



**Proposed Long-Term
Care Plan for
Individuals with
Intellectual
Disabilities and
Related Conditions for
Fiscal Years 2022-2023**

**As Required by
Texas Health and Safety Code,
Section 533A.062**

Health and Human Services

Commission

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Executive Summary

The Texas Health and Human Services Commission (HHSC) issues this proposed Long-Term Care Plan for Individuals with Intellectual Disabilities and Related Conditions for the 2022-2023 biennium in accordance with Section 533A.062 of the Texas Health and Safety Code (see Appendix A). Section 533A.062 requires HHSC¹ to develop a proposed plan on long-term care for persons with an intellectual disability by October 15 of each even-numbered year.

The plan presents the state's projected capacity to serve Texans in intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID) and in Medicaid 1915(c) waiver programs designed to serve people in the community as an alternative to an ICF/IID. In developing the plan, HHSC must conduct a public hearing on the proposed plan and submit the proposed plan as part of the consolidated health and human services budget recommendation for a legislative session. After legislative action on appropriations for long-term care services, HHSC may adjust the proposed plan to ensure capacities set forth in the plan are within appropriated amounts. HHSC must publish a final plan in the *Texas Register*.

This proposed long-term care plan presents projected capacity for the following programs:

- ICF/IID, including state supported living centers (SSLCs) and community-based ICFs/IID;
- Home and Community-based Services (HCS) waiver;
- Texas Home Living (TxHmL) waiver;
- Community Living Assistance and Support Services (CLASS) waiver; and
- Deaf-Blind with Multiple Disabilities (DBMD) waiver.

Data in this plan represent the average monthly number of individuals expected to be served in ICFs/IID and the waiver programs listed above during a fiscal year. Projected values are based on enrollment data through August 2020 for SSLCs and claims data through August 2020 for community-based ICFs/IID. The necessary

¹ Section 533A.062 requires the Department of Aging and Disability Services to develop the proposed plan. In accordance with Senate Bill 200, 84th Legislature, Regular Session, 2015, this function transferred to HHSC upon the abolishment of DADS in 2017.

adjustments take into account relevant policies and long-term trends in the ICF/IID program. Projected values for the HCS, TxHmL, CLASS, and DBMD programs were derived using a model that considers enrollment and attrition rates of individuals in the programs. The projected values assume maintaining the same number of individuals estimated to be served in August 2021.

The 86th Legislature passage of House Bill 3117, 86th Legislature, Regular Session, 2019, required HHSC to develop a process to reallocate capacity, or beds, in community-based ICFs/IID held in suspension by HHSC. Effective September 9, 2019, ICF/IID beds in HHSC's control – due to closure of an ICF/IID or a current ICF/IID allowing their suspended beds to expire – are available for allocation to providers who apply for reallocated beds. HHSC will reallocate ICF/IID capacity that comes under HHSC's control in the 2022-23 biennium using the process described in a policy letter to ICF/IID program providers² or a process adopted by rule.

This proposed plan will be adjusted following the 87th Legislature to ensure projected capacity in ICF/IID and the identified waiver programs are within appropriated funding amounts.

² Provider Letter 19-21 can be found [here](#)

1. Utilization Overview

An ICF/IID is a residential facility for individuals with an intellectual disability or related condition (defined in Appendix B). Some individuals who are eligible for the ICF/IID can choose to receive services through a waiver program described in this plan. Individuals receiving waiver services live in a home with not more than three other individuals receiving waiver services or in a private residence. Other HHSC programs serve individuals with an intellectual disability or related condition; however, those programs are not included in this plan.

Table 1 shows the historical utilization for fiscal years 2017 – 2020 and the projected average number of individuals to be served per month in each type of ICF/IID and waiver program for fiscal year 2021³.

Table 1. Average Number of Individuals Served per Month by Fiscal Year and by ICF/IID Type or Waiver Program

Fiscal Year ^a	State ICF/IID	Community-based ICF/IID	HCS	TxHmL	CLASS	DBMD	Total
2017	3,026	4,896	25,839	5,698	5,513	321	45,293
2018	2,962	4,862	26,044	5,453	5,637	333	45,292
2019	2,905	4,770	26,089	5,290	5,513	339	44,906
2020	2,850	4,699	26,184	4,547	5,383	338	44,001
2021	2,852	4,723	28,126	4,571	5,821	337	46,430

^a Data through fiscal year 2020 are actual and based on claims paid through August 2020 except for State ICF/IID (SSLCs), which are based on enrollment. Data for fiscal year 2021 are projections and based on legislative appropriations request (LAR) forecasts.

³ The data in this and previous iterations of this report are counts of individuals served, which has previously been referred to as "enrollment data", but "utilization data" is a more accurate term for this and subsequent tables.

2. Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions

ICFs/IID provide ongoing evaluation and individual program planning, as well as 24-hour supervision, coordination, and integration of health or rehabilitative services to help individuals with an intellectual disability or related condition function to their greatest ability. The ICF/IID program provides Medicaid reimbursed residential services to individuals with an intellectual disability or related conditions (see Appendix B).⁴ . There are two types of ICFs/IID: state operated, which are state supported living centers and a state center (collectively, SSLCs) and non-state operated, which are community-based ICFs/IID. There are more than 800 ICFs/IID in Texas — 13 are SSLCs and 792 are community ICFs/IID.

State Supported Living Centers

SSLCs are state-operated, campus-based ICFs/IID that serve individuals who have severe or profound intellectual disability, or who have intellectual disability and complex medical or behavioral health needs. The 13 SSLCs are located in Abilene, Austin, Brenham, Corpus Christi, Denton, El Paso, Harlingen, Lubbock, Lufkin, Mexia, Richmond, San Angelo, and San Antonio⁵.

The number of residents in SSLCs varies, with the smallest SSLC having an average daily census of 61 residents and the largest having an average daily census of 447 residents during fiscal year 2019. Table 2 shows the projected monthly average enrollment for SSLCs for fiscal years 2021 through 2023, while fiscal year 2020 are actual and based on reimbursement.

Table 2. SSLC Projected Average Enrollment per Month

FY 2020	FY 2021	FY 2022	FY 2023
2,850	2,852	2,852	2,852

Data Source: The data for fiscal year 2020 are actual and provided by SSLC Reimbursement. Data for fiscal years 2021 through 2023 are projections and based on LAR forecasts.

⁴ As defined in 26 TAC §261.203(33)

⁵ For additional information about SSLCs, including how to access services, click [here](#).

Community-based ICFs/IID

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

Table 3 shows the actual numbers for fiscal year 2020 of individuals served per month in community-based ICFs/IID and projected average numbers for fiscal years 2021 through 2023.

Table 3. Community-Based ICF/IID Projected Average Number of Individuals Served per Month

FY 2020	FY 2021	FY 2022	FY 2023
4,699	4,723	4,730	4,730

Data Source: The data for fiscal year 2020 are actual and based on claims paid through August 2020. Data for fiscal years 2021 through 2023 are projections and are based on LAR forecasts.

3. Waiver Programs

Section 1915(c) of the Social Security Act (42 U.S.C. §1396n(c)) allows states, with a waiver of certain requirements from the federal government, to provide support services in the community as a cost-effective alternative to ICF/IID care. Medicaid expenses for individuals in waiver programs may not exceed, in the aggregate, Medicaid expenses for ICF/IID services for individuals with similar needs. Texas provides four waiver programs as alternatives to ICF/IID services: HCS, TxHmL, CLASS, and DBMD⁶.

HCS Waiver Program

The HCS waiver program provides community-based services to certain individuals who qualify for a level of care (LOC) I. The program also provides services to certain individuals who qualify for a LOC VIII if they were offered reserved capacity because they reside in or are at risk of entering a nursing facility. These LOCs are described in 26 Texas Administrative Code (TAC), Chapter 261, Subchapter E, §261.238 and §261.239 (see Appendix C).

HCS provides individualized services and supports for individuals living in their own home, their family home, a host home, or a residence with no more than four individuals who receive similar services. Table 4 shows the projected average number of individuals served per month in HCS for fiscal years 2021 through 2023, while fiscal year 2020 are actual and based on paid claims.

Table 4. HCS Projected Average Number of Individuals Served per Month

FY 2020	FY 2021	FY 2022	FY 2023
26,184	28,126	28,669	28,669

Data Source: Data through fiscal year 2020 are actual and based on claims paid through August 2020. Projections are based on LAR base forecasts. Exceptional Item funding for additional slots are not included in the forecasts.

⁶ For additional information about waiver programs, including a comparison of services in waiver programs, click [here](#).

TxHmL Waiver Program

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

Table 5 shows the projected average number of individuals served per month in TxHmL for fiscal years 2021 through 2023, while fiscal year 2020 are actual and based on paid claims.

Table 5. TxHmL Projected Average Number of Individuals Served per Month

FY 2020	FY 2021	FY 2022	FY 2023
4,547	4,571	4,548	4,548

Data Source: Data through fiscal year 2020 are actual and based on claims paid through August 2020. Projections are based on LAR base forecasts. Exceptional Item funding for additional slots are not included in the forecasts.

CLASS Waiver Program

CLASS provides community-based services for adults and children who qualify for LOC VIII. Services are provided in the individual's own home or family home. Table 6 shows the projected average number of individuals served per month in CLASS for fiscal years 2021 through 2023, while fiscal year 2020 are actual and based on paid claims.

Table 6. CLASS Projected Average Number of Individuals Served per Month

FY 2020	FY 2021	FY 2022	FY 2023
5,383	5,821	5,963	5,963

Data Source: Data through fiscal year 2020 are actual and based on claims paid through August 2020. Projections are based on LAR base forecasts. Exceptional Item funding for additional slots are not included in the forecasts.

DBMD Waiver Program

The DBMD waiver program provides community-based services for individuals who are deaf and blind or function as a person with deafness and blindness and have a third disability that impairs independent functioning. Individuals live with their families, in their own homes, or in residences with no more than six individuals who receive similar services. The program focuses on increasing opportunities for individuals to communicate and interact with their environment.

Table 7 the projected average number of individuals served per month in DBMD for fiscal years 2021 through 2023, while fiscal year 2020 are actual and based on paid claims.

Table 7. DBMD Projected Average Number of Individuals Served per Month

FY 2020	FY 2021	FY 2022	FY 2023
338	337	338	338

Data Source: Data through fiscal year 2020 are actual and based on claims paid through August 2020. Projections are based on LAR base forecasts. Exceptional Item funding for additional slots are not included in the forecasts.

Acronyms

Acronym	Full Name
CLASS	Community Living Assistance and Support Services
DBMD	Deaf Blind with Multiple Disabilities
FY	Fiscal Year
HCS	Home and Community-based Services
HHSC	Health and Human Services Commission
ICF/IID	Intermediate Care Facility for Individuals with an Intellectual Disability or Related Condition
LAR	Legislative Appropriations Request
SSLC	State Supported Living Center
TAC	Texas Administrative Code
TxHmL	Texas Home Living

Appendix A. Texas Health and Safety Code, Section 533A.062

Plan on Long-Term Care for Persons with an Intellectual Disability

(a) The department shall biennially develop a proposed plan on long-term care for persons with an intellectual disability.

(b) The proposed plan must specify the capacity of the HCS waiver program for persons with an intellectual disability and the number and levels of new ICF-IID beds to be authorized in each region. In developing the proposed plan, the department shall consider:

- (1) the needs of the population to be served;
- (2) projected appropriation amounts for the biennium; and
- (3) the requirements of applicable federal law.

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

- (1) criteria by which ICF-IID program providers may apply to the commission to receive reallocated beds; and
- (2) a means to reallocate the beds among health

services regions.

(c) Each proposed plan shall cover the subsequent fiscal biennium. The department shall conduct a public hearing on the proposed plan. Not later than July 1 of each even-numbered year, the department shall submit the plan to the commission for approval.

(d) The commission may modify the proposed plan as necessary before its final approval.

(e) The commission shall submit the proposed plan to the Legislative Budget Board and the governor not later than October 15 of each even-numbered year.

(f) After legislative action on the appropriation for long-term care services for persons with an intellectual disability, the commission shall adjust the plan to ensure that the number of ICF-IID beds licensed or approved as meeting license requirements and the capacity of the HCS waiver program are within appropriated funding amounts.

(g) After any necessary adjustments, the commission shall approve the final biennial plan and publish the plan in the Texas Register.

(h) The department may submit proposed amendments to the plan to the commission.

(i) In this section, "HCS waiver program" means services under the state Medicaid home and community-based services waiver program for persons with an intellectual disability adopted in accordance with 42 U.S.C. Section 1396n(c).

Appendix B. Definitions

Intellectual Disability is defined in 40 TAC §5.153 as:

Consistent with Texas Health Safety Code, §591.003, significantly sub average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

Related Condition is defined in 40 TAC §5.153 as:

As defined in the Code of Federal Regulations (CFR), Title 42, §435.1010, a severe and chronic disability that:

(A) is attributable to:

(i) cerebral palsy or epilepsy; or

(ii) any other condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability, and requires treatment or services similar to those required for persons with an intellectual disability;

(B) is manifested before the person reaches the age of 22;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitation in three or more of the following areas of major life activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iii) mobility;

(iv) self-direction; and

(v) capacity for independent living.

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

§261.238 ICF/MR Level of Care I Criteria

(a) To meet the level of care I criteria, a person must:

(1) meet the following criteria:

(A) have a full scale intelligence quotient (IQ) score of 69 or below, obtained by administering a standardized individual intelligence test; or

(B) have a full scale IQ score of 75 or below, obtained by administering a standardized individual intelligence test, and have a primary diagnosis by a licensed physician of a related condition that is included on the list of diagnostic codes for persons with related conditions that are approved by DADS⁷ and posted on its website⁸; and

(2) have an adaptive behavior level of I, II, III, or IV (i.e., mild to extreme deficits in adaptive behavior) obtained by administering a standardized assessment of adaptive behavior.

(b) If a person has a sensory or motor deficit for which a specially standardized intelligence test or a certain portion of a standardized intelligence test is appropriate, the appropriate test or portion thereof and the resultant score should be used.

(c) If a full scale IQ score cannot be obtained from a standardized intelligence test due to age, functioning level, or other severe limitations, an estimate of a person's intellectual functioning should be documented with clinical justification.

§261.239 ICF/MR Level of Care VIII Criteria

To meet the level of care VIII criteria, a person must:

(1) have a primary diagnosis by a licensed physician of a related condition that is included on the list of diagnostic codes for persons with related conditions that are approved by DADS⁹ and posted on its website¹⁰; and

(2) have an adaptive behavior level of II, III, or IV (i.e., moderate to extreme deficits in adaptive behavior) obtained by administering a standardized assessment of adaptive behavior.

⁷ Now HHSC

⁸ <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/providers/health/icd10-codes.pdf>

⁹ Now HHSC

¹⁰ <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/providers/health/icd10-codes.pdf>