

Background:

Staff will provide updates on the following policy areas of interest:

A. State Policy Issues

Staff will provide an update of recent public policy activities, including the implementation of legislation and the budget adopted by the 82nd Legislature.

Discussion topics include:

- Interim Charges
- Legislative Committee Hearings Update
- STAR Health for Waiver Consumers in Medicaid Rural Service Areas
- CPC Letters on Pharmacy and Dental Carve-In

B. Update on State Supported Living Center Monitoring Activities

The Committee will receive an update on recent Department of Justice monitoring team reports of State Supported Living Centers. Staff will also discuss with the Committee recent advocacy efforts and discussions in response to those reports. A summary of the monitoring reports and information on job fill rates and turnover rates for direct service workers is provided.

C. Update on Federal Policy Issues

TCDD Public Policy staff will provide an overview of the status and implementation of various federal legislative initiatives that impact people with developmental disabilities. Additional information is provided in meeting materials.

Discussion topics include:

- Federal Budget
- Update Regarding U.S. Department of Labor Hiring Goal
- Workforce Incentive Planning and Assistance (WIPA) – Social Security Work Incentive Projects Funding Cut

Public Policy Committee

Agenda Item 7.

Expected Action:

The Committee will receive updates on these items and may make recommendations for consideration by the Council.

Council

Agenda Item 11. A.

Expected Action:

The Council will receive a report from the Public Policy Committee and consider any recommendations offered from the Committee.

House and Senate Charges Released

Key Interim Study Charges for the Texas Legislature

The Texas Legislature meets every two years. In the year between, the Lt. Governor and Speaker of the House appoint interim committees to study important issues. These interim committees hold hearings and take public testimony. Their findings will affect actions taken during the Regular Session of the 83rd Texas Legislature which begins Jan. 8, 2013.

Key interim charges for the House and Senate that could have an impact on people with disabilities follow. Individuals who wish to provide input on any of these issues can submit written comments directly to the committee involved or attend committee hearings.*

Key House Interim Charges Include:

All House Committees

All Substantive House Committees must find ways to increase transparency, accountability and efficiency in state government.

House Committee on Appropriations

- Monitor the implementation of cost-savings initiatives in health and human services programs directed by HB 1 (82R) and SB 7 (82S1), including the expansion of Medicaid managed care. Study the impact of changes in hospital reimbursement methodology, including implementation of a statewide Standard Dollar Amount and the Texas Healthcare Transformation and Quality Improvement Program Medicaid 1115 waiver.
- Study existing financing mechanisms and delivery methods for long-term services and supports in the Texas Medicaid program. Consider best practices, expansion of consumer-directed models, and successful programs in other states. Make recommendations to simplify and streamline existing programs and to provide services in a more cost-effective manner to a greater number of eligible individuals while ensuring an appropriate level of services for those with significant needs.
- Assess the current infrastructure and funding mechanisms for mental health services in both rural and urban areas throughout the state. Study innovative local programs that could be expanded, as well as successful delivery and financial models in other states. Make recommendations to expand access and improve services through increased efficiency, competition and transparency.
- Examine strategies to maximize state funding for programs designed to prevent and end homelessness, with an emphasis on programs that have demonstrated a successful coordination of state and local resources. *(Joint with the House Committee on Urban Affairs)*
- Evaluate the funding, performance, and administration of the state's adult basic education programs. *(Joint with the House Committee on Higher Education)*

House Committee on Corrections

- Study ways to reduce the number of youth referred to the juvenile justice system. Consider the availability of mental health services, diversion and early intervention programs, and other prevention methods.

House Committee on Government Efficiency & Reform

- Examine areas of potential privatization of state services in an effort to achieve a higher level of service and greater efficiency for Texas taxpayers. *(Joint with the House Committee on State Affairs)*

House Committee on Higher Education

- Evaluate proposals for the state's next master plan for higher education beyond 2015, including a review of various metrics to measure successful outcomes in higher education.

House Committee on Human Services

- Monitor the implementation of Foster Care Redesign. Evaluate the mechanisms for monitoring and oversight, including rates, contracts, and client outcomes.
- Explore strategies, including those in other states, to support the needs of aging Texans, including best practices in nursing home diversion, expedited access to community services, and programs to assist seniors and their families in navigating the long-term care system, with the goal of helping seniors remain in the community. Assess the feasibility of leveraging volunteer-supported initiatives using existing infrastructure to enhance the ability of seniors to remain active and involved.
- Monitor the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 82nd Legislature, including the implementation of managed care in South Texas.

House Committee on Insurance

- Study whether Texas would benefit from allowing purchases of health insurance coverage across state lines. Examine the options available to facilitate such purchases, and include consideration of how to guarantee appropriate consumer protections.

House Committee on Judiciary & Civil Jurisprudence

- Study and make recommendations regarding the discrepancies in guardianship and child custody statutes. Review potential solutions to the problems surrounding "arbitrary and capricious" findings by trial court judges.

House Committee on Pensions, Investments & Financial Services

- Monitor all agencies and programs under the committee's jurisdiction. Specifically, monitor the study by the Employees Retirement System of Texas and the Teacher Retirement System of Texas of the viability of the current defined benefit plans as well as the implications and feasibility of creating a defined contribution or hybrid plan.

House Committee on Public Education

- Monitor state and local implementation of the new state assessment system (STAAR), specifically the impact on students, instruction, teachers, and graduation or promotion rates. Review how districts are implementing the requirement that the end-of-course assessment count for 15 percent of the student's course grade. Recommend any changes to graduation or testing requirements that promote instructional rigor and support postsecondary readiness while appropriately limiting an overreliance on standardized testing.
- Evaluate the charter schools system in Texas. Examine success and failure stories in Texas and other states. Review the educational outcomes of students in charter schools compared to those in traditional schools. Identify any best practices and how those practices may be applied statewide. The study should include recommendations.
- Review and make recommendations on the effectiveness of Disciplinary Alternative Education Programs (DAEPs) and Juvenile Justice Alternative Education Programs (JJAEPs) in reducing students' involvement in further disciplinary infractions. Determine the appropriate role of disciplinary alternative placements in promoting education achievement and how technology could be used to supplement education services. Consider appropriate placements in DAEPs or JJAEPs and consistent funding models for those programs. Consider options for counties without a JJAEP or inefficiently few placements in a JJAEP. Identify positive behavioral models that promote a learning environment for teachers to appropriately instruct while addressing any behavioral issues and enforcing student discipline.
- Review methods and best practices in Texas and other states to encourage more parental and community involvement in the education of Texas children.
- Monitor the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 82nd Legislature.

House Committee on Public Health

- Examine the adequacy of the primary care workforce in Texas and assess the impact of an aging population, the passage of the Patient Protection and Affordable Care Act, and state and federal funding reductions to graduate medical education and physician loan repayment programs. Study the potential impact of medical school innovations, new practice models, alternative reimbursement strategies, expanded roles for physician extenders, and greater utilization of telemedicine. Make recommendations to increase patient access to primary care and address geographic disparities.
- Monitor implementation of the federal Patient Protection and Affordable Care Act, including any changes that may result from ongoing litigation or legislative modification or repeal. *(Joint with the House Committee on Insurance)*

House Committee on State Affairs

- Examine areas of potential privatization of state services in an effort to achieve a higher level of service and greater efficiency for Texas taxpayers. *(Joint with the House Committee on Government Efficiency & Reform)*

House Committee on Transportation

- Conduct a thorough review of the operations of transit organizations in Texas. Explore possible reforms to streamline and improve services to Texans.

House Committee on Urban Affairs

- Examine strategies to maximize state funding for programs designed to prevent and end homelessness, with an emphasis on programs that have demonstrated a successful coordination of state and local resources. *(Joint with the House Committee on Appropriations)*
- Study whether Texas would benefit from allowing purchases of health insurance coverage across state lines. Examine the options available to facilitate such purchases, and include consideration of how to guarantee appropriate consumer protections.
- Monitor implementation of the federal Patient Protection and Affordable Care Act, including any changes that may result from ongoing litigation or legislative modification or repeal. *(Joint with the House Committee on Public Health)*

Key Senate Interim Charges Include:**Senate Business & Commerce Committee**

- Study and make recommendations for workforce training programs in Texas to ensure that such programs meet business and worker needs for health care, skilled trades, construction, manufacturing, aerospace, and information technology industries.

Senate Criminal Justice Committee

- Evaluate existing comprehensive mental health diversion and treatment systems within the Texas including federal, state and local collaborations to maximize effective use of funding and resources.
- Conduct a comprehensive review of school discipline practices including Disciplinary Alternative Education Programs (DAEP), Juvenile Justice Alternative Education Programs (JJAEP), "Zero Tolerance" policies, and specialized school police departments.
- Determine number of students in conservatorship referred to juvenile or municipal courts, suspended, expelled, or placed in DAEPs and make recommendations to increase educational outcomes.

Senate Education Committee

- Study public school management practices. Examine the role of Regional Education Service Centers. Specifically, review the types of services being provided and their ability to assist school districts with improving efficiencies.

- Study educator and principal preparation programs and make recommendations to improve these programs.
- Study the performance and accountability of charter schools, best practices and benefits of and costs related to increasing the number.
- Study the impact of school choice programs in other states on students, parents, and teachers and potential impacts on state funding.
- Conduct a comprehensive review of school discipline practices, including:
 - Disciplinary Alternative Education Programs (DAEP), Juvenile Justice Alternative Education Programs (JJAEP), disproportionate school discipline referrals, and, “Zero Tolerance in secondary education;
 - The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies, and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care; and
 - Evidence based models used for addressing juvenile delinquency prevention that is targeted to non-adjudicated, but at-risk youth, in the school disciplinary system. (Joint Charge with Senate Committee on Criminal Justice)
- Monitor HB 1942 passed by the 82nd Legislature relating to bullying in public schools and legislation related to the state's accountability system.

Senate Finance Committee

- Review the state's current spending limits and determine if statutory changes are needed to continue restraint of spending growth below the rate of inflation plus population growth.
- Monitor the implementation of legislation addressed by the Senate Committee on Finance, 82nd Legislature, Regular and Called Sessions, and make recommendations for any legislation needed to improve, enhance, and/or complete implementation including: implementation of budget riders to enhance government efficiency, reduce government, and encourage job growth and others.

Senate Government Organization Committee

- Investigate the costs and benefits of cost-effectiveness analysis in state agency rule making and consider the development of cost-effectiveness standards for all state agencies.
- Examine ways to ensure the protection of state information and electronic data from unauthorized access and cyber threats.

Senate Health & Human Services (HHS) Committee

- Monitor the potential impact and constitutional challenges of the Patient Protection and Affordable Care Act (PPACA) on insurance regulations, Medicaid and Children's Health Insurance

Program (CHIP), health care outcomes, health care workforce, overall health of all Texans, and the state budget in Texas. *(Joint charge with Senate State Affairs Committee)*

- Evaluate cost-containment strategies across the Health and Human Services Enterprise to determine if and how each strategy can be expanded upon to achieve additional savings next biennium.
- Review the state's current investment in health care innovation to improve the health of Texans and encourage continued medical research in the most cost-effective manner possible.
- Review existing policies for prior authorization and medical necessity review across the Medicaid Program to reduce unnecessary utilization and fraud.
- Review the Medicaid Home and Community Based Services Waivers to identify strategies to lower costs, improve quality, and increase access to services.
- Evaluate the management structure and supervision of Child Protective Services. Identify legislative changes that could improve the quality of care children receive while in CPS custody.
- Review the state's public mental health system and recommend “best value” practices to improve access, service utilization, patient outcomes and system efficiencies.
- Monitor pertinent HHS legislation and make recommendations to improve, enhance, and/or complete implementation, including but not limited to:
 - Transition of Medicaid and the CHIP to quality-based payments, establishment of the Texas Institute of Health Care Quality and Efficiency, implementation of the Health Care Collaborative certificate, patient-centered medical home for high-cost populations, development and use of potentially preventable event outcome measures, and reduction of health care-associated infections and reducing infant and maternal mortality;
 - Implementation of initiatives to increase state flexibility, including the Health Care Compact and the Medicaid Demonstration Waiver;
 - Implementation of the initiative to redesign the foster care system; and
 - Implementation of the Department of Justice Settlement Agreement to address State Supported Living Center concerns.

Senate Intergovernmental Relations Committee

- Study the impact that regulatory requirements have on the price of residential housing on the sale of new and used homes and ways to improve the affordability of housing.
- Review state policies regarding the provision of affordable housing including ways to improve the provision of affordable housing to special-needs populations, such as co-location with social services and coordination with mass transit.
- Study the impact of recent court rulings regarding the determination of eligibility for property tax exemptions of community housing development organizations (CHDOs) by local appraisal districts to ensure the provision of affordable housing and reduce any cost to the state.

- Study the most effective ways to identify and report data on homeless and runaway youth, and develop recommendations for prevention and maximizing services for this population.

Subcommittee on Flooding & Evacuations

- Examine the current practices Texas uses during evacuations to provide immediate assistance to evacuated residents.

Senate Jurisprudence Committee

- Examine the process for the creation of powers of attorney in Texas. Review methods to protect consumers, particularly older Texans and those with disabilities, from power of attorney abuse perpetrated by agents or co-agents.
- Review the jurisdiction and qualifications of special judges.
- Examine court processes in child protection cases, in Texas and in other jurisdictions, and identify any legislative changes that would create better outcomes for children.

Senate Select Committee on Open Government

- Examine the effectiveness of security measures used to protect electronic information held by state agencies and make recommendations for enhancing security, if needed.
- Review record retention policies for state and local governments and make recommendations for improvements to record retention schedules and policies, including e-mail retention and archiving requirements.

Senate State Affairs Committee

- Study the policies and actions the State can pursue to preserve state authority and protect Texas citizens from federal overreach in the form of conditional federal grants, conditional federal preemption, and excessive legislation and regulation interfering with states' enumerated powers by Congress.
- Study the feasibility and fiscal impact to consumers of altering the insurance code to allow for the purchase of health insurance across state lines.
- Monitor the potential impact of and constitutional challenges to the Patient Protection and Affordable Care Act (PPACA). *(Joint charge with Senate Health & Human Services Committee)*

For the Full List of House and Senate Interim Charges

Only key charges relevant to Texas with developmental disabilities are listed above. Full House Interim charges are at <http://www.house.state.tx.us/media/pdf/interim-charges-82nd.pdf>. Full Senate Interim Charges are at <http://www.ltgov.state.tx.us>.

***Schedules for House Committee meetings** are online at <http://www.house.state.tx.us/committees/cmteschd.php> and **Senate Committee** schedules are at <http://www.senate.state.tx.us/75r/senate/events.htm>.

Legislative Committee Hearings Update

FYI ~ Texas Economy Improving, but State Budget Still Struggling

While the state's economy is improving, Texas still faces more than \$4.1 billion in budget shortfalls, budget experts told the House Appropriations Committee in February. This includes nearly \$4 billion to cover Medicaid costs that lawmakers deferred by not funding Medicaid for a full two-year budget cycle.

This means that the state will have to pass a supplemental appropriations bill to cover the remaining Medicaid costs before money runs out in April 2013 or find other ways to reduce costs. State agencies may be asked to make further cuts if lawmakers refuse to use the state's Rainy Day Fund to cover the shortfall, said Texas House budget chief, Rep. Jim Pitts.

Last year, the Legislative Budget Board (LBB) estimated that the Medicaid shortfall would be about \$4.3 billion. "Our newest estimate is \$3.9 billion," said LBB Chair John O'Brien. The state also needs \$183 million to cover the cost of wildfires and \$60 million for correctional/prisoner health care.

O'Brien said the state received \$1.6 billion more than expected in revenues because of the improving economy. In addition to this surplus, legislators could choose to use some of the state's Rainy Day Fund to cover the budget shortfall. The Rainy Day Fund has \$6.1 billion now and is expected to grow to \$7.3 billion, according to John Heleman of the Texas comptroller's office.

Heleman also pointed out that the state had recovered more than 440,000 jobs that the state lost in the recession, although thousands of people move to Texas every day which kept the unemployment rate at 7.8 percent last month.

House Appropriations Interim Committee, February 21, 2012 **Fiscal Year 2012-2013 Budget**

Expenses: At \$173.5 billion the FY 2012-2013 budget is 7.5 percent less than the 2010-2011 budget of \$187.5 billion. However, Medicaid is underfunded by \$3.9 billion (\$10 billion in underfunding if federal funds are included). Health and human services account for 32 percent of all funds and 28 percent of General Revenue (GR). Public education accounts for 42 percent of all funds and 56 percent of GR. Of the \$15-\$17 billion available revenue quoted by Commissioner Suehs, ([HHSC Presentation](#)), Mr. O'Brien said \$3.9 billion is for FY13, \$7.8 billion is for the next biennium, a minimum of \$2 billion is for caseload growth and \$7.8 billion is necessary for Foundation Schools Program. Discussion ensued about reductions, deferrals, improved property appraisals and \$1.3 billion in TEA grant cuts. While student growth was funded, funding per student was reduced. John Keel of the State Auditor's Office said for the first quarter of FY12, there has been a decrease of 2.5 percent to 310,865 FTEs - 6,179 FTEs reduction from state agencies and 1,769 FTEs reduction from higher education.

**Joint House Committee on Insurance and House Committee on Public Health,
February 27, 2012**

Affordable Care Act

A joint hearing of the House Committee on Insurance and House Committee on Public Health was held February 27, 2012 at the State Capitol on the interim charge: monitor implementation of the federal Patient Protection and Affordable Care Act (PPACA). Invited witness, Dr. Thomas Saving, a professor of economics at Texas A&M said Medicare enrollees will increase from 47 million to 80 million by 2032; rising Medicare costs will result in lower reimbursements to hospitals and doctors, driving them out of business; consumers will pay more for healthcare and Congress must raise taxes to set-aside monies for the future costs of healthcare. The Health and Human Services Commission [HHSC Presentation on PPACA](#) included data that 26 percent of Texans are currently uninsured and that after PPACA, an estimated 9 percent will remain uninsured (2.3 million Texans). An additional 1.2 million persons will be enrolled in Medicaid bringing the total to 4.7 million. The Texas Department of Insurance has been preparing to implement PPACA requirements for consumer comparison shopping, cost-sharing, the yet-determined "benchmark plan," medical-loss ratio, and the health insurance exchange. Texas has had 4,000 enrollees in the PPACA high risk pool. Public testimony was supportive of Medicaid and PPACA noting: the high risk pool assisting individuals with pre-existing conditions who have been unable to access health care; young adults allowed to stay on parents' insurance up to age 26; children with pre-existing conditions can no longer be denied health insurance; a small employer tax benefit; rate increases subject to review; and the medical loss ratio requirement. Medical loss ratio means small insurance companies must spend at least 80 percent and large companies must spend at least 85 percent of insurance premiums on medical care. One of the final witnesses informed the committee that 80 percent of the state's businesses are "micro enterprises" with 5 or fewer employees and are thus exempt from PPACA employer requirements. Representative Schwertner asked HHSC to prepare "true estimates" of the cost to Texas of implementing the PPACA. TCDD has the presentations by Dr. Savings and TDI on file.

**The Medicaid Reform Waiver Legislative Oversight Committee,
February 29, 2012**

SB 7 directs HHSC to pursue a federal waiver requesting flexibility in the way Texas operates its Medicaid program and appointed a legislative oversight committee. According to SB 7, the types of reforms to be considered by the committee include building in flexibility to determine Medicaid eligibility categories, income levels, and benefits design; establishing Medicaid copayments; redesigning long-term services and supports (LTSS) to increase access to cost-effective person-centered care; and establishing vouchers for consumer-directed LTSS.

DADS and HHSC identified the following opportunities for improving the system: coordinating eligibility determination; the Balancing Incentives Program; Community First Choice; increased flexibility for Consumer Directed Services; and restructuring the intellectual and developmental disabilities (IDD) service system. DADS and HHSC already have started work to improve electronic communication among the various entities involved in eligibility screening, referral and functional eligibility determination (e.g., local authorities, DADS regional offices, aging and disability resource centers).

Balancing Incentives is a federal option, available through September 30 2015, intended to incentivize states to increase their capacity for community-based LTSS. Texas is eligible to

receive a two percent increase in FMAP in exchange for making structural and programmatic changes, such as: establishing a No Wrong Door/Single Entry Point (SEP) System; utilize a core standardized assessment instrument; and ensuring conflict-free case management.

Another federal option, Community First Choice (CFC) allows states to provide home and community-based attendant services and supports for individuals at or below 150 percent FPL, through a State Plan amendment, with a **six percent** increase in FMAP. There is no expiration on the six percent increase. Conflicting interpretations regarding whether this benefit would include a habilitative component exist. The CFC option would create a new entitlement for persons with IDD to receive attendant services outside of the community waivers, which means that those on the interest lists would be eligible. Though some would object to the cost of a new entitlement, this option would provide a basic level of services to all eligible persons with IDD.

Though there was some discussion of restructuring the current IDD service system, no specific information was provided. A white paper with more details is expected sometime this summer.

Medicaid Managed Care Rollout in Rural Areas

The Health and Human Services Commission (HHSC) plans to mail STAR Medicaid managed care enrollment packets around the third week in May, to people in six Medicaid waivers (listed below) in 164 rural counties in west, central and northeast Texas. These individuals or their legally authorized representative (LAR) need to choose a health plan by a date to be set in June, with enrollment effective on July 1.

Because of concerns regarding the adequacy of the network of physicians, some Medicaid 1915(c) waiver participants' level of understanding about how managed care works, and lack of notification regarding the change, some Texans were given the opportunity to delay their participation in the STAR program even though STAR officially expanded to these rural counties on March 1. This included individuals who may already have chosen a health plan. STAR provides acute health care only, which is short-term medical treatment such as office visits to their doctor, prescription drugs, emergency room and inpatient hospital visits. It does not replace any services provided through Medicaid waiver programs under the Department of Aging and Disability Services.

In the meantime, HHSC continues to provide training on managed care across the state, with events listed at <http://www.txmedicaidevents.com>. Specialized education and outreach is also planned for the individuals in the six Medicaid waiver programs to make sure they understand the STAR program. HHSC indicated that this training will be provided in a manner that is convenient for individuals and LARs, including going to individual's homes if needed.

The six waiver programs involved are:

- Community Based Alternatives (CBA);
- Community Living Assistance and Supports Services (CLASS);
- Deaf Blind with Multiple Disabilities (DBMD);
- Home and Community-based Services (HCS);
- Medically Dependent Children Program (MDCP); and
- Texas Home Living (TxHmL).

More details on the expansion of managed care into rural areas, which Medicaid participants are affected, who can delay their transition, and maps of rural counties covered are at <http://www.dads.state.tx.us/providers/communications/2012/letters/IL2012-26.pdf>.

Children's Policy Council 2012 Recommendations

Policy Issue:

(Clearly state the problem and how it impacts children with disabilities and their families.)

The Texas Health and Human Services Commission is changing the model for providing pharmacy services to children in Medicaid STAR and STAR+PLUS programs and CHIP. The Children's Policy Council (CPC) would like Texas Health and Human Services Commission to consider and address issues unique to children with special health care.

Recommendation:

(Identify policy/system change needed to address the problem.)

Below are some issues to consider and address before implementation of the new program:

Texas HHSC should provide written guidance for both health plans and parents of children with special needs on:

1. The planned process to secure medically necessary drugs not on the preferred drug list. This should include guidelines on any pre-authorizations, how long the pre-authorizations should last and the process to appeal those decisions.
2. The planned process to secure medically necessary drugs new in the market. This should include guidelines on any pre-authorizations, how long the pre-authorizations should last and the process to appeal those decisions.
3. The planned process to receive compounded drugs. This should include requirements how far a member must drive to find a pharmacy willing to provide compounding of drugs.
4. The planned process to access home delivery of prescription drugs.
5. The planned process to access drugs from a pharmacy not in the health plan network and/or not a listed Texas Medicaid pharmacy whether in the service delivery area or outside the services delivery area.
6. The pre-authorization process immediately after implementation, such as a requirement to honor all prior-authorized drugs for 90 days. In addition, Texas HHSC should provide written guidance on the process after 90 days of the implementation date. How long will the pre-authorization last and what will the process be with each health plan?
7. The planned process to access specialty pharmacy services.
8. The planned process for a parent to access durable medical equipment through their pharmacy. Will the process change? How will a parent know if services are covered through a certain pharmacy?
9. The planned process for parents to receive Comprehensive Care Program (CCP) services through managed care plans and know which pharmacies can provide these services. Parents of children with special needs have received additional benefits such as nutritional supplements, IV medications, and specialized vitamins through the CCP program. Some parents received those items for their children through pharmacies.

Background:

(History, actions/activities attempted to address the problem, current status, etc.)

Effective March 1, 2012, the Texas Health and Human Services is changing the model for receiving pharmacy benefits in STAR and STAR+PLUS Medicaid and CHIP to a managed care model.

The Children's Policy Council would like to provide input to Texas HHSC concerning any unique issues as a result of this change to the Medicaid STAR and STAR+PLUS and CHIP programs impacting children with special needs.

Children with special needs sometimes need specific medications to treat their conditions. These medications may not be on the preferred drug list but are medically necessary for the child. Some of these types of drugs are for the treatment of seizures, ADD, mental health conditions, and many other conditions of children with special needs. Parents work with their child's physician to request an exception to the preferred drug list. These types of exceptions may be for longer periods due to the long-term diagnosis of the child.

Children may need certain drugs compounded such as some prescriptions you can only receive in a solid form, but needing to be taken in oral form.

Children with special needs may also need specialty pharmacy items. They may also seek durable medical equipment during as nebulizers, syringes, etc. through their pharmacy. They may receive supplies through the Comprehensive Care Program such as nutritional supplements, IV medications, special vitamins, etc. Parents seek these products for their children through pharmacies because they are already established to provide services to these children.

Making sure children with special needs have access to medically needed medications in a timely manner is essential to the health of children with special needs. We urge Texas HHSC to carefully address all of our concerns.

CPC subcommittee submitting recommendation:

CPC Subcommittee on System Reform

CPC members of subcommittee:

Leah Rummel, John Cissik, Belinda Carlton, Kelly Chirhart, Larry Swift

**Children's Policy Council
2012 Recommendations**

Policy Issue:

The Texas Health and Human Services Commission (HHSC) is changing the dental health delivery model for children receiving Medicaid and CHIP services to a new dental contractor managed care model. The Children's Policy Council (CPC) would like HHSC to consider and address dental health issues unique to children and youth with special needs.

Recommendation:

Improve dental services to children with special needs when delivering the services through dental managed care and involve stakeholders in the design process.

Below are issues to consider concerning the new dental managed care program:

1. Too few dentists in Texas are willing to accept and treat children with special health care needs. HHSC should:
 - Identify dentists across the state currently treating or willing to treat children with special health care needs. Dentists currently treating children with special needs should be regarded as “significant” traditional dental providers for purposes of the new dental contract;
 - Ensure each health plan's network includes an adequate number of dentists willing to treat children with special needs;
 - Ensure access to specialized dental services in each area of the state including hospital services and administration of general anesthesia; and,
 - Routinely spot check the provider lists of dentists provided by dental contractors to verify the dentists included in the directory are currently under contract and accepting new patients. Implement a pre-determined county-based CYSHCN-treating dentist : total patient population ratio threshold for minimum amount of CYSHCN treating dentists and ensure that dental contractors have a pre-defined corrective action in place to re-establish the minimum ratio when the ratio falls below the set threshold. Consumers and families continually receive provider participation lists from health plans which include providers who either never agreed to a contract or are no longer willing to accept new patients.
 - Implement revamped Dental Provider Education for children with special needs in a manner that increases participating dentists' willingness to treat children with special needs for regular checkups, cleanings and preventive care; implementation could mirror the First Dental Home certification program. Providers who complete the course or obtain O.R./hospital privileges should be offered significant traditional dental provider (STP) designation for purposes of the new dental contract.
 - Encourage health plans to implement a special designation on their provider participation lists for dentists that accept children with special needs in their practice; this could incentive providers to accept children with special needs by helping them to stand out on participating provider lists.
 - Consider expanding coverage for a more aggressive dental checkup frequency (i.e 3-month vs. 6-month checkup intervals) for those children with special

needs patients with high caries risk or those disease-states more likely to develop caries rapidly.

2. HHSC should ensure children with special needs have a dental home with a dentist willing to provide treatment based on the child's unique needs. HHSC should ensure that each dental home willing to accept children with special needs has appropriate medical facility privileges to provide services. Additionally, HHSC should require the dental homes and medical facilities meet contractually-defined access standards as defined in 8.1.4.3 of the Dental Contract with HHSC. In the event there is no in-network dentist willing to accept children with special needs in the radius defined by the contract, HHSC must define an out-of-network process to ensure access to a dentist willing to accept and treat children with special needs.
3. Too few dentists are willing to accept and treat medically fragile children and youth with particularly complex needs. HHSC should ensure that all children with special needs have access to dental care.
4. HHSC should require the wait time for children with special needs accessing dental services be clearly defined within the dental contractor's contract with Texas HHSC. Furthermore, a contingency plan should be pre-established to correct the wait time when the wait time becomes too long in any one county.
5. Some children with special needs need dental services in a hospital setting. HHSC should ensure case management is provided to families to coordinate care and reliable transportation.
6. Ensure that each dental contractor has proper customer service hours and systems in order for O.R. / Hospital cases to be adequately and quickly pre-authorized (when necessary) without excessive hold-times or chance for treatment delay caused by dental contractor.
7. Parents report difficulty enrolling in dental coverage through Maximus. Maximus does not have immediate access to Medicaid information for children receiving services through some waivers because some waiver programs utilize a different data system. Currently a parent must insist Maximus look further to verify the child's eligibility for Medicaid to complete the managed care enrollment process,. Additionally, parents report being unable to sign up for their child's current dentist due to age limits listed in the Maximus provider file. When a youth is over 18 some dentists identified as a provider by the dental contractors indicate in the provider directory they will not accept these patients due to age restrictions even though the youth is already established with the dentist. HHSC should carefully and continually review the accuracy of the dental provider list to ensure all age categories of children with special needs can access dental services.
8. Another scenario adding to the challenges for families occurs when children with special needs have health coverage through a private health plan as their primary insurer and Medicaid fee-for-service (FFS) as their secondary insurer-- especially when outpatient hospitalization and anesthesia are needed. Or, the child may have primary dental coverage through a private dental health plan and secondary dental coverage provided through one of the new Medicaid dental contractors.

In these situations, careful coordination of benefits is necessary between four entities-- the private dental plan, the health plan, the Medicaid dental contract and Medicaid FFS-- to be cost-effective for the state.

The involvement of multiple entities compounds the difficulties for children with special needs in accessing dental services in many ways:

- The dentist needs to participate in both networks and may need to obtain two prior authorizations;
- The dental Medicaid managed care contractor needs to pay the child's out of pocket expenses typically paid for by Medicaid FFS;
- The private health plan may want to verify it is medically necessary to provide dental services in a hospital and may want to confirm the dental contractor paid for the dental services; and,
- The private health plan needs to coordinate with Medicaid FFS.

HHSC should require the complete comprehensive coordination of benefits be defined clearly in the contract and the process will not cause additional burdens for the child receiving the services or their family. Case managers should be available to help families coordinate access to and payment for services. HHSC should further ensure that dental contractors do not require participating providers to submit unnecessary or onerous pre-authorizations (TAR – Treatment Authorization Requests) for O.R./hospital cases or in-office treatment.

Background:

Effective March 1, 2012, the Texas Health and Human Services is changing the dental Medicaid program to a managed care model. The new statewide dental managed care program will include children ages birth through age 20, eligible for Medicaid Texas Health Steps Comprehensive Care Program (CCP) services, including Supplemental Security Income (SSI) recipients. In addition, all children enrolled in the CHIP Program will be eligible to participate in the dental managed care initiative.

The following Medicaid recipients will not be eligible to participate in the Dental Program and will continue to receive dental services through their existing service delivery models:

- Medicaid recipients age 21 and over;
- all Medicaid recipients, regardless of age, residing in Medicaid-paid facilities such as nursing homes, state supported living centers, or Intermediate Care Facilities for Mentally Retarded Persons (ICFs/MR); and
- STAR Health Program recipients.

The CPC would like to provide input to HHSC concerning unique issues relating to accessing vital dental services that children with special needs and their families face which will be compounded as a result of the dental managed care initiative.

Too few dentists are willing to treat children with special needs due to their complex medical conditions. Further, many of these children and youth can only receive dental services in a hospital setting and sometimes use the emergency room as their only means of receiving services.. Often children with special needs have health challenges such as

risk of aspiration, breathing complications, and seizure disorders making it difficult or unsafe to receive dental care in an office setting.

In order for children with special needs who require care in a hospital setting to receive a comprehensive dental exam and treatment, the parent or guardian must:

- Secure an appointment during limited hours the dentist has privileges at the hospital;
- Coordinate with the hospital concerning the outpatient stay at the hospital;
- Receive a check-up and medical clearance for general anesthesia from their primary care physician (PCP) within 1-2 weeks of the scheduled procedure; and
- Ensure the hospital staff verifies the medical clearance previously provided by the PCP is still current the day before the scheduled procedure.

After these and other hurdles, the child may then receive a thorough dental exam, cleaning, and additional services needed in a hospital setting under general anesthesia. The private dental health plan will pay for some of the dental services with the remainder paid by the Medicaid dental contractor; and the health plan or Medicaid fee-for-service will pay for the outpatient hospital services, anesthesia, any lab or x-ray and the physician check-up.

All of these components require comprehensive care coordination between the various payors and providers. Parents have difficulty finding a dentist willing to treat their children and consequently, may only access services during dental emergencies in a costly emergency room.

Ensuring all children with special needs have access to cost-effective preventative dental services today will save the state money tomorrow.

CPC subcommittee submitting recommendation:

CPC Subcommittee on System Reform

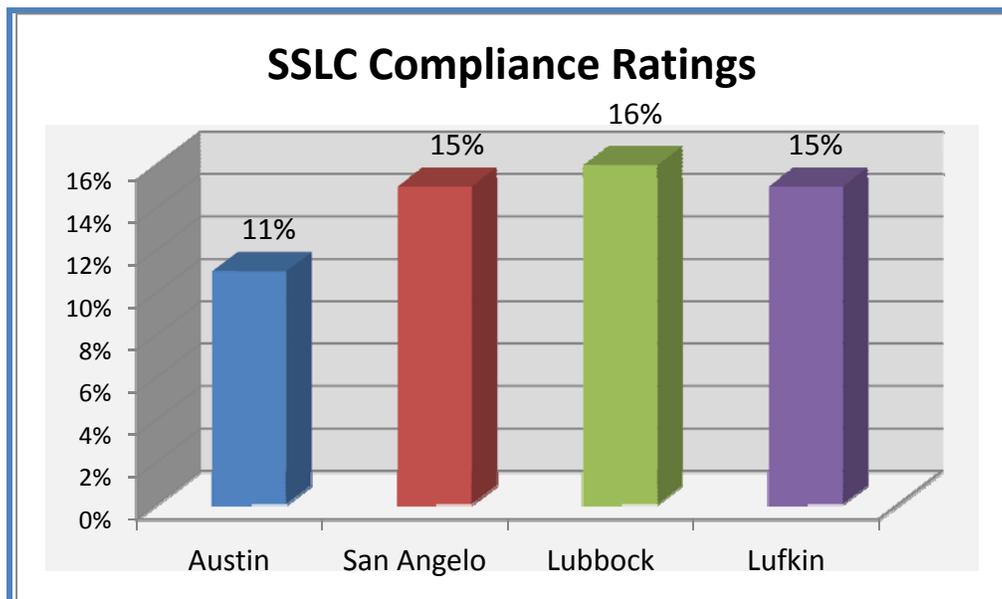
CPC members of subcommittee:

Leah Rummel, John Cissik, Belinda Carlton, Kelly Chirhart, Larry Swift

State Supported Living Centers Monitoring Update

In June 2009, the State of Texas/Department of Aging and Disability Services (DADS) and the U.S. Department of Justice (DOJ) entered into a Settlement Agreement (SA) that covers the 12 State Supported Living Centers (SSLC) and the ICF component of Rio Grande State Center. As determined by the Settlement Agreement, three monitors are responsible for monitoring the facilities' compliance with the SA and related Health Care Guidelines. The monitoring teams examine activities in 20 different aspects of care provided to residents in each facility to determine the status of each facility's compliance with provisions of the U.S. DOJ Settlement Agreement. Within each section, there are a varying number of more specific provisions. Each provision is rated as in substantial compliance or noncompliance with the terms of the Settlement Agreement. There also are provisions that are not rated if the monitoring team had insufficient information to rate a provision.

Baseline reviews of the facilities were conducted from January through May 2010. The first round of compliance reviews were completed from July 2010 to January 2011 to report on each facility's compliance with the SA. The second compliance reviews of each facility began in February 2011 and concluded in mid-July 2011. The monitors began the third reviews of SSLCs in September 2011. This report covers the reports issued in the third round of compliance reviews for Austin, San Angelo, Lubbock and Lufkin SSLCs, the last to be reviewed for the third time. Some aggregate information is available on the third compliance reviews of all SSLCs.



This chart shows the proportion of compliance with all of the provisions evaluated in the monitoring reports.

Austin State Supported Living Center (AUSSLC)

AUSSLC is in compliance in 11 percent of the provisions assessed by the monitoring team, which is the same percentage of compliance as in the second round report. The monitoring team expressed concern that the facility was not further along in achieving compliance. The team noted, "Little progress had been made in some of the areas that are key to providing individuals with safe, meaningful lives with opportunities for growth and development, as well as complying with the Settlement Agreement." Although data concerning the use of restraint was inadequate for evaluation, the monitoring team

observed that there was no evidence of improvement in this area or that improving the use of restraint was a priority at AUSSLC. In the area of abuse, neglect, and incident management, AUSSCL is not taking action to address well-documented problems or areas of vulnerability. As a result, according to the report, "the vulnerable individuals entrusted to AUSSLC were not only not protected from harm, but they were subjected to increased risk." Although monitors documented that progress was made in determining the risk levels of residents, the quality of documentation on risk was varied. The monitoring team noted that no progress had been made in the provision of medical care, commenting that the staff did not have an understanding of the intent or the urgency of complying with the SA. According to monitors, "No initiatives were in place for internal review. To date, the Medical Department had had two years to develop internal tracking systems. The Medical Department appeared to consider Section L.3 an option rather than a requirement."¹ AUSSLC had made strides in hiring additional nursing staff and filling open positions. AUSSLC also was commended for improving its skill acquisition programs by personalizing them for the preferences of residents. However, activities available to individuals were often of poor quality and without functional outcome or purpose. Although AUSSLC was expected to make a determination on whether or not an individual could be supported in a less restrictive community setting, many assessments did not include this information.

San Angelo State Supported Living Center (SGSSLC)

SGSSLC was rated as in substantial compliance in 15 percent of the provisions assessed by the monitoring team, which noted that the staff made continued progress towards substantial compliance in most provisions of the SA. In the six months prior to the most recent monitoring team visit, there were 598 incidents of restraint use. Although fewer individuals were restrained since the last monitoring team visit, this represented a 27 percent increase in the number of restraint incidents, meaning a smaller number of people were restrained more often. Between May 1 and September 30, 2011, there were 39 confirmed cases of abuse, neglect, or exploitation. This included 17 incidents of abuse and 22 instances of neglect. Between May 1 and November 30, there were 1,735 injuries reported, 24 of which were serious injuries that resulted in fractures or sutures. SGSSLC took a number of steps to achieve compliance in the area of at-risk individuals. The monitoring team commended the medical staff for its dedication to serving the individuals at SGSSLC. Although there were a number of areas where the medical team was not achieving compliance, the monitors pointed out that this was often due to systemic issues that did not fall under the purview of the medical team. For example, the Information Technology infrastructure of SGSSLC did not allow for databases to track specific information. The nursing department continued to struggle with high turnover and vacancies, with 17 vacant positions in the nursing department, representing 20 percent of the department's workforce. The monitoring team reported positively about efforts of SGSSLC to move individuals to the most integrated community setting. Ten percent of individuals at SGSSLC were placed in the community on an annual basis, with an additional 14 percent of individuals on the active referral list.

¹ L.3: "Commencing within six months of the Effective Date hereof and with full implementation within two years, each Facility shall maintain a medical quality improvement process that collects data relating to the quality of medical services; assesses these data for trends; initiates outcome-related inquiries; identifies and initiates corrective action; and monitors to ensure that remedies are achieved."

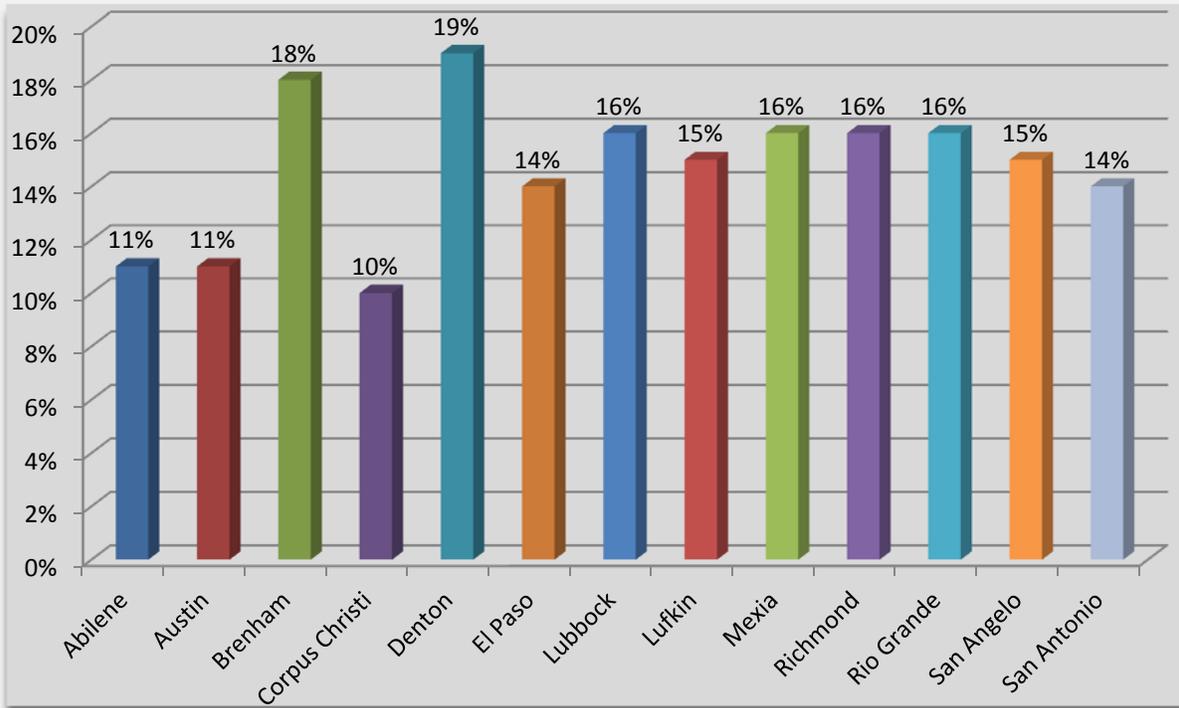
Lubbock State Supported Living Center (LBSSLC)

The monitoring team rated 16 percent of provisions assessed at LBSSLC as in substantial compliance. Staff was taking creative approaches to produce dramatic reductions in the use of restraint for several individuals with histories of challenging behavior. However, there was a continuing problem of ensuring that a licensed health care professional arrived within 30 minutes of the initiation of restraint, as required by policy. The monitoring team observed that the Department of Family and Protective Services and the staff at SGSSLC made notable progress in a number of practices concerning abuse, neglect, and incident management. However, the team recommended that SGSSLC improve response time of beginning investigations to within 24 hours of an incident occurrence. Monitors pointed out that SGSSLC made improvements concerning at risk individuals; however, a “significant amount of work had yet to be done to achieve compliance” in this area. Initial progress was made in developing improved skill acquisition programs. The engagement level was still less than desirable, and formal skill programming in vocational and community-based settings was still a concern. The monitoring team pointed out that individual service plans did not identify all of the protections, services, and supports that would be necessary for an individual to transition to the community. Further, the plans often reflected misconceptions about what was available in the community.

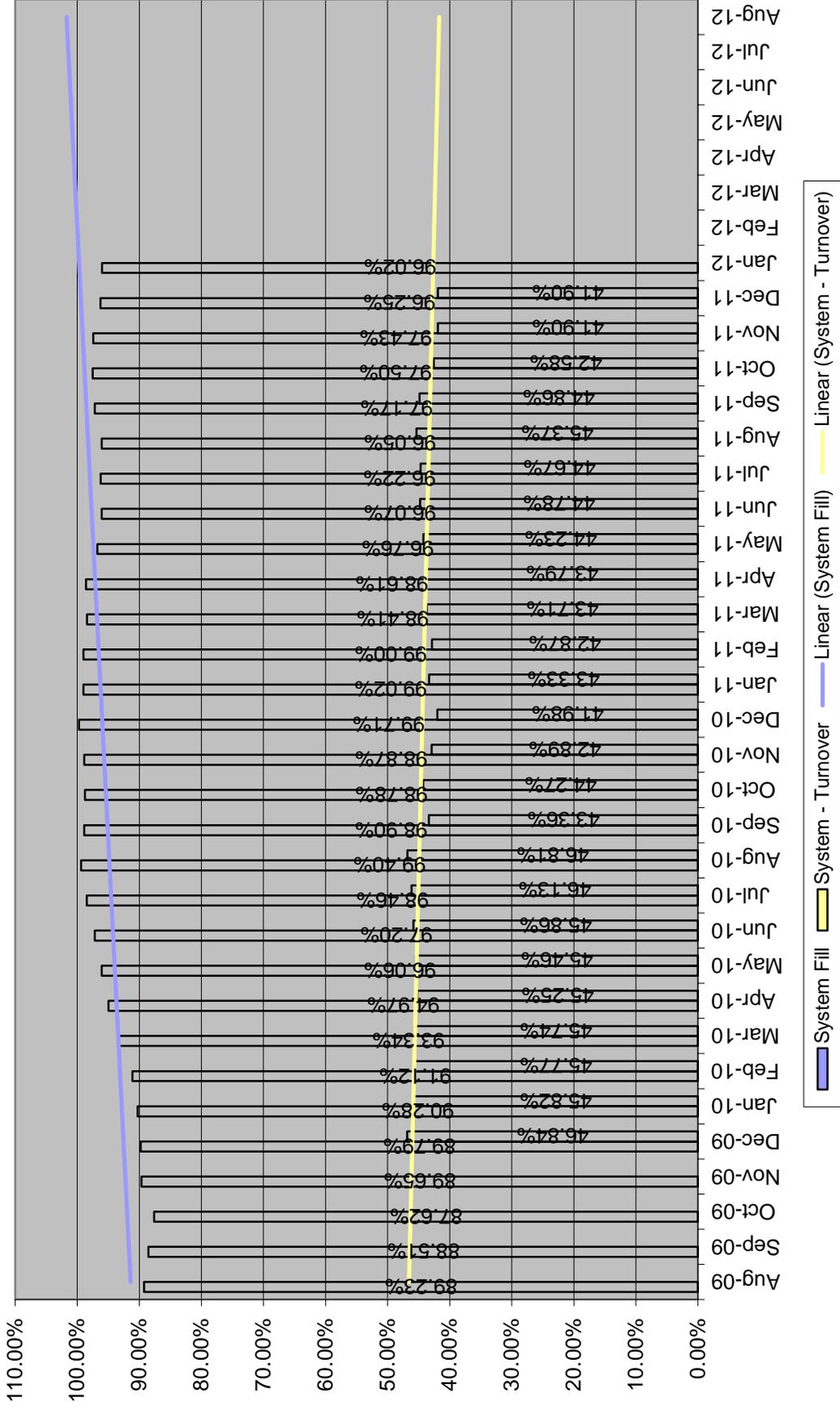
Lufkin State Supported Living Center (LSSLC)

LSSLC was rated as in substantial compliance in 15 percent of provisions assessed by the monitoring team. The monitoring team indicated that LSSLC should more thoroughly review serious incidents, such as repetitive and serious injuries, serious medication errors, and failed community placements to ensure that generally accepted standards of professional care are met. In the six months leading up to the monitoring team visit, 93 restraints were implemented on 19 individuals, which represented a reduction in the use of restraint since the previous visit. In the six months prior to the visit, there were five confirmed cases of neglect, two confirmed cases of emotional or verbal abuse, and one instance of physical abuse. In addition, there were 19 serious incidents at LSSLC that did not involve allegations of abuse or neglect. Four of these were deaths and 15 were serious injuries. There were 1,441 injuries reported between May 1 and September 31, 2011. The monitoring team attributed the high number of injuries to lack of engagement in meaningful activities. Since individuals were not engaged in activity, there was a higher incidence of self-abusive behavior and aggression toward others. Although the state issued new guidance on risk management and LSSLC developed a number of policies in this area, individual plans still were not accurately identifying risk for individuals. In the area of medical care, the monitoring team observed lapses in the follow-up of acute issues, including chronic issues. Although a medical quality program was initiated during the previous review, efforts to maintain this program seemed to be abandoned. Although the number of individuals referred and placed in the community was still low, the rate of transfer was increasing since the baseline review conducted in April 2010. Since the previous review, 13 individuals were placed in community settings.

Compliance of All SSLCs, 3rd Review



DSP Series Position Fill and Projected Annualized Turnover Rates All State Supported Living Centers



Turnover data is annualized using an established formula. Data is calculated and projected for a single fiscal year that restarts each September.



Federal Funding

FACT SHEET

2012 DISABILITY POLICY SEMINAR

The Arc | UCP | AUCD | AAIDD | NACDD | SABA

Background

People with disabilities, their families, and advocates are extremely concerned about the outlook for federal programs as Congressional leaders discuss strategies for reducing federal deficits and the debt. While entitlement programs (such as Medicaid, Medicare, and Social Security) have so far largely been protected from deficit reduction efforts, there are growing calls to cut eligibility and benefits for these essential programs. The discretionary programs that people with disabilities rely upon to live in the community (employment, education, housing, and more) are slated for unprecedented cuts starting in 2013.

The Budget Control Act

The Budget Control Act (BCA), enacted into law in August 2011, establishes the overall discretionary spending caps for defense and nondefense discretionary spending (which includes disability programs) over the next ten years. Beginning in Fiscal Year 2012, the BCA cuts \$840 billion in discretionary spending over 10 years through spending caps. Beginning in FY 2013, an additional nearly \$1 trillion will be cut through automatic, across-the-board cuts (also known as "sequestration"), over 9 years if Congress does not change the law or find alternate savings and revenue increases.

The President's Budget

On February 13, President Obama released his FY 2013 budget request to Congress. The President's budget offers a replacement for the automatic \$1 trillion in spending cuts required by the BCA over 10 years, with a number of targeted spending cuts and revenue increases. The request avoids major cuts to entitlement benefits and would allow the high-income Bush-era tax cuts to expire. It also requests a few small increases, decreases, and consolidations for discretionary disability-related programs.

The Congressional Budget

On March 20, House Budget Committee Chairman Paul Ryan (R-WI) released his proposed FY 2013 Budget Resolution which would cap total spending at \$19 billion below the limit set by the Budget Control Act. It was passed by the House on March 29 by a vote of 228 to 191. Similar to last year's House Budget Resolution, this one contains many proposals that would decimate critical disability-related programs, including block granting the Medicaid program and slashing spending for discretionary programs. The Senate is not likely to vote on a separate Senate Budget Resolution since the BCA already set spending caps for FY 2013.

Key Issues

All recently enacted deficit reduction has been through program cuts ONLY. Further cuts to entitlement and discretionary programs are short-sighted. They would threaten the fragile economic recovery and reduce the number of jobs available. Most discretionary disability-related programs have largely been level funded in the last five years, including the Councils on Developmental

Disabilities, University Centers for Excellence in Developmental Disabilities, and Protection and Advocacy Systems. Some programs, including supported employment, postsecondary programs for people with intellectual disabilities, and disability prevention research and services within the Centers for Disease Control and Prevention have been slated for elimination or consolidation. All Family Support projects funded through the Projects of National Significance (within the Developmental Disabilities Act) were terminated in the FY 2012 funding cycle as a result of a \$6 million cut to this program. These projects provided direct services to over 5,000 families with children with disabilities nationwide. The federal share of average per pupil spending for special education remains at about 17% -- far below the 40% promised by the Individuals with Disabilities Education Act (IDEA).

Rebuilding our investment in these domestic programs will boost the economy and reduce the deficit through prevention of costly chronic diseases, increased earnings, and reduced expenditures for unemployment and other social service programs.

A Balanced Approach to Deficit Reduction

We share in our Nation's goal of reducing the deficit and returning to a path of fiscal sustainability. However, this cannot be done through spending cuts alone. Revenues must be part of the equation. To achieve the additional \$1.2 trillion in savings over the next ten years (as the BCA requires) from the spending side alone would require cutting an average of roughly \$110 billion annually, starting in FY 2013.

Recommendations

- Congress should cancel the across-the-board cuts (sequester) and replace them with a more reasonable deficit reduction package.
- Congress must balance deficit reduction between program cuts and revenues.
- Congress should not block grant or cap the Medicaid program.
- Congress should fully exempt non-defense discretionary programs from any further cuts.
- If the sequester is not cancelled, Congress must not exempt or reduce the cuts to defense discretionary programs as this would result in even greater cuts to non-defense discretionary programs.
- Congress must protect programs for people with disabilities.

Relevant Committees

House and Senate Budget Committees

House and Senate Appropriations Committees

House and Senate Appropriations Subcommittees on Labor, Health and Human Services, Education and Related Agencies

For more information, please contact The Arc at (202) 783-2229, United Cerebral Palsy at (202) 776-0406, Association of University Centers on Disability at (301) 588-8252, American Association on Intellectual and Developmental Disabilities at (202) 387-1968, National Association of Councils on Developmental Disabilities at (202) 506-5813, or Self-Advocates Becoming Empowered at SABEnation@gmail.com

Notice of Proposed Rulemaking (NPRM) to Address Federal Contractors Obligations for Hiring People with Disabilities

Background:

On December 9, 2011 the Office of Federal Contract Compliance Programs (OFCCP) of the U.S. Department of Labor proposed a new rule which would propose significant changes to the regulations implementing Section 503 of the Rehabilitation Act of 1973. The proposed rule would require federal contractors and subcontractors to set a hiring goal of having 7 percent of their workforces are people with disabilities. OFCCP invited public comment on this proposal; comments were due February 21, 2012. OFCCP received about 400 comments on the proposed rule coming from a variety of stakeholders, including individuals with disabilities, contractors, disability rights organizations and employer groups.

TCDD Action:

TCDD continues to monitor the proposed rule change. However, according to an article in the *Wall Street Journal*, 'companies have flooded the department with complaints.' The article states that the rule change would have a wide-ranging impact, affecting some 200,000 companies that either receive federal contracts or are subcontracted for work that adds up to approximately \$700 billion annually.

In light of the recent companies who are pushing against the rule change, CEO Greg Babe with Bayer Corp, USA submitted comments supporting the rule change stating "my company submitted comments in support of the rule because we know that promoting equal opportunity is good for business and for the community. Our successful efforts to recruit and retain qualified employees with disabilities prove that it can be done."

Opposition from the federal contractor sector has led the leadership of the House Education & Workforce Committee to question the legality of the proposed rule. In recent correspondence to Secretary of Labor Hilda Solis, House Education and Workforce Committee Chairman John Kline (R-MN) asks six specific questions related to the Department's legal authority to initiate the rule.



SOCIAL SECURITY
The Commissioner

March 9, 2012

The Honorable Sam Johnson
Chairman, Social Security Subcommittee
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The authorizations of appropriations for two provisions of the Social Security Act have expired. The two provisions are section 1149, the Work Incentives Planning and Assistance (WIPA) program, and section 1150, the Protection and Advocacy for Beneficiaries of Social Security (PABSS) program. These programs are part of our efforts to help beneficiaries return permanently to the workforce. The legislation establishing these programs initially authorized appropriations for five years, after which the Congress extended the appropriations authorizations for another five years. In 2009 and 2010, the Congress authorized one-year extensions. However, the most recent authorizations expired at the end of fiscal year (FY) 2011. Earlier this year, we sent to Congress a draft bill -- the "Social Security Work Incentives Amendments of 2012" -- which would reauthorize funding for the two programs again for five years. To date, Congress has not acted on that proposal.

We are currently operating the WIPA and PABSS programs under grants we initiated in FY 2011. Those grants will expire at the end of June for the WIPA program and at the end of September for the PABSS program. We are taking action to extend the current WIPA grants, where possible, through September but, due to the limited funds remaining, we regret that most grantees will be unable to continue to provide services through the end of the fiscal year. Absent Congress' reauthorization of these programs, we plan to stop them when the FY 2011 grants expire.

I am sending a similar letter to Congressman Becerra. I urge your immediate attention to this matter. If you have any questions, please contact me or have your staff contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,



Michael J. Astrue

cc: Congressman Dave Camp
Congressman Sander Levin