

**Final Long-Term Care
Plan for Individuals
with Intellectual
Disabilities and
Related Conditions
Fiscal Years 2020-2021**

As Required by

Texas Health and Safety Code,

Section 533A.062

Health and Human Services

Commission

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Executive Summary

The Texas Health and Human Services Commission (HHSC) issues this final Long-Term Care Plan for Individuals with Intellectual Disabilities and Related Conditions for the 2020-21 state biennium in accordance with Texas Health and Safety Code, Section 533A.062. Section 533A.062 requires a proposed long-term care plan to be developed biennially in even-numbered years and adjusted after each legislative session based on the appropriations for long-term care services for individuals with an intellectual disability.

House Bill 3117, 86th Legislature, Regular Session, 2019, requires HHSC to develop a process to reallocate capacity, or beds, in community-based intermediate care facilities for individuals with an intellectual disability (ICFs/IID) held in suspension by HHSC. Effective September 9, 2019, ICF/IID beds in HHSC's control – due to closure of an ICF/IID or a current ICF/IID allowing their suspended beds to expire – are available for allocation to providers who apply for reallocated beds. In September 2019, HHSC reallocated 21 beds for ICF/IID capacity based on availability from the 2018-19 biennium. HHSC will reallocate capacity that becomes available in the 2020-2021 state biennium using the same process. HHSC plans to adopt a reallocation process by rule.

This final plan for the 2020-21 biennium includes information on the following:

- ICFs/IID, including state supported living centers (SSLCs) and community-based 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 six tables in this final plan reflect the capacity of the programs listed above, as funded by the 2020-21 General Appropriations Act, House Bill 1, 86th Legislature, Regular Session, 2019 (Article II, HHSC).

1. Introduction

HHSC adjusted the proposed plan completed in 2018¹ to reflect the legislative action by the 86th Legislature regarding appropriations for ICFs/IID and the Medicaid 1915(c) waiver programs serving individuals with an intellectual disability or related condition.

Data in this report represent the average number of residents who can be served each month during the 2020-21 biennium. Using the latest historical data available, projected values were derived from forecasting analysis, with necessary adjustments made according to relevant policies and long-term trends in the ICF/IID program. Projected values for HCS, TxHmL, CLASS, and DBMD were derived from an analysis model that considers current program enrollment and attrition rates of individuals in the program.

¹ <https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2019/leg-presentations/ltc-plan-idd-related-conditions-proposed-2020-2021.pdf>

2. Utilization Overview

Table 1 shows the historical utilization² for fiscal years 2015 through 2019. For each fiscal year, the table provides the average monthly number of individuals served in the SSLCs and community-based ICFs/IID, and the waiver programs (HCS, TxHmL, CLASS, and DBMD).

Table 1. Average Monthly Number of Individuals Served from 2015-2019, by ICF/IID Type and Waiver Program

Fiscal Year^a	State ICF/IID	Community ICF/IID	HCS	TxHmL	CLASS	DBMD	Total
2015	3,240	5,195	22,449	5,655	4,861	204	41,604
2016	3,125	4,960	24,959	5,985	5,021	251	44,300
2017	3,026	4,896	25,839	5,698	5,513	321	45,293
2018	2,962	4,862	26,044	5,453	5,637	333	45,292
2019	2,905	4,770	26,089	5,290	5,513	339	44,906

^a Data Source: HHSC Forecasting. Data through fiscal year 2019 are actual and based on claims paid through August 2020 with the exception of State ICF/IID (SSLCs) which are based on enrollment.

² The data in this and previous iterations of this report are counts of individuals served, which has previously been referred to as "enrollment data", but "utilization data" is a more accurate term for this and subsequent tables.

3. Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition

The ICF/IID program provides Medicaid reimbursed residential services to individuals with an intellectual disability or related conditions (see Appendix B)³. There are two types of ICFs/IID: SSLCs and community-based. There are more than 800 ICFs/IID in Texas — 13 are SSLCs and 792 are community-based.

State Supported Living Centers

SSLCs are state-operated, campus-based ICFs/IID that serve individuals who have severe or profound intellectual disability, or who have intellectual disability and complex medical or behavioral health needs. The 13 SSLCs 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 in SSLCs varies, with the smallest SSLC having an average daily census of 61 residents and the largest having an average daily census of 447 residents during fiscal year 2019. Table 2 shows the average number of individuals who can be served per month in SSLCs with FY 2020-21 appropriations.

Table 2. Average Number of Residents who can be Served per Month in SSLCs with 2020-21 Appropriations^a

FY 2020	FY 2021
2,848	2,790

^a Data Source: 2020-21 General Appropriations Act, House Bill 1, 86th Legislature, Regular Session, 2019 (Article II, Health and Human Services).

Community-based ICFs/IID

Community-based ICFs/IID serve individuals who have an intellectual disability or a related condition in a setting with a capacity of four or more individuals that is not campus-based. Of the 792 community-based ICFs/IID, 29 of them serve more than 12 individuals, with the largest one having the capacity to serve 160 individuals. Seven hundred eighteen of the community-based ICFs/IIDs are privately owned and 74 are operated primarily by community centers, which are units of local

³ As defined in 26 TAC §261.203(33)

government. Table 3 shows the average number of individuals who can be served per month in community-based ICFs/IID with 2020-21 appropriations.

Table 3. Average Number of Individuals Who Can be Served per Month in Community-based ICFs/IID with 2020-21 Appropriations^a

FY 2020	FY 2021
4,752	4,705

^a Data Source: 2020-21 General Appropriations Act

4. 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 services. 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 administers four waiver programs as alternatives to ICF/IID services: HCS, TxHmL, CLASS, and DBMD.

The 2020-21 General Appropriations Act (Article II, HHSC, Rider 20) includes requirements for using state appropriations to expand the HCS, CLASS, and DBMD waiver programs (see Appendix C).

HCS Waiver Program

The HCS waiver program provides community-based services to certain individuals who qualify for a level of care (LOC) I. The program also provides services to certain individuals who qualify for an LOC VIII if they were offered reserved capacity because they reside in or are at risk of entering a nursing facility. These levels of care are described in 26 Texas Administrative Code (TAC), Chapter 261, Subchapter E, §261.238 and §261.239 (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 4 shows the average number of individuals who can be served in the HCS program per month, the estimated number of individuals who will be served at the end of each fiscal year with 2020-21 appropriations, and the capacity described in Rider 20 for the biennium.

Table 4. Average Number of Individuals Who Can be Served in the HCS Program per Month with 2020-21 Appropriations

	FY 2020	FY 2021
Average per Month	27,081	27,741
End of Fiscal Year	27,383	28,043

	FY 2020	FY 2021
Rider 20 Capacity⁴	660	660

^a Data Source: 2020-21 General Appropriations Act

TxHmL Waiver Program

The TxHmL waiver program provides community-based services for certain individuals who qualify for LOC I. TxHmL also provides services to certain individuals who qualify for a LOC VIII if they were offered reserved capacity because they reside in or are at risk of entering a nursing facility. Services and supports are provided to individuals who live in their own home or family home.

Table 5 shows the average number of individuals who can be served in the TxHmL program per month and the estimated number of individuals who will be served at the end of each fiscal year with 2020-2021 appropriations. Rider 20 did not expand the capacity of the TxHmL program.

Table 5. Average Number of Individuals Who Can be Served in the TxHmL Program per Month with 2020-21 Appropriations

	FY 2020	FY 2021
Average Per Month	5,165	5,005
End of Fiscal Year	5,091	4,931

^a Data Source: 2020-21 General Appropriations Act

CLASS Waiver Program

The CLASS waiver program provides community-based services for adults and children who qualify for LOC VIII. Services are provided in the individual’s own home or family home.

Table 6 shows the average number of individuals who can be served in CLASS per month, the estimated number of individuals who will be served at the end of each fiscal year with 2020-2021 appropriations, and the capacity described in Rider 20 for the biennium.

⁴ Rider 20 Capacity for the HCS Program was appropriated at 1,320 slots for the biennium. Slots are released using a straight-line method estimating the release for 660 slots per fiscal year.

Table 6. Average Number of Individuals Who Can be Served in the CLASS Program per Month with 2020-21 Appropriations

	FY 2020	FY 2021
Average per Month	5,608	5,728
End of Fiscal Year	5,663	5,783
Rider 20 Capacity⁵	120	120

^a Data Source: 2020-21 General Appropriations Act

DBMD Waiver Program

The DBMD waiver program provides community-based services for individuals who are deaf and blind or function as a person with deafness and blindness 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 shows the average number of individuals who can be served in the DBMD program and the estimated number of individuals who will be served at the end of each fiscal year with 2020-2021 appropriations, and the capacity described in Rider 20 for the biennium.

Table 7. Average Number of Individuals Who Can be Served in DBMD Program per month with 2020-21 Appropriations

	FY 2020	FY 2021
Average per Month	340	344
End of Fiscal Year	342	346
Rider 20 Capacity⁶	4	4

^a Data Source: 2020-21 General Appropriations Act

⁵ Rider 20 Capacity for the CLASS was appropriated at 240 slots for the biennium. Slots are released using a straight-line method estimating the release for 120 slots per fiscal year.

⁶ Rider 20 Capacity for the DBMD was appropriated at 8 slots for the biennium. Slots are released using a straight-line method estimating the release for 4 slots per fiscal year.

List of Acronyms

Acronym	Full Name
CLASS	Community Living Assistance and Support Services
DBMD	Deaf-Blind with Multiple Disabilities
HCS	Home and Community-based Services
FY	Fiscal Year
HHSC	Health and Human Services Commission
ICF/IID	Intermediate Care Facility for Individuals with an Intellectual Disability
LIDDAs	Local Intellectual and Developmental Disabilities Authorities
LOC	Level of Care
SSLC	State Supported Living Center
TAC	Texas Administrative Code
TxHmL	Texas Home Living

Appendix A. Texas 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.

(b-1) As part of the proposed plan, the commission shall review the statewide bed capacity of community ICF-IID facilities for individuals with an intellectual disability or a related condition and, based on the review, develop a process to reallocate beds held in suspension by the commission. The process may include:

(1) criteria by which ICF-IID program providers may apply to the commission to receive reallocated beds; and

(2) a means to reallocate the beds among health services regions.

(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 to the Legislative Budget Board and the governor not later than October 15 of each even-numbered year.

(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 B. Definitions

Intellectual Disability is defined in 40 TAC §5.153 as:

Consistent with Texas Health Safety Code, §591.003, 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 condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability, and requires treatment or services similar to those required for persons with an intellectual disability;

(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;

(iii) mobility;

(iv) self-direction; and

(v) capacity for independent living.

**Appendix C. 2020-2021 General Appropriations Act (House
Bill 1, 86th Legislature, Regular Session, 2019, Article II,
HHSC, Rider 20)**

20. Expansion of Community-based Services.

(a) Appropriations made above to the Health and Human Services Commission (HHSC) for the purpose of reducing interest lists include \$24,792,919 in General Revenue (\$66,661,790 in All Funds) for the following additional waiver slots:

- (1) 60 Medically Dependent Children Program slots;
- (2) 240 Community Living and Support Services slots;
- (3) 1,320 Home and Community-based Services (HCS) slots; and
- (4) 8 Deaf-Blind Multiple Disabilities slots.

(b) All waiver slots identified in subsection (a) are end-of-year targets for fiscal year 2021. Appropriations assume equal rollout throughout the 2020-21 biennium. HHSC 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 October 1, 2019, and progress reports related to achieving enrollment goals shall be submitted on March 1, 2020; September 1, 2020; and March 1, 2021. Each progress report shall identify the number of persons enrolled in each type of slot, planned enrollment for the remainder of the 2020-21 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 2021. 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.

(c) Notwithstanding Special Provisions Relating to All Health and Human Services Agencies, Sec. 4(c), Limitations on Use of Available General Revenue Funds, in the event that increased Federal Funds become available due to availability of enhanced match under the Money Follows the Person demonstration, HHSC may expend the General Revenue Funds made available to further reduce interest lists in the strategies where the funds are made available.

(d) HHSC may consider factors such as length of time on the interest list, size of interest list, demographics, average cost, and crisis stabilization in providing services to interest list clients on a program-specific basis.

(e) It is the intent of the legislature that HHSC continue to promote diversion and transition from institutions. If HHSC determines that a sufficient unmet need exists, HHSC may allocate funding provided for HCS pursuant to subsection (a) of this rider to serve individuals through the Promoting Independence Initiative.

Appendix D. Title 26, Texas Administrative Code, Sections 261.238 and 261.239

Section 261.238 ICF/MR⁷ 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 DADS8 and posted on its website⁹; 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 261.239 ICF/MR¹⁰ 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 DADS¹¹ and posted on its website¹²; 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.

⁷ Now ICF/IID

⁸ Now HHSC

⁹ <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/providers/health/icd10-codes.pdf>

¹⁰ Now ICF/IID

¹¹ Now HHSC

¹² <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/providers/health/icd10-codes.pdf>