



TEXAS LEGISLATIVE NEWS



85th Texas Legislature’s Final Budget Summary

The 85th Texas Legislature’s General Appropriations Act includes no funding to address attendant wages, interest list reductions, or State Supported Living Center (SSLC) diversion. Therefore, the attendant wage floor will remain \$8 per hour, interest lists will continue to grow beyond the current 132,000 people waiting, and people with intellectual and developmental disabilities (IDD) in crisis will only have institutional services made available to them.

Maintain Community Services

The 85th Texas Legislature did not maintain the community services authorized by the 84th Texas Legislature. In anticipation of a lean budget outlook, in November 2016, the Texas Health and Human Services Commission (HHSC) quietly froze interest list reduction releases approved in 2015. The final budget fully funds services for the waiver participants anticipated to be enrolled in August 2017. Therefore, no waiver participants should be removed from services. There will be 1,360 fewer people enrolled in the Home and Community-based Services (HCS) waiver at the end of fiscal year (FY) 2019 than were authorized in the 2015 budget for FY 2017.

Home and Community-based Services (HCS) by Legislature Biennial Budget

Year	Number of People	HCS Money
2016	28,091	\$1,081,380,184
2017	25,387	\$1,211,979,830
84th Legislature Biennial Budget Total:		\$2,293,360,014
2018	26,357	\$1,080,402,750
2019	26,723	\$1,140,434,931
85th Legislature Biennial Budget Total:	no data	\$2,220,837,681

**Community Living Assistance and Support Services (CLASS)
by Legislature Biennial Budget**

Year	Number of People	CLASS Money
2016	5,743	\$246,822,300
2017	6,119	\$265,013,658
84th Legislature Biennial Budget Total:		\$511,835,958
2018	5,739	\$257,077,332
2019	5,739	\$275,766,736
85th Legislature Biennial Budget Total:	no data	\$532,844,068

Promoting Independence

The 85th Texas Legislature did not fully fund HHSC’s Promoting Independence request. Promoting Independence makes community waiver services available to people in institutions and those at risk of going into institutions.

Without investments in Promoting Independence, relocation services, or interest list reductions, it is not clear how Texas will meet its obligations under Olmstead which entitles persons to receive services in the least restrictive setting according to their needs — usually community based waiver services.

Requested and Final Number of People to Get Promoting Independence Services

Promoting Independence Group	Number of people	Final Number of people
HCS for People Moving from Large ICFs and SSLCs	500	325
HCS for Youth Aging out of Foster Care (CPS)	236	110
HCS for Persons at Imminent Risk of Entering an ICF	400	
HCS for People with IDD Moving from State Hospitals	120	no data
HCS for Children Moving from a general residence operations (GRO) facility (CPS)	40	
HCS for People with IDD moving from nursing facilities	700	150
HCS for People with IDD at risk of entering a nursing facility	600	150

Rate Reductions

HCS and TxHmL

Habilitation — In January, HHSC announced its intent to apply a 21% rate reduction to Community First Choice (CFC) attendant and habilitation services provided in the HCS and Texas Home Living (TxHmL) programs. The final budget exempts the rate reduction for those using the Consumer Directed Services option. The rate reduction will be applied to those whose services are coordinated by their comprehensive HCS or TxHmL providers. Individuals and families continue to warn that such drastic cuts threaten the stability of attendant care teams.

Without community based attendants, some people will be forced to move to more restrictive, more expensive settings to receive needed support.

Transportation — Though there was no public notice, the 21% rate reduction also applies to services included in HCS and TxHmL transportation plans.

Pediatric Therapy Rate Reductions

2015 Restoration — The budget includes funds to restore approximately 25% of the pediatric acute therapy rate reductions adopted by the 84th Texas Legislature. Therapies affected by the rate and policy changes included physical, occupational, and speech therapies for children. Despite substantial testimony reporting diminished access to care and waiting lists for assessments, HHSC and many legislators regard complaints as a “media” issue rather than an access issue. HHSC is not required to allocate funds equally across all acute therapies, but has the flexibility to allocate the restorations among provider types and procedure codes to preserve access to care for clients served under Medicaid fee-for-service and managed care models.

Additional Therapy Rate Reductions — During the 85th Texas Legislature, HHSC proposed additional therapy rate methodology changes that would result in reductions of about 30% for services provided by therapy assistants which may disproportionately affect Spanish speaking therapy recipients.

The final budget delays and phases-in changes to existing rates. Specifically, appropriated amounts assume reductions will not begin until December 1, 2017. Licensed therapists will remain at 85% of the rate paid to a licensed therapist from that date until September 1, 2018. Appropriated amounts assume rates for therapy assistants will be reduced to 70% of the rate paid to a licensed therapist beginning September 1, 2018.

Early Childhood Intervention (ECI)

HHSC reduced its request from \$44 million to only the available \$19.8 million in federal Individuals with Disabilities Education Act (IDEA) PART C funds. Federal IDEA PART C funding may only be spent on the ECI program. The ECI appropriation was increased by \$12 million in the current budget. However, ECI contractors will be required to serve 29% more children at a 5.6% lower average monthly cost per child.

Early Childhood Intervention by Number Served and Cost

Year	Average Monthly Children Served	Average Monthly Cost Per Child
2017	27,170	\$437.02
2018–2019	35,016	\$412.60
Change	29% More	5.60% Less

This, coupled with the acute therapy rate reductions, has resulted in more ECI providers leaving the program.

The budget also requires HHSC to study the cost effectiveness of implementing a monthly participation fee system, rather than the current family cost share system. The ECI program will undergo on-site monitoring by the federal Office of Special Education Programs in August.

State Supported Living Centers

The budget funds \$50 million less in appropriations for SSLCs than the prior biennium. Although SSLCs have the funding in the first year of the biennium (2018) to cover current costs, their 2019 appropriation is \$48 million less than their 2018 funding.

As a reminder, the budget does not fully fund Promoting Independence, the services that would have been used to divert about 400 people from going into an SSLC. It is anticipated that the SSLC census will increase as a result of the loss of safety net funding. That, coupled with their typical midbiennial rate increase, usually about 10%, could create a substantial shortfall going into the 2019 session.

State Supported Living Centers Funding and Residents by Legislature Biennial Budget

Year	Funding	Number of Residents
2016	\$686,316,905	3,013
2017	\$679,575,730	2,795
84th Legislature Biennial Total	\$1,365,892,635	
2018	\$682,083,568	2,907
2019	\$634,028,777	2,794
85th Legislature Biennial Total	\$1,316,112,345	no data

Cost Containment

Cost containment is once again featured prominently in the Texas budget. Cost containment initiatives include directives to HHSC to achieve savings by expanding prior authorization, increasing utilization review, implementing co-payments, potentially reducing rates for durable medical equipment, and seeking additional federal flexibility in the overall administration of Medicaid. The final cost containment figure stands at \$350 million in general revenue (GR) with an additional \$75 million in GR reduction associated with reducing the risk margin for managed care premiums.

Home and Community Based Services (HCBS) Settings Rule Compliance (Day Habilitation and Meaningful Day)

The new Centers for Medicare and Medicaid Services (CMS) administrators signaled that states would receive additional time to achieve compliance with the HCBS Settings Rule.

As a result, the budget includes no funding to bring day habilitation programs into compliance with the HCBS Settings Rule. Even without the rule, segregated day habilitation programs require significant improvement to ensure health and safety.

A biennium without funding means critical improvements will be further delayed another two years.

Relocation

Texas' nationally renowned relocation specialist function was eliminated by the legislature at the recommendation of HHSC. The program helped to transition 4,255 individuals from nursing facilities to the community during fiscal years 2013-2016. Despite substantial advocate opposition, evidence of provider expertise, and the significant return on investment associated with the function, HHSC did not seek the \$5 million used by relocation contractors for outreach, identification, facilitation, and housing navigation, functions not typically included in the Medicaid state plan. HHSC will transfer these responsibilities to the Managed Care Organizations (MCOs) via contract with significant traditional providers, mostly Independent Living Centers and Area Agencies on Aging. It remains unclear whether needed funds will be available, what services will be provided, and what level of oversight and accountability HHSC will provide.

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