

LAR Administrator's Statement 2014 - 15

INTRODUCTION

The Department of Aging and Disability Services' (DADS) mission is "to provide a comprehensive array of aging and disability services, supports and opportunities that are easily accessed in local communities." DADS provides a continuum of long-term services and supports to older Texans and individuals with disabilities, licenses and certifies providers of these services and monitors compliance with regulatory requirements. Services are provided through its Access and Intake, State Supported Living Center and Regulatory divisions.

The involvement of stakeholders and coordination with other health and human services agencies is critical to fulfilling the agency's mission. Through this interaction, DADS is better equipped to achieve our shared goals to enhance quality of life and improve services and supports.

PREPARING FOR THE AGING OF TEXANS

Texas' aging population directly impacts DADS service delivery. In 2012 the population of Texans 60 years or older is projected to be 4.1 million or 15.5 percent of the total population. By 2020, the projection is 5.5 million or 18.1 percent of the total population. By 2040, the projection is 10 million or 22 percent of the total population. To address this shift, DADS continues to develop and implement initiatives and programs, such as building community capacity to serve the aging population, promoting wellness and increasing access to informal caregiver services.

CONTINUUM OF SERVICES AND SUPPORTS

DADS is responsible for ensuring that a continuum of services and supports is available for individuals with physical as well as intellectual and developmental disabilities (IDD). Individuals facing physical disabilities are provided with a number of options ranging from Primary Home Care (PHC) and Community Attendant Services (CAS) to the Community Based Alternative (CBA) program and nursing facilities. Those facing challenges with IDD are offered assistance extending from the 13 state supported living centers (SSLCs) to community-centered alternatives such as the Home and Community-based Services (HCS) and Community Living Assistance and Support Services (CLASS) programs. The agency must be flexible in meeting the needs of and providing choices for those it serves and must provide those services efficiently so the greatest numbers of individuals are served within available resources.

Ensuring the health and safety and improving the quality of life for persons residing in SSLCs is a direct responsibility of the agency. The 81st Legislature took strong action in response to concerns about the quality of services provided by the SSLCs and for individuals with IDD who receive services and supports in other settings regulated by DADS.

SB 643, 81st Legislature, Regular Session, 2009, provided a framework for the protection and care of individuals with IDD served by public and private providers. Major elements of this legislation focused on requiring fingerprint-based criminal background checks for all SSLC employees and volunteers, random drug testing of SSLC employees, installation of video surveillance camera systems in common areas throughout each of the SSLCs, creation of a mortality review process for persons receiving services in the IDD system, designation of the Mexia SSLC as the state's forensic facility for persons with IDD, creation of an Office of Independent Ombudsman for SSLCs, expanded regulatory oversight for providers of Home and Community-based Services (HCS) and expanded training for persons providing services and supports in both institutional and community-based settings.

LAR Administrator's Statement 2014 - 15

In addition, SCR 77, 81st Legislature, Regular Session, 2009, approved the state's settlement agreement with the U.S. Department of Justice (DOJ), which provides a comprehensive framework for service improvements in each of the SSLCs. In January 2010, court-approved monitors began baseline reviews of each SSLC to establish a foundation from which Texas and DADS will come into compliance with the agreement. In July 2010, the monitors began conducting semi-annual compliance reviews at the SSLCs.

Three teams of independent monitors jointly selected by the state of Texas and the U.S. Department of Justice have conducted a baseline review and four semi-annual compliance reviews at each of the state supported living centers during the period from January 2010 through June 2012. The fifth round of semi-annual compliance reviews began in July 2012, and is scheduled to be completed by December 2012.

The most recent detailed report of compliance determination for each facility can be found on the DADS website. The website postings are updated upon receipt of each report. As stipulated in § III.Q of the settlement agreement, the independent monitors will provide the parties and the court an assessment of the status of compliance with each substantive provision of the settlement agreement within 60 days prior to the fourth anniversary of the settlement agreement. Given that monitoring of the agreement began in January 2010, and subject to agreement by the parties and the judge, this report is anticipated to be submitted to the parties and the court by January 31, 2014. Due to the depth and range of issues in the agreement, it is expected DOJ involvement in Texas will continue for several years.

COMMUNITY-BASED SERVICES

In the last 15 years, there has been a dramatic shift toward community services. These services are critical to allowing older Texans and those with disabilities to achieve and maintain independence and community integration. Demand for services outpaces available funding, despite generous increases from the legislature over the past three sessions. More than 76,000 individuals are enrolled in DADS and STAR+PLUS waiver programs; however, about 109,000 individuals are on interest lists and may wait as long as ten years for requested assistance.

Analyzing and anticipating trends for community programs is essential to meeting future needs. DADS and stakeholders have identified emerging issues in the provision of services, including the need to develop system-wide capacity to serve persons with high behavioral health and/or intensive medical needs.

IMPROVING LOCAL ACCESS TO LONG-TERM SERVICES AND SUPPORTS

At the local level, long-term services and supports are administered by multiple agencies with complex and fragmented intake, assessment and eligibility functions, making it challenging for individuals to identify which services are available and where to obtain them. Aging and Disability Resource Centers (ADRC) provide a "no wrong door" approach to services through a network of local agencies, which coordinate information and access to public and private services and support programs and benefits. DADS plans to expand the ADRC initiative to include statewide coverage of an integrated "no wrong door."

REGULATORY SERVICES

DADS impacts the lives of more than 647,520 Texans through licensing, certification and complaint investigation of nursing facilities (NF), adult daycare providers, assisted living facilities (ALF), ICFs/IID, home and community support services agencies (HCSSA) and individuals providing services in facilities or home settings. These functions ensure that individuals receive high-quality services and are protected from abuse, neglect and exploitation. In

LAR Administrator's Statement 2014 - 15

FY2011, DADS regulated 1,211 NFs, 1,664 ALFs, 5,834 HCSSAs, 861 ICFs/IID and 497 adult daycare facilities. DADS conducts annual, on-site reviews of 681 HCS and 188 Texas Home Living (TxHmL) waiver contracts for compliance with program certification principles.

OPPORTUNITIES FOR BEST PRACTICES AND INNOVATION

The DADS LAR represents a comprehensive approach to meeting the present and future needs of Texans across the array of services based on input from the DADS Advisory Council and stakeholders. DADS understands the needs of those we serve and will work to meet these within a finite system of available resources. We request sufficient funding to maintain our current services and improve our systems to meet the state's future growth.

It should be noted that the federal Budget Control Act of 2011 (BCA) includes provisions that will automatically implement a 7.8 percent sequester, or across-the-board reduction, in 2013 federal funding if the U.S. Congress is not able to come to agreement on other spending reductions by January 1, 2013. The BCA requires federal cuts of \$984 billion over FYs 2013-2021, which is about \$109 billion per year split equally between defense and nondefense spending. Some programs, such as Medicaid and several highway programs, are exempt from the sequester. Sequestration, if triggered, could have a substantial negative impact on funding for DADS' non-Medicaid programs.

BASELINE REQUEST

The FY2014–15 baseline request will serve an estimated 220,900 Texans with 141,700 served in community settings. The baseline request totals over \$12.58 billion in all funds (AF) over the biennium, \$5.10 billion in general revenue-related funds (GRR). This is a reduction of \$186.88 million in AF from the FY2012-13 base budget of \$12.77 billion. The biennial GRR reduction is \$131.94 million, largely due to individuals receiving services at DADS transferring to STAR+PLUS Medicaid managed care at HHSC.

The funding request for DADS has been significantly impacted by the expansion of STAR+PLUS managed care that has occurred in three phases: February 2011 (Dallas/Tarrant catchment area), September 2011 (Contiguous counties of the STARPLUS catchment areas that were in place prior to expansion), and March 2012 (Amarillo/Lubbock, El Paso, and South Texas catchment areas). Each successive rollout has moved an increasing number of individuals previously served by DADS to HHSC services.

In accordance with the instructions, the request does not include \$9.14 million in GR to serve an anticipated 284 individuals who are currently receiving services or are expected to receive services by the end of FY2013. Continuing services to these individuals will be addressed in our exceptional items.

EXCEPTIONAL ITEMS

DADS' services and supports touch the lives of many Texans, many of whom will require long-term services and supports to achieve and maintain their independence or protect their health and safety. This exceptional item request is made to better serve individuals in the models of care they seek. DADS' request attempts to address these needs, while recognizing the reality of the state's fiscal constraints.

DADS' FY2014–15 biennial exceptional item request includes 8 items totaling \$465.2 million in GR and \$1.47 billion in AF. It includes three distinct categories. (1) Maintenance of expected caseloads and cost trends. (2) Continued movement of long-term care to the community setting of choice to the individual. (3) Efforts to improve and streamline the protection and service of individuals receiving DADS services or seeking to access assistance.

LAR Administrator's Statement 2014 - 15

MAINTENANCE OF EXPECTED SERVICE LEVELS

DADS has two exceptional items associated with maintaining expected service levels. These items total approximately \$123.7 million in GR and \$306.6 million in AF. Those funds would be used to continue services to eligible individuals and prevent deficits, especially in agency entitlement programs.

* Caseload – In order to continue services to approximately 284 individuals expected to require assistance in the FY2014–15 biennium, DADS requests \$9.14 million in GR and \$22.7 million in AF. This amount is necessary to annualize appropriations for non-entitlement individuals expected to be served at the end of FY2013. The FY2012–13 appropriations bill included funding for the expansion of community-based services and assumed the steady ramp-up of those slots over the course of the biennium. Failure to recognize these caseload demands will result in the removal of some individuals, particularly in the HCS program, receiving services on August 31, 2013.

* Cost Trends – Client-related increases in cost and acuity are expected to trigger a need for approximately \$114.6 million in GR and \$284.9 million in AF over the next biennium. The majority of these funds are tied to increases in DADS' entitlement programs, over which the agency has no almost no discretion in service provision. This estimate was based on cost increases observed in the current biennium of up to 4 percent in some of the agency's largest programs. The lack of funding for this item could result in fewer individuals in waiver programs and deficits in entitlement programs.

CONTINUED MOVEMENT OF LTC TO THE COMMUNITY

DADS has two exceptional items totaling approximately \$291.6 million in GR and \$976.3 million in AF focused on providing community-based services to aging individuals and those with IDD. Taken together, these programs would potentially serve 29,882 individuals in the community, including 11,902 persons receiving attendant care services through a new Community First Choice program which carries an enhanced Medicaid match rate. These items were heavily supported by agency stakeholders, the DADS Council and best practices found in Texas and other states.

* Promoting Independence Slots – Experience has proven that individuals are served most effectively and efficiently in community settings. It is this manner of thinking, in line with the 1999 Olmstead lawsuit settlement, that has driven the state's tremendous investment in community-based care in recent biennia. To continue this momentum, DADS requests \$32.1 million in GR and \$79.9 million in AF to fund 400 slots for moves from large and medium-sized ICFs/IID, 192 slots for children aging out of foster care, 300 crisis slots for persons at imminent risk of entering an ICF/IID, and 100 slots for individuals at imminent risk of entering a NF. This item also includes 360 slots for the movement of individuals with IDD from NFs over the biennium. This request totals 1,352 in new community care slots.

* Community Expansion – This item is a combination of requests resulting in an increase of 28,530 in DADS' slots for community services and implementation of the new Community First Choice program.

The targeted decrease in individuals on community-based care interest lists will result in 16,628 new Medicaid waiver and Non-Medicaid slots over the biennium. This reduction will cost approximately \$223.7 million in GR and \$525 million in AF. For HCS and CLASS, funding would serve 20% of the estimated number of eligible individuals on the interest lists who would likely accept services. For CBA, MDCP, Texas Home Living, STAR+PLUS CBA individuals above the SSI level, In Home and Family Support, Title XX services, and IDD Community services, this item requests funding to increase

LAR Administrator's Statement 2014 - 15

service levels by 10% over FY 2012-13 levels. The request includes funding for acute care, drug and administrative costs at HHSC, as well as long-term care and administrative costs at DADS.

In addition, this item requests funding of \$35.8 million in GR and \$371.4 million in AF for a new Community First Choice (CFC) program serving 11,902 individuals. Federal law now gives states the option to provide Medicaid State Plan home and community based attendant services, habilitation and personal emergency response services in exchange for a 6 percent enhanced Federal Medical Assistance Percentage (FMAP). Under federal statute, individuals eligible for CFC must already be eligible for Medicaid under the state plan and meet an institutional level of care. Implementation is anticipated in 2015.

Currently, Texas provides up to 50 hours per week of attendant care to adults with physical disabilities under its Medicaid state plan through the PHC and CAS programs. No analogous state plan program exists for individuals with intellectual and developmental disabilities (IDD). With CFC, adults with a primary diagnosis of IDD, who are currently eligible for Medicaid but are not receiving attendant care services, would have access to attendant care, habilitation and personal emergency response services through the state plan. This option may reduce the need for waiver type services and may also result in diversion from costlier institutional settings by providing these basic services in the individual's home.

IMPROVE AND STREAMLINE INDIVIDUAL PROTECTION AND SERVICES

DADS is requesting approximately \$49.9 million in GR and \$188.9 million in AF to make necessary improvements in the agency's guardianship and regulatory programs, improve conditions at SSLCs and further develop ongoing efforts to create a Single Service Authorization System to integrate the existing legacy MH/MR and DHS automation systems.

* Protecting Vulnerable Texans – In these requests, DADS would utilize approximately \$15.7 million in GR and \$23.0 million in AF to keep pace with the substantial growth in guardianship contracts by hiring 11 new contract supervisors. These funds would also add one FTE and 28 assisted living facility (ALF) contract ombudsman to ensure regular and timely monitoring and advocacy for individuals in those facilities. Also, through the hiring of 20 new waiver survey and certification reviewers and automation system modernization, efforts would be made to further match DADS' resources to the increase in the service programs over which the agency has regulatory authority. Finally, 18.5 FTEs are requested to match the sizable growth in the certification of day habilitation providers. It should be noted that DADS lost 60 FTEs in direct service regulatory personnel impacting the assisted living and adult daycare programs during the 82nd Legislative Session.

Several of DADS' regulatory automation systems and tools are outdated and inadequate to effectively sustain the agency's daily statutory operations. A portion of this funding would be used to allow trained investigators to spend the maximum amount of time in the field interacting with DADS clients and service providers.

* Improving Support for SSLC Residents – Texas' 13 SSLCs serve approximately 3,628 individuals per month and include facilities for medical services, therapy, vocational programs, and other services. Residential and programming support buildings can be up to 100 years old with the newest buildings at approximately 35 years old. This item requests \$27.7 million in GR and \$136 million in AF, including \$88.5 million in bond proceeds, to make necessary life/safety repairs and renovations at the state facilities. This amount would also finance a 10-year replacement plan for vehicles, PCs for 1276

LAR Administrator's Statement 2014 - 15

workstations, an electronic health record system, statewide videoconferencing and construction needed to provide physical security of IT assets at the SSLCs.

The insufficiency of direct support professional staffing affects all state supported living centers adversely. This has been a central theme of the reports from the independent monitors who evaluate efforts to achieve compliance with the terms of the settlement agreement with the U.S. Department of Justice. Just over \$2.1 million in GR and \$5.2 million in AF would be dedicated for the recruitment and retention of these direct care staff.

* Streamlining Service Systems – DADS requests approximately \$1.8 million in GR and \$18.0 million in AF for Phase II of the Single Service Authorization System (SSAS). Phase II will address all remaining information dependencies and usage between the CARE mainframe system and Long Term Care Medicaid information systems. This is necessary to eliminate dependence on outdated and obsolete information technology and move to a system that complies with the Centers for Medicare and Medicaid Services (CMS) Medicaid Information Technology Architecture (MITA) requirements. CMS has indicated that, in the future, the State will not receive Federal Financial Participation for antiquated systems that do not meet MITA Standards.

Phase II will also eliminate remaining DADS information dependencies from the CARE mainframe system for Long Term Medicaid services including but not limited to the State Supported Living Centers and the Quality Assurance Fee (QAF) program. The CARE mainframe system does not have the ability to transmit this information in a form and manner that meets the CMS MITA standards.

Finally, DADS is requesting \$4.8 million in GR and \$11.9 million in AF to add two new Program of All-Inclusive Care for the Elderly (PACE) sites at 150 slots each and provide additional slots at the state's three existing sites. Specifically, 96 additional slots at each existing PACE site is requested. PACE provides care through an integrated managed care system for aging individuals and those with IDD. Using a comprehensive care approach, PACE offers an array of services at a capitated monthly fee and provides all health-related services. Currently, Texas has three PACE sites serving approximately 989 individuals.

HHSC's LAR and the HHS Consolidated Budget will include several DADS-related items. The largest of these is approximately \$13.6 million in GR and \$32.7 million in AF dedicated to further recruitment and retention of Direct Support Personnel. Lesser amounts of funding are requested for a DADS Information Security Program and the replacement of equipment at the consolidated state-operated laundry network (shared between DADS and DSHS).

We appreciate your consideration of our Legislative Appropriations Request and we look forward to working with the 83rd Legislature to address the needs of Texas' citizens who are aging or have disabilities.