

CTD  
Coalition of Texans with Disabilities  
316 W. 12th Street, Ste. 405  
Austin, TX 78701  
512. 478.3366  
Fax 512. 478.3370  
[www.cotwd.org](http://www.cotwd.org)

Disability Consulting & Advocacy

## House Human Services Committee -- May 1, 2008

### Recommendations on Interim Charge #4:

#### **INCREASE IN MEDICAID 1915 (C) SLOTS – EIGHT YEAR PLAN FOR ELIMINATION OF CURRENT INTEREST LISTS FOR COMMUNITY SERVICES**

**Recommendation 1: Increase funding for community-based programs in order to eliminate all interest lists within an eight year period;** this would include sufficient funding to actualize a cumulative twenty-five percent decrease in the overall interest lists through the 84<sup>th</sup> Legislative Session (2017). This overarching initiative will include both individuals on the interest list and projected demographic growth. Implementation of this recommendation will result in that at the end of the FY 2017, no new applicant for community-based services will have to wait more than six months to receive services.

#### **WORKFORCE AND PROVIDER NETWORK STABILIZATION**

The opportunities for community living are limited without a functional, available, and qualified work force and provider network.

**Recommendation 2: Fully-fund the 2007 Consolidated Budget's 2008-2009 rate methodology request.** The Consolidated Budget presented to the 80<sup>th</sup> Legislature by the Health and Human Services Commission (HHSC) stated that the funding increases necessary to fully-fund HHSC's rate methodologies for community-based programs in Fiscal Years (FY) 2008 and 2009 ranged from 5 % to 29.9%

The Legislature only appropriated, on average a five percent rate increase for providers of community services and supports. The Legislature passed H.B. 15, 80<sup>th</sup> Legislature, and Regular Session, 2007, which provided rate restoration for CLASS, HCS, and Texas Home Living providers to FY 2003 amounts.

The 80<sup>th</sup> Legislative Session (2007) did not fund the Congressionally mandated minimum wage increase; community-based programs remain significantly under-funded. PHC is the most impacted because it has the lowest rate and providers had to use almost the entire FY 2008-2009 increase to cover the minimum wage requirements.

Recommend that the 81<sup>st</sup> Legislature immediately address the FYs 2008-2009 shortfall, and to fully-fund all community-based programs to meet the requirements of promulgated methodologies.

**Recommendation 3: Fund the full impact of the next minimum wage increase.** The third \$0.70 increment in the federal minimum wage will occur on July 24, 2009, and will require pro forma adjustments to the rates that would otherwise be reflected in HHSC's rate methodology estimates for FYs 2010-2011. The "ripple effect" of that third increment is an economic fact, and must be recognized in the 2010-2011 General Appropriations Act.

### **PROTECT CIVIL RIGHTS**

Civil rights laws have historically been critical to prevent discrimination of any kind. Many Texans react in disbelief that the State claims sovereign immunity from the civil rights protection of the Americans with Disabilities Act and Sec. 504 of the Rehab Act. Proposed legislation in recent sessions has carried a zero fiscal note.

**Recommendation 4: The Legislature should pass legislation to waive state sovereign immunity to the ADA and the Rehab Act.**

### **EXPANSION OF THE "PROMOTING INDEPENDENCE PRIORITY POPULATION" POLICY FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO RESIDE IN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR).**

Texas was the originator of the "money follows the person" (MFP) policy for individuals living in nursing facilities (NF). This state policy allows individuals in NFs to relocate to the community in order to receive their long-term services and supports predominately delivered through a 1915 (c) waiver program. In addition, NF residents do not have to be placed on an interest list for those services and may receive them as soon as they met all program eligibility criteria. Texas is recognized as a national leader in this movement.

A similar provision does not exist for individuals residing in ICF/MRs. The reasons for not having this comparable policy are complex. Individuals in state mental retardation facilities (state schools) and large (fourteen or more bed) community ICF/MRs do have an opportunity to access the HCS program within six months and twelve months respectively because of the Promoting Independence Plan; however, this is not a MFP policy.

**Recommendation 5: full funding for the "Promoting Independence Priority Populations" that will result in individuals residing in either large community ICFs/MR or in state schools may have immediate access to HCS slots.**

**Recommendation 6: Develop And Implement A Medicaid Buy-In Program For Children With Disabilities In Families With Income Between 100% To 300% Of The Federal Poverty Level (FPL) As Stipulated In The Deficit Reduction Act Of 2005.** Many children with disabilities are uninsured or underinsured. Families of children with disabilities often purposely enter into poverty through divorce or employment decisions simply to qualify for publicly funded health insurance for their child.

In other cases, families are forced to make the difficult decision to institutionalize their child in order to obtain required services. Expanding Medicaid opportunities, on a sliding-fee basis, to families caring for children with disabilities will prevent families from remaining in or entering into poverty for the sole purpose to obtain medical care for their child, and will prevent insitutional placements caused by the lack of needed services. Recommend the development and implementation of a Medicaid Buy-In program for children with disabilities in families with income between 100 percent-300 percent of FPL.

**Recommendation 7: Expand Medicaid Buy-In Program to Persons on Medicaid Waivers.** In the current Texas Medicaid Buy-In Program, persons on the waivers are not eligible. Many are interested in working, however the fear of losing vital Medicaid coverage is a powerful disincentive. People working through the Medicaid Buy-In become taxpayers, contribute to the cost of their coverage and are increased consumers of goods and services. Recommend eligibility be expanded to persons on the waivers.

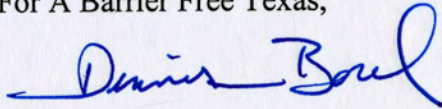
**FUND DARS IN ORDER TO ADD AN ADDITIONAL THREE CENTERS FOR INDEPENDENT LIVING (CILs).**

The purpose of the Centers for Independent Living (CILs) is to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities and to integrate these individuals into their communities. CILs provide services to individuals with significant disabilities that help them remain in the community and avoid long-term institutional settings.

Prior to the 80<sup>th</sup> Legislative Session (2007), there were 21 CILs in Texas funded by federal and General Revenue funds which covered only 145 counties. The 80<sup>th</sup> Legislature (2007) added funding to create two new CILs which will be developed in Laredo and Abilene. Nevertheless, studies estimate that Texas lacks 18 CILs with at least three areas being considered very high priority.

**Recommendation 8: that the 81<sup>st</sup> Legislature (2009) fund the addition of three more CILs at a biennial cost of \$1.5 million.**

For A Barrier Free Texas,



Dennis Borel  
Executive Director