Guide, which has been shared and used by other HHS agencies, to further assist staff conducting permanency planning with the new instruments.

Promoting Independence Web Site

The legacy TDMHMR maintained its web site on Promoting Independence for individuals, families of individuals, MRAs, and the general public. Features of the web site include general information about the Promoting Independence Initiative, and the legacy TDMHMR services and supports (both Medicaid funded and General Revenue funded). There are also links to other agency program information.

A search function on the web site allows the user to locate the appropriate MRA by entering a county or city. For information about ICF/MR facilities, a search function allows the user to select specific elements (e.g., gender of persons served by the facility, zip code), which are then used to locate ICF/MR programs with vacancies.

Other Legacy TDMHMR Initiatives

Real Choice Systems Change Grant - Legacy TDMHMR submitted a grant application to CMS in July 2003, in response to the "Real Choice Systems Change Grants for Community Living" request for proposals. Grant funds in the amount of $500,000 were awarded to legacy

TDMHMR on October 2, 2003, for "Quality Assurance and Quality Improvement in Home and Community-Based Services." Grant funds are being used to address processes for quality improvement across MR waiver programs. Upon completion in 2006, the project will serve to enhance Texas' Promoting Independence Plan and Initiative by ensuring that quality long-term care services and supports are received by individuals who transition from institutions to the community. The Quality Assurance/Quality Improvement Task Force ("QA/QI Task Force") selected the National Core Indicators developed by Human Services Research Institute (HSRI), as the recommended tool for DADS to use to measure participants' experiences in MR waiver programs. The task force also recommended that DADS work with HSRI and others to develop additional questions regarding self-determination that will be added to the National Core Indicators tool. A business analyst is currently designing the centralized information-gathering system. The QA/QI Task Force has begun reviewing the current interim critical incident reporting process and making recommendations to DADS to fully automate, modify, and expand the system.

Enrollments in Texas Home Living Waiver Program Services – Legacy TDMHMR and HHSC worked together to develop the new waiver known as "Texas Home Living (TxHmL)." Enrollment in the waiver for approximately 1,175 persons, who were refinanced from general revenue funding to waiver funding, began in June 2004 and was completed in September 2004. Beginning September 1, 2004, 1,591 slots are being authorized for filling during the year. These 1,591 slots are being offered to individuals on the DADS' HCS interest list. The addition of this waiver increases the array of community-based services for Texans and provides much needed relief to many individuals living at home who have been waiting for services. The waiver includes a new innovative service option entitled community support, and it provides supported employment and respite services to more individuals.

Refinance – In FY 2003 and early FY 2004, over 1,200 persons served with general revenue dollars were authorized for refinancing to existing HCS waiver program services. A savings in general revenue was realized from the refinancing of services from general revenue funding to the HCS waiver program. These savings were converted in order to pay the state match for 1,591 TxHmL waiver slots. Those TxHmL waiver slots are being offered to persons on the DADS' HCS interest list during FY 2005.

In the Spring of 2004, an additional 500 persons served with general revenue dollars were authorized for refinancing of services to the HCS waiver program, and approximately 1,175 persons were authorized for refinancing of services funded with general revenue to the new TxHmL waiver program. The refinance enrollments into HCS were complete as of September 1, 2004. The refinance enrollments into TxHmL were complete as of September 30, 2004.

MENTAL HEALTH SERVICES

Extended Hospitalizations (of One Year of More)

As of August 31, 2004, the nine State Mental Health Hospitals averaged a daily census of 2,274 with 18,479 admissions during FY 2004. For most individuals, inpatient psychiatric care lasts no more than a few weeks. The average length of stay for those patients admitted and discharged during FY 2004 was 25.78 days; however, for some individuals with severe treatment needs, longer lengths of stay were needed. Legacy TDMHMR monitored patients' lengths of stay for

identification of barriers that may delay community placement. In the future this activity will continue under the oversight of DSHS. Quarterly, a report is generated that identifies all patients who have been hospitalized for more than a year. The report is sent to the respective hospitals, which verify the status of each patient and any barriers that may exist impeding the discharge of the individual. The State Hospital and the Local Mental Health Authority (LMHA) prepare a revised Continuity of Care Plan for persons with identified barriers.

As of August 31, 2004, 355 persons were hospitalized in State Hospitals for a period of more than one year. Of these patients: 218 need continued hospitalization; 11 have been accepted for community placement; 19 have a barrier to placement; and 107 have court involvement.

Mental Health - Community

In 2001, legacy 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 to solicit policy input for mental health services to adults and children to prevent unnecessary institutional care rather than community care. A great deal of focus was placed on collecting and analyzing data on the needs of individuals who have had three inpatient hospitalizations within a 180-day period or whose length of stay has exceeded one year. The data was used to inform policy that resulted in these individuals being given a priority for the most intense levels of services to support them in the community.

Effective February 2002, the CARE system was updated to generate monthly reports identifying persons who had two admissions in 120 days, and therefore are likely to have a third in 180 days. The MH Continuity of Care rule, which governs the practices of state hospitals and Local Mental Health Authorities (LMHA), was revised to include provisions that address the service needs of these individuals. In 2003, the performance contract between the department and the LMHAs was modified to redefine eligibility criteria for the most intensive community services - Assertive Community Treatment. Persons with multiple admissions or extended lengths of stay began to get priority for these intensive services beginning in September 2003.

In 2004 a new uniform assessment tool was developed and tested that includes the new criteria and facilitates the identification and tracking of these individuals, as well as measures their treatment outcomes. This new tool began being used statewide in September 2004.

Legacy TDMHMR continued to gather and analyze data on individuals identified as meeting this criterion in order to determine what services and supports they are receiving. For the adult population, the Center for Disability Studies (CDS) has completed a report on a study it conducted in FY 2002. The study was based on interviews with adults identified as receiving community services along with having a history of multiple hospitalizations. For children, legacy TDMHMR contracted with a local advocacy group to conduct a survey of the children and adolescents that were part of the identified population. The survey and the report have both been completed. Results of the surveys will help to further shape mental health policy for the Promoting Independence population.

A Real Choice Grant was received in 2003, as a joint effort between HHSC, legacy TDMHMR and legacy TDPRS. HHSC was awarded $93,600 in grant funds for "Community-Based Treatment Alternatives for Children." This grant has supported activities to determine the feasibility of, and the most appropriate plan for, using a 1915(c) Medicaid waiver to:

- provide quality, evidenced-based treatment to children with severe emotional disturbances (SED) in their homes and communities; and
- serve more eligible children than is feasible without intensive home and community-based services.

The RFP to select the consultant resulted in a vendor, Community Ties of America (CTA), being selected. CTA is based in Tennessee and has substantial experience in crafting 1915 (c) waivers. A draft of the feasibility study on community-based alternatives for children with SED is complete. The feasibility study found that the historical expenses for this population make a waiver feasible. CTA will begin work on the implementation section, including building the provider base, identifying the area(s) for a potential waiver, and studying what type of services should be included in the waiver. (Only 3 other states – Vermont, New York and Kansas - use 1915(c) waivers to serve kids with mental health disorders).

In 2004, DSHS received another grant from CMHS to continue implementing strategies to assist consumers who qualify under the Promoting Independence plan. In the first year of this three year grant, funds were used to contract with a vendor that will procure housing funds from the Texas Department of Housing and Community Affairs. These funds will come in the form of Tenant Based Rental Assistance and will be used to assist Promoting Independence consumers in securing housing. Lack of housing is a major barrier to successful community tenure.

LEGACY TEXAS DEPARTMENT ON AGING (Department of Aging and Disability Services, 9-1-04)

The Office of the State Long Term Care Ombudsman and the network of Area Agencies on Aging (AAAs) actively supported the Texas Promoting Independence movement in 2003-2004. Legacy Texas Department on Aging (TDoA) staff supported the planning and coordination of training events for the regions and facilitated opportunities for regional coordination between the AAAs and legacy TDHS. All 28 AAAs received specialized training on relocation procedures, techniques and resources. Three separate trainings for AAAs managing Local Ombudsmen were conducted during this period. Program coordination was conducted with several non-state agencies, including Advocacy Incorporated, which resulted in referral mechanisms being developed to assist individual clients.

The state Ombudsman served on two state-level advisory groups developing the Promoting Independence Plan for Texas and assisted in selecting contractors to execute the program in 2004. The office also provides coordination for Ombudsman and AAA support and involvement in the regional Community Care Options Training "Putting the Pieces Together" begun in 2004, and for the regional transition workgroups.

LEGACY TEXAS DEPARTMENT OF HEALTH
(Department of State Health Services, 9-1-04)

Legacy Texas Department of Health (TDH) has provided ongoing technical assistance to the Promoting Independence Advisory Committee (PIAC) at the request of HHSC relating to children's issues. Legacy TDH also participated in an ex-officio capacity on the Children's Policy Council.

During 2002-2004, legacy TDH was the administering agency for the Children with Special Health Care Needs (CSHCN) Services Program. The mission of the CSHCN Services Program is to support family-centered, community-based strategies for improving the quality of life for children with special health care needs and their families.

The CSHCN Services Program provides funding for health care benefits (medical and family support services) to children who meet program eligibility criteria:

- 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 bona fide residents of the state of Texas (must attach proof of residency).
- Have family income under 200% of the federal poverty level or can meet that criteria through spend down.

The program pays for direct treatment and services (health care benefits) from community-based providers across the state of Texas. The program's health care benefits include medical services, meals, transportation and lodging when the child must travel to obtain needed services and treatment, and family support services.

In FY 2004, the program provided funding for health care benefits to 1,895 children. Of these children and their families, 3 received family support services. Due to a budget shortfall situation in FY 2002, the CSHCN Services Program had to establish a waiting list for health care benefits and limit authorization of family support services to services that are cost-effective for the program and/or help prevent out-of-home placement of the child. As of August 31, 2004, there were 395 children on the waiting list. During FY 2004, 1,344 children were removed from the waiting list and were able to access program health care benefits coverage. The CSHCN Services Program is not an entitlement program. It is supported by federal Title V funding and a general revenue appropriation from the Texas Legislature.

Families with children with special health care needs may also access case management services statewide from the CSHCN regional case management system, which is composed of regional CSHCN social work staff and case management contractors.

Additionally, the CSHCN Services Program provides technical assistance and consultation to state and local agencies, who provide direct services to children with special health care needs, and for the purposes of planning and assisting in the implementation of new services for children with special health care needs and their families.

LEGACY TEXAS DEPARTMENT OF PROTECTION AND REGULATORY SERVICES (Department of Family and Protective Services, 2-1-04)

On February 1, 2004, the Texas Department of Protective and Regulatory Services (PRS) became the Texas Department of Family and Protective Services (DFPS).

Developmental Disability Specialists

During FY 2003 and 2004 the Department funded a Developmental Disability Specialist position in each of the 11 regions, with the Arlington and Houston Regions having two each. In some of the smaller regions, the position has been a half-time position. The Developmental Disability specialists have assisted regional CPS staff in addressing the various disability needs of children and families served by the Department.

The Developmental Disability Specialist has:

- Served as a coordinator of resources for children with developmental disabilities (DD) in conjunction with the child's worker;
- Developed and maintained effective working relationships with community agencies and other professionals who serve children with DD;
- Provided consultation and assistance to staff regarding children with DD needs and resources to meet those needs;
- Provided assistance to staff in finding specialized placements for children with DD;
- Helped review the appropriateness of requests by staff for placement of children in nursing homes, legacy TDMHMR facilities (ICF/MRs, including state schools and state hospitals), and DFPS licensed facilities for children with mental retardation (Casa Esperanza and Mission Roads);
- Assisted in case planning for children with DD (including de-institutionalization efforts);
- Reviewed the permanency planning information submitted twice a year by staff as part of the S.B. 368 reporting/approval process for the appropriateness of the plans and appropriateness of the continued placement in the current institutional settings; they have then forwarded the information to the state office for further review, approval, and submissions to HHSC;
- Maintained regional logs of children with DD;
- Maintained necessary documentation as required to provide complete and accurate records for children with DD (including the HHSC Permanency Planning Instruments-PPIs);
- Provided training to staff and foster parents regarding DD issues;
- Staffed cases with workers to ensure that the child's needs have been appropriately identified and that appropriate services have been sought;
- Attended various Permanency Planning Team (PPT) staffings;
- Assisted staff in getting children with disabilities on the appropriate Medicaid Waiver Program lists; and
- Assisted workers in working with their Placement units and in making referrals to EveryChild, Inc. to find families for the Department children placed in institutional settings.

Educational (ED) Specialists
During fiscal years 2003 and 2004, the Department funded an Educational Specialist position in each of the 11 regions, with the Arlington and Houston Regions having two each. In some of the smaller regions, the position has been a half-time position. The Educational (ED) Specialists have assisted regional CPS staff in addressing the various educational needs of children served by the Department.

The ED Specialist has:

- Become knowledgeable about educational resources available within the region;
- Sought and established a network of local services and resources that provide for educational needs and services to children in DFPS managing conservatorship;
- Provided training to staff and foster parents regarding education issues for CPS children and how to meet the special education or other needs of those children;
- Assisted the CPS staff at Admission, Review, and Dismissal (ARD) meetings as required under special education statutes, giving input on Individual Educational Plans (IEP) and Individual Transition Plans (ITP);
- Staffed cases with workers and assisted in case planning to ensure that the child's needs have been appropriately identified and that appropriate services have been sought;
- Attended various Permanency Planning Team (PPT) staffings; and
- Coordinated efforts with the Developmental Disability Specialists when requested and as appropriate.

Change in Automation Software
On September 1, 2003, the Department rolled out a new web-based software application, Information Management Protecting Adults and Children in Texas (IMPACT), to replace Child and Adult Protective Systems (CAPS). IMPACT contained improvements in documenting CPS children's characteristics and in completing CPS family and children's service plans. It also contained improvements for APS in documenting living arrangement information.

New Service Levels
In August 2003, the legacy PRS Board approved the switch from the six-tier Level of Care (LOC) system to the four-tier service level system (Basic, Moderate, Specialized, and Intense levels), which would be effective September 1, 2003. LOCs 1 and 2 were switched to Basic; LOC 3 and part of LOC 4 were switched to Moderate; Part of LOC 4 and LOC 5 were switched to Specialized; and LOC 6 was switched to Intense. A rate structure was approved to support the new levels. A family rate was approved for the Specialized level, something that was not previously in place for LOC 5. CPS children previously identified at LOC 5, now converted to the Specialized Level, and could now be served in appropriate, licensed family placements, if available. A rate for family placements at the Intense Level was not set at that time.

Family Rate at Intense Level
In September 2003, the LOC 5 and 6 Pilot Project concerning family placements changed to the Intense Foster Family Pilot Project due to the change from the LOC system to the Service Level system. This Project focused on placing some CPS children with Intense level needs in family homes approved to provide services at this level during the pilot. The Department contracted

with Alliance Adolescent and Children Services, a Child-Placing Agency (CPA), previously known as Texas Mentor Clinical Care, for this service.

In January 2004 the pilot ended when the legacy PRS Board approved a family rate for the Intense Service Level. This allowed CPS children with Intense service needs to be served in a family setting if appropriate and if family placements are available through a child-placing agency.
The Department rules for all of the LOC changes to the Service Level system were amended on March 1, 2004. These changes were effective in contracts September 1, 2004.

Permanency Planning Rule and Policy Changes
The Department updated its CPS permanency rules and handbook policy to be consistent with the definition and requirements concerning permanency planning in the Texas Government Code §531.151—159 and HHSC requirements. The changes to the rules and handbook policy took effect on January 1, 2004. Training was presented to staff on these changes between January and April 2004.

Disability Training for Staff Certification
In early 2003 the Department added discussion of issues concerning children with developmental disabilities to the initial worker Basic Skills Development (BSD) program, which all CPS workers take soon after initially being hired into the program.

In the Fall of 2003, the Department arranged for the Protective Services Training Institute (PSTI), which coordinates the Department's worker and supervisor certification programs, to contract for a training on Wrap Around Services concerning children with developmental disabilities that staff members could use to count towards their certification programs. In 2004, the subject matter of the training needed to be refocused. The Department arranged for PSTI to contract with the Texas Center for Disability Studies to present the training on disability issues for CPS staff.

West Texas Children With Disabilities Project
DFPS entered into a contract with West Texas A&M University (WTAMU) School of Nursing in March 2001 to develop a model program to serve children with disabilities in the CPS system, beginning in the Region 01 (Amarillo) area. This project was started as a pilot project to develop a relationship with nursing schools across Texas that can be replicated in other regions to provide the health-related component to the planning for children in the CPS system.

The program provides services relating to children with disabilities for staff, birth parents, and foster parents. In this project the University faculty and advanced students:

- Meet with staff to participate in the permanency planning teams;
- Provide training to staff and foster parents who have children with disabilities;
- Assist with locating resources; and
- Provide specialized nursing assessments that evaluate bonding and attachment status between parents and children.

Program efforts were expanded to Region 11 in September 2003, though funding for the expansion did not begin until September 2004. Currently, three RN consultants, located in Amarillo, Lubbock and Corpus Christi, provide this service in Regions 01 and 11.

Pertinent Statistics[26]

The number of DFPS CPS Substitute Care Children and Young APS Guardianship Clients with Developmental Disability in Institutional Settings as Defined by S.B. 368 (77th Legislative Session):

As of:	September 30, 2002	September 30, 2004
CPS Children	171	350
CPS Youth 18-20	9	22
APS Guardianship Clients 18-22	52	83
Total:	232	455

The data reflects the population at two points in time. It does not reflect the total numbers of these children served in these placements over time nor does it reflect the movement of children during this time.

Notes:

1. Data for September 30, 2002 is slightly different than that reported in the September 2002 PIAC Report due to refinements and improvements in data entering and reporting efforts.
2. Primary increases from the 2002 to 2004 data are seen in the CPS numbers reported for foster group home placements and residential treatment center placements and in the APS numbers for Guardianship Clients 18 to 22 in large ICFMR settings and State School settings.

As of:	**September 30, 2002**	**September 30, 2004**
Number of CPS Children and Youth at Mission Road:	57	57
Number of APS wards (18-22) at Mission Road:	0	0
Number of CPS Children and Youth at Casa Esperanza:	16	16
Number of APS wards (18-22) at Casa Esperanza:	0	0

This compares with the numbers of all CPS children and youth in foster care:

As of:	**September 30, 2002**	**September 30, 2004**
Foster Family	9,479	11,137
Foster Group	2,447	2,866
Residential:	3,205	3,465
Total	15,131	17,468

[26] For additional DFPS Data, see Appendix H.

LEGACY TEXAS REHABILITATION COMMISSION
Department of Assistive and Rehabilitative Services (DARS), 3-1-04

Background: During the Summer of 2002, legacy Texas Rehabilitation Commission (TRC) initiated an Independence Initiatives Workgroup (IIW) to assist in the continued development and implementation of the Promoting Independence Initiative. The IIW identified the following seven major issues: 1) most integrated setting; 2) policies; 3) redirection/commitment of funding; 4) personal attendant employment; 5) assistive technology; 6) staff role in relocation; and 7) staff issues. The IIW developed over thirty recommendations addressing these seven issues.

Legacy TRC had participated through a liaison to the PIAC, in order to keep apprised of implementation of the Promoting Independence Plan. In July 2002, a legacy TRC representative was appointed to the PIAC by the HHSC Executive Commissioner to ensure implementation and coordination of legacy TRC's Independence Initiatives activities. Currently a representative from DARS participates in the PIAC meetings and reports on DRS progress on its ongoing recommendations.

Status of Recommendations: Legacy TRC conducted additional research and then developed action plans for implementation of the recommendations made by the IIW and the S.B. 367 Task Force. After consultation with the Rehabilitation Services Administration and after additional research, four recommendations were not implemented. Currently, six recommendations have been completed while 23 are ongoing.

Institution to Community Coordination: On September 1, 2004, DARS/DRS launched a pilot Institution to Community Coordination (ICC) service in its Region 2 (Dallas – Fort Worth metroplex). ICC is a service that helps people relocate from institutions to the community using coordination services not currently in DRS' array of services. This coordination of existing supports and services will assist individuals eligible for either Vocational Rehabilitation or Independent Living Services navigate through the community based service delivery system. Policy and provider standards were developed for the pilot. DRS Region 2 staff received ICC pilot training. Contracts were completed with four ICC providers, who have also received training. DRS is working with DADS to obtain appropriate consumer referrals.

Purchased Independent Living Services: DARS/DRS maintains an internal tracking system for Independent Living Services (ILS) that are purchased. All ILS consumers receive non-purchased services such as guidance, counseling, information, and referrals. Examples of purchased services might include assistive technology and durable medical goods.

The ILS consumers are placed in the tracking system when they make the initial contact with DRS. If after completion of the application and eligibility process they do not require any purchased services to achieve their goals, they are removed from the tracking system. DRS requested funds to eliminate the consumer wait for purchased services during the 2004-05 biennium. DARS has requested funding in the current LAR that is expected to eliminate the waiting list by the end of the 2006-07 biennium.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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

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

Legacy TDHS has referred a total of 107 individuals to TDHCA since June 1, 2003. TDHCA has awarded all 35 vouchers, and 34 individuals have moved into Section 8 housing, as of July 1, 2004. Several of the original 35 vouchers have been absorbed by local Public Housing Authorities (the PHA chose to use one of its own existing vouchers), thus enabling TDHCA to re-issue those vouchers to applicants on the waiting list. These vouchers will continue to be "recycled" by TDHCA without the "age 62 limitation" placed on the original 35 vouchers.

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

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

TEXAS WORKFORCE COMMISSION

The Texas Workforce Commission (TWC) liaison to the PIAC coordinated efforts in support of the Texas Promoting Independence Initiative and the Governor's Executive Order RP-13. The PIAC continues to request and review information from TWC through its Labor Market Career Information. In an effort to share information regarding the Promoting Independence goals and objectives with the Texas Workforce Network, TWC organized a session on Promoting Independence at a Quarterly Workforce Forum held with Local Workforce Development Board

members, Texas Workforce Centers, and other stakeholders. Additionally, TWC will continue to explore training programs that may be of assistance to people with disabilities and to the allied health and attendant care professions.

BUDGETARY INFORMATION

During the last biennium there was limited growth in community care allocations, which resulted in a lower number of average monthly consumers who are served by some community care waiver program.[27] Therefore, HHSC has emphasized the Promoting Independence Initiative through its FY 2006 and FY 2007 consolidated budget. Additionally, HHSC has recognized and emphasized the need to reduce waiting/interest lists for all individuals requesting community-based alternative services. Given the Supreme Court's interpretation of the ADA in the *Olmstead* decision and the state's desire to provide community-based alternatives for individuals seeking services, HHSC strongly supports funding waiver slots in all community-based services programs. [28]

The FYs 2006-07 HHSC Consolidated Budget Request totals $306 million in general revenue for exceptional items to accomplish two critical goals: (1) supporting community services for people with disabilities; and (2) reducing waiting/interest lists for services and avoiding the creation of waiting/interest lists in some instances.

Requested Exceptional Item Funding for the FY 2006-2007 Biennium for Promoting Independence and Waiting/Interest Lists[29]

DADS' budget request includes an exceptional item related to moving individuals from large community ICF/MR institutions to community placements. This item totals $4.7 million general revenue for the biennium and includes funding for placement of 146 individuals into HCS waiver services.

HHSC has requested two exceptional items totaling $301.3 million in general revenue to reduce the waiting/interest lists at DADS, DARS, and DSHS. One item requests $46.9 million in general revenue to keep pace with population growth in programs with waiting/interest lists, and the second item requests $254.4 million in general revenue to reduce the waiting/interest lists of all HHS agencies.

Keep Pace with Population Growth

Of the $46.9 million in general revenue requested to keep pace with population growth in programs with waiting or interest lists, over half of the funding ($25.2 million) is requested to offer services to 2,599 individuals from the interest list at DADS for home and community-based waivers, non-Medicaid services, and the In Home and Family Support program. The home and community-based waivers include Community Based Alternatives (CBA), Community Living Assistance and Support Services (CLASS), Medically Dependent Children Program (MDCP),

[27] Community Care Clients Served: Appropriated vs. Actual/Budgeted, see Appendix E.
[28] HHSC FY2006 - FY 2007 Consolidated Budget narrative.
[29] HHSC Consolidated Budget, Options to Address Interest/Waiting Lists, see Appendix F.

Consolidated Waiver Program (CWP), Deaf-Blind with Multiple Disabilities (DBMD), Home and Community Based Services (HCS), and Texas Home Living (TxHmL).

Approximately $21.3 million in general revenue is requested for DSHS to remove 2,624 individuals from the waiting lists for Adult Community Mental Health, Child and Adolescent Community Mental Health, and Children with Special Health Care Needs (CSHCN). For DARS, approximately $0.4 million in general revenue is requested to remove 59 individuals from the waiting list for Comprehensive Rehabilitation Services and for Independent Living.

Reduce Waiting/Interest Lists

To reduce waiting/interest lists, $254.4 million is requested as follows. For DADS, $221.9 million in general revenue (almost 88 percent of the request) would offer services to 17,491 individuals from interest lists, reducing them by 20 percent over the 2006-07 biennium. This funding is part of a plan to eliminate current interest lists over ten years for CBA, CLASS, MDCP, HCS, Non-Medicaid Services, and In Home and Family Support.

Requested Base Budget Funding for Community Supports

DADS has requested, in its base budget, $2.6 million dollars of general revenue for the FY 2006-07 biennium to assist in implementation of the state's response to the *Olmstead* decision and Governors' Executive Orders GWB99-2 and RP-13. Activities include community outreach and awareness and relocation services. Community outreach and awareness is a systematic program of public information developed to target groups who are most likely to be involved in long-term care decisions. Relocation services involve assessments and intense case management to assist individuals in nursing facilities that choose to transition to community-based care.

HHSC's base request for Promoting Independence Activities includes $3.6 million in general revenue for the biennium.

"AT RISK OF INSTITUTIONALIZATION" AND FUNDING AND CAPACITY ISSUES

HHSC recognizes the state's desire to provide community-based alternatives for individuals desirous of this choice. The state, in its Promoting Independence Initiative, is making transition to community services a reality for individuals in institutions. Yet, community services waiting/interest lists grow daily. Therefore, in the Texas Health and Human Services Consolidated Budget, HHSC included requests for options to address interest/waiting lists so that the state may make meaningful progress in the provision of community-based services for individuals requesting this choice.[30]

During the past two years the PIAC discussed issues related to the *Olmstead* population, as well as those at risk for institutionalization and waiting for community-based services. The PIAC, with concurrence from HHSC, defined individuals at "imminent risk" of institutionalization as those presenting at the front door for institutional services, who without these services have no supports in the community, have no natural support network, and have an immediate need of this level of care. The PIAC desired to highlight the need for adequate funding of community-based

[30] HHSC Consolidated Budget, Options to Address Interest/Waiting Lists, see Appendix F.

services. The PIAC did this through adopting a resolution recommending that the state acknowledge an obligation to fund appropriate community services for individuals who choose to live in the community, unless it becomes a fundamental alteration of the state's program.

HHSC, in encouraging support of community-based services, must bring into focus the fact that individuals in the community waiting for services face a interest/waiting list that is both long in number and length of time. The waiting/interest lists for community waiver services are as follows:

Interest List Program	# Persons (as of August 31, 2004)
Community Based Alternatives (CBA)	66,368
Community Living Assistance and Support Services (CLASS)	12,748
Deaf-Blind with Multiple Disabilities (DBMD)	18
Medically Dependent Children Program (MDCP)	7,968
Home and Community-Based Services (HCS)	25,934

Waiting/interest lists contain the names and dates services were requested for each waiver. An individual whose name is on the list receives an offer of waiver services on a first come first serve basis. Individual eligibility is not determined until such time as waiver funds are available for that individual. Waiting/interest lists fluctuate frequently as names of individuals are added to and removed from the waiting/interest lists daily. DADS is responsible for the monitoring and oversight of these lists.

The PIAC continued to identify various barriers to sufficient capacity and funding of community-based services to include: length of waiting/interest lists; lack of flexibility in use of funds allocated (currently funds are allocated by specific services and programs/need for the money to follow the individual's choice of services); lack of blended funding; the existence of federal prohibitions that continue the community-based services waiving off of institutional care; federal cost neutrality requirements in waiver services and the state's requirement that the HCS and TxHmL waivers be at eighty percent that of institutional care; and the CLASS waiver programming not being instituted statewide.

During the 78th Legislative Session, the Legislature passed legacy TDHS Rider 28. As a continuation of legacy TDHS Rider 37, from the 77th Legislative Session, this rider allows for individuals relocating from nursing facilities to have funds transferred from nursing facilities to community care services to cover the cost of the shift in services. The implementation of legacy TDHS Rider 28 has allowed individuals currently residing in the nursing facilities who are in the state's identified *Olmstead* population to access community care at a reasonable pace, without utilizing additional slots appropriated for the waiver during session. This allows all appropriated slots to be directed to the waiting/interest list.

Legacy TDHS Rider 37, passed in the 78th Legislative Session, directed legacy TDHS not to expand the base number of appropriated waiver slots through legacy TDHS Rider 28 transfers. Clients utilizing legacy 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. Legacy 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 legacy TDHS Rider 28 client leaves the waiver program, any remaining funding for the biennium shall remain in the nursing facility strategy. If legacy TDHS determines available revenue within community care strategies requires a reduction in the base number of slots for waiver programs, the department shall utilize attrition to meet appropriated levels.

The PIAC, recognizing the success of the legacy TDHS Rider 28, recommended to HHSC that this method of financing community care options for individuals in institutions be continued and expanded to include all agencies with institutional care. Additionally, the PIAC recommended that DADS re-integrate the legacy TDHS Rider 28 "slots" into the base waiver numbers as was done prior to the 2004-05 biennium, thus eliminating legacy TDHS Rider 37 from the 78th Legislative Session.

The PIAC made recommendations related to funding the need for community services and for service delivery and design. Based on these recommendations, HHSC has developed the following implementation steps:

"At Risk of Institutionalization" Issues Implementation Steps:

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

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

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

Funding and Capacity Issues Implementation Steps:

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

- *Requires legislative direction and/or appropriations..*
  If made permanent by the Legislature, HHSC would implement Section 18, Special Provisions Rider, to allow the use of funds appropriated for long-term care waiver slots to DADS for: a) the establishment and maintenance of long-term care waiver slots; b) the provision of wraparound services that are specifically associated with such slots and that

relate to transitional services, access to immediate housing, and transportation services; or c) the development of family-based alternatives for children leaving institutions.

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

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

- *Requires legislative direction and/or appropriations.*
  If directed and/or funded by the Legislature, DADS would re-integrate the legacy TDHS Rider 28 "slots" into the base waiver numbers as was done prior to the 2004-05 biennium.

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

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

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

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

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

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

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

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

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

CHILDREN'S ISSUES

The Promoting Independence Plan and Initiative has helped to bring attention to the number of children with disabilities residing in long-term care institutions. Significant policy and program initiatives continue to change the way the state approaches service delivery for children with disabilities and their families. Enhanced permanency planning requirements in the legacy TDHS has enabled case workers to work closely with families of institutionalized children to ensure that they are aware of the options for their children's care and the benefits of children growing up in families. To support permanency planning efforts, the Family-Based Alternatives Project is creating a system that provides opportunities for institutionalized children to transition to support families if their birth-families are not able to care for them. Additionally, knowledge of children with developmental disabilities is being developed in each agency and programmatic changes are being made to enable certain Medicaid waivers to more adequately provide the services children may need when transitioning from institutions. All of these changes are helping to promote a system of supports and services that provide better opportunities for children and families.

The PIAC identified numerous barriers that still exist to a coordinated system of supports for children including: (1) lack of access to the appropriate services and supports and to services as individuals age-out of children services; (2) the need for effective permanency planning that includes on-going efforts to implement the plan; (3) the need to educate agency staff, service providers, legislators, and families of the importance of making family options available to children and the benefits to children's development; and (4) funding limitations and lack of flexibility in the way funds are allocated.

Aware of the barriers and based on the PIAC recommendations, HHSC has identified the following implementation steps to continue its Promoting Independence Initiative in relation to children's services:

Children's Issues Implementation Steps:

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

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

- *Requires legislative direction and/or appropriations.*
  If directed and/or funded by the Legislature, HHSC would work with DADS to target 20% of newly appropriated HCS/MRLA waiver slots (FY 2006 and FY 2007), for children placed on the waiver waiting/interest list as a result of S.B. 368 permanency planning efforts and for those children living in institutions within the Family-Based Alternatives Project.

- HHSC will work with DADS and DFPS to examine all funding options including, but not limited to, allowing for appropriate waiver slots to be made available for children in Child Protective Services (CPS) custody, particularly for those placed in CPS licensed institutions for children with physical and cognitive disabilities.

- HHSC will work with appropriate HHSAs in order that the S.B. 367 Memorandum of Understanding (MOU) required for coordination of services for individuals transitioning from nursing facilities include the Early Childhood Intervention (ECI) agency to address those individuals from ages zero to two.

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

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

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

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

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

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

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

HOUSING ISSUES

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

S.B. 367, 77th Legislative Session, and Governor's Executive Order RP-13 highlighted this need and requested that HHSC, TDHCA, legacy TDHS, and legacy TDMHMR, subject to the availability of funds, develop a housing assistance program to assist persons with disabilities moving from institutions into community care. HHSC worked with TDHCA in order to obtain 35 HUD vouchers, directed at providing rental assistance to individuals in the *Olmstead* population. The PIAC instituted a Housing Workgroup to address the necessary process in order to make these vouchers readily available to individuals in nursing facilities who wish to transition to the community and for whom housing assistance is the last support needed. A process is now in place through a Memorandum of Understanding (MOU) among the agencies involved in order to continue the efforts related to these vouchers and future vouchers as they are recycled. Through this program, legacy TDHS has referred a total of 107 individuals to TDHCA. TDHCA has approved all 35 vouchers, and 34 individuals have moved as of July 6, 2004.

Effective September 1, 2004, Transition Assistance Services has been approved for inclusion in MDCP, CBA, CLASS and DBMD waivers. This addition will allow the state to receive matching federal funds while attempting to meet the initial transition needs of individuals accessing community services after institutionalization. These funds cover transition and one-time start up expenses such as security deposits, essential furnishings, moving expenses and utility deposits, but may not be used for home modifications.

TDHCA designated $4 million dollars in HOME funds for FY 2003 and FY 2004 for housing assistance for persons affected by the *Olmstead* decision. Although identified as much needed, not all of these funds have been distributed, in part due to the administrative complexity of these federal funds. A specific impediment to some service providers in successfully utilizing these funds was limited administrative funds that were originally 4% of the contract amount. Based on these comments, TDHCA increased the administrative funding available to applicants to 6%. Also, HHSC transferred funds to TDHCA to allow for an additional 4% of funds for administrative costs.

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

Significant changes on the federal level in the way housing assistance funding is distributed to states and limited state funding continue to be major concerns. The PIAC and HHSC are committed to working through the issues involved in locating accessible, affordable, and integrated housing for individuals with disabilities and will continue these efforts through its Housing Workgroup.

Housing Issues Implementation Steps:

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

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

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

- HHSC will, upon request, assist TDHCA in reanalyzing the distribution of HOME funds designated to the *Olmstead* population and in considering an RFP process to find a contractor for a statewide long-term contract instead of on an annual basis.

WORKFORCE ISSUES

HHSC recognizes that one of the greatest threats to the quality of life and quality of services for individuals with disabilities is the lack of professional, trained, qualified, and highly skilled direct care workers. Individuals with disabilities, providers, advocates, and state agencies recognize the need for well-paid, trained, caring human service workers. In order to ensure that transition is successful from the institution to the community this workforce must exist. The PIAC identified the shortage of hands-on assistants throughout the long-term care system of services; the low wages, lack of benefits, and absence of career ladders for this workforce; the turnover of nursing and direct care staff; the need to expand Consumer Directed Services options in community care programs; and the need to expand training opportunities for direct care workers as barriers to providing quality care to individuals with disabilities.

The PIAC has also identified issues regarding barriers to people with disabilities and older Texans to become a viable part of the workforce and the opportunity to work in the most integrated setting.

Therefore, in order to ensure the comprehensiveness of the Promoting Independence Initiative, HHSC, including direction through Governor Perry's Executive Order RP-13 and building on recommendations from the PIAC, has highlighted this area to be included in the continued plan development. What follows are implementation steps to identify the scope of the problem and provide solutions:

Workforce Issues Implementation Steps:

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

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

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

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

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

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

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

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

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

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

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

AGENCY SPECIFIC IMPLEMENTATION STEPS BY HHSC AND DEPARTMENTS

HHSC together with the PIAC has worked to emphasize other areas of effort and agency actions in order to ensure the comprehensiveness of the Promoting Independence Plan and Initiative. The PIAC identified general barriers to accessing community services and to the transitioning of individuals from institutional care to the community to include: the need for timelines for all agencies to address implementation steps; the need for the effort of relocation specialists to be continued statewide; the need to continue and expand the Family-Based Alternatives program; coordination at a local level among agencies involved in transitioning individuals; the need to better inform individuals of their service options; the need to better identify individuals living in institutions who have expressed a desire to return to the community; the need to address the specific populations of individuals such as individuals with mental illness and individuals who are deaf and their issues in transitioning; the need for adequate training and on-going technical assistance for all staff and stakeholders involved transitioning individuals; the need to attract and retain competent direct support professionals/attendants; the lack of training for the provider industry and agency staff related to community-based services and how individuals with disabilities can and do live in the community.

HHSC, based on PIAC recommendations, has included the following implementation steps that are directed towards addressing the barriers identified in providing community-based programs that effectively foster independence for people with disabilities. They have been organized in an agency specific manner in order to ensure specific responsibility for implementation.

HHSC Implementation Steps:

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

- In the Promoting Independence Initiative, HHSC has defined “individuals at imminent risk of institutionalization” as those individuals presenting at the front door for institutional services, who without these services have no supports in the community, have no natural support network, and have an immediate need for this level of care.

- HHSC will direct HHSAs to: (1) review all policies, procedures, and rules regarding services to individuals that would assist them in transitioning from institutions; and (2)

revise policies, procedures, and rules accordingly to make transition a reality within the guidelines of federal regulations, available funding, legislative direction, individual choice, and appropriateness of service plans.

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

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

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

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

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

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

DADS Implementation Steps:

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

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

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

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

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

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

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

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

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

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

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

DSHS Implementation Steps:

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

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

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

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

DARS Implementation Steps:

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

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

DFPS Implementation Steps:

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

CONCLUSION

As in the original and revised Promoting Independence Plan, the HHSC has committed to a continuing relationship with its stakeholders. Through the implementation of S.B. 367 this relationship has been formalized. HHSC Executive Commissioner Hawkins will continue to determine the number of members of the PIAC and appoint such members as are representative of the appropriate HHSAs, individuals and family advocacy groups, related workgroups, and service providers. The Executive Commissioner continues to designate the presiding officer of the PIAC, and each member serves at the will of the Executive Commissioner. With the support of DADS, the PIAC will continue study and make recommendations to the HHSC on the development of the comprehensive, effectively working plan in order to ensure appropriate care settings for persons with disabilities and advise the commission and appropriate HHSAs on the implementation of the plan. Not later than September 1 of each year the PIAC shall submit a report to the Executive Commissioner on its findings and recommendations related to: (1) implementing the Promoting Independence Plan; (2) identifying and assessing each person who resides in an institution but chooses to live in the community and for whom a transfer from an institution to the community is appropriate; (3) assisting the HHSAs in determining the availability of community care and support options related to individuals desirous of transferring into the community; and (4) identifying, addressing, and monitoring barriers to implementation of the plan including identifying funding options.[31]

Implementation efforts of this plan include the updating of agency work tables that house the plan's implementation steps based on the PIAC recommendations. DADS on behalf of HHSC will ensure the revision of these worktables, and coordinate the agencies' reporting of their activities to the HHSC. These worktables will assist the PIAC in their monitoring activities of the plan's implementation. On December 1, of each even numbered year, HHSC will use the information gleaned from the PIAC meetings and annual PIAC Reports, agency reports and information, and continued public comment in order to revise the Texas Promoting Independence Plan. This biennial revision allows for the state's efforts to stay vibrant and effective in meeting the changing needs of individuals with disabilities.

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

HHSC will continue to welcome the opportunity to further its work with individuals, advocates, providers, and agencies to improve the system of services and supports for individuals with disabilities. Together we continue to make a difference.

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

APPENDIX A

APPENDIX A

EXECUTIVE ORDER

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

EXECUTIVE ORDER
RP 13

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 and supports advance the best interests of all Texans; and

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

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

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

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

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

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

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

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

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

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

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

1. update the analysis of the availability of community-based services as a part of the continuum of care;

2. explore ways to increase the community care workforce;

3. promote the safety and integration of people receiving services in the community; and

4. review options to expand the availability of affordable, accessible and integrated housing.

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

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

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

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

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

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

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

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

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

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

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

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

RICK PERRY (signature)
Governor
GWYNN SHEA (signature)
Secretary of State

APPENDIX B

APPENDIX B

EXECUTIVE ORDER

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 interest 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 THERFORE, 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 alternatives 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 it statutory authority to effect appropriate changes.

Given under my hand this the 28th day of September 1999.

GEORGE W. BUSH
GOVERNOR

ATTEST:

ELTON BOMER
Secretary of State

APPENDIX C

APPENDIX C

PROMOTING INDEPENDENCE ADVISORY COMMITTEE (PIAC) RECOMMENDATIONS 2004

At Risk of Institutionalization Recommendations:

- The PIAC recommends that any entity utilized to assist individuals in decision-making regarding their services will be knowledgeable in "Aging and Disability" specific information and the Promoting Independence Initiative, self-determination, community care services, and Title II of the ADA.

- The PIAC recommends that health and human services agencies (HHSAs) develop mechanisms to ensure continuity of services for individuals who "age out" of children's services in order for them to remain in the community, including persons between the ages of 18-22 in the Adult Protective Services system.

- The PIAC recommends that the aged and disabled community care Consumer Directed Services options be expanded (e.g. to accommodate a person with significant support needs and/or those refused service by 2 provider agencies that they be allowed to utilize self-directed services).

Funding and Capacity Recommendations:

- The PIAC recommends that all HHSAs should examine strategic planning, current budgets, and planned budgets for explicit inclusion of activities and funds related to *Olmstead*.

- The PIAC recommends that Section 18, Special Provisions Rider, relating to the use of funds appropriated for long-term care waiver slots to TDHS and MHMR for a) the establishment and maintenance of long-term care waiver slots; b) the provision of wraparound services that are specifically associated with such slots and that relate to transitional services, access to immediate housing, and transportation services; or c) the development of family-based alternatives for children leaving institutions, be made permanent.

- The PIAC recommends that the Legislature restore legacy TDHS Rider 7b to its original wording from the 77th Legislative Session.

- The PIAC recommends that the legacy TDHS Rider 28 be made permanent.

- The PIAC recommends that DADS re-integrate the legacy TDHS Rider 28 "slots" into the base waiver numbers as was done prior to the 2004-05 biennium.

- The PIAC recommends that the Legislature expand legacy TDHS Rider 28 to all institutional settings, including all ICF/MR funded entities.

- The PIAC recommends that all aged and disabled community care waiver participants' individual plans of care be evaluated against the aggregate cost for cost neutrality.

- The PIAC recommends that the Legislature make permanent the authority in HHSC Rider 13(c) to transfer funds for promoting independence activities including relocation activities, housing, and family-based alternatives.

- The PIAC recommends that funds be appropriated to continue and expand the Family-Based Alternatives Options Initiative.

- The PIAC recommends that funding be appropriated to continue the relocation specialist contracts beyond the current biennium.

- The PIAC recommends that the Legislature develop a six-year strategy and appropriate sufficient funding for community services in order that individuals on an interest/waiting list wait no more than two years for services.

- The PIAC recommends that all funds appropriated for community care services be utilized in that manner and not diverted to other programs.

- The PIAC recommends the application of annual inflationary rate increases for all long-term care Medicaid providers to support the increased costs of providing quality services.

- The PIAC recommends that the state provide transitional funding to ICF/MR providers for voluntary downsizing for specific increased per capita costs incurred as individuals with disabilities and/or families exercise their rights to choose to live in community settings.

- The PIAC recommends that service planning for individuals of all ages be performed by an independent entity separate from the provider of services to avoid a conflict of interest.

- The PIAC recommends that the Legislature appropriate funds to assist individuals to obtain accessible, affordable, integrated housing.

- The PIAC recommends that DADS restore funding for the In Home and Family Support, Respite and Alzheimer's programs.

Children's Recommendations:

- The PIAC recommends that legacy TDHS Rider 7b be expanded to include children transferring from the Comprehensive Care Program (CCP).

- The PIAC recommends that permanency planning requirements go beyond preparation of a written plan to include on-going activities that keep parents informed of family-based options and assist in promoting activities that will result in children growing up in

families. This would include continued discussion of options, relocation and transition support, and continued follow-up support.

- The PIAC recommends that DADS target at a minimum 20% of new appropriated HCS waiver slots (FY 2006 and FY 2007), for children who are placed on the waiver interest/waiting list and living in institutions within the Family-Based Alternatives project.

- The PIAC recommends that DADS and DFPS collaborate and examine all funding options including, but not limited to, allowing for appropriate waiver slots to be made available for children in Child Protective Services (CPS) custody, particularly those placed in CPS licensed institutions for children with physical and cognitive disabilities.

- The PIAC recommends that the S.B. 367 Memorandum of Understanding (MOU) required for coordination of services for individuals transitioning from nursing facilities include the Early Childhood Intervention (ECI) / DARS to address those individuals from ages zero to two.

- The PIAC recommends that children who, at age 18, age out of any existing children's services (i.e. Comprehensive Care Program (CCP), Medically Dependent Children's Program (MDCP), Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services) will have access to the most appropriate waiver services in the community.

- The PIAC recommends that children with disabilities aging out of CPS services have access to the most appropriate HHS waiver services in the community.

- The PIAC recommends that permanency planning be done by an independent entity from the provider or facility where the child resides to eliminate any conflict of interest.

- The PIAC recommends an independent permanency plan be completed prior to a child's placement in a nursing facility.

- The PIAC recommends that funds be appropriated to continue and expand the Family-Based Alternatives Project.

- The PIAC recommends the expansion of Promoting Independence target population to include children living in community ICFs/MR smaller than 14 beds.

- The PIAC recommends that for children residing in nursing facilities, the parent/legally appointed representative be required to give consent for treatment at least annually.

- The PIAC recommends that for children in institutions whose parents cannot be located, a mechanism/provision be developed for making decisions about the plan of care, permanency planning, treatment, placement, etc.

Housing Recommendations:

- The PIAC recommends that TDHCA's commitment of housing resources be maintained at the current level or increased.

- The PIAC recommends that TDHCA, as well as advocates and stakeholders at the local level, encourage public housing authorities to identify and set aside a specific number of housing vouchers to be used for individuals in the *Olmstead* population.

- The PIAC recommends that TDHCA continue to improve intra-agency coordination regarding housing assistance funds through continuing education of TDHCA staff regarding affordability, accessibility, and integration.

- The PIAC recommends that TDHCA reanalyze the distribution of HOME funds designated to the *Olmstead* population, exploring alternatives to competitive bid procurements.

Workforce Recommendations:

- The PIAC recommends that HHSC should direct HHSAs to review wages, benefit packages, and other workforce issues in order to ascertain if any institutional bias exists, and upon completion of this review, make recommendations to eliminate any bias.

- The PIAC recommends that the appropriate HHSAs coordinate with appropriate agencies, including the local workforce development boards, to explore and develop employee recruitment and retention incentives for all providers of long-term care services.

- The PIAC recommends that HHSC convene a forum of consumers, advocates, providers, workers, and union representatives to address and make recommendations on workforce issues that effect the ability of people with disabilities and older Texans to receive services in the most integrated setting.

- The PIAC recommends that HHSC and TWC continue the plan of action that has been developed to increase opportunities to support people with disabilities and older Texans living and working in the most integrated setting.

- The PIAC recommends that the DADS Administration on Aging Family Caregiver and Education Program coordinate with Promoting Independence Initiative to insure maximum utilization of resources to support family caregivers providing care and support for elderly Texans.

- The PIAC recommends that DADS investigate/fund a benefits pool, including health benefits and workers compensation that attendants/direct support professionals can access easily.

- The PIAC recommends that individuals receiving AFDC (now Temporary Assistance to Needy Families, TANF) be allowed to work as attendants/direct support professionals without losing benefits for a period of two years.

- The PIAC recommends that the Medicaid Buy-in program that will allow individuals to work without losing Medicaid benefits be pursued by HHSC and DARS (supports efforts of the current H.B. 3484 Workgroup and associated grant activities).

- The PIAC recommends that all HHSAs work with universities in recruiting students in the health and human services field, such as Physical Therapy (PT), Occupational Therapy (OT), and social work, to be involved in direct support positions during internships and practicums.

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

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

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

AGENCY SPECIFIC RECOMMENDATIONS

Health and Human Services Commission (HHSC)

- The PIAC recommends that the Promoting Independence Initiative remain an HHSC initiative to be operated, coordinated and staffed through DADS.

- The PIAC recommends that HHSC continue to include in the Promoting Independence Initiative individuals at imminent risk of institutionalization. ("Imminent Risk" is defined as those individuals presenting at the front door for institutional services, who without these services have no supports in the community, have no natural support network, and have an immediate need of this level of care.)

- The PIAC recommends that HHSC direct HHSAs to review all policies, procedures, and rules regarding services to individuals that would assist them in transitioning from institutions, and revise policies, procedures, and rules accordingly to make transition a reality.

- The PIAC recommends HHSC Executive Commissioner delay the expansion of STAR+PLUS for six months to consider the following:
  1) the effect the expansion will have on those needing the nursing home waiver in rural areas of Texas;

2) the effect the expansion will have on those above the SSI level and below 3 times the SSI level (MAO - Medical Assistance Only);
3) the effect the expansion will have on those using legacy TDHS Rider 28;
4) the fact that STAR+PLUS currently, and in its proposed expansion, only serves those with physical disabilities and older Texans leaving the delivery of waiver services to people with developmental disabilities in a different service delivery system; and
5) the effect the administration of STAR+PLUS by HHSC will have on the efficient administration of long-term services and supports to all people with disabilities and older Texans at DADS.

- The PIAC recommends that any expansion of STAR+PLUS must not negatively affect the ability of Medical Assistance Only (MAO) individuals or those in non-STAR+PLUS areas from receiving services because of those persons on SSI being automatically eligible for Community-Based Alternatives (CBA). The cap on CBA slots must be able to expand to meet this need.

- The PIAC recommends that any expansion of STAR+PLUS include all persons with disabilities and older Texans to assure uniformity of the future delivery system of long-term care services and supports.

- The PIAC recommends that HHSC adjust Medicaid rates to achieve wage and benefit parity in institutions and community-based services.

- The PIAC recommends that any future rate development be done in a manner that provides incentives to attract and retain competent direct support professionals/attendants.

- The PIAC recommends that the Medicaid State Plan be amended to include Durable Medical Equipment (DME).

- The PIAC recommends that the Medicaid State Plan be amended to utilize Targeted Case Management to fund relocation assistance for individuals who choose to leave nursing homes.

Department of Aging and Disability Services (DADS)

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

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

- The PIAC recommends that DADS require the LMRAs to track activity regarding: a) the number of referrals received of individuals transitioning from nursing facilities; and b) a description of the disposition of those referrals accepted for services (e.g. placed on a waiting list, denied services, reasons for denial, etc.).

- The PIAC recommends that DADS provide information to regional staff and relocation contractors regarding coordination between LMHMRAs and regional DADS staff related to services and supports in the community.

- The PIAC recommends that all identification, assessment, and service coordination processes and services be provided through organizations knowledgeable of community services, housed at the local level, and independent of provider functions.

- The PIAC recommends that for persons of any age residing in nursing facilities who have a guardian/legally appointed representative, consent for treatment be given at least annually.

- The PIAC recommends that DADS expand the task of nurse/doctor delegation/assignments into the Primary Home Care Program.

- The PIAC recommends, in order to facilitate the relocation of individuals who choose to move from nursing facilities, that DADS: 1) update the Minimum Data Set (MDS) instructions to require that all persons receive information on home and community program options; and 2) establish a process to forward a person's name and information from Question Q1a, if consent is given, to the Center for Independent Living (CIL) and/or the Area Agency on Aging (AAA).

- The PIAC recommends that DADS allow the MDS information Q1a, if consent is given, to be made publicly available:1) the name, address, and phone number of the facility where the individual resides; 2) the age range of the individual; and 3) the length of time the individual has resided in the facility.

- The PIAC recommends that DADS: 1) review data regarding the length of stay, by facility, for persons with mental retardation who are diagnosed as deaf or have a hearing impairment; 2) compare this length of stay data to other individuals without these impairments; 3) identify potential barriers to community transition for this population, i.e., lack of interpreter services, etc.; and 4) if identified, take action to address the barriers.

- The PIAC recommends that for adults that APS places in nursing facilities, including those for whom the state becomes the guardian, DADS: 1) identify their length of stay in the facility; 2) identify any potential barriers to community transition; and 3) if identified, take action to address the barriers.

- The PIAC recommends that DADS and DSHS investigate and resolve the barriers to transitioning residents of nursing facilities who have physical disabilities and a mental health diagnosis.

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

- The PIAC recommends that the DADS Office of the State Long-Term Care Ombudsman continue to provide Promoting Independence related training to ensure Area Agency on Aging ongoing support and involvement in *Olmstead* related initiatives.

Department of State Health Services (DSHS)

- The PIAC recommends that children and adults with 3 or more hospitalizations within 180 days or 12 continuous months for mental health services be considered a high priority for the most intensive service package as appropriate to meet their needs, within the new service benefits design model.

- The PIAC recommends that DSHS require LMHAs to prioritize individuals referred for services who are transitioning from nursing facilities, and those hospitalized 3 times or more in 180 days and/or 12 or more continuous months (i.e. prioritization might include expedited intake and assessment process, expedited assignment to services).

- The PIAC recommends that DSHS require the LMHA's to track activity regarding: a) the number of referrals received of individuals with a mental health diagnosis transitioning from nursing facilities; and b) a description of the disposition of those referrals accepted for services (e.g. placed on a waiting list, denied services, reasons for denial, etc.).

- The PIAC recommends that DSHS: 1) review data regarding the length of stay, by facility, for persons with mental illness who are diagnosed as deaf or have a hearing impairment; 2) compare this length of stay data to other individuals without these impairments; 3) identify potential barriers to community transition for this population, i.e., lack of interpreter services, etc.; and 4) if identified, take action to the address barriers.

Department of Assistive and Rehabilitative Services (DARS)

- The PIAC recommends that DARS develop a Legislative Appropriations Request (LAR) that reflects the funding levels needed to assist individuals in nursing homes and other institutions to transition into the community.

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

Department of Family and Protective Services (DFPS)

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

- The PIAC recommends that DFPS: 1) identify the number of individuals that APS places in nursing facilities; and 2) identify barriers for APS in finding less restrictive placements.

APPENDIX D

Appendix D

Texas Promoting Independence Initiative Accomplishments

1999 – 2004

Contributing Agencies:
Health and Human Services Commission (HHSC)
Legacy Texas Department of Mental Health and Mental Retardation (TDMHMR)
Legacy Texas Department of Human Services (TDHS)
Department of Family and Protective Services (DFPS) as of 2/1/04, formerly:
Legacy Texas Department of Protective and Regulatory Services (TDPRS)
Department of Assistive and Rehabilitative Services (DARS), as of 3/1/04, formerly:
Legacy Texas Rehabilitation Commission (TRC)
Legacy Texas Department on Aging (TDoA)
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

- The Texas Department of Protective and Regulatory Services (TDPRS), now the Department of Family and Protective Services (DFPS), and the Texas Department of Human Services (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

- The Texas Department of Mental Health and Mental Retardation (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 that state MR facilities.

TDPRS

- APS directs guardianship staff to ensure placement of all adult wards in community settings or on waiting lists for Medicaid waiver programs, unless the state office approves an institutional setting as more appropriate for meeting a ward's needs.
- CPS requires regional staff to obtain approval from the CPS state office director prior to placement of a child in TDPRS conservatorship in a state MR facility, institution for persons with mental retardation, or nursing home. (In November 2001, ICFs/MR were added to the list.)

June 2001

TDPRS

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

August 2001

HHSC

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

TDMHMR

- TDMHMR develops CARE report for use by MRAs that lists individuals residing in state MR facilities for whom alternative living arrangements have been recommended.
- TDMHMR develops CARE report for use by MRAs that is updated weekly and lists individuals residing in large community ICFs/MR whose names are on the HCS waiting list.

TDPRS

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

TDHS

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

September 2001

Legislative

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

October 2001

HHSC

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

January 2002

HHSC

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

TDHS

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

February 2002

HHSC

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

TDMHMR

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

March 2002

HHSC

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

TDMHMR

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

April 2002

Legislative

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

TDPRS

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

May 2002

HHSC

- HHSC, TDHS and TDHCA enter into an a memorandum of understanding (MOU) implementing a pilot program to coordinate the distribution of 35 Housing and Urban Development (HUD) Project Access Housing vouchers received by TDHCA.

- HHSC awards the family-based alternatives contract to Every Child Inc.

TDHS

- Effective May 31, 2002 through November 30, 2003, TDHS contracts for community awareness and relocation activities at five pilot sites to transition individuals from nursing facilities. As a result, 451 individuals are identified for assessment for relocation, and as of November 30, 2003, 130 individuals have moved from nursing facilities.

TDPRS

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

June 2002

TDPRS

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

TDoA

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

TRC

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

TDHS

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

July 2002

TRC

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

September 2002

HHSC

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

TDMHMR

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

TDPRS

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

TRC

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

October 2002

HHSC

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

TDMHMR

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

TDPRS

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

TRC

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

December 2002

HHSC

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

TDPRS

- TDPRS and HHSC begin the Advancing Residential Childcare (ARC) Project dedicated to evaluating and improving the Texas foster care system. The project is projected to be

completed in three to five years and will look at the CPS foster care system from different perspectives to ensure that the agency is providing quality, cost efficient care. The project will evaluate how the agency contracts for out-of-home care, as well as how best to license caregivers. The project also will study methods for streamlining the monitoring of out-of-home care, the development of best practices, building resources in underserved areas, and the use of outcomes to improve the system of care.

- TDPRS works with TDHS to change the TDHS rules so that CPS children at LOC 2 or higher can qualify for a Medicaid waiver.

TRC

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

<u>January 2003</u>

TDMHMR

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

TDPRS

- CPS incorporates into its handbook a process for obtaining regional and state office approvals for placement of children in nursing homes, community ICFs/MR, state MR facilities, and TDPRS licensed institutions for persons with mental retardation.

TRC

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

<u>March 2003</u>

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.

<u>April 2003</u>

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).

<u>September 2003</u>

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 will shall not count against the total appropriated community care slots. TDHS Rider 28 funding through the Nursing Facility strategy shall be maintained for those clients as long as the individual client remains in the transferred slot. When a TDHS Rider 28 client leaves a waiver program, any remaining funding for the biennium shall remain in the Nursing Facility strategy."

HHSC

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

TDMHMR

- TDMHMR receives a $500,000 Real Choice Systems Change Grant from CMS to redesign and improve the quality assurance and quality improvement processes in its Medicaid waiver programs for individuals with mental retardation.

TDHS

- The Center for Social Work Research (CSWR) at the University of Texas at Austin, under contract with TDHS, completes a process evaluation for the one-year pilot (June 1, 2002 through May 31, 2003) of the Community Awareness and Relocation Services (CARS) project. After review and approval by TDHS and HHSC, the evaluation is distributed to evaluation participants and other interested stakeholders in January 2004.
- TDHS receives two Real Choice Systems Change grants from CMS. One grant for "Community Integrated Personal Assistance Services" in the amount of $599,763 will conduct a research and demonstration project to further extend support systems to individuals interested in selecting, training, and managing their own attendants. The

second grant for "Money Follows the Person" in the amount of $730,442 will assist in establishing local service coordination workgroups statewide.

TDPRS

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

TDoA

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

October 2003

HHSC

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

TDMHMR

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

TRC

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

November 2003

HHSC

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

TDMHMR

- Mental health rules become effective. These rules address:
  (1) requirements of HHSC rules at §351.15 to ensure that individuals in state mental health facilities (state MH facilities) receive information about alternative services and supports prior to admission to nursing facilities; and
  (2) service needs of individuals with three or more admissions to a state MH facility within 180 days.

- Of the original 16 persons in state MH facilities over one year and considered ready for discharge, only three remain due to the need for continued hospitalization.

TDHS

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

TRC

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

December 2003

TDHS

- TDHS announces that 857 individuals have transitioned to community settings from nursing facilities under TDHS Rider 28, 78th Legislature, Regular Session, 2003.
- TDHS announces that 84 individuals have been referred to TDHCA for a housing voucher application and 49 have been approved.

TDoA

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

January 2004

TDPRS

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

TDHCA

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

February 2004

HHSC/TDHS

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

TDMHMR

- CARE data indicates over 99% 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% of individuals living in community ICFs/MR have a current date for the Living Options process.
- Since September 1, 2001, 192 persons on the HCS Program waiting list have enrolled into waiver services, 57 through the use of recycled slots.
- During FY 2004, 47 recycled waiver slots were used to provide additional options to individuals with mental retardation who were discharged from a state MH facility.
- The Texas Center for Disability Studies at The University of Texas at Austin completes report regarding persons with three or more admissions to a state MH facility.
- Texas Federation of Families for Children's Mental Health completes report regarding children with three or more admissions to the Waco Center for Youth.
- TDMHMR continues development of the model for Resiliency and Disease Management (formerly called Benefit Design) in order to ensure the most appropriate service package based on the availability of funds to serve individuals. Prioritization of services is based on individuals' disorders and support needs as determined by the revised Uniform Assessment and the TRAG (Texas Responsibility Authorization Guidelines).
- State MH Facility Division in Central Office continues to monitor activity regarding individuals who have resided in a state MH facility over one year.
- TDMHMR takes steps to improve the accuracy of program vacancy information in the ICF/MR program that appears on the Promoting Independence page on the agency website.

TDoA

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

TDHS

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

TDHCA

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

<u>March 2004</u>

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.

<u>July 2004</u>

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.

<u>August 2004</u>

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.

Acknowledgements

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

APPENDIX E

APPENDIX E

DADS Waiver Clients Appropriated vs. Actual/Budgeted									
							Change From FY 2003 Appropriated		
	Appropriated			Actual/Budgeted					
	FY 2003	FY 2004	FY 2005	FY 2003	FY 2004	FY 2005	FY 2003	FY 2004	FY 2005
CBA	29250	29284	27211	28766	27664	26100	-484	-1586	-3150
CLASS	1836	1859	1817	1700	1812	1817	-136	-24	-19
Deaf-blind	145	143	143	130	143	143	-15	-2	-2
MDCP	1071	1038	983	977	979	983	-94	-92	-88
Consolidated Waiver	175	192	192	175	192	192	0	17	17
HCS	6667	6823	6823	7280	8243	8860	613	1576	2193
Tx Home Liv	0	0	0	0	101	2052	0	101	2052
Subtotal Appropriated/Budgeted	39144	39339	37169	39028	39134	40147	-116	-10	1003
Rider 37	0	0	0	1513			1513	0	0
Rider 28	0	0	0	0	1186	2545	0	1186	2545
Total Waiver	**39144**	**39339**	**37169**	**40541**	**40320**	**42692**	**1397**	**1176**	**3548**
Numbers represent average clients served per month									

APPENDIX F

TEXAS Health and Human Services System

FY 2006-2007 LAR
Options to Address Interest / Waiting Lists

(dollars in millions)

I. Keep Pace with Population Growth	FY 2006			FY 2007			Biennium		
	Avg. Caseload[1]	GR	AF	Avg. Caseload[1]	GR	AF	Total Caseload	GR	AF
Community Based Alternatives (CBA)	307	$2.4	$6.1	920	$7.3	$18.2	1,227	$9.7	$24.3
Comm. Living Asst. & Supp. Svcs. (CLASS)	22	$0.4	$0.9	66	$1.1	$2.8	88	$1.5	$3.7
Medically Dep. Children's Program (MDCP)	7	$0.1	$0.4	20	$0.4	$1.0	27	$0.5	$1.4
Consolidated Waiver Program (CWP)	2	-	$0.1	7	$0.1	$0.2	9	$0.1	$0.3
Deaf-Blind w/ Mult. Disab. Waiver (DBMD)	2	-	$0.1	5	$0.1	$0.2	7	$0.1	$0.3
Non-Medicaid Services*	150	$0.9	$0.9	449	$2.7	$2.7	599	$3.6	$3.6
In-Home & Family Support	51	$0.1	$0.1	154	$0.2	$0.2	205	$0.3	$0.3
Home and Community-Based Svcs. (HCS)	102	$2.1	$5.2	290	$6.1	$15.3	377	$8.1	$20.5
Texas Home Living (TxHmL)	48	$0.5	$1.3	60	$0.7	$1.8	60	$1.3	$3.2
Adult Community Mental Health	1,097	$5.9	$5.9	2,194	$11.7	$11.7	2,194	$17.6	$17.6
Child & Adolesc. Community Mental Health	149	$0.8	$0.8	149	$0.8	$0.8	298	$1.6	$1.6
Children with Special Health Care Needs (CSHCN)	66	$0.6	$0.6	132	$1.4	$1.4	132	$2.1	$2.1
Comprehensive Rehabilitative Services	4	$0.1	$0.1	8	$0.2	$0.2	12	$0.3	$0.3
Independent Living Services	25	$0.0	$0.0	51	$0.1	$0.1	76	$0.1	$0.1
Total for Option I:	**2,032**	**$13.9**	**$22.6**	**4,505**	**$32.9**	**$56.6**	**5,311**	**$46.9**	**$79.3**

II. Reduce Waiting/Interest Lists	FY 2006			FY 2007			Biennium		
	Avg. Caseload[1]	GR	AF	Avg. Caseload[1]	GR	AF	Total Caseload	GR	AF
Community Based Alternatives (CBA)	1,806	$14.3	$35.7	5,420	$43.0	$107.1	7,226	$57.3	$142.8
Comm. Living Asst. & Supp. Svcs. (CLASS)	361	$6.0	$15.1	1,082	$18.0	$45.4	1,444	$24.0	$60.5
Medically Dep. Children's Program (MDCP)	250	$5.3	$13.3	748	$15.8	$39.7	997	$21.1	$53.0
Consolidated Waiver Program (CWP)	-	-	-	-	-	-	-	-	-
Deaf-Blind w/ Mult. Disab. Waiver (DBMD)	1	-	-	3	$0.1	$0.1	4	$0.1	$0.1
Non-Medicaid Services*	209	$1.3	$1.3	626	$3.8	$3.8	835	$5.1	$5.1
In-Home & Family Support	469	$0.7	$0.7	1,407	$2.2	$2.2	1,876	$2.9	$2.9
Home and Community-Based Svcs. (HCS)	1,383	$28.5	$71.4	3,938	$82.9	$208.6	5,109	$111.4	$280.0
Texas Home Living (TxHmL)	-	-	-	-	-	-	-	-	-
Adult Community Mental Health	1,201	$6.4	$6.4	2,403	$12.9	$12.9	2,403	$19.2	$19.2
Child & Adolesc. Community Mental Health	110	$0.6	$0.6	111	$0.6	$0.6	221	$1.2	$1.2
Children with Special Health Care Needs (CSHCN)	40	$1.1	$1.1	70	$2.8	$2.8	110	$3.9	$3.9
Comprehensive Rehabilitative Services	82	$2.3	$2.3	165	$4.6	$4.6	247	$6.9	$6.9
Independent Living Services	382	$0.4	$0.4	763	$0.9	$0.9	1,145	$1.3	$1.3
Total for Option II:	**6,294**	**$66.9**	**$148.3**	**16,736**	**$187.6**	**$428.7**	**21,617**	**$254.4**	**$576.9**

* Non-Medicaid Services include these Title XX and GR funded services: Family Care, Home Delivered Meals, Emergency Response, Adult Foster Care, Special Svcs. for Persons with Disabilities, Residential Care, Client Managed Attendant Care, and Title XX Day Activity & Health Services (DAHS).

[1] Average Caseload is an average monthly figure except for Adult Community Mental Health, Child and Adolescent Community Mental Health, Children with Special Health Care Needs, Comprehensive Rehabilitative Services, and Independent Living Services, for which Average Caseload is an annual figure.

TEXAS Department of Aging and Disability Services

FY 2006-2007 LAR
Options to Address Interest / Waiting Lists

(dollars in millions)

I. Keep Pace with Population Growth	Current Waiting/Interest Lists	% on W/IL Recv. Other Svcs.	FY 05 Avg. Caseload per Month	Population Growth Rate	Phase in %		FY 2006			FY 2007			Biennium		
					FY 06	FY 07	Avg. Monthly Caseload	GR	AF	Avg. Monthly Caseload	GR	AF	Caseload as of Aug. 07	GR	AF
Community Based Alternatives (CBA)	65,693	0.51	26,100	0.0470	0.25	0.75	307	$2.4	$6.1	920	$7.3	$18.2	1,227	$9.7	$24.3
Comm. Living Asst. & Supp. Svcs. (CLASS)	12,235	0.15	1,817	0.0486	0.25	0.75	22	$0.4	$0.9	66	$1.1	$2.8	88	$1.5	$3.7
Medically Dep. Children's Program (MDCP)	7,554	0.09	983	0.0272	0.25	0.75	7	$0.1	$0.4	20	$0.4	$1.0	27	$0.5	$1.4
Consolidated Waiver Program (CWP)	N / A	N / A	192	0.0470	0.25	0.75	2	-	$0.1	7	$0.1	$0.2	9	$0.1	$0.3
Deaf-Blind w/ Mult. Disab. Waiver (DBMD)	18	0.33	143	0.0506	0.25	0.75	2	-	$0.1	5	$0.1	$0.2	7	$0.1	$0.3
Non-Medicaid Services*	11,934	N / A	12,727	0.0470	0.25	0.75	150	$0.9	$0.9	449	$2.7	$2.7	599	$3.6	$3.6
In-Home & Family Support	19,955	N / A	4,221	0.0486	0.25	0.75	51	$0.1	$0.1	154	$0.2	$0.2	205	$0.3	$0.3
Home and Community-Based Svcs. (HCS)	25,543	0.46	8,970	0.0210	0.25	0.75	102	$2.1	$5.2	290	$6.1	$15.3	377	$8.1	$20.5
Texas Home Living (TxHmL)	25,543	N / A	2,851	0.0210	0.80	1.00	48	$0.5	$1.3	60	$0.7	$1.8	60	$1.3	$3.2
Total for Option I:							**691**	**$6.5**	**$15.1**	**1,971**	**$18.7**	**$42.4**	**2,599**	**$25.2**	**$57.6**

* Non-Medicaid Services include these Title XX and GR funded services: Family Care, Home Delivered Meals, Emergency Response, Adult Foster Care, Special Svcs. for Persons with Disabilities, Residential Care, Client Managed Attendant Care, and Title XX Day Activity & Health Services (DAHS).

Assumptions:

Option I assumes a phase in approach by serving 80% for TxHmL, 50% for HCS, and 25% of the eligible clients in the other programs in FY 06. FY 07 assumes serving 100% in TxHmL and HCS, and 75% of the eligible clients for all other programs. Estimates for HCS and TxHmL include utilization review staff required to serve additional population (1 FTE for the biennium). Estimates for all other programs include eligibility staff required to serve the additional population (8.7 & 26.1 FTEs respectively). Acute care costs are included for all programs.

II. Reduce Waiting/Interest Lists	Current Waiting/ Interest Lists *	% on W/IL Recv. Other Svcs.	Percent Eligible	Biennium Target 20%	Phase in %		FY 2006			FY 2007			Biennium		
					FY 06	FY 07	Avg. Monthly Caseload	GR	AF	Avg. Monthly Caseload	GR	AF	Caseload as of Aug. 07	GR	AF
Community Based Alternatives (CBA)	65,693	0.51	0.55	7,226	0.25	0.75	1,806	$14.3	$35.7	5,420	$43.0	$107.1	7,226	$57.3	$142.8
Comm. Living Asst. & Supp. Svcs. (CLASS)	12,235	0.15	0.59	1,444	0.25	0.75	361	$6.0	$15.1	1,082	$18.0	$45.4	1,444	$24.0	$60.5
Medically Dep. Children's Program (MDCP)	7,554	0.09	0.66	997	0.25	0.75	250	$5.3	$13.3	748	$15.8	$39.7	997	$21.1	$53.0
Consolidated Waiver Program (CWP)	N / A	N / A	N / A	N / A	0.25	0.75	-	-	-	-	-	-	-	-	-
Deaf-Blind w/ Mult. Disab. Waiver (DBMD)	18	0.33	1.00	4	0.25	0.75	1	-	-	3	$0.1	$0.1	4	$0.1	$0.1
Non-Medicaid Services*	11,934	N / A	0.35	835	0.25	0.75	209	$1.3	$1.3	626	$3.8	$3.8	835	$5.1	$5.1
In-Home & Family Support	19,955	N / A	0.47	1,876	0.25	0.75	469	$0.7	$0.7	1,407	$2.2	$2.2	1,876	$2.9	$2.9
Home and Community-Based Svcs. (HCS)	25,543	0.46	0.90	5,109	0.25	0.75	1,383	$28.5	$71.4	3,938	$82.9	$208.6	5,109	$111.4	$280.0
Texas Home Living (TxHmL)		N / A					-	-	-	-	-	-	-	-	-
Total for Option II:							**4,479**	**$56.1**	**$137.5**	**13,224**	**$165.8**	**$406.9**	**17,491**	**$221.9**	**$544.4**

* Non-Medicaid Services include these Title XX and GR funded services: Family Care, Home Delivered Meals, Emergency Response, Adult Foster Care, Special Svcs. for Persons with Disabilities, Residential Care, Client Managed Attendant Care, and Title XX Day Activity & Health Services (DAHS).

Assumptions:

Option II assumes 20% of the current waiting/interest list is served. All are phased in at 25% for the first year of the biennium and 75% in the second year. For HCS and TxHmL, estimate includes utilization review staff required to serve the additional population (9.6 FTEs over the biennium). Estimates for all other programs include eligibility staff required to serve the additional population (55.9 & 168.4 FTEs respectively). Acute care costs are assumed for all programs.

TEXAS Department of Assistive and Rehabilitative Services

(dollars in millions)

I. Keep Pace with Population Growth	Current Waiting/ Interest Lists	% on W/IL Recv. Other Svcs.	FY 05 Avg. Annual Caseload	Population Growth Rate	Phase in %		FY 2006			FY 2007			Biennium		
					06	07	Annual Caseload	GR	AF	Annual Caseload	GR	AF	Cumulative Caseload	GR	AF
Comprehensive Rehabilitative Services	173	0	363	0.0227	0.50	0.50	4	$0.11	$0.11	8	$0.22	$0.22	12	$0.33	$0.33
Independent Living Services	814	0	2,237	0.0227	0.50	0.50	25	$0.03	$0.03	51	$0.06	$0.06	76	$0.09	$0.09
													-	-	-
													-	-	-
													-	-	-
													-	-	-
Total for Option I:							**29**	**$0.1**	**$0.1**	**59**	**$0.3**	**$0.3**	**88**	**$0.4**	**$0.4**

Assumptions:

Option I assumes a phase in approach to keep pace with population growth in Comprehensive Rehabilitative Services and Independent Living Services by serving 50% of the clients in FY06 and 100% in FY07.

II. Reduce Waiting/Interest Lists	Current Waiting/ Interest Lists	% on W/IL Recv. Other Svcs.	FY 05 Avg. Annual Caseload	Biennium Target	Phase in %		FY 2006			FY 2007			Biennium		
					06	07	Annual Caseload	GR	AF	Annual Caseload	GR	AF	Cumulative Caseload	GR	AF
Comprehensive Rehabilitative Services	173	0	363	165	0.50	0.50	82	$2.3	$2.3	165	$4.6	$4.6	247	$6.9	$6.9
Independent Living Services	814	0	2,237	763	0.50	0.50	382	$0.4	$0.4	763	$0.9	$0.9	1,145	$1.3	$1.3
Total for Option II:							**464**	**$2.7**	**$2.7**	**928**	**$5.5**	**$5.5**	**1,392**	**$8.2**	**$8.2**

Assumptions:

Option II assumes 100% of the current waiting/interest list is served by phasing in at 50% in the first year of the biennium and 100% in the second year. Assumes Option I plus Option II would eliminate the current waiting/interest list for Comprehensive Rehabilitative Services and Independent Living Services.

TEXAS Department of State Health Services

FY 2006-2007 LAR
Options to Address Interest / Waiting Lists

(dollars in millions)

I. Keep Pace with Population Growth	Current Waiting/Interest Lists	% on W/IL Recv. Other Svcs.	FY 05 Avg. Annual Caseload	Population Growth Rate	Phase in %		FY 2006			FY 2007			Biennium		
					06	07	Annual Caseload	GR	AF	Annual Caseload	GR	AF	Caseload as of Aug. 07	GR	AF
Adult Community Mental Health	4,597	0.41	97,098	0.0226	0.50	0.50	1,097	$5.9	$5.9	2,194	$11.7	$11.7	2,194	$17.6	$17.6
Child & Adolesc. Community Mental Health	519	0.32	22,239	0.0340	0.50	0.50	149	$0.8	$0.8	149	$0.8	$0.8	298	$1.6	$1.6
Children with Special Health Care Needs (CSHCN)	206	1.00	4,776	0.0274			66	$0.6	$0.6	132	$1.4	$1.4	132	$2.1	$2.1
													-	-	-
													-	-	-
Total for Option I:							**1,312**	**$7.3**	**$7.3**	**2,475**	**$13.9**	**$13.9**	**2,624**	**$21.3**	**$21.3**

Assumptions for Community Mental Health Services:

1. The waiting list for community mental health services for adults and children & adolescents (under the age of 18) as of May 31, 2004 was utilized for this calculation.

Assumptions for Children with Special Health Care Needs:

1. Assumes all clients have medical urgency and no other coverage and will therefore receive services.
2. The current waiting/interest list estimate was based on a point in time; the CSHCN program updates waiting/interest list figures monthly and is experiencing significant growth in the waiting/interest list.
3. Assumes all clients have medical urgency and no other coverage and will therefore receive services.
4. Assumes no additional Federal dollars available.
5. Client benefit costs exclude transportation benefit (approximately 2.06% of the total CSHCN health care benefit costs) provided through the Texas Department of Transportation (TxDOT).
6. Assumes 50% of eligible clients (not on waiting/interest list) receive services as CSHCN is a safety net program and payor of last resort. Current rules require removal of clients from the waiting list based on priority groups, with groups 1 & 2 being the most likely to receive services at a higher cost. As one moves through the levels of priority, the need for services and related costs to CSHCN diminishes.
7. Caseload figures are annualized.
8. Assumes approximately one half of dollars requested in FY 07 will be used to sustain clients removed from the waiting list and provided services in FY 06.

II. Reduce Waiting/Interest Lists	Current Waiting/Interest Lists	% on W/IL Recv. Other Svcs.	FY 05 Avg. Annual Caseload	Biennium Target	Phase in %		FY 2006			FY 2007			Biennium		
					06	07	Annual Caseload	GR	AF	Annual Caseload	GR	AF	Caseload as of Aug. 07	GR	AF
Adult Community Mental Health	4,597	0.41	97,098	2,403	0.50	0.50	1,201	$6.4	$6.4	2,403	$12.9	$12.9	2,403	$19.2	$19.2
Child & Adolesc. Community Mental Health	519	0.32	22,239	41	0.50	0.50	110	$0.6	$0.6	111	$0.6	$0.6	221	$1.2	$1.2
Community MH Subtotal							***1,311***	***$7.0***	***$7.0***	***2,514***	***$13.5***	***$13.5***	***2,624***	***$20.4***	***$20.4***
Children with Special Health Care Needs (CSHCN)	206	1.00	4,776	1,040			40	$1.1	$1.1	70	$2.0	$2.0	110	$3.1	$3.1
Sustaining FY 06 in FY 07										40	$0.8	$0.8		$0.8	$0.8
CSHCN Subtotal							***40***	***$1.1***	***$1.1***	***110***	***$2.8***	***$2.8***	***110***	***$3.9***	***$3.9***
Total for Option II:							**1,351**	**$8.1**	**$8.1**	**2,624**	**$16.3**	**$16.3**	**2,734**	**$24.3**	**$24.3**

Assumptions for Community Mental Health Services:

1. The waiting list for community mental health services for adults and children (under the age of 18) as of May 31, 2004 was utilized for this calculation.
2. The numbers above are annualized figures.

Assumptions for Children with Special Health Care Needs:

1. Caseload figures are annualized.
2. The current waiting/interest list estimate was based on a point in time; the CSHCN program updates waiting/interest list figures monthly and is experiencing significant growth in the waiting/interest list.
3. Assumes funding of $1.2 million GR in FY06 and $1.2 million GR in FY07 is restored as part of the the DSHS exceptional item request to restore the 5% base reduction.
4. Assumes base level funding as submitted in DSHS LAR would be appropriated to CSHCN which would allow funding to remove some clients from the waiting list to begin to receive health care benefits.
5. Dollars to sustain clients removed from the waiting/interest list in FY06 would be needed in FY07.
6. Assumes net growth in waiting/interest list of 25 clients per month and staggered removal.
7. Assumes no additional Federal dollars available.
8. Client benefit costs exclude transportation benefit (approximately 2.06% of the total CSHCN health care benefit costs) provided through the Texas Department of Transportation (TxDOT).
9. Assumes 50% of eligible clients (not on waiting/interest list) receive services as CSHCN is a safety net program and payor of last resort. Current rules require removal of clients from the waiting/interest list based on priority groups, with groups 1 & 2 being the most likely to receive services at a higher cost. As one moves through the levels of priority, the need for services and related costs to CSHCN diminishes.
10. Assumes Option 1 plus Option II would eliminate the current waiting/interest list for CSHCN.
11. Biennium target assumes base funding is restored as part of the DSHS exceptional item request and that funding is received to Keep Pace with Population Growth and to Reduce Waiting List as requested in this exceptional item.

APPENDIX G

APPENDIX G

TEXAS Department of Human Services

Rider 28 Client Demographics with revised data

Effective Date 8/31/04 12:00AM

Living Arrangement	Client Count
COMMUNITY - ADULT FOSTER CARE	25
COMMUNITY - ALONE	527
COMMUNITY - ALTERNATIVE. LIVING/F	780
COMMUNITY - W/FAMILY	1082
COMMUNITY - W/OTHER WAIVER PAR	73
OTHER	15
Total	**2502**

Service Group	Client Count
CBA	2,467
CLASS	18
COMMUNITY CARE	1
MEDICALLY DEPENDENT CHILDREN PROGRAM	16
Total	**2502**

Age Group	Client Count
0 - 9	12
10 - 17	8
100 +	6
18 - 20	3
21	14
22 - 44	180
45 - 64	659
65 - 69	251
70 - 74	259
75 - 79	320
80 - 84	351
85 - 89	254
90 - 94	154
95 - 99	31
Total	**2,502**

Region	Client Count
00	4
01	99
02	174
03	708
04	302
05	140
06	91
07	223
08	317
09	89
10	37
11	318
Total	**2,502**

Gender	Client Count
FEMALE	1,634
MALE	867
UNKNOWN	1
Total	**2502**

Ethnicity	Client Count
AMERICAN INDIAN OR ALASKA	8
ASIAN OR PACIFIC ISLANDER	5
BLACK- NOT OF HISP. ORIGI	287
HISPANIC	497
UNKNOWN	73
WHITE- NOT OF HISP. ORIGI	1632
Total	**2502**

APPENDIX H

APPENDIX H

Texas Department of Family and Protective Services FPS Children and Young Adults In Selected HHSC Institutional Placements Data for 9/30/04											
	FPS Institutions for MR	**HCS**	**ICF MR Small 1-6**	**ICF MR Medium 7-13**	**ICF MR Large 14+**	**MHMR State School**	**MHMR State Hospital**	**MHMR State Center**	**Nursing Home**	**Sub Total**	**Total**
CPS Children	73	11	8	6	3	1	3	0	4	109	
CPS Youth 18-20	0	0	5	2	3	0	1	0	0	11	
APS Clients 18-22	0	9	17	5	17	17	2	1	6	74	
Combined Total:	**73**	**20**	**30**	**13**	**23**	**18**	**6**	**1**	**10**	**194**	

Texas Department of Family and Protective Services CPS Children with Developmental Disability (DD) Characteristic And APS Guardianship Clients 18-22 In Selected Group Settings Data for 9/30/04							
	Foster Group Home	**Basic Care Facility**	**Residential Treatment Center**	**Assisted Living**	**Other Group Settings**	**Sub Total**	**Total**
CPS Children	128	5	92	0	16	241	350
CPS Youth 18-20	7	1	2	0	1	11	22
APS Clients 18-22	5	1	3	0	0	9	83
Combined Total	**140**	**7**	**97**	**0**	**17**	**261**	**455**

Data Source: IMPACT Sub/Adopt and Service Delivery Data Warehouses
HHSC_01s
MDC: Warehouse Data As of 10/7/2004