



**The Long-Term Care  
Plan for Individuals  
with Intellectual  
Disabilities and  
Related Conditions**

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**As Required by  
Texas Health and Safety Code,  
Section 533A.062**

**Health and Human Services  
Commission**

**May 2018**



**TEXAS**  
Health and Human  
Services

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## Executive Summary

The Texas Health and Human Services Commission (HHSC), pursuant to Section 533A.062 of the Texas Health and Safety Code, approves this Long-Term Care Plan for Individuals with Intellectual Disabilities and Related Conditions for the state fiscal biennium 2018-19. Section 533A.062 requires a proposed plan be developed biennially and adjusted following legislative action on appropriations for long-term care services for persons with an intellectual disability. Section 533A.062 also requires HHSC to approve the final plan and publish it in the *Texas Register*.

There are seven tables in this plan that reflect the capacity funded by the 2018-19 General Appropriations Act, Senate Bill 1, Article II, 85<sup>th</sup> Legislature, Regular Session, 2017.

This plan includes information on the following:

- State supported living centers (SSLCs);
- Community-based intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID);
- Home and Community-based Services (HCS) waiver program;
- Texas Home Living (TxHmL) waiver program;
- Community Living Assistance and Support Services (CLASS) waiver program;
- and
- Deaf-Blind with Multiple Disabilities (DBMD) waiver program.

The Texas Department of Aging and Disability Services (DADS) operated SSLCs and the programs included in this plan since the formation of DADS on September 1, 2004. Effective September 1, 2016, responsibility for operation of the 1915(c) community waiver programs (HCS, TxHmL, CLASS, and DBMD) transferred from DADS to HHSC. Effective September 1, 2017, DADS was abolished and responsibility for operation of SSLCs transferred from DADS to HHSC.

# 1. Intermediate Care Facilities for Individuals with Intellectual Disability or Related Conditions

The ICF/IID program is Medicaid-funded and provides services and 24-hour supervision to individuals with an intellectual disability (ID) or a related condition in residential settings with a capacity of four or more individuals. There are two types of residential settings: SSLCs and community-based facilities.

## State Supported Living Centers

SSLCs serve individuals who have a diagnosis of severe or profound ID, or who have a diagnosis of ID and complex medical or behavioral health needs. These state-operated, campus-based ICFs/IID located in Texas currently include 12 SSLCs and the ID component of the Rio Grande State Center. The 13 centers are located in Abilene, Austin, Brenham, Corpus Christi, Denton, El Paso, Harlingen, Lubbock, Lufkin, Mexia, Richmond, San Angelo, and San Antonio.

The number of residents vary, with the smallest center having an average daily census of 60 individuals and the largest having an average daily census of 447 individuals during fiscal year 2017. Table 1 reflects the projection used by the legislature when they passed the 2018-19 General Appropriations Act, Senate Bill 1, 85<sup>th</sup> Legislature, 2017. In reality, the SSLC census numbers are higher, with a projected average number of individual served per month exceeding these figures significantly.

**Table 1. Average Number of Individuals Estimated to be Served per Month in State Supported Living Centers**

FY 2018	FY 2019
2,907	2,794

## Community-based ICFs/IID

Community-based ICFs/IID are residential facilities in community settings serving four or more individuals with ID or a related condition. Public and private entities, known as providers, contract with HHSC (formerly DADS) to operate these facilities. The public providers are local intellectual and developmental disability authorities.

There are more than 800 community-based ICFs/IID, and only four of them serve more than 12 individuals. The largest community-based ICF/IID serves up to 160 individuals. Table 2 reflects the average number of individuals who can be served per month in community-based ICFs/IID with current appropriations.

**Table 2. Average Number of Individuals Who Can be Served per Month in Community-based ICFs/IIDs with Current Appropriations**

<b>FY 2018</b>	<b>FY 2019</b>
<b>4,921</b>	<b>4,921</b>

## 2. Waiver Programs

Section 1915(c) of the Social Security Act (42 U.S.C. §1396n(c)) allows states, with a waiver of certain requirements from the federal government, to provide support services in the community as a cost-effective alternative to ICF/IID care. Medicaid expenses for individuals in waiver programs may not exceed, in the aggregate, Medicaid expenses for ICF/IID services for individuals with similar needs. Texas provides four waiver programs as alternatives to ICF/IID services: HCS, TxHmL, CLASS, and DBMD.

The 2018-19 General Appropriations Act, Senate Bill 1, 85th Legislature, Regular Session, 2017 (Article II, HHSC, Rider 55), provides detailed direction on the use of new capacity for the waiver programs (see Appendix C).

### HCS Program

HCS provides community-based services to individuals who qualify for a level of care I or VIII and are leaving or at imminent risk of entering a nursing facility. These levels of care are described in 40 Texas Administrative Code (TAC), Chapter 9, Subchapter E, §9.238 and §9.239 (see Appendix D).

HCS provides individualized services and supports for individuals living in their own home, their family home, a host home, or a residence with no more than four individuals who receive similar services. Table 3 reflects the number of individuals who can be served in the program and includes capacity designated in Rider 55.

**Table 3. Number of Individuals Who Can be Served in HCS Program with Current Appropriations**

Program Capacity	FY 2018	FY 2019
Average per Month	26,189	26,556
End of the Fiscal Year	25,357	26,723

Consistent with Rider 55, Table 4 specifies HCS capacity for the targeted groups and reflects the cumulative target for the biennium.

**Table 4. HCS Capacity for Target Groups**

Target Group	FY 2018	FY 2019
Community Expansion (Interest List reduction)	0	0
<b>Promoting Independence</b>		
Persons moving out of ICFs/IID	163	325
Children Aging out of Foster Care	55	110
Prevent institutionalization in crisis	0	0
Persons moving out of State Hospitals	0	0
Children moving out of DFPS	0	0
<b>Complying with Preadmission Screening and Resident Review Requirements</b>		
Persons moving from nursing facilities	75	150
Persons diverted from nursing facility admission	75	150

## TxHmL Program

TxHmL provides community-based services for individuals who qualify for level of care I or VIII and are leaving or at imminent risk of entering a nursing facility. Selected essential services and supports are provided to individuals so they can continue living with their families or in their own homes. Table 5 specifies the number of individuals who can be served in the program with current appropriations. Rider 55 did not identify targeted capacity for the TxHmL program.

**Table 5. Number of Individuals Who Can be Served in TxHmL with Current Appropriations**

Program Capacity	FY 2018	FY 2019
Average Per Month	5,206	4,762
End of Fiscal Year	5,002	4,558

## CLASS Program

CLASS provides community-based services for adults and children who qualify for level of care VIII. Services are provided in the individual’s own home or family home. Table 6 specifies the number of individuals who can be served in the program with current appropriations. Rider 55 did not identify targeted capacity for the CLASS program.

**Table 6. Number of Individuals Who Can be Served in CLASS Program with Current Appropriations**

Program Capacity	FY 2018	FY 2019
Average per Month	5,739	5,739
End of Fiscal Year	5,739	5,739

## DBMD Program

DBMD provides community-based services for individuals who are deaf and blind and have a third disability that impairs independent functioning. Individuals live with their families, in their own homes, or in residences with no more than six individuals who receive similar services. The program focuses on increasing opportunities for individuals to communicate and interact with their environment. Table 7 specifies the number of individuals who can be served in the program with current appropriations. Rider 55 did not identify targeted capacity for the DBMD program.

**Table 7. Number of Individuals Who Can be Served in DBMD Program with Current Appropriations**

Program Capacity	FY 2018	FY 2019
Average per Month	345	345
End of Fiscal Year	345	345

## **List of Acronyms**

<b>Acronym</b>	<b>Full Name</b>
CLASS	Community Living Assistance and Support Services
DADS	Department of Aging and Disability Services
DBMD	Deaf-Blind with Multiple Disabilities
HCS	Home and Community-based Services
HHSC	Health and Human Services Commission
ICF/IID	Intermediate Care Facility for Individuals with an Intellectual Disability
ID	Intellectual Disability
SSLC	State Supported Living Centers
TAC	Texas Administrative Code
TxHmL	Texas Home Living

## **Appendix A. Report Definitions**

**Intellectual Disability** is defined in 40 Texas Administrative Code (TAC) §5.153 as:

Consistent with Texas Health Safety Code, §591.033, significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

**Related Condition** is defined in 40 TAC §5.153 as:

As defined in the Code of Federal Regulations (CFR), Title 42, 435.1010, a severe and chronic disability that:

(A) is attributable to:

(i) cerebral palsy or epilepsy; or

(ii) any other conditions, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with mental retardation, and requires treatment or services similar to those required for individuals with mental retardation<sup>1</sup>;

(B) is manifested before the person reaches the age of 22;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitation in three or more of the following areas of major life activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

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<sup>1</sup> Some of the legislation referenced in this plan uses the term "mental retardation," which has acquired negative connotations. This plan follows the current HHSC practice of substituting the term "intellectual disability" when possible.

(iv) mobility;

(v) self-direction; and

(vi) capacity for independent living.”

## **Appendix B. Health and Safety Code, Section 533A.062**

### **Plan on Long-Term Care for Persons with an Intellectual Disability**

(a) The department shall biennially develop a proposed plan on long-term care for persons with an intellectual disability.

(b) The proposed plan must specify the capacity of the HCS waiver program for persons with an intellectual disability and the number and levels of new ICF-IID beds to be authorized in each region. In developing the proposed plan, the department shall consider:

- (1) the needs of the population to be served;
- (2) projected appropriation amounts for the biennium; and
- (3) the requirements of applicable federal law.

(c) Each proposed plan shall cover the subsequent fiscal biennium. The department shall conduct a public hearing on the proposed plan. Not later than July 1 of each even-numbered year, the department shall submit the plan to the commission for approval.

(d) The commission may modify the proposed plan as necessary before its final approval.

(e) The commission shall submit the proposed plan as part of the consolidated health and human services budget recommendation required under Section 531.026, Government Code.

(f) After legislative action on the appropriation for long-term care services for persons with an intellectual disability, the commission shall adjust the plan to ensure that the number of ICF-IID beds licensed or approved as meeting license requirements and the capacity of the HCS waiver program are within appropriated funding amounts.

(g) After any necessary adjustments, the commission shall approve the final biennial plan and publish the plan in the Texas Register.

(h) The department may submit proposed amendments to the plan to the commission.

(i) In this section, "HCS waiver program" means services under the state Medicaid home and community-based services waiver program for persons with an intellectual disability adopted in accordance with 42 U.S.C. Section 1396n(c).

**Appendix C. 2018-2019 General Appropriations Act, Senate  
Bill 1, Article II, 85th Legislature, Regular Session, 2017  
(Article II, HHSC, Rider 55)**

**Rider 55. Informational Listing: Expansion of Community-based Services.** Appropriations made in Goal A, Medicaid Client Services, include \$20,156,364 in General Revenue Funds and \$26,916,316 in Federal Funds for the 2018-19 biennium for the expansion of community-based services as follows:

a. For the Promoting Independence Initiative, the following additional waiver slots:

(1) 325 Home and Community-based Services (HCS) slots for persons moving out of large and medium Intermediate Care Facilities for Individuals with Intellectual Disabilities;

(2) 110 HCS slots for children aging out of foster care;

b. For the purpose of complying with federal Preadmission Screening and Resident Review requirements, the following additional waiver slots:

(1) 150 HCS slots for persons with intellectual and developmental disabilities (IDD) moving from nursing facilities; and

(2) 150 HCS slots for persons with IDD diverted from nursing facility admission.

All waiver slots identified in subsections (a) and (b) are end-of-year targets for fiscal year 2019. Appropriations assume equal rollout throughout the 2018-19 biennium. The Health and Human Services Commission shall take any action necessary to ensure that persons are enrolled in waiver services as intended by appropriations and shall provide a plan for achieving this goal. The plan shall be submitted by September 1, 2017, and progress reports related to achieving enrollment goals shall be submitted on March 1, 2018; September 1, 2018; and March 1, 2019. Each progress report shall identify the number of persons enrolled in each type of slot and for each purpose identified in subsections (a) and (b); planned enrollment for the remainder of the 2018-19 biennium; any issues with enrollment identified by the agency; and how the agency plans to address those issues to achieve the targets by the end of fiscal year 2019. The plan and subsequent progress reports shall be submitted to the Legislative Budget Board, the

Governor, the Senate Finance Committee, and the House Appropriations Committee.”

## **Appendix D. 40 Texas Administrative Code, Chapter 9, Subchapter E, Division 5**

### **Section 9.238 (concerning ICF/MR Level of Care I Criteria)**

(a) To meet the level of care I criteria, a person must:

(1) meet the following criteria:

(A) have a full scale intelligence quotient (IQ) score of 69 or below, obtained by administering a standardized individual intelligence test; or

(B) have a full scale IQ score of 75 or below, obtained by administering a standardized individual intelligence test, and have a primary diagnosis by a licensed physician of a related condition that is included on the list of diagnostic codes for persons with related conditions that are approved by HHSC (formerly DADS) and posted on its website at: <https://hhs.texas.gov/sites/default/files//documents/laws-regulations/handbooks/dbmd/res/icd10-codes-1.pdf>; and

(2) have an adaptive behavior level of I, II, III, or IV (i.e., mild to extreme deficits in adaptive behavior) obtained by administering a standardized assessment of adaptive behavior.

(b) If a person has a sensory or motor deficit for which a specially standardized intelligence test or a certain portion of a standardized intelligence test is appropriate, the appropriate test or portion thereof and the resultant score should be used.

(c) If a full scale IQ score cannot be obtained from a standardized intelligence test due to age, functioning level, or other severe limitations, an estimate of a person's intellectual functioning should be documented with clinical justification.

### **Section 9.239 (concerning ICF/MR Level of Care VIII Criteria)**

To meet the level of care VIII criteria, a person must:

(1) have a primary diagnosis by a licensed physician of a related condition that is included on the list of diagnostic codes for persons with related conditions that are approved by HHSC (formerly DADS) and posted on its website at:

<https://hhs.texas.gov/sites/default/files//documents/laws-regulations/handbooks/dbmd/res/icd10-codes-1.pdf>; and

(2) have an adaptive behavior level of II, III, or IV (i.e., moderate to extreme deficits in adaptive behavior) obtained by administering a standardized assessment of adaptive behavior.

## **Appendix E. Related Condition, Definition and HHSC Approved Diagnostic Codes**

### **Federal Definition**

In accordance with the Code of Federal Regulations, Title 42, Part 4, Section 435.1010 (concerning Definitions relating to institutional status), a related condition is a severe and chronic disability that:

- A is attributed to:
  - i. cerebral palsy or epilepsy; or
  - ii. any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with mental retardation, and requires treatment or services similar;
- B is manifested before the individual reaches age 22;
- C is likely to continue indefinitely; and
- D results in substantial functional limitation in at least three of the following areas of major life activity:
  - i. self-care;
  - ii. understanding and use of language;
  - iii. learning;
  - iv. mobility;
  - v. self-direction; and
  - vi. capacity for independent living.

### **State Requirement**

A primary diagnosis by a licensed physician (or designee as defined in program rules) of a related condition may be required to meet eligibility for the following Medicaid programs:

- Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/IID);
- Community Living Assistance and Support Services (CLASS);
- Home and Community-based Services (HCS);
- Texas Home Living (TxHmL); and
- Deaf Blind with Multiple Disabilities (DBMD).

Please refer to the applicable rules governing those programs for complete information regarding eligibility.

### **Approved Diagnostic Codes**

The HHSC (formerly DADS) approved diagnostic codes are found in the *International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM), 2015*, and are recognized by HHSC as conditions which may qualify an individual as having a related condition as described in federal and state law, and are available on line at: <https://hhs.texas.gov/sites/default/files//documents/laws-regulations/handbooks/dbmd/res/icd10-codes-1.pdf>.