

The 85th Legislature: Impact on Adults with Intellectual Disabilities



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Acknowledgement



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The 85th Legislature



- I. State Decisions: Budget
- II. State Decisions: IDD Bills
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I. State Decisions: Budget

HCS & TxHmL
CFC PAS/HAB
Rate Cut

HCS Promoting
Independence
Slots

HCS Interest
List Reduction

Transition
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Coordination

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Services

Day Habilitation
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ICF to HCS
Conversion

HCS and TxHmL CFC PAS/HAB Rate Cuts



- **Who. Individuals receiving HCS or TxHmL**
- **What.** Reduced hourly rate for Supported Home Living (SHL) and Community Support (CS) in HCS and TxHmL from \$22.41/hr to \$17.73/hr (21%)
 - Exemption for Consumer Directed Services (CDS)
 - Reduced hourly rate for transportation service provided through HCS and TxHmL, also by 21%
- **Timeline.** Directed by Legislature in FY 2018-19 budget; Effective August 1, 2017.
- **Implications.** Contract Closures; Individuals choosing higher cost residential options

HCS Promoting Independence and Interest List



- **Who.** Individuals on statewide interest lists
- **What.** Legislature funded few Promoting Independence slots and **zero Interest List** slots for the FY2018-19 biennium
- **Implication.** For FY 2018-19, individuals who enroll in HCS in 2018-19 will be
 - Leaving Institutional Care (SSLC or Nursing Facility),
 - At risk for admission to a Nursing Facility, or
 - Involved in the CPS system.

HCS Promoting Independence

	FY 2016-17 Allocation	HHSC LAR Request	FY 2018-19 Budget Final
SSLC Diversion	350	400	0
SSLC Transition	400	400	325 (includes SSLC transitions and large/medium ICF transitions)
Large ICF Transition	50	100	
Nursing Facility Transition	700	700	150
Nursing Facility Diversion	600	600	150
People with IDD Moving from State Hospitals	120	120	0
Children Aging out of Foster Care	216	236	110
CPS General Residential Operation	25	40	0
Totals	2,461	2,596	735

Comparison: HCS Interest List

	FY 2016-17 Allocation	HHSC LAR Request	FY 2018-19 Budget Final
HCS Interest List	2,134	20% of HCS Interest List (approx. 16,000)*	0

Transition Support Teams and Enhanced Community Coordination



- **Who.** Individuals with complex needs enrolled in HCS and TxHmL
- **What.** During FY 2016-17, a state initiative to support people, with complex healthcare and/or behavioral healthcare needs, moving out of institutional care was funded by a Money Follows the Person federal grant (\$13 Million)
 - Statewide, 8 Transition Support Teams, charged with providing technical support to Waiver provider agencies on how to best care for this population
 - Each LIDDA mandated to provide Enhanced Community Coordination, intensive service coordination with smaller caseloads and increased responsibilities for this population

Transition Support Teams and Enhanced Community Coordination, cont.



- **Budget Decision.** State requested GR allocation, but the Legislature funded \$0
- **Timeline.** Funding for these programs will expire on December 31, 2017 unless HHSC can find a way to fund the programs out of General Revenue or receives CMS approval to use other MFP funds to carry these programs
- **Implication.** State expectations for the LIDDA may become unfunded mandates, or providers and individuals may lose a current support

IDD Crisis Services



- **Who.** All individuals residing in the community
- **What.** FY 2016-17 initiative for IDD Crisis Respite and Crisis Intervention Specialist services
 - Up to 14 days of out of home respite for individual at risk
 - Assessment, education and training to stabilize individual at risk
- **Budget Decision.** Funded \$18 million (sustained FY 2017 level)
- **Timeline.** September 1, 2017 (FY2018-19)
- **Implication.** The legislature recognized the value of community IDD programs vs. emergency room or hospitalization

Day Habilitation HCBS Settings Compliance



- **Who.** Individuals enrolled in HCS and TxHmL who receive Day Habilitation
- **What.** The state requested \$70 million to assist day habilitation sites to come into compliance with federal Home and Community-Based Services (HCBS) settings
- **Budget Decision.** State requested GR allocation, but the Legislature funded \$0
 - U.S. Department of Health and Human Services and CMS extended timeline for HCBS settings compliance to 2022
- **Timeline:** Unknown.

ICF to HCS Conversion



- **Who.** Individuals residing in small ICFs-IID
- **What.** New rider directs HHSC to evaluate and report to the Legislative Budget Board on the cost effectiveness of small ICFs-IID with four or fewer people residing in the home, who are voluntarily relinquishing their ICF placements, to convert to HCS waiver placements
- **Timeline.** Unknown
- **Implication.** Legislature is actively seeking data to base future decisions on regarding the most cost effective service model

II. State Decisions: IDD Bills



IDD System Redesign
(Managed Care
Carve-in and Pilot)

Medicaid Eligibility

Waiver Provider
Issues
(Administrative
Penalties, Wheelchair
Safety Belts)

Special Education

Guardianship Reform
and Alternatives to
Guardianship

State Supported
Living Centers

IDD System Redesign (Managed Care Carve-in and Pilot)



- **Who.** Individuals enrolled in HCS or TxHmL
- **HB 3295 (Klick):** Extends timeline for end of IDD Managed Care Pilot operation phase by one year (old law: September 1, 2018, new law: September 1, 2019). (HHSC ceased Pilot implementation on 9/19/17)
- Extends the date by which the TxHmL waiver program must be transitioned to STAR+PLUS Medicaid Managed Care by two years (old law: September 1, 2018, new law: September 1, 2020)

HB 3295, Continued



- Did not change date by which the HCS waiver program must be transitioned to STAR+PLUS Medicaid Managed Care (September 1, 2021)
- **Implications.** Individuals enrolled in TxHmL on 9/1/2020 – Managed Care required. Individuals enrolled in HCS on 9/1/2021 – may choose Managed Care or Agency Option. All individuals enrolling in HCS after 9/1/2021 – Managed Care required
- **Implications of No Pilot.** Opportunity for stakeholder input.

HB 3295, Continued



- Additionally, directs HHSC to conduct studies of
- Barriers preventing recipients of STAR+PLUS or HCS waiver services from choosing the Consumer Directed Services (CDS) option
 - GOAL: Increase # of people choosing CDS (decrease cost)
- Feasibility of establishing a community attendant registry
 - GOAL: Help people find providers for CFC-like services (increase access)
- Dental services to individuals with disabilities in Medicaid programs
 - GOAL: Decrease # of people requesting dental care at the ER (decrease cost)

Medicaid Eligibility



- **Who.** Individuals who receive Medicaid and are SSI/SSDI eligible, and Individuals in Waiver (HCS, TxHmL, CLASS) or ICF
- **HB 3292 (Klick):** Provides continuous Medicaid eligibility for these individuals when they
 - Experience a temporary increase in income for one month or less that would result in the recipient being ineligible for Medicaid
- AND
- The individual continues to meet functional and diagnostic criteria for receipt of 1915(c) or ICF-IID services
- To continue to be eligible, the individual must submit a Medicaid application within 90 days of being determined ineligible.
- **Implication.** Fewer disruptions to service provision due to loss of short term Medicaid ineligibility and Medicaid renewal processes.

Waiver Provider Issues



- **Administrative Penalties**
 - **Who:** Individuals enrolled in waiver programs
 - **HB 2590** (Raymond) Allows waiver providers, when audited, opportunity to correct any violation, except violations of a most serious nature (e.g. a violation that constitutes an immediate threat to health or safety of a recipient or pattern of violation that results in actual harm). [Previously only allowed to correct minor violations.]
 - **Implication.** When reviewing history of citations, families may need to ask about corrected on site violations

Waiver Provider Issues, Continued



- **Wheelchair Self-release Seat Belts**
 - **Who.** Individuals living in ICFs-IIDs.
 - **HB 284** (Springer) requires certain facilities, including ICFs-IIDs, to allow residents to use wheelchair self-release seat belts under certain circumstances (with resident's or guardian's authorization, when resident demonstrates ability to use seat belt without assistance, when consistent with the plan of care).
 - ✦ Seat belts are currently addressed as a type of restraint

Special Education



- **Who.** School-aged individuals
- **SB 160** (Rodriguez) seeks to address the impact of a TEA policy that set an 8.5% performance target for the total number of children receiving special education services in a school district. (Result: lowered the number of students receiving special education services.)
- SB 160 prohibits TEA from using a performance indicator that evaluates the total number of enrolled students or overall percentage of students who receive special education in a school district.

Guardianship Reform and Alternatives to Guardianship



- **Who.** People with Supported Decision-Making Agreements.
- **SB 39** (Zaffirini) addresses situations where two people may have conflicting authority to make financial decisions on behalf of a person and clarifies the role of supporters in supported decision-making agreements.
- **Implications.** For HCS Host Home Companion Care, if the HHCC provider is also the individual's supporter for decision making, the individual may amend their supported decision-making agreement to designate someone who is not being paid to provide a service.

Guardianship Reform and Alternatives to Guardianship, Continued



- **Who.** Individuals with a Legal Guardian
- **SB 1096** (Zaffirini) Directs the Texas Supreme Court to establish a **mandatory guardianship registration program** . Requires:
 - Guardians to register with HHSC.
 - HHSC to make the database accessible to DPS
 - Peace officer to notify guardian within one working day of arrest
 - Guardians to complete training on responsibilities of guardians, alternatives to guardianships, supports and services available to the proposed ward, and the ward's bill of rights. The training must be free and available online and in written form.

Guardianship Reform and Alternatives to Guardianship, Continued



- **Who.** Individuals with a legal guardian.
- **SB 1710** (Zaffirini) Allows for restoration of capacity or modification to a guardianship to proceed, without appointing a successor guardian first, when the original guardian resigned, was removed, or died.
- Defines procedures for
 - Requesting restoration of capacity or modification to
 - Investigating and reporting to the court and the ward concerning termination or modification of a guardianship
 - Reporting outcome of investigation to the court and to the individual

Guardianship Reform and Alternatives to Guardianship, Continued



- **Who.** Individuals with a guardian of an estate.
- **SB 1764** (Zaffirini) If a guardian of an estate invest all of an individual's assets in an ABLE account and the individual is the designated beneficiary of the account, this law allows the guardianship of the estate to be terminated if the court determines there is no longer a need for a guardian of the estate.
- Amends the Property Code to include investment in an ABLE account when an individual with IDD, with no guardian, receives is a plaintiff in a suit and receives settlement. The court may appoint a friend, guardian ad litem or clerk of the court to assist with investing the assets in an ABLE account.

State Supported Living Centers



- **Who.** Individuals with criminal offenses seeking SSLC admission.
- **SB 1300** (Perry) designates San Angelo as a forensic SSLC (in addition to Mexia). Requires the local school district in San Angelo to provide educational services to alleged offenders under age 22.
- **Implications.** The state recognized the value of the SSLC in meeting an unmet need. No bills were passed related to consolidation or closure of SSLCs.

Behavior Analyst Licensing



- **Who.** All individuals receiving services provided by a Board Certified Behavior Analyst (BCBA)
- **SB 589** (Lucio) creates the Behavior Analyst Licensing Act.
- **Implications.** Creates protections for individuals seeking services of BCBA, ethic requirements, reporting requirements, on-going professional development.

3. Federal Environment



Medicaid
Block Grants

State
Supported
Living Centers

HCS and
TxHmL HCBS
Regulations

Community
First Choice

Medicaid Block Grant



- Federal leadership discussing (a) Medicaid block grants or (b) per capita funding to states with significant latitude on program design.
- **Timeline:** Unknown.

State Supported Living Centers



- In a block grant or per capita funding Medicaid environment, more scrutiny may be placed on high cost institutional care.
- SSLCs were a major subject of conversation at Texas Legislature (once again).
- **Timeline:** Unknown.

HCS and TxHmL HCBS Regulations



- **What.** Federal regulations require home and community-based services to meet certain requirements in order to continue to draw down federal Medicaid funding for HCS and TxHmL.
- **Who.** Requirements apply to:
 - 1915(c) HCBS Waivers [HCS, TxHmL]
 - 1915(i) State Plan HCBS Services [YES waiver]
 - 1915(k) [Community First Choice]
 - STAR+PLUS HCBS Waiver.

HCS and TxHmL HCBS Regulations, cont.



- **How.** Regulations enhance the quality of HCBS and provide additional protections to individuals that receive services under these Medicaid authorities.
 - Community integration (Therapeutic Recreation proposal)
 - Enhanced day program
 - Protections in residential: Individual leases, locked bedroom doors
- **Timeline.** Requirements around Person Centered Planning were effective March 2014. Timeline extended to March 2022.
 - **Statewide Transition Plan** must be approved by CMS by March 17, 2019.
- **Implications.** Current rates and supports will not meet federal expectations

Community First Choice – AHCA/BHCA



- **Repeal and replace of “Obamacare.”** Federal healthcare reform bills – both House and Senate versions -- propose eliminating the 6% enhanced federal match for Community First Choice, used to finance the entitlement program.
- **Who.** Individuals receiving CFC, HCS and TxHmL services. (CFC in Waivers previously Supported Home Living)
- **Timeline.** If federal healthcare reform is enacted without changes to this provision, January 1, 2020
- **Implications.** Without availability of enhanced match, Texas would likely eliminate CFC option. Loss of personal assistance services and habilitation

Conclusion



- Questions?
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