



**THE FUTURE OF SERVICES FOR TEXANS WITH
MENTAL RETARDATION**

*A REPORT TO THE MEMBERS OF THE
78TH TEXAS LEGISLATURE*

**THE ARC OF TEXAS
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For over half a century, The Arc of Texas has been devoted to promoting and improving supports and services for people with mental retardation and other developmental disabilities and their families. The Arc has been instrumental in the creation of virtually every program, service, right, and benefit that is now available to more than half a million Texans with mental retardation. Today, The Arc continues to advocate for including people with mental retardation and other developmental disabilities in all aspects of society.

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EXECUTIVE SUMMARY

Texas currently supports a dual system of services for people with mental retardation and related conditions—(1) the institutional model and (2) community-based services. There are powerful ethical and emotional arguments, both pro and con, for continuation of long-term institutional care for people with mental retardation. However, the current budgetary crisis demands an examination of the economic arguments of maintaining state owned and operated large institutional facilities. Currently, less than 1 percent of the population in need of residential services chooses institutional care. The 78th Texas Legislature must consider the practicality of an institutional care model when the vast majority of tax paying citizens are requesting and waiting for community-based services and supports.

Cost reports, agency data and numerous studies reveal the expensive nature of an institutional care model that meets a fraction of service needs in Texas:

1. The 77th Texas Legislature directed the Texas Department of Mental Health and Mental Retardation (TDMHMR) via Senate Bill 1, Rider 65, to analyze and report on the average costs of state schools, ICF/MR community-based facilities and the Home and Community-Based (HCS) Medicaid Waiver program services and supports. TDMHMR found that the yearly average cost per person enrolled in the HCS Waiver program was \$46,055.81 compared to \$71,555.10 per person per year in state schools.
2. There are 19,230 individuals waiting for HCS Waiver program services and supports (TDMHMR, November 26, 2002). This compares with an average of 9 individuals per month waiting for state school placement between October and November 2002, the First Quarter of Fiscal Year 2003 (Conversation with Robert Kifowit, Director, State Mental Retardation Facilities, TDMHMR, January 9, 2003).
3. The *Draft Plan on State Mental Retardation Facilities* (TDMHMR, February 2002), reported maintenance cost projections for 2002 through 2007 for all state mental retardation facilities will require \$349 million to maintain all buildings in their current condition.
4. While the Texas institutional census declined by 51% between 1977 and 2002, only two of thirteen Texas state schools have closed (*States in Developmental Disabilities: 2002 Study Summary*, Coleman Institute for Cognitive Disabilities and Department of Psychiatry, The University of Colorado, 2002). Further,
 - a. Less than one-tenth of one percent (0.1%) of individuals waiting for mental retardation services are seeking state school placement, and

- b. Enrollment in state schools is declining and projected to drop below 5,000 residents by April 2003 (*Draft Plan on State Mental Retardation Facilities*, TDMHMR, February 2002).

The 78th Legislature must take a business-like approach in examining the efficiency and cost effectiveness of state schools. Such a review of the state institutional model may likely conclude:

1. Texas has too many state schools to meet the needs of the current and projected state school census.
2. The cost to maintain the aging institutional building infrastructure is an improbable and ineffective investment in this state's future.
3. State school services are more expensive than community-based services to meet the needs and the choices of Texas citizens.

In light of the facts on state institutional costs, the growing waiting list for community services and the current state budget crisis, the Arc of Texas recommends that the 78th Texas Legislature authorize the closure of four TDMHMR state school facilities. Further, state general revenue dollars currently invested in the institutional structure must be reallocated to capture Federal Medicaid dollars through the Home and Community-Based Services (HCS) Waiver program, meeting the demands of people with disabilities wanting to receive services in the community.

INTRODUCTION

The Past to the Present, A National Perspective

Beginning in the 1970s, several factors—including the Independent Living and Self-Advocacy Movement and the creation of the ICF/MR (Intermediate Care Facilities/Mental Retardation) program within Medicaid—fueled efforts to reform institutions for people with mental retardation and other developmental disabilities by redirecting institutional funding to community-based services and supports. This movement, “[which] embraced the notion that the barriers which confront people with disabilities are less related to individual impairment than to social attitudes, interpretations of disability, architectural barriers, legal barriers, and educational barriers,” coupled with the reality that the federal government now reimbursed states for 50-78% of institutional care inspired the swift consolidation and closure of a significant number of institutions (Braddock & Parish, 2002).

Between 1967 and 2000, the national census of public institutions has decreased from over 194,000 to approximately 47,374 individuals (Braddock & Parish, 2002). During this same period, it is documented that advances in behavioral interventions have facilitated the inclusion of persons with mental retardation and other developmental disabilities in the community. Furthermore, the enactment of the Home and Community-Based Services (HCS) Medicaid Waiver in 1981 permitted states to expand federal Medicaid resources for community based services and supports. It is no surprise, therefore, to find that between 1977 and 1998; the number of persons living in community-based settings for one to six persons grew from 20,409 to 263,359 persons.

Home and Community-Based Services (HCS) Medicaid Waiver

The HCS Medicaid Waiver program allows states to finance various types of services including case management, assistive technology, minor home modifications, respite, supported living, day habilitation, supported employment, and occupational, speech, physical and behavioral therapies. The program’s flexibility enables it to meet the needs of virtually every person with mental retardation in the community regardless of the severity of their disability or the intensity of their needs. The program allows for flexibility and highly individualized plans of care for every program recipient.

Services and supports provided through the HCS Waiver program allow individuals with mental retardation and other developmental disabilities to live in their communities, whether they choose to live in their own home, the home of a loved one, a small group home or in a foster placement.

Today, advocates nationwide recognize that states should continue to dramatically increase the number of community-based service options for people with mental retardation and other developmental disabilities. The census of institutions continues to

fall, while waiting lists for community-based services and supports continues to grow exponentially.

Developments In Texas

In Texas alone, the institutional census plummeted from 10,843 to 5,338—or 51% between 1977 and 2000 (*States in Developmental Disabilities: 2002 Study Summary*, Coleman Institute for Cognitive Disabilities and Department of Psychiatry, The University of Colorado, 2002). Overwhelmingly, Texans with mental retardation and other developmental disabilities continue to choose the HCS Waiver program versus institutional care. While there are 19,230 individuals waiting for HCS Waiver program services and supports (TDMHMR, November 26, 2002), there were an average of 9 individuals per month waiting for state school placement between October and November 2002, the First Quarter of Fiscal Year 2003 (Conversation with Robert Kifowit, Director, State Mental Retardation Facilities, TDMHMR, January 9, 2003).

In addition to institution census decline and growing waiting lists for community-based services and supports, “spending for the nation’s public institutions has declined 13% in inflation-adjusted terms” (Braddock, Hemp, Rizzolo, Parish & Pomeranz, January 2002). Case in point, for every dollar spent on institutional services nationwide in 1998, \$2.67 was budgeted for community-based services (TDMHMR Draft Report on SMRFs, February 2002). Unfortunately, the opposite is true for Texas. As a matter of fact, Texas is one of seven states recognized as having had major enhancements in institutional fiscal rankings between 1996 and 2000 (Braddock, et al., January 2002). Consider the following:

- In 1996, Texas ranked 31st for institutional and 42nd for community-based setting fiscal effort.
- In 2000, Texas ranked 24th for institutional and 43rd for community-based setting fiscal effort.

Moreover, while the Texas institutional census declined by 51% between 1977 and 2002, only two of thirteen Texas state schools have been closed. [Note: Travis State School and Fort Worth State Schools were closed, as recommended by the TDMHMR Facility Review Task Force, in the mid-1990s, in compliance with the settlement agreement resulting from *Lelsz vs. Miller*. The Task Force, appointed by then Governor Ann Richards further recommended the closure of two additional state schools.]

A TEXAS TRAGEDY

With only minimal increases in numbers served by the HCS Medicaid Waiver (HCS Waiver) program over the last six years, the waiting list for HSC Waiver services and supports has more than doubled. Of the 19,230 individuals currently on the waiting list, many have waited more than seven years. Medicaid statute provides that waiver

programs, such as the HCS Waiver program, must be provided to eligible clients with reasonable promptness. Forcing someone to wait for services for over seven years is neither reasonable nor prompt.

Home and Community-Based Services (HCS) Medicaid Waiver in Texas

In Texas, the HCS Waiver program is operated through the auspices of the Texas Department of Mental Health and Mental Retardation (TDMHMR) and Community MHMR Centers. The Legislature dictates the number of HCS clients to be served each year and mandates a ceiling for the average cost per client.

Further, the HCS Waiver program does not purchase housing facilities, but rather supports people to use their Supplemental Security Income (SSI) to rent homes. Thus, investments in community-based waiver programs are investments in services for people not in the purchase or maintenance of facilities.

The HCS program is recognized as the community program of choice for adults with mental retardation. Approximately 6,761 individuals are currently receiving services through the HCS Waiver program (this figure includes HCS, MRLA and HCS-O recipients as of November 30, 2002) (Conversation with Mark Johnston, TDMHMR, Long Term Services, January 15, 2003).

To reduce the HCS waiting list, the Legislature must appropriate more state general revenue that can be matched into the Medicaid program to draw down additional federal funds. For the last three biennia, however, the Texas Legislature has allowed only a slight growth in the HCS Waiver program, no way near the amount necessary to significantly reduce or end the waiting list.

The waiting list continues to grow, and families continue to grow weary and desperate. The waiting list is not only a true Texas tragedy; it is a crisis that must now be addressed.

THE SOLUTION

Texas must move beyond the intense rhetoric debating whether one mode of service (institutional or community) is better than the other. While never forgetting that we are dealing with human lives, we must look beyond the rhetoric to take a business-like approach to considering the cost-effectiveness of all mental retardation services.

On Monday, January 13th, Texas Comptroller Carole Keeton Strayhorn announced a projected budget shortfall of \$9.9 billion. She explained that \$1.8 billion, included in her projection, will be needed to honor the current state budget.

Given the gloomy outlook for the Texas budget over the next biennium, it is safe to assume that that no new allocations will be made this legislative session. Moreover, many families and advocacy groups fear that essential services (community-based

services and supports) will be slashed over the course of the 78th legislative session. Accordingly, the preferable method to increase services is to use current resources more cost effectively.

The following are The Arc of Texas' recommendations on ways to expand services within the current TDMHMR mental retardation services budget.

Recommendation #1

Diligently scrutinize the funding of TDMHMR state schools (ICF/MRs).

The Efficiency and Effectiveness of the HCS Waiver Program

The HCS Waiver program has evolved into a programmatically sound and cost-effective program.

Over the last six years, TDMHMR community-based programs, and especially the HCS Waiver program, have been subject to intense scrutiny by the Texas Legislature. Intense Utilization Management and Review processes, refinement in the organization and delivery of the HCS Waiver program and state mandated ceilings for average costs, have caused agency officials, providers, and advocates to “scrub” the HCS Waiver program for any inefficiencies, unproductive regulation and waste. TDMHMR has reached and intends to maintain the average cost per person receiving HCS Waiver services and supports at the level set by the Legislature. Furthermore, new processes will allow a more appropriate and timely roll-out of new slots, while techniques of Utilization Management and Review ensure that costs are in line with client need.

Community-Based Services and Supports Versus Institutional (State School) Care Costs

Much misinformation abounds in the discussion of the cost of community-based services and supports versus institutional care. To counter the misinformation and ensure an objective “apples to apples” method of calculation, the 77th Texas Legislature directed TDMHMR via Senate Bill 1, Rider 65, to analyze and report on the average costs of state schools, Intermediate Care Facilities for the Mentally Retarded (ICF/MR) community-based facilities, and HCS Medicaid Waiver program services and supports. [Note: Rider 65 Cost Comparison Report, submitted by TDMHMR to the 77th Legislature, May 2003. Data in this report covers the time period of State Fiscal Year 2001.]

Despite the fact that significant numbers of people with severe disabilities and intense needs now live in the community and receive HCS Waiver program services and supports, TDMHMR found that the yearly average costs per person enrolled in the HCS

Waiver program was \$46,055.81 compared to \$71,555.10 per person per year in state schools. The TDMHMR report proves that when considering average per person costs, state school services are an unnecessarily costly mode of services delivery.

The Total Cost of Serving Texans in State Schools Is Even Greater

The TDMHMR system currently operates eleven state schools that are in a dangerous state of repair. The most recently opened facility, Brenhem State School, was opened in 1974. Many of the buildings in the TDMHMR system are more than 50 years old; some 75 years or more. Because of the age of the buildings and the fact that the Legislature has historically not appropriated sufficient funds to properly maintain these facilities, the eleven state schools represent an aging service infrastructure with massive needs for capital repairs.

Draft Plan on State Mental Retardation Facilities (February 2002)

The Draft Plan on State Mental Retardation Facilities (TDMHMR, February 2002), reported maintenance cost projections for 2002 through 2007 for all state mental retardation facility (SMRFs) buildings. Using TDMHMR's Computer Assisted Facility Management program, TDMHMR SMRFs will require \$349 million to maintain all buildings in their current condition. The Draft Plan also reports:

1. Less than one-tenth of one percent (0.1%) of individuals waiting for mental retardation services are seeking SMRFs placement, and
2. Enrollment in SMRFs is in steady decline and is projected to drop below 5,000 residents by April 2003.

More importantly, if the projected decline in SMRFs continues, the average enrollment over this period is 4,787 individuals. By dividing \$349 million, projected maintenance costs for all SMRFs, by 4,787, the result is a facility maintenance cost per person of \$72,905. This investment is in addition to the \$71,555.10 cost per person per year in SMRFs.

The burden of needed institutional capital improvements is likely to worsen over the next decade as SMRFs continue to age.

More recent data indicates the cost of serving individuals in SMRFs is much higher than calculated by TDMHMR via Rider 65 (seen above).

House Bill 966 Report, Dollar Follow The Client Report

The 77th Legislature directed the Health and Human Services Commission (HHSC), via House Bill 966, to "study ways in which the health and human services agencies may:

1. Quantify the amount of money appropriated by the legislature that is spent to care for a person who is receiving institutional care in an institution operated by the state or funded at least in part by appropriated money; and
2. Redirect all or part of that amount to one or more community-based programs that will provide community-based services to the person in the event the person leaves the institution to live in the community.”

While this report does not indicate the cost of serving persons in the community via the HCS Waiver program, the report does show the cost of serving individuals in state schools per year is about \$84,400 (HHSC, House Bill 966 Report, October 25, 2002). This figure includes SMRFs employee benefits (salary, retirement and benefits). [Note: The data used in this report is TDMHMR’s estimated performance measures for State Fiscal Year 2002.]

The Bottom Line

There are clear fiscal advantages in the consolidation and closure of state institutions. Given (1) the unnecessary costly mode of providing services in SMRFs, (2) the projected decline in SMRFs enrollment, (3) the aging facilities and (4) the expected budget shortfall, the 78th Texas Legislature has no choice but to examine how every state dollar is currently being spent and, better yet, how state dollars could be spent more effectively and efficiently.

The 78th Legislature must take a business-like approach in examining the efficiency and cost effectiveness of state schools. If such examination is made with the same rigor as the recent examination of HCS Waiver services and supports, the report cannot help but conclude:

1. Texas has too many state schools to meet the needs of the current and projected state school census.
2. The cost to maintain the aging institutional building infrastructure is an improbable and ineffective investment in this state’s future.
3. State school services are more expensive than community-based services to meet the needs and the choices of Texas citizens.

Recommendation #2

The 78th Legislature shall authorize the closing of at least four TDMHMR state schools and divert savings realized from this strategy to provide community-based services and supports and reduce the TDMHMR HCS Waiver program waiting list.

Numerous factors must be taken into careful consideration when closing state institutions. The following are some factors that were of significance to the State of Michigan and Illinois as they closed state institutions between 1980 and the mid 1990s.

Factor 1. Selecting Institutions For Closure

The Texas Legislature shall direct TDMHMR to select the institutions for closure based on the number of community-based service providers in the surrounding geographic area. By doing this, TDMHMR will be ensuring to the best of its ability (1) a smooth transition for state school residents wishing to move into the surrounding community to receive community-based services and supports; (2) the needed capacity development of local community-based service providers; and, (3) the development of employment options for current state school employees by the local community-based providers.

Factor 2. Current State School Residents

The closure of Texas state schools shall be done in such a way that current residents have a choice on whether to move into another SMRF or to the community. Some may choose to move to community residential facilities or other community-based options. No current resident would lose or otherwise be denied an institutional placement. All current state school residents could be easily cared for in the remaining seven state schools.

As of January 3, 2002, the enrollment for the eleven state schools and two state centers in the TDMHMR system is 5017, or an average of 457 residents per campus (Conversation, Robert Kifowit, Director, SMRFs, January 13, 2002). Following the implementation of this recommendation, if every resident chose to transfer to another state school, the average census for the remaining seven state schools would be 717 residents.

Direct Administrative Cost Savings

As a direct result of the state school closures a small reduction in cost per resident day may be realized as institutional fixed costs are spread over a proportionately larger resident population at each school. In addition, a proportionate share of the projected \$349 million in costs for needed facility capital repairs would no longer be required, thus

saving the state tens of millions of dollars in infrastructure maintenance costs over the next six years.

Administrative costs savings are rarely realized by state schools through attrition or a small number of community placements, due to the fact that reimbursement rates vary based on the overall size of the institution. Thus, a small number of individuals leaving an institution will not reduce fixed costs, including utilities, food preparation and distribution, laundry and housekeeping services and facilities maintenance. However, significant savings will result from the closure of four facilities.

The Bottom-Line

Ultimately, the intent of this recommendation is to shift the administrative cost savings from the closure of four state schools for the development of additional HCS Waiver community-based services and supports and for the thousands who are currently on the HCS Waiver program waiting list.

CONCLUSION

Texas is in a state of economic crisis. The reality is that little or no new funding will be allocated during the 78th Legislature to expand essential services for persons with mental retardation and other developmental disabilities who are currently on waiting lists for community-based services. As of November 2002 however, there are 19,230 individuals waiting for HCS Waiver program services and supports. This is a crisis that the Texas Legislature must alleviate.

By diligently scrutinizing the funding of SMRFs, the Texas Legislature will learn that institutional care is an unnecessary costly mode of service delivery. The cost of institutional care is significantly higher than the cost of community-based services and supports. In addition, the cost of providing institutional care is further amplified by the maintenance costs of the aging SMRFs buildings.

Over the past 30 years, and especially in the last decade, various states have led the movement in reduced reliance on institutions and the on-going transformation to community-based services and supports. As of 2002, the District of Columbia and seven states (Alaska, Hawaii, New Hampshire, New Mexico, Rhode Island, Vermont and West Virginia) have closed all state institutions and have developed community-based services and supports in their place (Braddock, et al., 2002). The motivations behind the closure of state institutions vary across the nation. Some states have sought innovation in their service delivery systems and others, such as the state of Michigan, have sought fiscal conservatism. The time is now for Texas to do both, and especially the latter.

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