



# TEXAS COUNCIL *for* DEVELOPMENTAL DISABILITIES

## TCDD Summary of HHSC LAR

Prior to the start of each legislative session, the Legislative Budget Board (LBB) and the Governor's Office of Budget, Policy and Planning jointly issue instructions to each Texas state agency regarding how to develop their Legislative Appropriations Request (LAR). An LAR is the agency's budget request for money to operate their programs over the next two-year biennium — Fiscal Years (FY) 2018–2019. An LAR usually includes exceptional item requests for priorities that the agency considers of great importance in addition to the base budget. At the beginning of the legislative session, the House and Senate propose budgets for Texas state agencies that may include some exceptional item requests as part of the base budget. Those that do not make it into the base in the introduced budget may remain under consideration throughout the appropriations process.

The Texas Health and Human Services Commission (HHSC) released its FY 2018–2019 LAR to the public on Friday, September 16, 2016. The HHSC LAR is seven volumes, 2,458 pages, and includes 64 exceptional items. Because parts of the Department of Aging and Disability Services (DADS), the Department of Assistive and Rehabilitative Services (DARS), the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS) consolidated into HHSC on September 1, the HHSC LAR is massive in comparison to prior biennia.

Budget instructions required HHSC to reduce its base budget request by 4%. The following programs were recommended for elimination or reduction in order to meet the 4% budget reduction requirement:

### Program Elimination:

- DADS In-Home Family Support Program, \$10M;
- Lifespan Respite program, \$1M;
- Relocation specialist function, \$5M.

### Program Reduction:

- Child Care Licensing (CCL) and Adult Protective Services (APS), \$1.7M;
- Blindness Education, Screening, and Treatment (BEST) and Comprehensive Rehabilitation (CRS), \$3M.

The LAR also includes 14 options for reducing the base budget by an additional 10%.

The Texas Council for Developmental Disabilities staff reviewed the HHSC LAR and summarized the exceptional items and budget reduction options that could impact people with intellectual and developmental disabilities (IDD). In the summary below, the General Revenue (GR), or state funds, are identified where possible. Due to complicated methods of finance, only the All Funds (AF) figure is provided for some items. In some cases, the GR and AF number is the same, which means only state funds are requested.

Below are the 64 exceptional items included in HHSC's budget request:

**1. Medicaid Entitlement Cost Growth (Exceptional Item 1)**

**\$3.3B AF**

The exceptional item would maintain Medicaid entitlement program cost growth for all acute and long-term services and supports entitlement services. LBB instructions required cost growth, including utilization and acuity changes, medical inflation, or evolving or new services to be requested as an exceptional item. The Federal Medical Assistance Percentage (FMAP) rates of 56.24% for FY 2018 and 56.25% for FY 2019 are assumed in this item, with an additional match of 6% for Community First Choice (CFC).

**2. CHIP Cost Growth (Exceptional Item 2)**

**\$8.1M Tobacco Funds, \$106.4M AF**

**3. CLASS Cost Growth (Exceptional Item 3)**

**\$21.2M GR, \$48.4M AF**

Increases in Community Living Assistance and Support Services (CLASS) waiver client acuity and service utilization costs are projected to increase by 3% per year.

**4. Maintain Waiver Caseloads (Exceptional Item 4)**

**\$29.9M GR, \$70.2M AF**

The LBB's budget instructions did not allow HHSC to prepare a draft budget request that continues to pay for waiver services that the 84<sup>th</sup> Texas Legislature said it funded. Although the 84th Texas Legislature appropriated funds to provide services to people waiting on interest lists, they did not authorize all of the people to receive services on the first day of the biennium. Instead they were authorized to prepare an interest list reduction schedule so that offers are evenly distributed across the 24 months in the biennium. Budget instructions required the agency to build the base budget by including levels at only an average of the two previous years. Because half of the people identified had yet to receive services at the time of the calculation, the funds used to pay for services started toward the biennium could not be included in the base. This routine practice requires people with disabilities to make multiple requests for the same services. If not funded, people

expecting waiver offers in 2017 will not receive them or people who are receiving services at the end of the biennium, particularly in the Home and Community-based Services (HCS) waiver program, will lose their waiver services on August 31, 2017.

**5. Maintain Community Mental Health Services Programs (Exceptional Item 5)**

**\$4.7M GR/AF**

The following programs require funding to maintain FY 2017 levels:

- A. Relinquishment Prevention (DFPS — Residential Treatment Center Bed Expansion) — If not funded, 7% fewer children would be served in residential treatment centers (30 to 28).
- B. Youth Substance Abuse Prevention — If not funded, about 51,414 fewer youth would receive expanded substance abuse prevention services, a 28% reduction.
- C. Neonatal Abstinence Syndrome Program — If not funded, 160 fewer infants would receive opioid treatment services, a 25% reduction.
- D. Recovery-Focused Clubhouses — If not funded, 138 fewer people would access services, a 36% reduction.
- E. Supported Decision-Making Program in State Hospitals — If not funded, 14 fewer people would be diverted from unnecessary guardianship, a 14% reduction.

**6. Maintain ECI Caseloads (Exceptional Item 6)**

**\$44.76M AF**

Funding for this exceptional item is to maintain FY 2017 Early Childhood Intervention (ECI) caseloads. Federal Individuals with Disabilities Education Act (IDEA) Part C regulations require all children determined eligible for the program to be served. To reduce state funding for the program, the Texas Legislature narrowed ECI eligibility criteria in FY 2012. However, the ECI program has historically seen growth in the number of children served while federal IDEA Part C funding has remained relatively level. Consequently, many providers have to resort to fundraising in order to fully meet the needs of children with developmental delays in their ECI programs. If additional funding is not appropriated, decision makers may further narrow eligibility criteria.

**7. Maintain Enhanced Service Coordination & Transition Support (Exceptional Item 7)**

**\$13M GR**

Funding for enhanced community coordination and transitional support teams

funded through Money Follows the Person (MFP) Demonstration funds will not be available after FY 2017. DADS must continue current enhanced community coordination to ensure that necessary medical and/or behavioral services for individuals with complex needs are accessed, coordinated, and delivered in a person-centered manner:

- A. This item maintains funding for an enhanced array of services and supports to help local IDD authorities (LIDDAs) and community providers successfully transition people into community settings, including: service coordination for residents of nursing facilities and state-supported living centers (SSLCs); pre- and post-move monitoring; and flexible spending support.
- B. This item maintains Texas' eight regional support teams to provide technical assistance and preventive measures statewide to expand the expertise of LIDDAs and community providers related to specific disorders and diseases. Furthermore, this item ensures that LIDDAs continue to provide enhanced services and supports and identify regional challenges or gaps in available medical, psychiatric, and behavioral resources.

**8. Maintain Psychiatric Bed Capacity (Exceptional Item 8)  
\$121M GR**

The state psychiatric hospital system is expected to lose capacity due to a variety of factors. Maintaining this capacity is important to ensure access to care close to home and in closer proximity to local law enforcement.

**9. Maintain SSLC and State Hospital Staffing (Exceptional Item 9)  
\$68.8M GR, \$96M AF**

This exceptional item would fund salary increases at SSLCs to address staff turnover and compliance with intermediate care facility (ICF) regulations and the federal Department of Justice settlement agreement.

**10. APS and CCL (Exceptional Item 10)  
\$5.1M GR, \$6M AF**

In order to stay within appropriated levels, the agency has used funds intended to hire staff to fund operational costs instead. This practice has resulted in a backlog that negatively impacts other areas of health and human services including a backlog of long-term services and supports provider investigations. This item would fund:

- A. Operational support costs, like travel, cell phones, leases and information technology (IT), for CCL and APS Provider Investigations (\$5M GR), and;
- B. Purchase of license rights to a quality assurance software package that will enhance CCL's quality assurance and program improvement efforts (\$70K GR).

**11. Sunset/Transformation Costs, SB208 (2015) (Exceptional Item 11)**

**\$18.3M GR/AF**

This would fund anticipated — but unfunded — costs associated with the 2015 decision to transfer Vocational Rehabilitation (VR) to the Texas Workforce Commission (TWC), as VR administrative funds were used to partially support field support staff for Comprehensive Rehabilitation Services (CRS), Children’s Blindness Services, and Independent Living Services (ILS).

**12. Restore 4% Reductions to BEST & CRS Programs (Exceptional Item 12)**

**\$1.3M GR/AF**

The BEST program provides treatment for eye conditions that pose an imminent risk of permanent or significant visual loss.

The Comprehensive Rehabilitation Services (CRS) Program provides time-limited mobility, self-care, and communication skills to help Texans with a traumatic brain injury or spinal cord injury to live independently. CRS maintains a waiting list and a 4% reduction would result in additional people on the waiting list.

**13. Restore Reduction to CCL and APS (DFPS) (Exceptional Item 13)**

**\$1.7M GR/AF**

**14. Promoting Independence (Exceptional Item 14)**

**\$50.1M GR, 114.5M AF**

This item provides the following new Promoting Independence services to persons who would otherwise be entitled to more expensive institutional services:

The number of people who will receive Promoting Independence services

Promoting Independence Groups	Number of People
HCS for People Moving from SSLCs	400
HCS for People Moving from Large ICFs	100
HCS for Youth Aging out of Foster Care	236
HCS for Persons at Imminent Risk of Entering an ICF	400
HCS for People with IDD Moving from State Hospitals	120
HCS for Children Moving from a general residence operations (GRO) facility (DFPS)	40
HCS for People with IDD moving from nursing facilities	700
HCS for People with IDD at risk of entering a nursing facility	600
<b>Medically Dependent Children’s Program (MDCP) services for children at risk of entering a nursing facility (NEW)</b>	550

**15. Interest List Reduction (Exceptional Item 15)**

**\$346M GR, \$803.4M AF**

This item says it funds 19,010 “slots,” but does not provide detail about how they would be allocated across waivers. Therefore, reviewers are unable to provide further analysis regarding how many people (by waiver) could receive waiver service offers.

**16. Community Mental Health Wait List Reduction (Exceptional Item 16)**

**\$8.2M GR/AF**

Though unclear, the detail suggests that this item funds the impact of population growth on community mental health waiting lists.

**17. ILS & CRS Waiting List Reduction (Exceptional Item 17)**

**\$10.4M GR/AF**

The ILS program provides services to eligible Texans with significant disabilities, including veterans, with support to improve their ability to function independently in their home and the community. Most requests involve the purchase of assistive technologies and devices. CRS reduces the need for ongoing state services. CRS maintains a waiting list.

**18. Institution Repairs and Renovations (Exceptional Item 18)**

**\$189.6M GO Bonds**

This item would fund health and safety renovations in state hospitals and SSLCs. The repairs and renovations include electric panels, fire alarm systems, emergency generators, roofing, HVAC systems, water and waste water lines, etc.

**19. Institution Repairs — Laundry Facilities (Exceptional Item 19)**

**\$5.4M GR/AF**

Requested exceptional item funding would be used to support 10-year replacement plan for laundry facilities. Includes vehicles and building expansion and demolition required as a result of laundry facility consolidation. NOTE: FY 2014-15 funding included a combination of bond funding totaling \$70 million for said consolidation.

**20. Institutions — Vehicles (Exceptional Item 20)**

**\$15.8M GR/AF**

Funds vehicle replacement schedule.

**21. Institutions: New Construction of State Hospitals and SSLCs (Exceptional Item 21)**

**\$1 GR/AF**

Placeholder pending legislative direction to construct new institutions.

**22. Psychiatric Bed Capacity (Exceptional Item 22)**

**\$100.7M GR/AF**

This item would fund staff and operations to add 96 beds to Vernon State Hospital. This expansion would reduce the number of people waiting in jail for a maximum security bed. It would also fund the purchase of an additional 100 beds from public and private entities around the state to ensure availability of beds to meet the demand. The state hospital long-term plan identified a significant unmet need for an additional 600 beds over the next 10 years.

**23. Family Planning Services (Exceptional Item 23)**

**\$20M GR, \$20M AF**

**24. Family Violence Program (Exceptional Item 24)**

**\$3M GR, \$3M AF**

**25. CASA and CAC (Exceptional Item 25)**

**\$8M GR, \$8M AF**

This item would increase availability of Court Appointed Special Advocates (CASA) and Child Advocacy Centers (CAC) services.

**26. IBI for People with Autism (Exceptional Item 26)**

**\$14.3M GR, \$32.8M AF**

This item would fund a new program/service called Intensive Behavioral Intervention (IBI) to address maladaptive behaviors among people with Autism Spectrum Disorder (ASD). Program would assess people for IBI treatment options and deliver a treatment plan to addresses targeted issues and goals. A contracted entity would assist with development of medical policy, prior authorization criteria and conduct utilization review for the first two years of the benefit. This entity would also develop policy regarding caregiver involvement, and establish criteria for demonstrating adequate progress toward goals for continued service authorization. Does not include behavior analyst licensing.

**27. Hepatitis C Treatment (Exceptional Item 27)**

**\$19.8M GR/AF**

**28. Enhanced Mental Health Community Services (Exceptional Item 28)**

**\$44.5M GR/AF**

This item would increase the intensity of adult and children's mental health services in communities with minimal services; provide an additional 15 RTC beds to youth who are at risk of parental relinquishment; stabilize the current substance abuse provider base and increase access to services and supports;

and create Outpatient Competency Restoration — in a high demand area of the state to decrease demand for state hospital beds.

**29. Sale of SSLC Services to Persons in the Community (Exceptional Item 29)**  
**\$19.3M AF**

This item funds staff to operate clinics at 12 state-operated SSLCs for people with IDD in community-based settings. SSLCs would leverage their existing space and staff. DADS estimates the annual cost to operate the clinics to be \$1.07 million per clinic. Through Medicaid waiver services billing, DADS expects the operating costs to be partially offset during the FY18–19 biennium, and become cost neutral in the next biennium. Two SSLCs were scheduled to initiate a pilot program (September 2016) to offer dental waiver services, but the Center for Medicare and Medicaid Services (CMS) recommended that Texas NOT implement a pilot to provide community services in institutional settings. They remain in negotiations to determine whether the pilot may be limited to acute services only.

**30. ADRC Supports for Veterans (Exceptional Item 30)**  
**\$1.3M GR/AF**

This item would fund Aging and Disability Resource Centers (ADRCs) to ensure staff have the expertise to link veterans to service options. The ADRC cost to serve a veteran is more than three times the average cost (\$235 compared to \$72). This item would also allow for education and cross-training activities for veteran services organizations and ADRC aging and disability network partners.

**31. PACE Shortfall (Exceptional Item 31)**  
**\$5.1M GR, \$11.6M AF**

This item would eliminate the Program of All-Inclusive Care for the Elderly (PACE) shortfall for the next biennium. PACE has received a funding reduction to their reimbursement rates for several years due to a shortfall in appropriated amounts. If not funded, the program will receive an approximate 12% reduction in the next biennium.

**32. ICF Quality Monitoring (Exceptional Item 32)**  
**\$6.8M GR, \$13.7M AF**

This item would fund 79 additional staff to restructure ICF policy and contract requirements, stakeholder communication, financial and performance management, utilization review, and manage MCO health plan and drug formularies among other items.

**33. Maintain Regulatory Workload — ALFs & DAHS (Exceptional Item 33)**  
**\$3.9M GR, \$5.8M AF**

This item would fund 36 additional staff to keep up with surveys, inspections, and

complaint and incident investigations particularly for assisted living facilities (ALFs) and Day Activity and Health Services (DAHS, formerly adult day care). Workload has increased by 30% since FY 2006.

**34. Federal Childcare Licensing Requirement Compliance (Exceptional Item 34)**

**\$12.1M AF**

**35. Staff to Control APS and Day Care Licensing Caseloads (Exceptional Item 35)**

**\$17.4M AF**

**36. Litigation and Legal Assistance (Exceptional Item 36)**

**\$3.2M AF**

This item would fund 12 legal staff to defend the state in relation to the foster care lawsuit and *Steward v. Abbott*, the class action lawsuit regarding inappropriate placement of people with IDD in nursing facilities.

**37. Mortality Review — IDD (Exceptional Item 37)**

**\$1.7M GR, \$3.5M AF**

Independent mortality reviews have long been required for deaths of individuals with IDD who, at the time of the person's death, receive publicly-funded services; however, only SSLC resident death reviews were ever implemented. The mortality review data is intended to be used to identify trends, as well as system-wide improvements.

**38. Community Attendant Wages (Exceptional Item 38)**

**\$156M GR, \$364M AF**

This item would increase the wage floor from \$8 per hour to \$8.50 per hour, a 6.25% increase.

**39. Wage Enhancement — IDD Programs (Exceptional Item 39)**

**\$8.5M GR, \$21.5M AF**

This rate enhancement program incentivizes providers who agree to spend about 90% of their total attendant-related revenues on attendant compensation with additional wage supports. This would allow providers to participate in the program at higher levels.

**40. Day Habilitation Compliance (Exceptional Item 40)**

**\$30.6M GR, \$70M AF**

This item is included to bring Texas into compliance with the CMS Home and Community-Based Services (HCBS) Settings Rule. The agency's primary proposed strategy is to assist waiver providers and their subcontracted day habilitation

providers with rate increases. Though no specifics are provided, the item also anticipates additional services, adding services to the existing service array and providing for increased contract oversight of program providers.

The federal HCBS Settings Rule require states to ensure all locations in which HCBS services are provided meet criteria regarding community integration and self-determination, setting choice, the right to privacy, dignity and respect, and individual autonomy. Texas must be in compliance by March 17, 2019. The Children's Policy Council and the IDD Statewide Redesign Advisory Committee have approved specific recommendations to improve day habilitation. Their reports are expected this fall.

**41. Community Critical Incident Reporting (Exceptional Item 41)**  
**\$1.3M GR, \$2.5M AF**

This item would contract with a vendor to provide a web-based critical incident reporting system designed to meet the business, security, and reporting requirements of HHSC and contracted service providers.

**42. Quality Reporting System Updates (Exceptional Item 42)**  
**\$614K GR, 1.2M AF**

This item funds a 2015 Sunset recommendation, in part, by replacing the 15-year-old Quality Reporting System (QRS). The QRS is used by individuals and families to make informed provider selections. Currently, most LIDDAs provide only a long list a providers contracted with the state to provide services. This replacement request would offer individuals the opportunity to make recommendations regarding criteria to include in the QRS, like percent of clients employed or percent of clients supported to live in more independent living settings.

**43. IT: PASRR LTC Online Portal Improvement (Exceptional Item 43)**  
**\$4.1M GR, \$16.5M AF**

This item would fund IT improvements to the Long Term Care (LTC) Online Portal for claims and authorization transmission for specialized services not covered by managed care but required under the Preadmission Screening and Resident Review (PASRR) program. It would replace a paper-based process. This item may also put the state in more of a defensible position by addressing some issues associated with a class action lawsuit by ensuring that people with IDD in nursing facilities receive specialized services like employment and habilitation.

**44. IT: ReHabWorks Replacement (Exceptional Item 44)**  
**\$3.3M GR**

As a result of the DARS Sunset and transfer of VR to TWC, ownership of ReHabWorks for Case Management transferred to TWC on September 1, 2016.

ReHabWorks supports CRS, Blind Children’s Vocational Discovery and Development Program (BCVDDP), and BEST, programs that transferred to HHSC on September 1. HHSC has entered into a memorandum of understanding with TWC to continue the use of ReHabWorks by HHSC through August 31, 2017. However, a permanent solution is required.

**45. IT: Avatar (Exceptional Item 45)**

**\$6.1M GR**

Avatar is the electronic medical record system used by the state mental health hospitals. If not funded, the state mental health hospitals would likely not be able to meet obligations for system support and would not function well enough to maintain certification.

**46. IT: Electronic Life Record for RGSC (Exceptional Item 46)**

**\$2M GR**

The SSLC portion of Rio Grande State Center (RGSC) was not included in the transition to the new DADS SSLC Life Record. This exceptional item would fund installation and development of the ability to electronically exchange patient information between the other services co-located at RGSC.

**47. IT — State Mental Health Hospital Video Conferencing (Exceptional Item 47)**

**\$2M GR**

This item would fund video conferencing technology infrastructure improvements in order to take advantage of telemedicine efficiencies.

**48. IT — TIERS Transition (Exceptional Item 48)**

**\$12M AF**

This item would fund a six-month Texas Integrated Eligibility Redesign System (TIERS) contract transition to a possible new vendor. TIERS is HHSC’s service eligibility system.

**49. IT: Social Security Number Removal Initiative — Medicare (Exceptional Item 49)**

**\$7.1M AF**

**50. IT: Legal Management System (Exceptional Item 50)**

**\$8.3M AF**

**51. IT: Cyber Security (Exceptional Item 51)**

**\$4.8M AF**

- 52. IT: Data Center Services (DCS) (Exceptional Item 52)**  
\$59.7M AF
- 53. IT: Non-DCS Hardware/Software Refresh (Exceptional Item 53)**  
\$43.6M AF
- 54. IT: Seat Management — PCs, laptops, servers (Exceptional Item 54)**  
\$7.1M GR, \$7.4M AF
- 55. IT: Access Management (Exceptional Item 55)**  
\$2.7M AF
- 56. Inspector General (IG) Staff (18) (Exceptional Item 56)**  
\$1.8M AF
- 57. IT: IG Medicaid Fraud & Detection System (Exceptional Item 57)**  
\$5M GR, \$20M AF
- 58. IT: IG Case Management System (Exceptional Item 58)**  
\$2.5M GR, \$5M AF
- 59. IG Background Check Staff (14) (Exceptional Item 59)**  
\$1.1M AF
- 60. TCCO Caseload Growth (Exceptional Item 60)**  
\$5.1M GR, \$5.1M AF  
This item would fund an expected increase (749 people) of locally prosecuted Sexually Violent Predators who will require treatment and supervision by the Texas Civil Commitment Office (TCCO).
- 61. TCCO Healthcare (Exceptional Item 61)**  
\$1.7M GR, \$1.7M AF
- 62. TCCO Supported Living (Exceptional Item 62)**  
\$1.6M GR, \$1.6M AF
- 63. TCCO 2% Contract Per Diem Increase (Exceptional Item 63)**  
\$627K GR, \$627K AF
- 64. TCCO HHSC Oversight Costs (Exceptional Item 64)**  
\$213K GR, \$213 AK

### **10% Budget Reduction Options**

A number of options were proposed for reducing the HHSC budget for FY 2018-2019 by

10%. Rate reductions make up about 2/3 of the 10% reduction options. Below are two of the options that, if passed by the Legislature, could impact people with IDD in Texas:

- **Program and Service Reductions (Option 12)**

**Totaling \$20.6M GR**

Little detail is provided in terms of the full impact; however, this item contains reductions to the following programs:

- A. Early Childhood Intervention — \$5.6M GR
- B. Children’s Blind Services — \$1.1M GR
- C. Autism — \$1.4M GR
- D. Independent Living Services — \$900K GR
- E. Comprehensive Rehabilitation Services — \$5M GR
- F. BEST — \$78K GR
- G. Deaf and Hard of Hearing — \$550K GR

- **Rate Reductions (Option 3)**

**Totaling \$291.2M GR, \$359.7M AF**

The following programs could receive 8.2% rate reductions impacting client care: Community Attendant Services, Primary Home Care, nursing facilities, community-based intermediate care facilities, and developmental disabilities waivers.

Revised: October 5, 2016