Public Policy Issues	Tab 14

Background:

Staff will provide updates on the following policy areas of interest:

A. **State Policy Issues**

Staff will provide an update of recent public policy activities, including the implementation of legislation and the budget adopted by the 82nd Legislature.

B. **Update on State Supported Living Center Monitoring Activities**

The Committee will receive an update on recent Department of Justice monitoring team reports of State Supported Living Centers. Staff will also discuss with the Committee recent advocacy efforts and discussions in response to those reports. Materials are enclosed related to this item.

C. **Update on 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. Additional information is provided in meeting materials.

Public Policy Committee **Agenda Item 6.**	**Expected Action:** The Committee will receive updates on these items and may make recommendations for consideration by the Council.
Council **Agenda Item 13. A.**	**Expected Action:** The Council will receive a report from the Public Policy Committee and consider any recommendations offered from the Committee.

PUBLIC POLICY ACTIVITIES SUMMARY REPORT

June 2011 – September 2011

Long-term Services and Supports

- TCDD provided recommendations to the Centers for Medicaid and Medicare on the Advanced Notice of Proposed Rule Making CMS-2296-P regarding the Home and Community Based services waiver services and person centered planning (http://www.txddc.state.tx.us/public_policy/input_2011-06-13_HCBS.pdf).
- TCDD staff participated in DADS meetings to implement 82nd Texas Legislative requirements for cost-containment in Medicaid waiver programs. Staff also participated in DD network partners meeting on DADS waiver services reductions on September 29, and provided input for content of webinars regarding the service reductions and appeal procedures.
- TCDD staff continue to participate in the Public-Private Provider Workgroup discussing current issues impacting the delivery of long-term services and supports for individuals with developmental disabilities.
- TCDD staff continue to participate in meetings with DADS concerning the status of rollout and enrollment in HCS waiver program and transition of case management to service coordination.
- TCDD staff continue to collaborate with colleague organizations regarding the implementation of the settlement with the Department of Justice concerning Texas state schools.
- TCDD staff continue to participate in the DADS stakeholder forums regarding improving services for individuals with high behavioral and medical needs in the Home and Community-based Services (HCS) and Community Living Assistance and Support Services (CLASS) Medicaid waivers.
- TCDD staff continue to participate as a member of the DADS Aging and Disability Resource Center Advisory Committee (ADRC), and the DADS Lifespan Respite Services Advisory Committee.
- TCDD staff participated as a member of the SB 1857 Advisory Committee to provide input to DADS and the Board of Nursing concerning revised protocols for medication management in HCS and TxHmL waiver programs and ICFs/MR facilities.
- TCDD staff participated in a workgroup to provide input to the Department of Public Safety concerning implementation of SB 1075 which establishes an “Amber Alert” protocol for missing persons with intellectual disabilities.
- TCDD Executive Director Webb was appointed to the Public Policy Committee of the National Association on Developmental Disabilities.

Education

- TCDD staff continue to be involved the ECI Advocacy Coalition comprised of multiple advocacy, consumer and provider organizations that are focused on improving Early Childhood Intervention Services in Texas.

Healthcare

- Staff continue to monitor the impact of health care reform and Medicaid expansion on services for people with development disabilities and the potential to alleviate some of the demand health and human services place on Texas general revenue funds.
- TCDD advocacy collaboration resulted in a decision by Texas Health and Human Services Commission on September 19, 2011, to not include a 3-prescription limit in the July 13, 2011, Texas application for a Section 1115 Demonstration Waiver to the Centers for Medicare and Medicaid Services (CMS).

Housing

- Staff continue to work with TDHCA staff and attend stakeholder and monthly Disability Advisory Workgroup meetings to advance affordability and availability of integrated housing statewide.
- TCDD staff continue to monitor and attend the Promoting Independence Advisory Council.

Mental Health

- TCDD staff continue to participate on the Department of State Health Services Mental Health Planning and Advisory Committee.
- TCDD continue to participate in the Texas Children's Mental Health Forums, developing a policy agenda to advance children's mental health in Texas.
- Staff continue to participate in adult mental health policy planning meetings through participation in meetings organized by Mental Health America Texas.
- Staff continue to monitor and attend agency meetings, research mental health policy and practice through attending forums and taskforce meetings, and builds coalitions and collaborative relationships with different mental health stakeholders, advocates and self-advocates.

Employment

- TCDD staff participated in seminar "The ADAAA and Reasonable Accommodation Changes" sponsored by the Texas Governor's Committee on People with Disabilities and the DBTAC Southwest ADA Center at ILRU.

Public Input submitted by TCDD is archived online at:
http://www.txddc.state.tx.us/public_policy/input.asp

TEXAS
Department of Assistive and Rehabilitative Services

Message from Commissioner Debra Wanser About Changes in ECI Eligibility

I would like to thank the parents, physicians, advocates and providers who submitted written comments on our rules. Your concern for children with developmental delays and your support for ECI are very evident and much appreciated.

You may know that the DARS funding appropriation for Early Childhood Intervention (ECI) services for fiscal years 2012 and 2013 was about 14 percent less than funding levels for the program in 2011. As a result, DARS will narrow eligibility criteria for the ECI program.

The positive news is that we will not have to narrow as much as we originally thought when we first proposed rules in May 2011. We believe that we will continue to be able to serve those children and families most in need of our services. We are funded to serve, on average, almost 28,000 children and their families per month.

Effective September 1, 2011, a child will be eligible for ECI services if he or she:

- Has a medically diagnosed condition that has a high probability of resulting in developmental delay. This has not changed.
- Has an auditory or visual impairment as determined by school district personnel using Texas Education Agency criteria. This has not changed.
- Has a delay of at least 25% in one or more areas of development (motor, communication, cognition, social-emotional or self-help). For example, a child who is 16 months of age would have to have a delay of four months or more to be eligible. This is slightly more delay than would have been required in the past (in this example, three months).

The new eligibility criteria will apply to children who enroll in the program on September 1, 2011 or after. Families currently enrolled will continue to receive services and have their eligibility re-determined at least annually, as required by federal regulations. Children’s continuing eligibility is based on having a medically diagnosed condition, auditory/visual impairment or evidence of a developmental delay.

DARS ECI will continue to identify and use all available funding sources while adhering to federal and state regulations. In addition, we have implemented several changes to both maintain and enhance the quality of our services. Our goal is to safeguard ECI's long term viability while ensuring alignment with the strengths and priorities of the program. Thank you again for your continued support and interest.

Sincerely,
Debra Wanser
Commissioner

Texas Housing Trust Fund

Amy Young Barrier Removal Program

FUNDING SOURCE
Appropriations from the State of Texas

TOTAL FUNDS AVAILABLE
$4 million for eligible administrators

FORM OF ASSISTANCE
One-time grants of up to $20,000 per home for accessibility and the elimination of hazardous conditions

ELIGIBLE ADMINISTRATORS
Units of local government, nonprofit organizations, public agencies and Public Housing Authorities

- Administrators must understand Texas Accessibility Standards and applicable construction requirements
- Administration fees are 10% of the project cost paid upon completion of each project
- Three-step application process!
  1. Review the Amy Young Barrier Removal Program Notice of Funding Availability (NOFA) at www.tdhca.state.tx.us/nofa.htm
  2. Sign and return the 2-page application with attachments to access the Department's new Reservation System.
  3. Start reserving up to $20,000 in grant funds through the Department's Reservation System on behalf of qualified low income households with persons with disabilities.

ELIGIBLE HOUSEHOLD BENEFICIARIES
Persons with Disabilities at or below 80% Area Median Family Income (AMFI) who may be tenants or homeowners, and their household members with disabilities.

ELIGIBLE ACTIVITIES
Barrier removal and health or safety hazard modification as outlined in the NOFA

- At least 75% of each home's total grant may be used for barrier removal, such as the installation of ramps, grab bars, handrails, accessible door and faucet handles, buzzing or flashing devices, roll-in showers, etc.
- No more than 25% of each home's total grant may be used for health or safety hazard removal, unless otherwise approved by the Department.

FOR MORE INFORMATION
Please contact the Texas Department of Housing and Community Affairs
Housing Trust Fund Program
Call Toll Free: 1-800-462-4251
Email: htf@tdhca.state.tx.us
Web: www.tdhca.state.tx.us

EQUAL HOUSING OPPORTUNITY

Amy Young
Photo: Texas Council for Developmental Disabilitites.

Amy Young

In May 2010, the Texas Department of Housing and Community Affairs launched its all-new Amy Young Barrier Removal Program, named in honor of one of the state's most passionate and persuasive advocates for Texans with disabilities, Amy Young.

Amy, a public policy analyst with the Texas Council for Developmental Disabilities, passed away in September 2008 after a sudden illness, one year before TDHCA announced the new statewide housing program created in part from recommendations she had pushed for as part of an advocacy policy workgroup.

Amy not only gave shape to the much-needed program, she also urged the Department to offer the program through its state funded Housing Trust Fund (HTF), which provided greater flexibility and fewer regulatory restrictions than federally funded programs, making it an ideal vehicle for this initiative.

Amy's passing left a true void in the disability community. Although she was not able to see her efforts come to fruition, the Department named its Barrier Removal Program in Amy's honor as the program significantly improves the quality of life for hundreds of Texans with disabilities.

The Texas Housing Trust Fund's
Amy Young Barrier Removal Program
is brought to you by the State of Texas and the
Texas Department of Housing and Community Affairs.

Medicaid Waiver Service Reductions

Due to funding reductions in the state budget, the Department of Aging and Disability Services (DADS) is implementing cost-containment strategies for the following Medicaid waiver programs:

- Community Living Assistance and Support Services (CLASS)
- Home and Community-based Services (HCS)
- Community Based Alternatives (CBA)
- Medically Dependent Children Program (MDCP)

In early September DADS sent letters to providers and participants in the waiver programs that outline the new services limits, which are provided. Frequently Asked Questions about the new service limits and exception process are also included. On October 18, DADS held a public hearing to consider amendments to the proposed service limits. At that hearing, DADS announced that the service limits on behavioral support services in the CLASS and HCS waiver programs would not be included.

Medicaid Waiver Service Reduction Documents

- DADS Letter to CLASS Providers
- DADS Letter to CLASS Participants
- DADS Letter to HCS Providers
- DADS Letter to HCS Participants
- DADS Letter to CBA Providers
- DADS Letter to CBA Participants
- DADS Letter to MDCP Providers
- DADS Letter to MDCP Participants
- Frequently Asked Questions about new service limits and exception process

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 8, 2011

To: Community Living Assistance and Support Services Case Management Agencies
Community Living Assistance and Support Services Direct Service Agencies
Consumer Directed Services Agencies

Subject: Information Letter No. 11-79
New Service Limits and Elimination of Requisition and Specification Fees in the Community Living Assistance and Support Services (CLASS) Program

The Department of Aging and Disability Services (DADS) is implementing cost containment measures effective December 1, 2011, as required by the 2012-2013 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Service Agencies, Sec. 17a(4) and (5), H.B. 1, 82nd Legislature, Regular Session), concerning Additional Cost Containment Initiatives. These measures include changes to the CLASS Program as described below.

Service Limits

Effective December 1, 2011, DADS will implement new service limits for selected CLASS Program services. With the exception of minor home modifications, which have a lifetime limit, each service limit is the maximum amount of that service an individual may receive during the individual plan of care (IPC) year. Please see the attached chart for the list of services with new limits.

If the CLASS service planning team (SPT) believes a new service limit will not permit the individual's needs to be met, the SPT may request that DADS grant an exception to the service limit. The case management agency (CMA) must provide information to DADS, which may include information from the direct service agency (DSA), demonstrating how exceeding the new service limit is necessary to meet the individual's needs.

If DADS grants an exception, the service is subject to any existing CLASS service limit. The cost of all program services is limited to the annual waiver cost limit described in DADS rule at Texas Administrative Code (TAC), Title 40, §45.201(a)(5), concerning eligibility criteria. If DADS does not grant the exception, the individual and the CMA will receive notice of the denial or reduction of that service and information about how the individual can request a fair hearing.

Elimination of Requisition and Specification Fees in CLASS

Effective December 1, 2011, DADS will no longer reimburse requisition fees in the following CLASS Program services:

- adaptive aids;
- dental services; and
- minor home modifications.

Effective December 1, 2011, DADS will no longer reimburse specification fees in the following CLASS program services:

- adaptive aids;
- dental; and
- minor home modifications.

CLASS Program providers must continue obtaining specifications for the above CLASS Program services. If the above services are delivered prior to December 1, 2011, the provider can bill for the requisition and specification fees. If the services are delivered after December 1, 2011, the requisition and specification fees will not longer be billable items. DADS will continue to allow providers to claim requisition fees for CLASS specialized therapies.

Effective December 1, 2011, dental evaluations in CLASS may no longer be billed as a specification fee. Individuals who receive CLASS services may receive a dental evaluation for the purpose of developing a dental treatment plan at a cost within the annual, combined service limit of $6,935 for dental treatment and adaptive aids. The DSA will submit claims for reimbursement for dental evaluations under the dental treatment service code 5A.

Utilization Review

As required by the 2012-13 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Services Agencies, Sec. 56c, H.B. 1, 82nd Legislature, Regular Session), concerning Use of Utilization Management and Utilization Review Practices, DADS will continue utilization management and review (UR) activities. Specific UR thresholds will continue for each waiver program. However, DADS may conduct utilization review of any service when determined necessary.

A CLASS provider must comply with this information letter in accordance with the applicable provision in the provider agreement, which requires providers to comply with all information letters promulgated by DADS:

- Providers contracted with DADS on Form No. 3254, Section III B.3.

In addition to the chart with new service limits, please see the attached letter and the Frequently Asked Questions document that DADS will send to individuals receiving CLASS services. Also attached is an instructional guide to assist CLASS CMAs in implementing the new service limits with affected individuals.

If you have any questions about this information letter, please contact the CLASS mailbox at CLASS@dads.state.tx.us.

Sincerely,

[Signature on file]

Teresa Richard
Director, Center for Policy and Innovation

TR:cp

Attachments
Letters to Individuals Participating in the CLASS Program (English and Spanish)
Frequently Asked Questions (English and Spanish)
Service Limits
Instructional Guide for Case Management Agencies

TEXAS
Department of Aging and Disability Services

COMMISSIONER
Chris Traylor

September 9, 2011

Dear Participant:

The Department of Aging and Disability Services (DADS) is making changes to the Community Living Assistance and Support Services (CLASS) program that create new service limits for some CLASS services beginning December 1, 2011. **The new service limits may or may not affect your current CLASS individual plan of care (IPC).**

If these changes affect your services, your CLASS case manager will contact you before December 1, 2011, to discuss the CLASS services on your current IPC and answer your questions. If a service you are receiving has a new service limit and you believe you need that service in an amount that exceeds the limit, you can ask DADS to grant an exception. If these changes do not affect your services, you will not be contacted by your CLASS case manager.

The following CLASS services will have new service limits:

CLASS Service	New Service Limit for IPC year
• Adaptive aids and dental treatment	$6,935 combined
• Behavioral support	192 hours
• Habilitation	3,312 hours
• Minor home modifications	$7,515*
• Occupational therapy	83 hours
• Physical therapy	91 hours
• Prevocational services	$13,965
• Respite	29 days
• Specialized therapies (i.e., aquatic therapy, hippotherapy, massage therapy, music therapy, recreational therapy, therapeutic horseback riding)	$10,118 combined
• Speech therapy	56 hours

** Lifetime limit*

The following CLASS services will <u>not</u> have new service limits:

- Auditory integration training/auditory enhancement training
- Case management
- Continued family services
- Financial management services

- Nursing services
- Nutritional services
- Support consultation
- Support family services
- Supported employment
- Transition assistance services

Enclosed with this letter is a Frequently Asked Questions (FAQ) explaining more about the new service limits and the process for requesting an exception to a service limit. If you have questions about this letter or the FAQ, please contact your CLASS case manager.

Sincerely,

[Signature on file]

Gary Jessee
Assistant Commissioner

GJ:cs

Attachment:
FAQ

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 8, 2011

To: Home and Community-based Services Program Providers
Consumer Directed Services Agencies
Local Authorities

Subject: Information Letter No. 11-82
New Service Limits in the Home and Community-based Service (HCS) Program

The Department of Aging and Disability Services (DADS) is implementing cost containment measures effective December 1, 2011, as required by the 2012-2013 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Service Agencies, Sec. 17a(4) and (5), H.B. 1, 82nd Legislature, Regular Session), concerning Additional Cost Containment Initiatives. These measures include changes to the Home and Community-based Services (HCS) Program as described below.

Service Limits

Effective December 1, 2011, DADS will implement new service limits for selected HCS Program services. Each limit is the maximum amount of that service an individual may receive during the individual plan of care (IPC) year. Please see the attached chart for the list of the selected services and the new limits.

If an individual or other member of the service planning team believes a new service limit will not meet the individual's needs, the provider may request DADS grant an exception to the service limit. The provider must supply information to DADS that providing the service in excess of the service limit is necessary for the ISP to meet the criteria in Texas Administrative Code, Title 40, §9.159.

If DADS grants an exception, the service is subject to any existing HCS Program service limit. The cost of all services is subject to the annual individual waiver cost limit described in DADS rule at Texas Administrative Code, Title 40, §9.155(a)(3), concerning eligibility criteria and suspension of HCS Program services. If DADS does not grant the exception, the provider will receive a copy of the notice of the denial or reduction of that service that was sent to the individual. The individual will receive information about how to request an appeal.

Utilization Review

DADS will continue utilization management and review (UR) activities for HCS as required by the 2012-13 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Services Agencies, Sec. 56c, H.B. 1, 82nd Legislature, Regular Session), concerning Use of Utilization Management and Utilization Review Practices. Specific UR thresholds will continue for each HCS Program service. However, DADS may conduct utilization review of any service when determined necessary.

An HCS Program provider must comply with this information letter in accordance with the applicable provision in the provider agreement, which requires providers to comply with all information letters promulgated by DADS:

- Providers contracted with DADS on Form No. 3254, Section III A. 3; and
- Providers contracted with DADS on Form no 3258, Section II, BB.

In addition to the chart with new service limits, please see the attached letter and the Frequently Asked Questions document that DADS will send to individuals receiving HCS services. Also attached is an instructional guide for providers that gives guidance on the implementation of the new service limits with affected individuals.

If you have any questions about this information letter, please contact the HCS mailbox at HCS@dads.state.tx.us.

Sincerely,

[Signature on file]

Teresa Richard
Director, Center for Policy and Innovation

TR:cp

Attachments:
Letter Notifying Individuals Participating in the HCS Program (English and Spanish)
Frequently Asked Questions (English and Spanish)
Service Limits
Instructional Guide for Providers

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 9, 2011

Dear Participant:

The Department of Aging and Disability Services (DADS) is making changes to the Home and Community-based Services (HCS) Program that create new service limits for some HCS Program services beginning December 1, 2011. **The new service limits may or may not affect your current HCS individual plan of care (IPC).**

If these changes affect your services, your HCS provider will contact you before December 1, 2011, to discuss the HCS services on your current IPC and answer your questions. If a service you are receiving has a new service limit and you believe you need that service in an amount that exceeds the limit, you can ask DADS to grant an exception. If these changes do not affect your services, you will not be contacted by your HCS provider.

The following HCS services will have new service limits:

HCS Service	New Service Limit for IPC year
• Adaptive aids	$1,057
• Specialized therapies	
Audiology	3 hours
Behavioral support	10 hours
Dietary services	3 hours
Occupational therapy	8 hours
Physical therapy	30 hours
Social work	10 hours
Speech and language pathology	49 hours
• Supported employment	126 hours
• Supported home living	
LON 1*	923 hours
LON 5*	1,337 hours
LON 8*	1,868 hours
LON 6*	2,098 hours
LON 9*	3,546 hours

*Level of Need

The following HCS services will <u>not</u> have new service limits:

- Day habilitation
- Financial management services
- Nursing

- Residential assistance (foster/companion care, residential support, and supervised living)
- Support consultation

The following HCS services have current service limits that are not impacted by this change:

- Dental treatment
- Minor home modifications
- Respite

Enclosed with this letter is a Frequently Asked Questions (FAQ) explaining more about the new service limits and the process for requesting an exception to a service limit. If you have questions about this letter or the FAQ, please contact your HCS provider.

Sincerely,

[Signature on file]

Gary Jessee
Assistant Commissioner

GJ:cs

Attachment:
FAQ

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 9, 2011

Dear Participant:

The Department of Aging and Disability Services (DADS) is making changes to the Home and Community-based Services (HCS) Program that create new service limits for some HCS Program services beginning December 1, 2011. **The new service limits may or may not affect your current HCS individual plan of care (IPC).**

If these changes affect your services, your HCS provider will contact you before December 1, 2011, to discuss the HCS services on your current IPC and answer your questions. If a service you are receiving has a new service limit and you believe you need that service in an amount that exceeds the limit, you can ask DADS to grant an exception. If these changes do not affect your services, you will not be contacted by your HCS provider.

The following HCS services will have new service limits:

HCS Service	New Service Limit for IPC year
• Adaptive aids	$1,057
• Specialized therapies	
Audiology	3 hours
Behavioral support	10 hours
Dietary services	3 hours
Occupational therapy	8 hours
Physical therapy	30 hours
Social work	10 hours
Speech and language pathology	49 hours
• Supported employment	126 hours
• Supported home living	
LON 1*	923 hours
LON 5*	1,337 hours
LON 8*	1,868 hours
LON 6*	2,098 hours
LON 9*	3,546 hours

*Level of Need

The following HCS services will <u>not</u> have new service limits:

- Day habilitation
- Financial management services
- Nursing

- Residential assistance (foster/companion care, residential support, and supervised living)
- Support consultation

The following HCS services have current service limits that are not impacted by this change:

- Dental treatment
- Minor home modifications
- Respite

Enclosed with this letter is a Frequently Asked Questions (FAQ) explaining more about the new service limits and the process for requesting an exception to a service limit. If you have questions about this letter or the FAQ, please contact your HCS provider.

Sincerely,

[Signature on file]

Gary Jessee
Assistant Commissioner

GJ:cs

Attachment:
FAQ

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 8, 2011

To: Community Based Alternatives Home and Community Support Services Agency Providers

Subject: Information Letter No. 11-101
Service Limits and Elimination of Requisition and Specification Fees in the Community Based Alternatives (CBA) Program

The Department of Aging and Disability Services (DADS) is implementing cost containment measures effective December 1, 2011, as required by the 2012-2013 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Service Agencies, Sec. 17a(4) and (5), H.B. 1, 82nd Legislature, Regular Session), concerning Additional Cost Containment Initiatives. These measures include changes to the Community Based Alternatives (CBA) Program as described below.

Service Limits

Effective December 1, 2011, DADS will implement new service limits for selected CBA services. With the exception of minor home modifications, which have a lifetime limit, each limit is the maximum amount of that service an individual may receive during the Individual Service Plan (ISP) year. Please see the attached chart for the list of the selected services and the new limits.

A DADS case manager grants an exception to the service limit if the case manager determines, based on information from the CBA provider, that providing the service in excess of the service limit is necessary for the ISP to meet the criteria in Texas Administrative Code (TAC), Title 40, §48.6006(d)(1)-(5).

If the DADS case manager grants an exception, the service is subject to any existing CBA service limit. The costs of all services are limited to the annual waiver cost limit described in DADS rule at 40 TAC §48.6003(b)(6). If the DADS case manager does not grant an exception, the case manager will notify the CBA provider and the individual of the decision and the opportunity for the individual to request an appeal.

Desk Reviews

DADS case managers will conduct desk reviews on all ISPs affected by the new service limits. If CBA services authorized exceed the new service limits, the DADS case manager will determine whether an exception is allowed. In the process of making the determination, the DADS case manager will request the CBA provider supply the case manager with information and may conduct an interdisciplinary team meeting at which the attendance of a CBA provider representative may be required.

CBA providers must continue to follow the current policy for completing a request for changes to an individual's ISP. DADS will propose amended rules governing the CBA Program, to be effective December 1, 2011, reflecting the changes described above. In addition, DADS forms will be revised to reflect these changes, as necessary. The revised forms and instructions will be available no later than December 1, 2011, at www.dads.state.tx.us in the CBA Provider Manual.

Elimination of Requisition and Specification Fees in CBA

Effective December 1, 2011, DADS will not reimburse a CBA provider for requisition fees for the following CBA Program services:

- adaptive aids;
- dental services;
- medical supplies; and
- minor home modifications.

Effective December 1, 2011, DADS will not reimburse a CBA provider for specification fees for the following CBA Program services:

- adaptive aids; and
- minor home modifications.

Even though DADS will not reimburse a home and community support service agency (HCSSA) provider for specification fees, the provider must continue obtaining specifications for the above CBA Program services. If the above services are delivered prior to December 1, 2011, the provider can bill for the requisition and specification fees. If the above services are delivered after December 1, 2011, they are no longer billable items.

In addition to the chart with new service limits, please see the attached letter and the Frequently Asked Questions document that DADS will send to individuals receiving CBA services.

If you have any questions regarding this information letter, please contact the CBA mailbox at cba@dads.state.tx.us.

Sincerely,

[signature on file]

Teresa Richard
Director, Center for Policy and Innovation

TR:cp

Attachments:
Letter to Individuals Participating in the CBA Program (English and Spanish)
Frequently Asked Questions (English and Spanish)
Service Limits

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 9, 2011

Dear Participant:

The Department of Aging and Disability Services (DADS) is making changes to the Community Based Alternatives (CBA) program that create new service limits for some CBA program services beginning December 1, 2011. **The new service limits may or may not affect your current CBA individual service plan (ISP).**

If these changes affect your services, your DADS case manager will contact you before December 1, 2011, to discuss the CBA program services on your current ISP and answer your questions. If a service you are receiving has a new service limit and you believe you need that service in an amount that exceeds the limit, you can ask DADS to grant an exception. If these changes do not affect your services, you will not be contacted by your DADS case manager.

The following CBA services will have new service limits:

CBA Service	New Service Limit for ISP Year
• Adaptive aids	$2,050.00
• Dental	$4,675.00
• Medical supplies	$1,736.00
• Minor home modifications	$6,550.00*
• Occupational therapy	61 hours
• Personal assistance services	2,135 hours
• Physical therapy	86 hours
• Respite	24 days
• Speech, hearing and language therapy	69 hours

** Lifetime limit*

The following CBA services will not have new service limits:

- Adult foster care
- Assisted living
- Emergency response services
- Financial management services

- Home delivered meals
- Nursing
- Prescribed medications
- Support consultation
- Transition assistance services

Enclosed with this letter is a Frequently Asked Questions (FAQ) explaining more about the new service limits and the process for requesting an exception to a service limit. If you have questions about this letter or the FAQ, please contact your DADS case manager.

Sincerely,

[Signature on file]

Gary Jessee
Assistant Commissioner

GJ:cs

Attachment:
FAQ

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 8, 2011

To: Medically Dependent Children Program
Home and Community Support Services Agency Providers

Subject: Information Letter No. 11-103
New Service Limits in the Medically Dependent Children Program (MDCP)

The Department of Aging and Disability Services (DADS) is implementing cost containment measures effective December 1, 2011, as required by the 2012-2013 General Appropriations Act (Article II, Special Provisions Relating to All Health and Human Service Agencies, Sec. 17a(4) and (5), H.B. 1, 82nd Legislature, Regular Session), concerning Additional Cost Containment Initiatives. These measures include changes to the Medically Dependent Children Program (MDCP) as described below.

Service Limits

DADS has developed limits for selected waiver services to reflect the maximum amount of that service an individual may receive during the individual plan of care (IPC) year. Please see the attached chart for the list of the services affected and the limits. DADS will determine if an exception to these limits is allowable.

Desk Reviews

DADS case managers will be conducting desk reviews on all MDCP cases affected by the new service limits and may contact the provider for additional information during this process. If the MDCP services authorized exceed the new service limits, the DADS case manager will determine if an exception is allowable.

If the DADS case manager grants an exception, the service remains subject to any current MDCP service limits and to the the individual cost limit described in DADS rule at Texas Administrative Code, Title 40, §51.203(7), concerning eligibility requirements. If the DADS case manager does not grant an exception, the individual and the provider will receive notice of the decision and information about requesting an appeal.

In addition to the chart with new service limits, please see the attached letter and the Frequently Asked Questions document that DADS will send to individuals receiving MDCP services.

If you have any questions regarding this information letter, please contact the MDCP mailbox at mdcp@dads.state.tx.us.

Sincerely,

[signature on file]

Teresa Richard
Director, Center for Policy and Innovation

TR:cp

Attachments
Letter to Parents/Guardian of Children Participating in the MDCP Program (English and Spanish)
Frequently Asked Questions (English and Spanish)
Service Limits

TEXAS
Department of Aging
and Disability Services

COMMISSIONER
Chris Traylor

September 9, 2011

Dear Participant:

The Department of Aging and Disability Services (DADS) is making changes to the Medically Dependent Children Program (MDCP) that create new service limits for some MDCP services beginning December 1, 2011. **The new service limits may or may not affect your current MDCP individual plan of care (IPC).**

If these changes affect your services, your DADS case manager will contact you before December 1, 2011, to discuss the MDCP services on your current IPC and answer your questions. If a service you are receiving has a new service limit and you believe you need that service in an amount that exceeds the limit, you can ask DADS to grant an exception. If these changes do not affect your services, you will not be contacted by your DADS case manager.

The following MDCP services will have new service limits:

MDCP Service	New Service Limit for IPC Year
Adjunct support services	1,875 hours
Respite	2,096 hours

The following MDCP services will <u>not</u> have new service limits:

- Financial management services
- Transition assistance services

The following MDCP services have current service limits that are not impacted by this change:

- Adaptive aids
- Minor home modifications

Enclosed with this letter is a Frequently Asked Questions (FAQ) explaining more about the new service limits and the process for requesting an exception to a service limit. If you have questions about this letter or the FAQ, please contact your DADS case manager.

701 W. 51st St. ★ P.O. Box 149030 ★ Austin, Texas 78714-9030 ★ (512) 438-3011 ★ *www.dads.state.tx.us*
An Equal Opportunity Employer and Provider

Sincerely,

[Signature on file]

Gary Jessee
Assistant Commissioner

GJ:cs

Attachment:
FAQ

Frequently Asked Questions

New Service Limits and Exception Process – Effective December 1, 2011

1. **Question:** What is the purpose of the new service limits?
   Answer: DADS is implementing the new service limits for selected waiver services to achieve cost savings in Community Based Alternatives (CBA), Medically Dependent Children Program (MDCP), Community Living Assistance and Support Services (CLASS), and Home and Community-based Services (HCS) Program.

2. **Question:** When will the new service limits be effective?
   Answer: December 1, 2011

3. **Question:** When will the new service limits end?
   Answer: August 31, 2013

4. **Question:** When will I learn if a waiver service I am receiving will have a new service limit?
   Answer: If a waiver service on your service plan will have a new service limit, you will be contacted before December 1, 2011.

5. **Question:** Who will contact me and how will the contact be made?
   Answer: If a waiver service on your service plan will have a new service limit, you will be contacted either in-person or by telephone. The following chart describes the person for each program who will make the contact.

Waiver Program	Contact person
CBA	DADS case manager
MDCP	DADS case manager
CLASS	CLASS case manager
HCS	HCS program provider or service coordinator

6. **Question:** Who can I call now to find out if a waiver service I am receiving will have a new service limit?
   Answer: You may call the appropriate person described in the chart above.

7. **Question:** If one of my waiver services has a new service limit and I need that service in an amount that exceeds the limit, can I ask DADS to grant an exception to the new service limit?
   Answer: Yes. DADS has created a process for reviewing a request for an exception to a new service limit.

8. **Question:** How will the request for an exception process work?
   Answer: The process is a little different for the four programs that will have new service limits.

If you are enrolled in the Community Based Alternatives (CBA) program, your DADS case manager will discuss the new service limits, your individual service plan (ISP), and the exception process with you.

- Discuss with the DADS case manager your reasons for needing to receive the service in an amount that exceeds the new service limit.
- Your DADS case manager will consider the information and make a determination of whether providing the service in excess of the service limit meets the ISP criteria described in the CBA program rules.
- If dissatisfied with how your case manager handled your exception request, you should contact your DADS local office and ask to speak to your case manager's supervisor.
- If not granted an exception, you will receive a notice explaining how you can request a fair hearing to appeal the decision.

If you are enrolled in the Medically Dependent Children Program (MDCP), your DADS case manager will discuss the new service limits, your individual plan of care (IPC), and the exception process with you.

- Discuss with the DADS case manager the reasons you need to receive the service in an amount that exceeds the new service limit.
- Your DADS case manager will consider the information and make a determination of whether providing the service in excess of the service limit meets the IPC criteria described in the MDCP rules.
- If dissatisfied with how your case manager handled your exception request, you should contact your DADS local office and ask to speak to your case manager's supervisor.
- If not granted an exception, you will receive a notice explaining how you can request a fair hearing to appeal the decision.

If you are enrolled in Community Living Assistance and Support Services (CLASS), discuss with your service planning team your reasons for needing to receive the service in an amount that exceeds the new service limit.

- Your CLASS case manager will submit to DADS a *Request for an Exception of Service Limit* form that explains the reasons, as identified by you and your service planning team, you need to receive that service in an amount that exceeds the new service limit.
- DADS will review the form and determine whether providing the service in excess of the service limit meets the IPC criteria described in the CLASS program rules.
- If you are dissatisfied with how your program provider handled your exception request, you can contact DADS Consumer Rights and Services (CRS) by calling 1-800-458-9858 or emailing CRScomplaints@dads.state.tx.us.

If you are enrolled in the Home and Community-Based Services (HCS) Program, discuss with your service planning team your reasons for needing to receive the service in an amount that exceeds the new service limit.

- Your HCS Program provider will submit to DADS a *Request for Exception of Service Limit* form with the information you and your HCS provider supply.
- DADS will review the form and determine whether providing the service in excess of the service limit meets the IPC criteria described in the HCS Program rules.

- If you are dissatisfied with how your program provider handled your exception request, you can contact DADS CRS by calling 1-800-458-9858 or emailing CRScomplaints@dads.state.tx.us.

9. **Question:** Who at DADS will review my exception request and what are their qualifications?
Answer: The same DADS employees who review your ISP or IPC will review your exception request. These employees include case managers, psychologists, registered nurses, social workers, and, for the CLASS and HCS programs, qualified MR professionals (QMRPs).

10. **Question:** If DADS does not grant my request to exceed the new service limit, can I appeal DADS decision?
Answer: Yes.

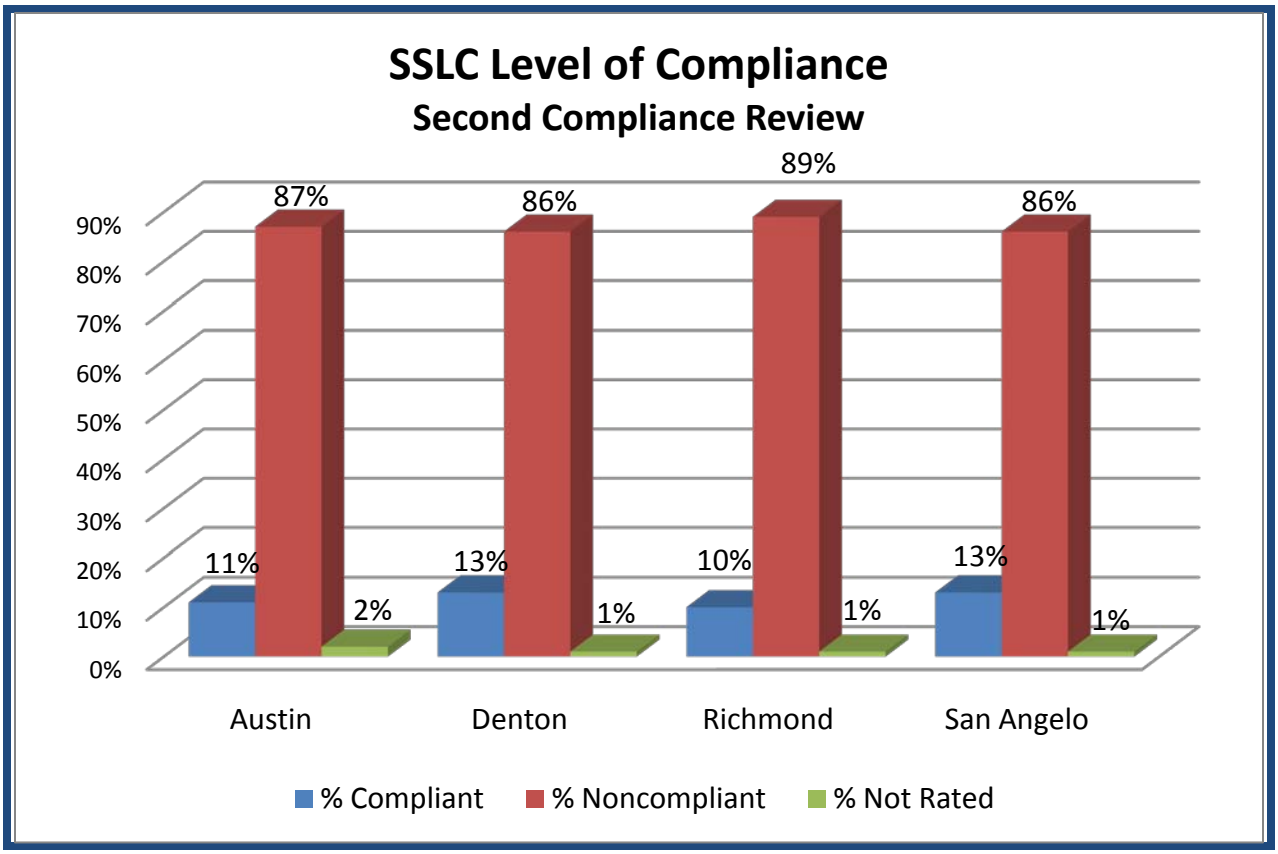
- DADS will send a written notice with a description of whether DADS denies or reduces the service.
- The notice also will explain how you can request a fair hearing to appeal the decision.
- The person listed in the chart in the answer to #5 will assist you in submitting a request for a fair hearing.

11. **Question:** Will I continue to receive the service while the appeal is pending?
Answer: Yes, as long as you follow the instructions in DADS written notice and submit a request for a fair hearing by the deadline stated in that notice.

State Supported Living Center
Compliance Reports Update

In June 2009, the State of Texas/Department of Aging and Disability Services (DADS) and the U.S. Department of Justice (DOJ) entered into a Settlement Agreement (SA) that covers the 12 State Supported Living Centers (SSLC) and the ICF/MR component of Rio Grande State Center. As determined by the Settlement Agreement, three monitors are responsible for monitoring the facilities' compliance with the SA and related Health Care Guidelines. The monitoring teams examine activities in 20 different aspects of care provided to residents in each facility to determine the status of each facility's compliance with provisions of the U.S. DOJ Settlement Agreement. Within each section, there are a varying number of more specific provisions. Each provision is rated as in substantial compliance or noncompliance with the terms of the Settlement Agreement. There are also provisions that are not rated if the monitoring team had insufficient information to rate a provision.

Baseline reviews of the facilities were conducted from January through May 2010. The first round of compliance reviews were completed from July 2010 to January 2011 to report on each facility's compliance with the SA. The second compliance reviews of each facility began in February 2011. As of mid-July, the second round of compliance reports was completed. The monitors released the third reviews on Corpus Christi and El Paso in September 2011. This report covers the concluding reports issued in the second round of compliance reviews on Austin, Denton, Richmond and San Angelo SSLCs. Some aggregate information is available on the full second compliance reviews of all SSLCs. In addition, information is provided about the third compliance reviews conducted so far.



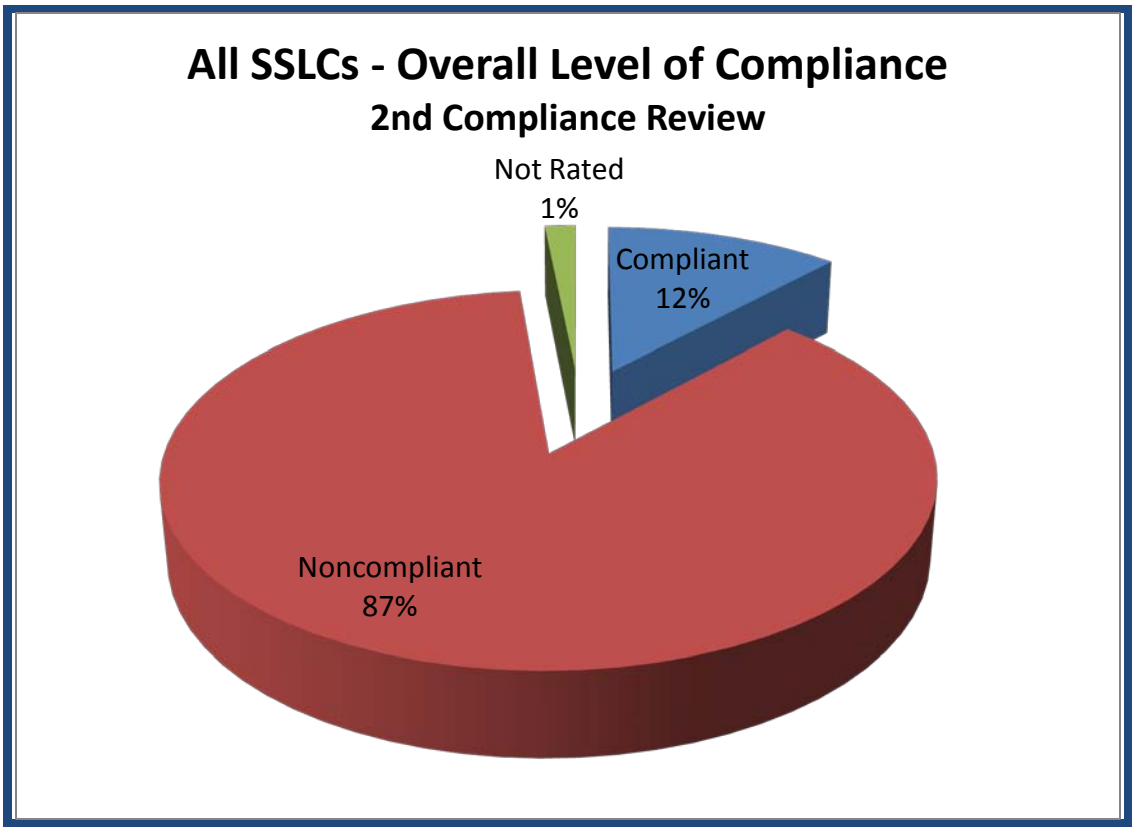
This chart displays the proportion of provisions that were rated as compliant, noncompliant and not rated, respectively.

Austin State Supported Living Center (AUSSLC)
AUSSLC was compliant in 18 of 163 provisions, or 11 percent of the areas rated. Two percent of provisions were not rated due to a lack of information made available to the monitors. 87 percent of provisions were rated as noncompliant with the SA. 15 of 20 areas assessed by the monitoring team were at 100 percent noncompliance. Areas at 100 percent noncompliance include: medical care, nursing care, dental care, physical and occupational therapy, and clinical care. Although the monitors noted improvements in abuse, neglect, and incident management, there was room to improve in the timeliness of incident reporting. The monitoring team recommended improvements in restraint use to enable the team to better evaluate the use of restraint at AUSSLC. Improvements were made in monitoring individuals who had transitioned to the community, but individual plans did not often include documentation on whether community placement was appropriate. Further, little progress was made in identifying obstacles to moving into the community.

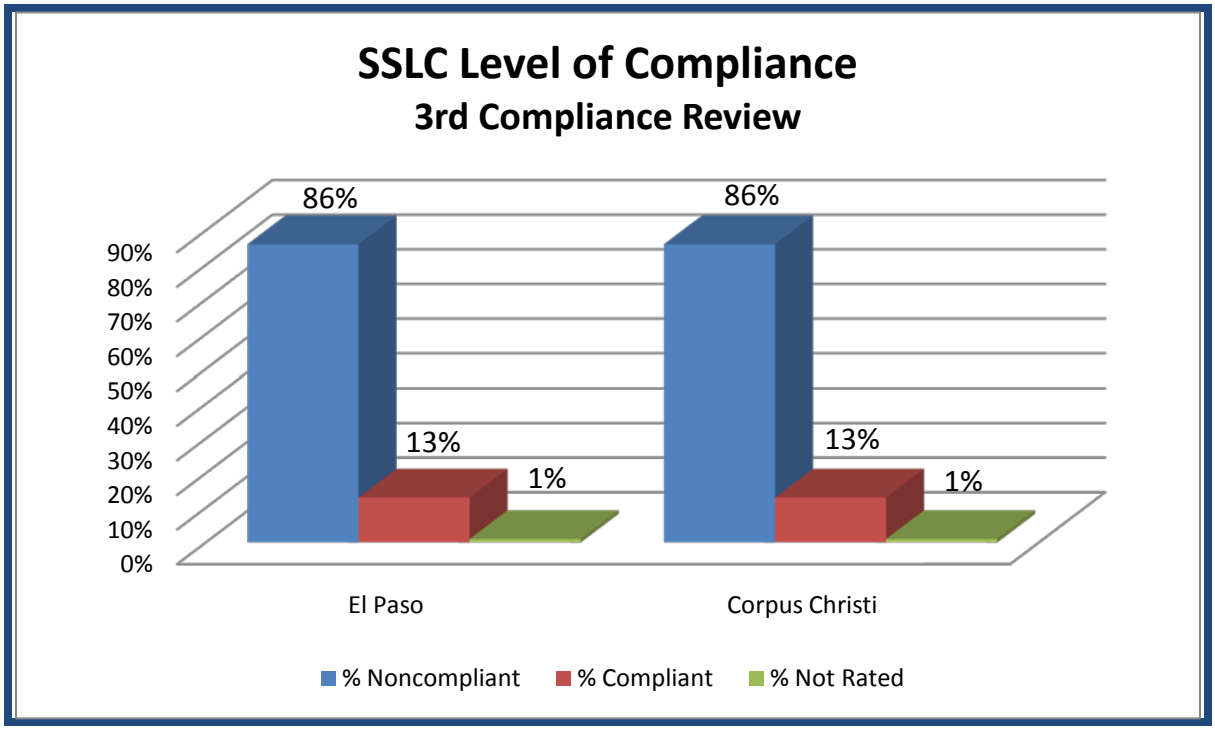
Denton State Supported Living Center (DSSLC)
DSSLC was rated as compliant in 13 percent of the provisions assessed by the monitoring team, with 86 percent of provisions rated as noncompliant. 17 of the 20 areas that were evaluated were fully noncompliant with the terms of the SA. The monitoring team commended DSSLC staff for reductions in the use of restraint; however, documentation on the use of restraint varied from case to case and should be standardized. The monitoring team recommended that DSSLC improve its response time to incidents, noting that five of six incidents were not reported in a timely manner. Skill acquisition programs were in need of improvement as formal teaching is available only occasionally. DSSLC did little to promote awareness of community living options.

Richmond State Supported Living Center (RSSLC)
Ten percent of provisions were related as in substantial compliance with the SA, whereas 89 percent were in noncompliance, and 1 percent was not rated due to insufficient information. 13 of the 20 areas examined were rated as 100 percent noncompliant, meaning that no provisions within a section were in compliance with the SA. The monitoring team recommended that RSSLC make improvements in behavioral health practices in order to reduce the use of chemical restraint. RSSLC's policies on abuse, neglect, and incident management need to be clarified. RSSLC must also make sure that staff understands their responsibilities in identifying and reporting abuse. Although skill acquisition training had improved, it was still inconsistent. Inadequate assessments made quality teaching difficult. Assessment procedures were also hindering people from moving to the most integrated community setting.

San Angelo State Supported Living Center (SGSSLC)
13 percent of provisions rated by the monitoring team were considered to be in substantial compliance with the SA. 86 percent of provisions were noncompliant, and one percent was not rated due to a lack of information. Three-quarters of the areas were rated as 100 percent noncompliant. Between November 2010 and March 2011, 79 individuals were subjected to 441 restraints, most of which were emergency and/or physical restraints. However, there was a 21 percent decline in the use of restraint between the first and second quarters of 2011. Between September 2010 and March 2011, there were 29 confirmed cases of abuse, neglect, or exploitation. There were 34 additional serious incidents during the same period of time, which included serious injuries and unauthorized departures. Although no provisions in the skill acquisition programs were found to be in substantial compliance, the monitoring team observed improvements in staff training. SGSSLC was engaged in a number of practices to encourage transition to community living, but a small percentage (11 percent) were actually in the referral and placement process.



The chart above demonstrates the aggregate level of compliance for all SSLCs in the second compliance review by the monitoring teams.



The chart above demonstrates the level of compliance for SSLCs that have been reviewed thus far in the third compliance review by the monitoring teams.

El Paso State Supported Living Center (EPSSLC)
EPSSLC was making progress in reducing its use of restraint, but needed to improve its documentation and monitoring of restraint use. Between January 1 and June 14, 2011, there was one confirmed case of abuse and one confirmed case of neglect. There were 15 serious incidents in the first two quarters of 2011 that included 12 serious injuries and 3 deaths. Progress was made in the area of skill acquisition programs, in training, documentation, and improving engagement. The monitoring team noted a lack of progress in moving individuals to the most integrated setting in the community. Activity to transition individuals to the community was slow, limited, or nonexistent. Little work was done to educate individuals about community options.

Corpus Christi State Supported Living Center (CCSSLC)
Significant progress was made in the area of abuse, neglect, and incident management, particularly due to staff training. Over half of the provisions in this area were rated as substantially compliant. The monitoring team noted progress in the use of restraint in terms of incorporating appropriate staff in a timely manner, such as a restraint leader and the pharmacist for use of chemical restraint. However, CCSSLC staff was encouraged to more critically examine the behaviors that were leading to restraint use to make sure that restraint was not escalating behaviors. Inadequate information was provided in individual plans about whether transition to the community was appropriate. Since the previous review, six individuals had transitioned to the community, four of whom experienced adverse results within 90 days of transition. One died, and three experienced psychiatric hospitalizations. These incidents raise concern about the transition plans for these individuals, which did not identify needed supports and services in the community, pertinent medical or mental health information, or barriers to transitioning to the community.

Compliance Reports are online at http://www.dads.state.tx.us/monitors/reports/index.html. The Settlement Agreement is at http://www.dads.state.tx.us/homepage/FinalSettlementAgreement.pdf.

Federal Legislative Update

FY 2012 Appropriations

The House passed a continuing resolution (CR) on Tuesday, October 11 to keep the government running through November 18. House and Senate appropriators hope to avoid passing another short-term appropriations bill and instead come to agreement by November 18 on a final omnibus bill for FY 2012 that includes funding for all discretionary programs. Both House and Senate leaders have agreed to accept the total $1.043 trillion overall cap on funding passed in the Budget Control Act on August 2. This represents a $7 billion cut from the FY 2011 spending levels. The Senate Appropriations Committee has passed 11 of the 12 annual spending bills. The House Appropriations Committee has passed 9 of the 12 bills; six have been passed by the full House. DD Councils are funded at FY 11 levels in both House and Senate measures thus far.

Autism - Combating Autism Reauthorization Act signed into law

On Friday, September 30, President Obama signed the Combating Autism Reauthorization Act into law. This law will continue to support the programs established by the Combating Autism Act of 2006, which include screening and surveillance of autism spectrum disorder (ASD) and educating professionals about proper screening, diagnosis, and intervention for children with ASD as well as many other developmental disabilities. The act authorizes $231 million a year from Fiscal Year (FY) 2012 through 2014 for these efforts.

Deficit Reduction Negotiations

The Joint Select Committee on Deficit Reduction has continued to meet behind closed doors in the last couple of weeks as they negotiate a plan to identify $1.5 trillion in deficit reduction over ten years. House and Senate committees have until this Friday to submit their recommendations to the committee for consideration. The committee must agree to a plan by Thanksgiving, then submit legislative language to Congress and the President by December 2. Congress has until December 23 to pass the bill using fast-track procedures; otherwise, it will have to clear the usual hurdles in both chambers.

Education

Senators Tom Harkin (D-IA) and Michael Enzi (R-WY) are expected to release a draft bill this week to reauthorize the Elementary and Secondary Education Act (ESEA). The Health, Education, Labor and Pensions Committee is scheduled to mark up the bill next Tuesday, October 18. The House has approached ESEA reform in a series of bills, only one of which (HR 2218) has gained bipartisan support and passed the House. To see all education bills introduced this Congress, visit AUCD's Action Center (http://www.aucd.org/template/capwiz.cfm) and click on Current Legislation.

President Obama issued remarks Friday about his administration's plan to waive certain requirements for states under the Elementary and Secondary Education Act ("No Child Left Behind"). The law requires 100 percent of students, including those with disabilities, to be proficient in math and reading by 2014. The U.S. Department of Education estimates that 80 percent of schools currently do not meet these proficiency standards, and would be labeled as failing if the law is not reformed. In exchange for relief from these standards, states must adopt "college- and career-ready" standards and develop a new accountability system that recognizes and rewards schools that show the greatest overall student progress.

Senate Republicans recently introduced several bills to amend ESEA. Senators Johnny Isakson (R-GA), Lamar Alexander (R-TN), Mark Kirk (R-IL), Pat Roberts (R-KS), Marco Rubio (R-FL) and Roger Wicker (R-MS) introduced S. 1571, the ESEA Amendments Act of 2011. The bill would eliminate the requirement that states have in place a definition of "adequate yearly progress" and require interventions in only the lowest performing five percent of schools. It would also allow for unrestricted use of alternate assessments based on alternate or modified achievement standards, meaning that virtually all students with disabilities could be assessed via an alternate assessment rather than the regular state assessments given other students. The other bills (S. 1567, S. 1568, S. 1569), would amend Titles II and IV of ESEA and restrict the Secretary of Education's ability to put conditions on the approval of waiver requests.

Employment

Representatives Cliff Stearns (R-FL) and Tim Bishop (D-NY) introduced Tuesday the Fair Wages for Workers with Disabilities Act of 2011 (H.R. 3086). The bill would phase out Section 14(c) of the Fair Labor Standards Act (FLSA), which allows employers holding special wage certificates to pay their workers with disabilities less than the federal minimum wage.

Health Care Reform

The Institute of Medicine released a new report Friday that provides the U.S. Department of Health and Human Services with a set of criteria and methods to develop a package of essential health benefits. Under the Affordable Care Act, certain insurance plans, including those participating in the state-based health insurance exchanges, must cover a package of preventive, diagnostic, and therapeutic services and products in areas that have been defined as essential by HHS. The package will establish the minimum benefits that plans must cover; insurers may offer additional benefits. The report neither recommends a list of essential benefits nor comments on whether any particular service should be included or excluded, as doing so would have been beyond the committee's charge. More analyses will be shared as they become available.

Sources: Association of University Centers on Disability & The Arc of the U.S.