

## Input for FY08-09 DADS Legislative Appropriations Request (LAR)

**Individual/Organization:** The Arc of Texas  
**Contact Person:** Amy Mizcles  
**Phone number:** Office: 512-454-6694 Mobile: 512-657-1682  
**e-mail address:** amizcles@thearcoftexas.org

### Description of Initiative/Issue:

Over 100,000 Texans with disabilities continue to wait for long term care Medicaid Waiver program services and supports. DADS must make a commitment to seek a long term solution to address this great need.

**Is this Issue/Initiative:**      New       Expansion       Restoration

### Proposed Solution(s):

DADS must propose and actively promote a “10-Year Plan to Eliminate the Waiting Lists,” while maintaining the “first-come, first-served” provision, so that at the end of those ten years no individual waits more than 24 months to receive Medicaid Waiver Program supports and services.

*NOTE: DADS and HHSC formally proposed a “10-Year Plan to Eliminate the Waiting Lists” before the 79<sup>th</sup> Texas Legislature.*

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### Description of Initiative/Issue:

The adoption of a long-term solution to end the waiting lists will address only the needs of Texans who have waited for many years to receive Medicaid Waiver program supports and services. Therefore, DADS must build, develop and strengthen an infrastructure that can withstand a massive expansion of supports and services to Texans with disabilities.

**Is this Issue/Initiative:**    New     Expansion     Restoration

### Proposed Solution:

DADS shall:

1. maintain and strengthen its ability to respond to crisis/emergency situations (e.g., loss of home or the death of a caregiver), while maintaining the “first-come, first-served” provision;
2. seek parity in wages of direct care staff between state-operated facilities and community-operated programs (State Schools, Community ICF/MRs, HCS and TxHML); and,
3. seek appropriate reimbursement rates for providers of Medicaid Waiver program supports and services.

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### Description of Initiative/Issue:

General Revenue Funding for Community Mental Retardation supports and services (“the Safety-Net”) were significantly reduced by 32% from the original FY2003 to FY2004 allocations. While the reduction accounts for some administrative savings, the budget cuts resulted in the reduction and/or elimination of critical GR-funded MR community supports and services.

**Is this Issue/Initiative:**    New     Expansion     Restoration

### Proposed Solution:

DADS must seek a restoration of the MR Safety Net to FY2004 funding levels or \$58.8 million (GR) to assist in building, developing and strengthening the “Safety-Net” for individuals with mental retardation and their families who may experience a short-term crisis over their lifetime (e.g., illness or death of a caregiver).

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### Description of Initiative/Issue:

The Mental Retardation In-Home and Family Support Program (MR-IHFS Program) budget was reduced by 60% by the 78<sup>th</sup> Legislature. This program offers individuals with MR and their families the opportunity to purchase desperately needed supports and services so that they can remain in their community (e.g., respite, diapers, formula, etc.).

**Is this Issue/Initiative:**    New     Expansion     Restoration

### Proposed Solution:

DADS must seek a restoration of the MR-IHFS Program to FY04-05 funding levels or \$7.7 million (GR).

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### Description of Initiative/Issue:

Texas must ensure that individuals (children and adults) who are currently institutionalized in State Schools and Community ICF/MRs (small, medium and large) and have been identified for community placement are able to transition into the community within 12 months. (Note: The 12 month timeframe is derived from the Texas Promoting Independence Plan).

**Is this Issue/Initiative:**    New     Expansion     Restoration

### Proposed Solution:

DADS must seek additional funding, in order to continue the implementation of and expansion of the Texas Promoting Independence Plan to small and medium ICF/MRs.

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### Description of Initiative/Issue:

Today, State Schools and Community ICF/MRs are responsible for implementing the “Community Living Options” (CLO) information process to inform persons with mental retardation who reside in the institution and their legally authorized representatives of alternative community living options. The Texas Legislature previously adopted into law a provision that eliminates any bias that might exist in the implementation of the Permanency Planning tool, by moving that function from within the institution to an independent third party (e.g., a local Mental Retardation Authority). In order to ensure that all institutionalized Texans with mental retardation and their legally authorized representatives receive information that is accurate and impartial, the CLO information process must be moved to an independent third party.

**Is this Issue/Initiative:** New  Expansion  Restoration

### Proposed Solution:

DADS shall seek the funds necessary to support a provision to eliminate any bias in the implementation of the CLO information process for individuals with mental retardation residing in State Schools and Community ICF/MRs by moving that function to an independent third party (e.g., Mental Retardation Authority).

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### Description of Initiative/Issue:

In its December 2003 evaluation of the Consolidated Waiver Pilot Program (CWP), HHSC made a recommendation to expand the pilot program in spite of inconclusive finding. The 79<sup>th</sup> Legislature did not expand the CWP Pilot Program.

**Is this Issue/Initiative:** MAINTAIN New  Expansion  Restoration

### Proposed Solution:

#### **MAINTAIN, DO NOT EXPAND THE CWP PILOT PROGRAM.**

DADS must continue to evaluate the effectiveness of the CWP Pilot Program for (1) the individuals currently served via this program—with a focus on the effectiveness of this program for individuals with mental retardation or other significant cognitive disabilities and (2) the CWP Pilot Program providers. In addition, it is critical that the CWP Pilot Program evaluation takes into consideration the impact of HB 2292 (78<sup>th</sup> Legislature) reorganization efforts on efficiencies originally sought by the CWP Pilot Program.

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### Description of Initiative/Issue:

#### Maintain Focus and Expertise in Mental Retardation as well as Mental Retardation Funding within DADS.

For over 40 years, the State of Texas has recognized the program, support and service delivery needs of Texans with mental retardation. The State has provided specialized supports and services, previously via TDMHMR and now via DADS, to meet the individual needs of persons with mental retardation, including both community-based supports, in-home supports and other specialized supports and services delivered by competent MR professionals and para-professionals.

**Is this Issue/Initiative:** MAINTAIN New  Expansion  Restoration

### Proposed Solution:

#### DADS must:

(1) Ensure that valid clinical assessment procedures continue to be required for determining eligibility for mental retardation supports and services. DADS must ensure that service eligibility and funding tools currently used to assess the functional limitations of the frail elderly and individuals with physical disabilities (e.g., **Form 2060**) are not used to determine the support/service needs of persons with mental retardation.

As you know, the **Functional Assessment Tool (Form 2060)** currently used to assess individuals for programs—other than those specifically designed for persons with mental retardation—measures only the individual's ability to physically carry out the following tasks:

- Clean up after other personal care tasks; e.g., bathing, meal preparation, toileting, etc.
- Empty and clean bedside commode
- Clean bathroom; e.g., tub/shower, toilet, sink, floor
- Change bed linens
- Make the bed
- Clean floor of living areas used by client



- Dust
- Carry out trash, setting out garbage for pick up
- Clean stove-top, counters, washing dishes
- Clean refrigerator and stove

The State's current **Functional Assessment Tool (Form 2060)** does not assess, nor does it capture, the individual support needs that an individual with mental retardation is likely to have. For example, an individual with mental retardation (the individual) may answer "YES" to each of the **specific tasks on Form 2060**, because he/she is physically capable of doing the tasks. However, unlike the ICAP assessment tool, the State's **Functional Assessment Tool (Form 2060)** does not capture nor identify the series of individualized, specialized supports and services the individual needs in order to accomplish some or all of the tasks outlined in **Form 2060** (e.g., guidance, instruction, support, etc.).

(2) Maintain focus and expertise in mental retardation within DADS. As you know, mental retardation is not a medical disorder, nor a mental illness. Mental retardation is a particular state of functioning (American Association on Mental Retardation, 2003). Individuals with mental retardation, like individuals with other disabilities, face numerous challenges in accessing quality and appropriate supports in their communities. Individuals with mental retardation, furthermore, must also face additional support needs that are exclusive to their significant cognitive disability.

(3) Ensure that individuals with expertise in the field of mental retardation are infiltrated throughout the DADS system, to include executive, policy, operations and service delivery units.

(4) Ensure that Mental Retardation Funds are preserved for the use of individuals with mental retardation and not for other populations for which the funds were not intended.

(5) Maintain open and frequent communication with mental retardation stakeholders.

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