



7800 SHOAL CREEK BLVD. SUITE 171 E AUSTIN TEXAS 78757 • 512 454 4816 • 512 454 9202

June 3, 2203

James R. Hine, Commissioner  
Texas Department of Human Services  
701 West 51<sup>st</sup> Street  
Austin, TX 78714

Dear Commissioner:

We would like to thank you for the extraordinary efforts of you and your staff during the budget process. We understand the enormous constraints you were working with and appreciate your on-going focus on the people needing DHS long-term services and supports.

As the events of the past few months guide the work of coming months, we wanted to bring one of our priorities to your attention and solicit your support in ensuring that a year and a half of work continues to move forward. In February, 2002, we began working with Cindy Kenneally and other DHS long term care staff to make changes to the CLASS waiver that would provide opportunities for children with disabilities living in nursing facilities to use Rider 37 to transfer to family settings. This endeavor has proven to be far more difficult than initially expected. As you probably know, the majority of institutionalized children never have the opportunity to return to their birth families. Consequently, it is vitally important that children leaving nursing facilities have access to support/alternate family services.

A number of individuals from various advocacy organizations have been working for more than a year and a half, in good faith, with DHS staff to amend the CLASS waiver and rules to include "support family services" for institutionalized kids. In addition to numerous meetings, we have worked under very short time frames imposed by DHS to produce rule language only to find that the issue has been put on the back burner. While we understand that the environment has changed and that many priorities compete for time and attention, we hope you recognize the urgency of the need to provide the support/alternate family service for institutionalized children.

In a few cases, children leaving nursing facilities have used MDCP to obtain community/family services as a stopgap measure. This is not, however, adequate as the package of services available and the funding limitations in MDCP usually cannot meet the needs of the child. We are writing to urge you to make this issue a DHS priority in the coming months. Children are waiting to get out of nursing facilities. It is unfair that they should remain institutionalized simply because we do not have a way to provide the most needed service – a family. We have support families available, we have birth-families who want their child to transition to a family, and we have a funding stream that should be available to support the needed services for the child. It simply doesn't make

*promoting progressive public policy for Texans with disabilities.*

sense that any child in this situation should languish in a nursing home simply because of problems in program design. The *Olmstead* decision requires that states make reasonable accommodations to enable individuals to leave institutions. We believe that providing this crucial service, within the program cost caps, is a very reasonable accommodation.

Therefore, we are writing to obtain your support and assurance that finding a mechanism to include support-family services in the CLASS waiver will be addressed quickly. We offer our continued assistance to DHS staff and will assist in any way needed to ensure that children with disabilities in nursing homes have the opportunity to grow up in families.

Respectfully,

Colleen Horton  
Texas Center for Disability Studies  
The University of Texas at Austin

Susan Murphree  
Advocacy, Inc.

Roger Webb  
Texas Council for Developmental Disabilities

Amy Miscles  
The Arc of Texas

Dennis Borel  
Coalition of Texans with Disabilities

Jean Langendorf  
United Cerebral Palsy of Texas

Bob Kafka  
ADAPT