



Senate Committee on Health and Human Services
Charge 14

Department of Aging and Disability Services

Commissioner Chris Traylor

September 8, 2010

81st Legislative Session

- The 81st Texas Legislature enacted a comprehensive package of legislation, appropriations, and budget riders in response to growing concerns about the quality of care at state supported living centers (SSLCs) and services for individuals with developmental or intellectual disabilities.
- In addition to the statutory guidance in legislation and budget riders, the 81st Legislature approved Senate Concurrent Resolution 77 which provided legislative approval of the state's settlement agreement with the Department of Justice.
- This new statutory guidance and the settlement agreement included key initiatives providing the SSLCs and the related support systems with resources to meet the needs of the individuals they are charged to support. The key initiatives include:
 - Senate Bill 643, 81st Legislature, Regular Session, 2009
 - The Department of Justice settlement agreement
 - The 2010-11 General Appropriations Act (Article II, Special Provisions, Section 48, Senate Bill 1, 81st Legislature, Regular Session, 2009)



Senate Bill 643 – State Supported Living Centers

- Assistant Commissioner for State Supported Living Centers
 - Chris Adams hired as Assistant Commissioner for State Supported Living Centers, effective November 16, 2009.
- Employee and volunteer fingerprint checks
 - Fingerprinting of all current employees and volunteers was completed as of December 31, 2009 and will continue as new employees are hired and new volunteers begin service.
 - Results from the employee fingerprint background checks identified 36 employees who had an absolute bar to employment or who had a potential bar to employment that, if verified as reported, would become a bar. Of the 36 employees in these two categories:
 - 29 are no longer employed due to either a voluntary or involuntary termination.
 - Seven individuals provided documentation proving that the charges against them were dropped or that there was not a court record of a conviction.
 - From September 1, 2009 through June 30, 2010, 4,913 applicants were fingerprinted. 214 of those were disqualified as a result of the fingerprint check.
- Employee random drug testing
 - Testing began statewide in October 2009.
 - Each month, 2.1 percent of the employees at every center are selected at random and tested for illegal drugs.
 - As of June 30, 2010, 2,447 employees have been tested; fifty employees tested positive and were terminated and ten refused testing and resigned in lieu of testing.

Senate Bill 643 – State Supported Living Centers

- Video surveillance at state supported living centers
 - Corpus Christi SSLC cameras were the first to be operational in November 2009.
 - Approximately 3,200 cameras will be installed in 335 buildings.
 - The contract for installation of equipment at the remaining facilities was awarded in December 2009.
 - Video surveillance cameras are currently operational at the Corpus Christi, Mexia, San Angelo, Denton, El Paso and San Antonio SSLCs.
 - 1,541 cameras have been installed and are operational at these facilities. This represents 44.5% of the total installation process.
 - Phase II facilities – Lufkin, Lubbock, El Paso, and Abilene SSLCs
 - Installation is in progress and cameras are scheduled to be operational by September 2010.
 - Phase III facilities – Richmond, Austin, Brenham, and Rio Grande SSLCs
 - Installation is scheduled to begin in September 2010 and cameras should be operational by January 2011.

Senate Bill 643 – State Supported Living Centers

- Forensic center for high-risk alleged offenders – Mexia
 - Assessment of individuals is underway at the Corpus Christi SSLC for appropriateness of transfer to Mexia. To date, DADS has identified five individuals from Corpus Christi who may be transferred to Mexia by September 30, 2010.
 - Upon completion of transfers from Corpus Christi, plans will be developed for assessment and transfer of individuals residing in other SSLCs who are determined to be appropriate for placement in Mexia.
 - Target date for full implementation of the statutory requirements is August 2011.

Senate Bill 643 – State Supported Living Centers

- Serious event definition and notification protocol
 - Information letters regarding the serious event definition were sent to all correspondents of residents. Responses have been received and are currently being compiled.
 - Inputs will be considered for revision of the draft definition which will be finalized by August 31, 2010.
- Office of the Independent Ombudsman
 - On February 12, 2010, Governor Rick Perry appointed Dr. George Bithos as the Independent Ombudsman for SSLCs for a term to expire June 11, 2011.
- Investigation of abuse, neglect and exploitation
 - Department of Family and Protective Services (DFPS) is required to receive and investigate reports of abuse, neglect and exploitation at private ICFs/MR.
 - DFPS began receiving and investigating reports of abuse, neglect and exploitation at private ICFs/MR on June 1, 2010.



Senate Bill 643 – Community-based Programs

- Annual unannounced inspections of home and community-based services
 - Reviews began mid-September 2009.
 - 20 additional surveyors have been hired and assigned regionally across the state.
 - As of July 31, 2010, 8,586 annual reviews of home and community-based services (HCS) homes were conducted; including 6,745 foster/companion care homes and 1,841 three- or four-person group homes.



Department of Justice Settlement Agreement

- Under the settlement agreement, three monitors were selected and each monitor has established a team. The monitors and their teams:
 - Have conducted a baseline review to give the monitors and the state an accurate picture of the starting point for each facility and identify areas where service delivery improvements are required.
 - Will conduct compliance reviews every six months to ensure compliance with the elements of the settlement agreement.
- Baseline reviews have been completed by the settlement agreement monitors at all centers. The monitors produced a written report of each baseline review within approximately 60 days of the visit.
- All final baseline reports have been received and are posted on the DADS website at: <http://www.dads.state.tx.us/monitors/reports/index.html>
- The first phase of compliance reviews began on July 12, 2010, at Corpus Christi SSLC and are scheduled to be completed at all centers by mid-November. The monitors will produce a written report of each compliance review within approximately 45 days of the visit.



Department of Justice Settlement Agreement

The settlement agreement included twenty substantive provisions to be addressed in the improvement plan section.

- Protection from Harm – Restraints
- Protection from Harm – Abuse, Neglect, and Incident Management
- Quality Assurance
- Integrated Protections, Services, Treatments and Supports
- Integrated Clinical Services
- Minimum Common Elements of Clinical Care
- At-Risk Individuals
- Psychiatric Care and Services
- Psychological Care and Services
- Medical Care
- Nursing Care
- Pharmacy Services and Safe Medication Practices
- Minimum Common Elements of Physical and Nutritional Management
- Physical and Occupational Therapy
- Dental Services
- Communication
- Habilitation, Training, Education, and Skill Acquisition Programs
- Serving Institutionalized Persons in the Most Integrated Setting Appropriate to Their Needs
- Consent
- Recordkeeping and General Plan Implementation



Department of Justice Settlement Agreement

Schedule of Monitor's First Compliance Reviews

Facility	Date of First Compliance Review
Corpus Christi SSLC	July 12
El Paso SSLC	July 19
Brenham SSLC	July 26
Abilene SSLC	August 2
San Antonio SSLC	August 16
Rio Grande State Center	August 23
Lubbock SSLC	September 13
Mexia SSLC	September 13
Denton SSLC	September 27
Austin SSLC	October 4
Lufkin SSLC	October 18
Richmond SSLC	October 25
San Angelo SSLC	November 15

Baseline Reviews

- Positive themes identified from the baseline reviews include:
 - Facility staff were open and honest in sharing successes as well as challenges in service delivery and settlement agreement compliance efforts.
 - Staff are focused on improvement of services consistent with the requirements of the settlement agreement.
 - Staff are knowledgeable of policies and procedures related to prevention, identification, reporting and investigation of abuse, neglect and exploitation of individuals.
 - Data-based quality improvement efforts are in place at each of the facilities to help guide ongoing improvement initiatives.
 - Policies and procedures are in place or are being developed/revised to address compliance requirements from the settlement agreement.

Baseline Reviews

- Common themes of challenge areas identified from the baseline reviews include:
 - Need to improve the interface between professional/clinical staff, residential and day program direct services staff, the individual and their family/legal guardian and others who work as a team to plan, organize, implement and evaluate program services for each individual receiving services at the facility.
 - Need to enhance functional communication skills development for individuals and use of augmentative communication devices.
 - Need to more accurately identify the risks and challenges that an individual faces in functioning at his/her greatest level of independence and how services and supports provided by the facility can best support that level of independence.
 - Need to increase staffing at all state supported living centers in the areas of behavioral services, functional communication and psychiatry.
 - Need to continue to increase direct care staffing and reduce turnover at all facilities (Austin and Lubbock identified with critical needs).

Challenges Unique to Specific Facilities

- Issues identified from the baseline review reports that were unique to one or more facilities include:
 - Austin SSLC – significant staffing challenges for residential direct service staff and nursing staff.
 - Mexia SSLC – challenges in planning and follow through of community placements. Staffing challenges resulting from the high number of allegations of abuse, neglect or exploitation that prove to be unsubstantiated through investigation.
 - Richmond SSLC – the need to consistently follow agency guidelines, policy and rules in the determination of seriousness of injuries.
 - Rio Grande State Center – significant staffing challenges for residential direct service staff and professional positions. Concerns about possible under-reporting of allegations of abuse, neglect and/or exploitation by staff.
 - Lubbock SSLC - significant staffing challenges for residential direct service and nursing staff. Challenges in grouping of residents.

Corrective Actions Taken

- Revisions have been made to each facility's formal plan of improvement to directly address challenge areas identified in the baseline review and to more closely correlate with the structure and format of the settlement agreement.
- Significant emphasis continues to be placed on staff recruitment and retention with special emphasis on residential direct service staffing.
- Implementation of a statewide database to record and track information related to unusual incidents at each facility, including injuries to persons served, allegations of abuse, neglect and/or exploitation and other types of unusual incidents.
- Expanding the statewide quality assurance program focusing specifically on compliance with the federal Intermediate Care Facilities for Persons with MR (ICF/MR) regulations.
- As required by the settlement agreement, DADS is developing an annual summary report that identifies specific obstacles to individuals' movement to more integrated settings, consistent with their needs and preferences. Information in this report will help focus attention on specific issues that may hinder or limit informed decision-making by individuals, families and/or legally authorized representatives.

Department of Justice Settlement Agreement

- SSLC staffing
 - HB 4586, 81st Legislature, Regular Session, 2009, provided DADS with an additional 1,160 staff at the SSLCs to aid in compliance with the Department of Justice settlement agreement.
 - Total budgeted full time equivalent positions for Fiscal Year 2010 – 14,070.02.
 - Filled positions up from 87.93% on December 31, 2009 to 95.19% on July 31, 2010.
 - Direct contact staffing up from 89.79% on December 31, 2009 to 98.46% on July 31, 2010.
 - DADS is actively recruiting and interviewing to fully staff all the SSLCs.
 - DADS has made improvements but still faces staffing challenges in the following areas:
 - RN staffing - currently at 84.70%
 - Physician/Psychiatrist staffing - currently at 77.92%
 - Occupational, Physical & Speech Therapist staffing – currently at 78.09%



S.B. 1, Article II, Special Provisions, Section 48

- Section 48 appropriated funds for home and community-based programs and 1915(c) waivers for persons with MR, intellectual disabilities and developmental disabilities in an effort to:
 - Reduce the wait time for services
 - Expand waiver- related community services
 - Provide specific direction related to reshaping the system of care for persons with developmental disabilities
- Section 48 requires DADS to:
 - Increase the number of home and community-based services (HCS), community living assistance and support services (CLASS) and Deaf-Blind Multiple Disability (DBMD) slots during fiscal years 2010 and 2011
 - Reduce the number of SSLC residents through census management, not closure
 - Identify SSLC residents through the community living options information process who could move into community programs
 - Transfer the case management function from HCS providers to local MR authorities



S.B. 1, Article II, Special Provisions, Section 48

- Increase the number HCS, CLASS and DBMD slots.
- 5,936 HCS slots
 - Individuals moving out of medium and large ICFs/MR
 - Children aging out of foster care services at DFPS
 - Individuals who are at imminent risk of institutionalization as a result of emergency or crisis situations
 - 620 Promoting Independence slots
 - As of August 1, 2010, 384 individuals have been authorized enrollment into these slots.
 - 196 HCS slots for children/adults at imminent risk of institutionalization
 - As of August 1, 2010, thirty-seven children and forty-one adults have been authorized enrollment into these slots.
- 1,890 CLASS slots
- 6 DBMD slots

S.B. 1, Article II, Special Provisions, Section 48

- The most common route to enrollment in a waiver program is through the interest lists.
 - Individuals become aware of available programs through a variety of sources, including MR authorities, area agencies on aging, aging and disability resource centers, and DADS local offices.
 - Demand typically outweighs the availability of community services, so names of interested individuals are placed on interest lists.
 - When an individual comes to the top of a list, the eligibility determination process begins. This may include a functional and a financial assessment.
 - While on an interest list, many individuals receive other services.



S.B. 1, Article II, Special Provisions, Section 48

	HCS	CLASS	DBMD
Fiscal Year (FY) 2009			
Average number of Individuals served per Month FY2009	15,106	3,896	153
Number of Individuals served at the End of the Fiscal Year FY2009	15,539	4,020	154
Number of Individuals on Interest List at the end of FY2009	40,489	25,078	53
Fiscal Year 2010			
Average number of Individuals served per Month FY2010	17,255	4,210	150
Projected Number of Individuals served at the End of the FY2010	18,722	4,544	151
Number of Individuals on Interest List as of May 31, 2010	45,839	31,207	282
Longest Time on Interest List as of May 31,2010	8 - 9 yrs	6 - 7 yrs	3 - 4 yrs

S.B. 1, Article II, Special Provisions, Section 48

- Reduce the number of state supported living center residents through census management, not closure
 - The Persons with MR Act establishes four mandatory admission criteria for admitting an individual to a state supported living center (THSC, Title 7, Chapter 593, Admission and Commitment to Service, §593.052):
 - Proposed resident is a person with an intellectual and developmental disability;
 - Evidence is presented showing that because of the intellectual and developmental disability, the proposed resident:
 - represents a substantial risk of physical impairment or injury to himself or others; or
 - is unable to provide for and is not providing for his/her most basic personal physical needs.
 - The proposed resident cannot be adequately and appropriately habilitated in an available, less restrictive setting; and
 - The residential care facility provides habilitation services, care, training and treatment appropriate to the proposed resident's needs.



S.B. 1, Article II, Special Provisions, Section 48

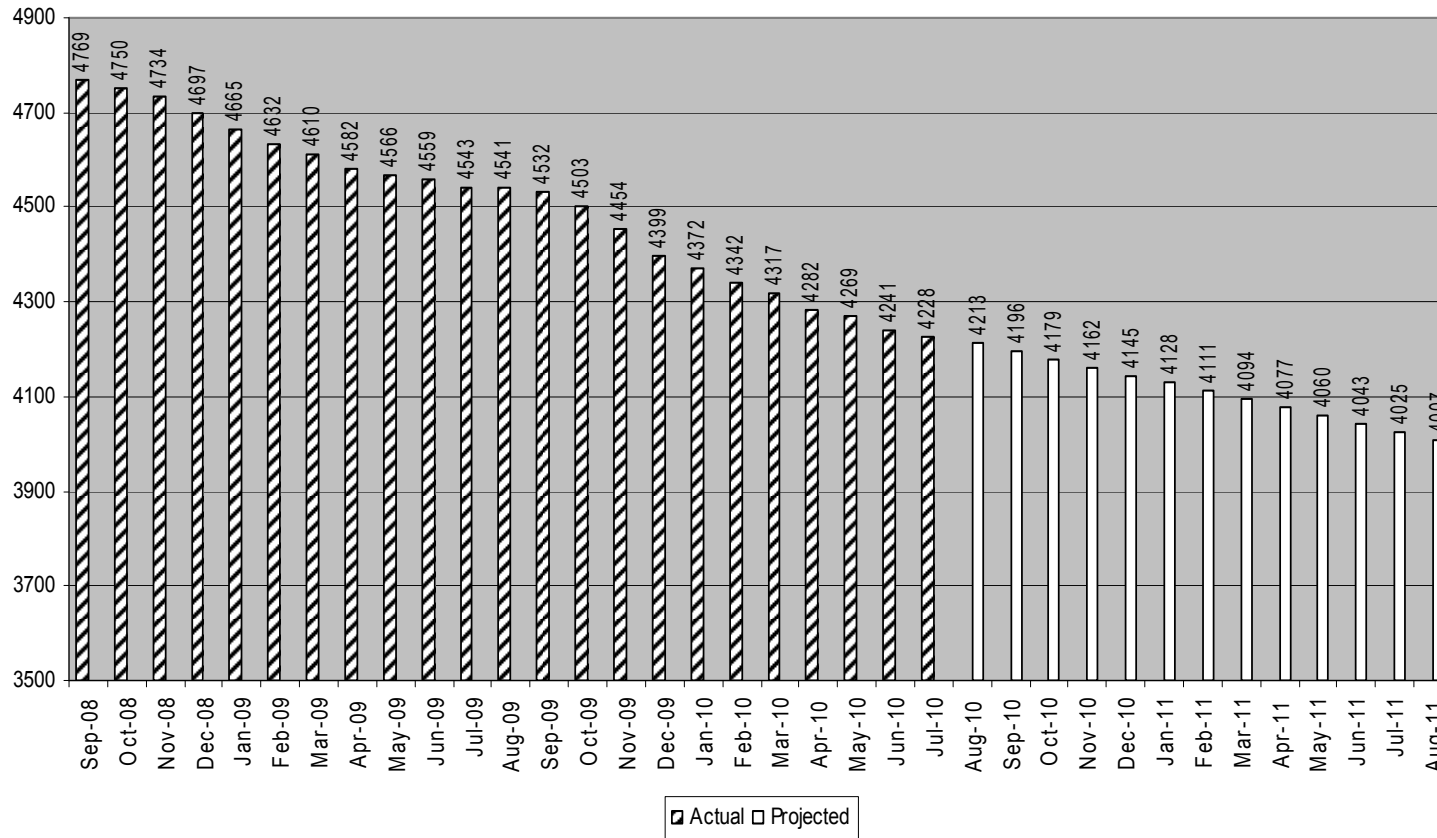
- To determine if an individual represents a substantial risk of physical impairment or injury to himself or others or is unable to provide for and is not providing for his/her most basic personal physical needs, DADS adheres to two standards that became effective on January 1, 2001.
- An individual must meet one of these two standards, as specified by Texas Administrative Code, Title 40, Social Services and Assistance, Part I, Chapter 2, Subchapter F, Continuity of Services:
 - The individual must be functioning in either the severe or profound range of MR; or
 - The individual must have extraordinary medical needs or has exhibited behavioral incidents which are dangerous to the individual or others.

S.B. 1, Article II, Special Provisions, Section 48

- Admissions to state supported living centers in FY2010 (through June 30, 2010)
 - Total Admissions – 133 individuals
 - Regular admissions – 75 individuals (56.4% of admissions)
 - Alleged Offenders – 58 individuals (43.6% of admissions):
 - 25 (18.8%) were admitted under the adult criminal code (§46.02)
 - 33 (24.8%) were admitted under the family code (§55.03)
 - Characteristics of Admissions
 - 114 individuals (85.7%) with behavioral health challenges
 - 59 regular admissions
 - 55 alleged offenders
 - 76 individuals (57.1%) are school-aged (age 21 or younger)
 - 38 regular admissions
 - 38 alleged offenders
 - 81 individuals (60.9%) have severe or profound needs for behavior management program services
 - 30 regular admissions
 - 51 alleged offenders

S.B. 1, Article II, Special Provisions, Section 48

**Actual and Projected Census Trends
All State Supported Living Centers
FY2009 - FY2011**



S.B. 1, Article II, Special Provisions, Section 48

- Identifying state supported living center residents who could move into community programs
 - **Census declines**
 - From August 31, 2009 through July 31, 2010, the number of persons served in SSLCs has declined from 4,541 to 4,228 (6.9%).
 - 315 individuals have moved to the community during FY2010
 - **Community Living Options Information Process (CLOIP)**
 - Efforts continue jointly between the SSLCs and staff in the local MRAs to provide information and opportunities to learn about available community living options for all individuals currently receiving services in SSLCs.

S.B. 1, Article II, Special Provisions, Section 48

- Transfer of case management functions
 - Training for providers and MR Authority (MRA) staff was held in six sites around the state. Approximately 1,700 persons attended training.
 - As of June 1, 2010:
 - The case management functions for persons enrolled in the HCS program transferred from HCS providers to the MRAs.
 - The HCS handbook is posted on the DADS website. It outlines procedures for providers and for local authority service coordinators.
 - As of August 2, 2010, 18,442 individuals served in the HCS program were assigned a service coordinator from their local MRA.
 - DADS will continue to work with providers, local authorities and other interested parties to address issues that may arise post transition.