

Background:

A. State Policy Issues

TCDD Staff will provide an update regarding recent public policy activities.

Discussion topics include:

- Guardianship Reform and Supported Decision-Making
- DADS Budget Summary
- DARS Budget Summary
- Community First Choice

B. Update on State Supported Living Center Activities

The Committee will receive an update on recent activities involving State Supported Living Centers.

C. Federal Policy Issues

TCDD Public Policy staff will provide an overview of the status and implementation of various federal legislative initiatives that impact people with developmental disabilities including an update on the ABLE Act.

Public Policy Committee

Agenda Item 7.

Expected Action:

The Committee will receive updates on these items and may make recommendations for consideration by the Council.

Council

Agenda Item 10. B.

Expected Action:

The Council will receive reports from the Public Policy Committee and consider any recommendations offered from the Committee.

GRSDM Texas Guardianship Reform and Supported Decision-Making Workgroup

GRSDM recognizes that a guardianship is necessary at times; however an individual should not be presumed to need a guardian simply due to advanced age or the presence of physical, cognitive and/or mental disability. Individuals with disabilities, and the elderly, use formal and informal supports to help avert guardianship and preserve their individual and civil rights. Individuals should have the opportunity to avoid or limit guardianship through alternatives and least restrictive means. The following bills preserve self-determined lives and improve protections for individuals under a guardianship.

Texas Judicial Council Guardianship Reforms

SB 1224 by Sen. Schwertner and HB 39 by Rep. Smithee

- Lists less restrictive alternatives to guardianship; such as a power of attorney or representative payee and directs the court to determine whether alternatives could meet the needs of the person rather than guardianship;
- Requires the court to determine if formal and informal supports are in place or available that enable individuals to meet their needs and make decisions so that guardianship may be averted or limited;
- Requires additional information from the physician about the proposed incapacitated person;
- Adds consideration of the proposed ward's capacity to make decisions about residence; and
- Adds training on alternatives to guardianship of the applicant's attorney.

Establishing Supported Decision-Making Agreements

SB 1881 by Sen. Zaffirini; SB 1912 by Sen. Perry; and HB 3624 by Rep. Zedler

- Endorsed by Texas Judicial Council
- Establishes an informal alternative to guardianship where individuals could choose people they trust to help them understand the decisions they need to make and to communicate their decisions to others.

Strengthening Due Process in Court-Initiated Guardianship Proceedings

HB 3914 by Rep. Klick

- Provides protections and rights of persons alleged to be incapacitated by a court-initiated guardianship proceeding.

Ensuring Care and Treatment of Certain Incapacitated Persons

HB 3930 by Rep. Hughes

- Improves protections for individuals committed to institutional settings with requirements for guardians to visit an institutionalized person every month and provide timely responses to calls, emails or letters about the person.

Establishing a Bill of Rights for Persons Under Guardianship

SB 1882 by Sen. Zaffarini

- Lists the rights that individuals under guardianship get to keep, such as the right to live, work and play in the most integrated setting, visit with people of their choice, appear before the court to express their preferences or concerns and change the impersonal term "ward" to "person under guardianship."

GRSDM SUPPORTERS

- AARP
- ADAPT of Texas
- The Arc of Texas
- Coalition of Texans with Disabilities
- Disability Rights Texas
- Down Syndrome Association of Central Texas
- Guardianship Reform Advocates for Disabled & Elderly
- Health Care for All Texas
- Ed Hammer, Ph.D., Texas Tech Health Science Center – Amarillo
- Mental Health America of Texas
- National Association of Social Workers – Texas
- Quality Trust for Individuals with Disabilities
- Texas Advocates
- Texas Association of Centers for Independent Living
- Texas Council for Developmental Disabilities
- Texas Parent to Parent

For information, please visit www.grsdm.org

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

The House Appropriations Committee and the Senate Finance Committee have each adopted their first draft of the 2016-2017 appropriations bill, HB 1 and SB 2 respectively.

The committees made one of the following decisions on each item:

- Adopt in Article II - a dollar amount to fund the request
- Not adopt - funding for the request
- Article XI – this typically indicates that the committee would like to fund the item, but has not identified funds for it. Items will be put in Article XI to “keep hope alive” and for reconsideration in the event that more funding becomes available.

The Senate and the House will each consider the recommended budgets. While the Senate does not usually entertain amendments to the budget, the House generally has the opportunity to move money around and add riders. After the House passes their version of the budget, the Senate will substitute their version of the budget and the Senate will pass a version similar to the one recommended by the Senate Finance Committee. At that time the House and the Senate will appoint a conference committee to address the portions of the budget where the two bills are not in agreement.

Below are the decisions made by the House Appropriations (red) and the Senate Finance (purple) Committees.

Exceptional Items

1. Restore Baseline Funding

DADS is requesting \$21.1 million in General Revenue (GR)¹ and \$44.9 million All Funds (AF)². The base budget holds Targeted Case Management (TCM), provided by local intellectual and developmental disability authorities (LIDDA), at Fiscal Year (FY) 2014 and FY 2015 funding levels; however, the caseload for FY 2016-17 is expected increase as a result of implementation of both the Community First Choice program and the current Preadmission Screening and Resident Review (PASRR). It would also fund Data Center Consolidation.

House Appropriations Committee:

- Adopted \$14.9 million to address targeted case management.

Senate Finance Committee:

- Adopted \$14.9 million to address targeted case management.

¹ General Revenue Funds are state funds. The general revenue fund receives money from the sales tax, the motor vehicle sales and rental taxes, the franchise tax, insurance premium taxes, and various other taxes and fees.

² All Funds are the combination of state general revenue funds, federal funds and other revenue.

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

2. Cost Trends

Client-related increases in costs and acuity are expected to require a need for about \$22.4 million in GR and \$52.1 million in AF over the next biennium. These funds are for DADS entitlement programs (Primary Home Care, Community Attendant Services and Nursing Facilities); the agency has little discretion in paying for these services and costs have increased by 1% to 2% in some programs.

House Appropriations Committee: \$22.4 million in Article XI

Senate Finance Committee: Adopted \$17 million in Article II

3. Interest List Reduction

This item would provide funds for community-based DADS waiver services for an additional 15,780 people. Services would cost about \$305.9 million in GR and \$725.7 million in AF. This amount fully funds the STAR+PLUS waiver and DBMD interest lists, funds services for 20% of the estimated number of people eligible and likely to accept services on the HCS, MDCP, TxHmL, CLASS, and Title XX services interest lists, and would reduce interest lists for In Home and Family Support (IHFS) and LIDDA Community services by 10% from FY 2014-15 levels. The request is comprehensive and includes funding for long-term care, acute care, drug and administrative costs at the Texas Health and Human Services Commission (HHSC), as well as long-term care and administrative costs at DADS.

House Appropriations Committee: Adopted \$71.5 million to reduce the interest lists.

Senate Finance Committee: Adopted \$71.5 million to reduce the interest lists.

Waiver	DADS Request 20% Reduction	HAC Adopted 4% Reduction	SFC Adopted
HCS	6,792	2,134	2,134
CLASS	4,151	880	564
DBMD	21	50	50
MDCP	1,282	104	104
TxHmL	1,040	-	-
STAR+Plus	1,646	100	100

4. Promoting Independence

The Promoting Independence Initiative makes community waiver services available to people who are otherwise entitled to institutional services. DADS is requesting \$32 million in GR and \$86.5 million in AF for waiver services for 1,362 people to move to the least restrictive setting to meet their needs.

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

Promoting Independence Groups	# of people requested	HAC Adopted	SFC Adopted
HCS for people Moving from large and medium ICFs – including SSLCs	500	500	250
Children Aging out of Foster Care	216	216	216
Persons at Imminent Risk of Entering an ICF	400	400	200
Individuals with IDD Moving from State Hospitals	120	120	60
Children Transitioning from a general residence operations (GRO) facility (DFPS)	25	25	12
STAR+Plus for people at Imminent Risk of Nursing Facility Admission	100	100	50

Promoting Independence makes community waiver services available to people in institutions within one year of the date of referral for community placement. Not funding this item would eliminate the department’s ability to meet the requirement and people would remain in institutions that are more restrictive than necessary. It provides residential options for children with developmental disabilities whose conservatorship ends with DFPS. This item also provides services to prevent institutionalization of people waiting on interest lists who are at imminent risk of going into one.

House Appropriations Committee: Adopted the full \$32 million in Article II

Senate Finance Committee: Adopted \$19.1 million in Article II; \$12.2 million in Article XI

5. Enhanced Community Services for Persons w/IDD and Complex Needs

DADS is requesting \$36.9 million in GR and \$49.9 million in AF to support people with complex needs.

- Behavior Intervention and Crisis Respite Services (\$27.5M GR)
 - **House Appropriations Committee: Adopted \$27.5M**
 - **Senate Finance Committee: Adopted \$9.2M**
- An add-on rate of \$75.76 per day will be piloted to assist ICF and HCS providers to serve people with complex medical support needs [FY '16 150 ICF; FY '17 175 ICF, 175 HCS] (\$5.9M)
 - **House Appropriations Committee: Adopted**
 - **Senate Finance Committee: Adopted**
- Enhanced transition services for people leaving SSLCs (\$3.5M)
 - **House Appropriations Committee: Adopted**
 - **Senate Finance Committee: Adopted**

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

6. PASRR Compliance

To bring Texas into compliance with federal Preadmission Screening and Resident Review (PASRR) requirements for persons with IDD entering or seeking admission to a Nursing Facility (NF), DADS is requesting \$40.4 million in GR and \$114.7 in AF for the FY 2016-17 biennium. 1,300 people would either transition, or be diverted, from NFs to community services - the cost of which is offset by the lower number of persons expected to be in NFs. If this item is not funded, DADS may not be able to meet federal and court-ordered mandates regarding people with IDD residing in NFs.

House Appropriations Committee: Adopted \$28.7 million in Article II; \$5.5 million in Article XI

Senate Finance Committee: Adopted \$17.1 million in Article II

7. Protecting Vulnerable Texans

DADS is requesting funds, about \$21.2 million in GR and \$41.8 million in AF, to improve the safety of persons receiving DADS services.

- Expand the guardianship program services (\$1.7M GR/AF)
 - House Appropriations Committee: Adopted
 - Senate Finance Committee: Adopted
- Additional contracted assisted living facility contract ombudsmen (\$1.9M GR/AF)
 - House Appropriations Committee: Adopted
 - Senate Finance Committee: Adopted
- Expand the number of caregivers reached by the Lifespan Respite Care Program (\$2M GR/AF)
 - House Appropriations Committee: Not Adopted
 - Senate Finance Committee: Adopted \$1M
- Raise the HCS cap on dental expenses from \$1,000 to \$2,000 per person per year (\$8.3M GR, \$19.2M AF)
 - House Appropriations Committee: Adopted \$8.2M
 - Senate Finance Committee: Adopted \$4.1M
- Assist HCS group homes to install sprinkler systems (\$5.9MGR, \$13.8MAF)
 - House Appropriations Committee: Adopted
 - Senate Finance Committee: Up to \$1.5M to reimburse provider up to 50% (not to exceed \$10K/home) of the cost of system
- Regulatory oversight of home health providers (\$1.4M GR, \$3M AF)
 - House Appropriations Committee: Adopted
 - Senate Finance Committee: Adopted

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

8. Maintenance/Improving SSLC Operations

This item requests \$8.2 million in GR and \$109 million in AF, including \$94 million in bond proceeds, to make life/safety repairs and renovations at the 13 SSLCs. This includes funds for the 10-year vehicle replacement plan and would reclassify Qualified Intellectual Disabilities Professionals (QIDP) in order to raise their salaries. It would also expand an outcomes-based Quality Improvement Program for the 3,310 people living in SSLCs as they transition into an integrated community setting.

House Appropriations Committee: Adopted \$6.7 million – this funds the full request, with the exception of the bond authority and half of the vehicle replacement request.

Senate Finance Committee: Adopted \$3 million for Quality Improvement Program and \$18 million for bond funding in Article II; \$76M in Article XI for bonds

9. Specialized Resource Navigation for Veterans

DADS is requesting \$2.2 million in GR and AF to support a Veterans Resource Navigation Specialist at each of Texas' 22 Aging and Disability Resource Centers to streamline access to programs and benefits.

House Appropriations Committee: Article XI

Senate Finance Committee: Adopted in Article II

Additional Items

Attendant Wages

Attendant wages are addressed in the HHSC budget. HHSC requested \$121.6 million to raise community attendant wages by 5%. This item is expected to remain on the table and will not finally be decided until the very end of the process.

House Appropriations Committee: Adopted \$60 million in Article II; \$60 million in Article XI

- ❖ \$20.5M to DADS and \$39.5M to HHSC
- ❖ 50% - attendant care rate enhancement (ACRE)
- ❖ 10% - administration
- ❖ Would raise the community attendant wage floor to \$7.97

Senate Finance Committee: Adopted \$38 million in Article II; \$83.6 million in Article XI

- ❖ \$9.6M to DADS and \$28.4M to HHSC
- ❖ Would raise the community attendant wage floor to \$8

TCDD Summary of DADS Exceptional Items Request with HAC and SFC Decisions

Enhanced Managed Care Ombudsman

Contingency funding for SB 1475 that would require an ombuds system for all persons receiving services under any managed care in order to reduce the need for internal appeals at the managed care company and fair hearing levels.

Senate Finance Committee (only): Adopted \$1 million in Article II

Enhanced Services for Persons with IDD

The Community First Choice does not include transportation and respite, services that are included in habilitation, the equivalent service in the waivers typically used by people with developmental disabilities. This item would allow HHSC rate setting to build transportation and respite into the CFC rate.

Senate Finance Committee (only): Adopted \$19.8 million in Article II

Children with Special Health Care Needs (CSHCN)

The Children with Special Health Care Needs waiting list is addressed in the Department of State Health Services budget. DSHS requested \$11 million GR to provide services to more than 500 children eligible and waiting for services.

- Level 1 - no other resources, under 21, urgent need
- Level 2 - no other resources, over 21, urgent need
- Level 3 – other resources, under 21, not urgent
- Level 4 – other resources, over 21, not urgent

Note: Funds for children in levels 3 & 4 would address uncovered costs like transportation, hospice, and premium assistance.

House Appropriations Committee: Adopted \$5 million in Article II for Levels 1 and 2

Senate Finance Committee: Article XI

Provider Rates

1% rate adjustment for certain DADS programs.

House Appropriations Committee (only): Adopted \$11.6 million in Article XI for a

Program	1% Rate Increase
Community-based ICFs	\$2.4M
HCS	\$8.5M
TxHmL	\$673K

TCDD Summary of DARS Exceptional Items Request with HAC and SFC Decisions

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The committees made one of the following decisions on each item:

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The Senate and the House will each consider the recommended budgets. While the Senate does not usually entertain amendments to the budget, the House generally has the opportunity to move money around and add riders. After the House passes their version of the budget, the Senate will substitute their version of the budget and the Senate will pass a version similar the one recommended by the Senate Finance Committee. At that time the House and the Senate will appoint a conference committee to address the portions of the budget where the two bills are not in agreement.

Below are the decisions made by the House Appropriations (**red**) and the Senate Finance (**purple**) Committees.

EXCEPTIONAL ITEMS

1. Early Childhood Intervention Projected Service Hours

DARS is requesting \$14 million in General Revenue (GR)¹ and \$14 million in All Funds (AF)² to fund average monthly service hours of 2.78 in FY 2016 and 2.88 in FY 2017. The ECI program has experienced a higher percentage of eligible children with a qualifying diagnosis and a developmental delay in more than one area. DARS reports that HB 1 funds projected caseload growth (requested in the fall), but not projected service hour needs.

House Appropriations Committee: Adopted \$3.8 million GR; \$10.2 million GR in Article XI

Senate Finance Committee: Adopted \$3.8 million GR; \$10.2 million GR in Article XI

¹ General Revenue Funds are state funds. The general revenue fund receives money from the sales tax, the motor vehicle sales and rental taxes, the franchise tax, insurance premium taxes, and various other taxes and fees.

² All Funds are the combination of state general revenue funds, federal funds and other revenue.

TCDD Summary of DARS Exceptional Items Request with HAC and SFC Decisions

2. Maintain Comprehensive Rehabilitation Services Funding

The Comprehensive Rehabilitative Services (CRS) program provides intensive rehabilitation services to people who have experienced a traumatic brain injury or spinal cord injury so they may regain functionality and independence. HB 1 assumes a higher available account balance in the Comprehensive Rehabilitation Account No. 107 than the BRE projects. As a result funding for the CRS program is below the FY 2014-15 base. This \$9.4 million GR request would maintain funding at the FY 2015 level for 143 people in FY 2016 and 41 people in FY 2017.

House Appropriations Committee: Adopted

Senate Finance Committee: Adopted

3. Autism

This \$7.6 million GR request is to address the increasing prevalence of Autism Spectrum Disorder (ASD) by promoting community assessments to identify resources and gaps in services and supports for Texans with ASD, supporting efforts for universal developmental screenings, providing education and training to parents, and providing training to professionals to increase the capacity of diagnostic intervention providers.

House Appropriations Committee Decision: \$6 million in Article II; \$1.6 million in Article XI

- Fund the Office of Autism Services (\$1.6M GR) – Article XI
- Expand focused Applied Behavior Analysis treatment services targeted to address only one or two developmental delays by all contractors and expand ASD treatment into unserved areas of the state. Would serve 645 children in FY 2016 and 790 children in FY 2017 (\$3.8M GR) - Adopted
- Pilot cost-effective innovative treatment models (\$1.8M GR) – Adopted
- Enhance program accountability and oversight (\$0.4M GR) - Adopted

The Senate Finance Committee: Adopted \$14 million in Article II; \$8.1 million in Article III

- Article II (DARS) - \$14 million for services to approximately 1,856 children
 - Phase-out of comprehensive applied behavior analysis (ABA) services
 - Expand access to focused ABA treatment
- Article III (Texas Higher Education Coordinating Board) - \$8.1 million to university centers for evidence-based services and training
 - \$4.5M - Parent-directed treatment
 - \$1.9M - Teacher and paraprofessional ABA training
 - \$1.4M - Research, development, and evaluation of innovative autism services
 - \$300K – Administration

TCDD Summary of DARS Exceptional Items Request with HAC and SFC Decisions

4. Invest in Independence and Blindness Prevention

Population growth and an increase in the incidence of conditions that result in the loss of vision are key drivers for this \$5.3 million GR and \$5.4 million AF exceptional item request. Despite increases in staff, the Children’s Blindness Services Program caseloads have increased by 25% since 2009. Demand for the Blindness Education Screening and Treatment (BEST) Program is expanding as well.

Independence and Blindness Prevention	House	Senate
Blind Children’s Program (\$1.8M AF)	Article II	Article II
Independent Living - Blind (\$1.3M AF)	Article II	-
BEST expansion (\$2.1M AF)	Article XI	-
BEST Eligibility Application (\$0.2M AF)	Article XI	-

5. Ensure Communication Access for People

Many organizations that serve the public do not provide the necessary equipment or services to ensure effective communication for people who are deaf. Approximately 59% of interpreters in Texas are certified at entry level, but most interpreting situations require advanced skills. Only approximately 136 interpreters certified by DARS are certified for court proceedings. Enhancing the skills of certified interpreters and enhancing oversight of the Specialized Telecommunications Assistance Program (STAP) are vital to ensure availability. This \$1.6 million GR and \$2.1 million AF request would:

Communication Access	House	Senate
Deafness resource specialists (\$1.0M AF)	Adopted	Adopted
STAP - Enhance oversight	Adopted	-
Board of Interpreters Registry (\$1.1M AF)	Article XI	-
Interpreter certification tests (\$0.4M AF)	Article XI	-

TCDD Summary of DARS Exceptional Items Request with HAC and SFC Decisions

6. Reduce the Independent Living – General Waiting List

Independent Living Services provide services to eligible Texans with significant physical or mental disabilities, including veterans, with support to improve their ability to function independently in their home and the community. Most requests involve the purchase of assistive technologies and devices. This \$2.5 million GR request would provide independent living services and/or needed assistive technologies to 178 people in FY 2016 and 250 people in FY 2017.

House Appropriations Committee: Adopted \$2.5 million in Article II

The Senate Finance Committee: Adopted \$1.3 million in Article II; \$1.3M in Article XI

7. Reduce the Comprehensive Rehabilitation Waiting List

CRS provides intensive rehabilitation services to people who have experienced a traumatic brain injury or spinal cord injury so they may regain functionality and independence. This \$4.7 million GR request would fund CRS for 46 people in FY 2016 and FY 2017.

House Appropriations Committee: \$4.7 million in Article XI

The Senate Finance Committee: Adopted \$800K in Article II; \$3.8 million in Article XI

8. Rider 2 – Capital Budget Request

This \$0.1 million GR and \$3.9 million AF request is for 3 projects that would fund:

- ReHab Works electronic case management system to address federal and state mandates (\$3M AF)
- Texas Review, Oversight, and Coaching System (TxROCS), an electronic case management system to monitor Vocational Rehabilitation
- Criss Cole Rehabilitation Center improvements

House Appropriations Committee: Adopted

Senate Finance Committee: Not Adopted

Community First Choice – A New Benefit Helps Texans with IDD Live Independently in the Community

On June 1, 2015, Medicaid-eligible children and adults including adults with intellectual and developmental disabilities (IDD) can begin receiving Community First Choice (CFC) benefits that provide community-based personal assistance and supports.

CFC services are available to people who are eligible for, but not receiving services in, a nursing facility, an ICF-IDD, or an institution for mental disease. To receive CFC services, a person must be enrolled in one of the following programs:

Medicaid IDD waiver services (with CFC services accessed through DADS waiver service providers at local authorities)

- Home and Community-based Services (HCS)
- Texas Home Living (TxHmL)
- Community Living Assistance and Support Services (CLASS)
- Deaf Blind with Multiple Disabilities (DBMD)

Medicaid managed care (with CFC services accessed through MCOs)

- STAR+PLUS (note: excluding persons financially eligible for Medical Assistance Only)
- STAR Health

Medicaid fee for services, also known as “Traditional Medicaid for children” (with CFC services accessed as part of HHSC/DSHS Personal Care Services)

Individuals may use the Consumer Directed Services (CDS) option for certain CFC services.

Community centers/local authorities, MCOs, and state agencies are preparing to deliver services. Detailed information is available online at <http://www.dads.state.tx.us/providers/CFC/index.cfm>

An overview of CFC services is on the back of this page.

COMMUNITY FIRST CHOICE SERVICES

Personal assistance

Hands-on assistance, supervision, and/or cueing, including:

- Non-skilled assistance with performance of certain activities (grooming, eating, transferring, etc.)
- Household chores
- Escort services (accompanying the person to access activities in the community)
- Assistance with health-related tasks

Habilitation

Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities and health-related tasks, with training in:

- Self-care
- Household tasks
- Mobility
- Money management
- Community integration
- Use of adaptive equipment
- Personal decision making
- Interpersonal communication
- Restoring or compensating for reduced cognitive skills
- Leisure activity participation
- Self-administration of medication
- Use of natural supports and community services

Backup systems and support

Personal emergency response systems for people who live or are often alone, have no regular caregiver, or who require extensive routine supervision

Support consultation

Voluntary training on how to select, manage, and dismiss attendants