Presentation to the Senate Finance Committee
Subcommittee on Medicaid:
Medicaid Long-term Services and Supports
Cost Reduction Proposals

Chris Traylor, Commissioner
Department of Aging and Disability Services
Long-term Services and Supports (LTSS)

This presentation will cover:

• LTSS Overview
• LTSS Co-Pays
• Cost Reduction Proposals
<table>
<thead>
<tr>
<th>Medicaid Cost Reduction Proposals</th>
<th>Total GR Biennium</th>
<th>Total All Funds Biennium</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 LTSS Co-Pays</td>
<td>-$2.8</td>
<td>-$5.8</td>
</tr>
<tr>
<td>2 Electronic Visit Verification</td>
<td>$33.9</td>
<td>$78.9</td>
</tr>
<tr>
<td>3 Reduce CBA Personal Attendant Services Rate</td>
<td>$28.0</td>
<td>$66.6</td>
</tr>
<tr>
<td>4 Reduce HCS Supported Home Living Rate</td>
<td>$24.6</td>
<td>$58.6</td>
</tr>
<tr>
<td>5a Convert HCS 4-bed Group Home to 6-bed Group Home</td>
<td>$15.6</td>
<td>$36.8</td>
</tr>
<tr>
<td>5b Eliminate HCS 3-bed Group Home Service (only if 5a is enacted)</td>
<td>$10.4</td>
<td>$24.5</td>
</tr>
<tr>
<td>6 Cap Certain Services in MDCP, CLASS, HCS and CBA</td>
<td>$28.3</td>
<td>$67.3</td>
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### Summary of Medicaid LTSS Cost Reduction Proposals (in millions)

<table>
<thead>
<tr>
<th>Medicaid Cost Reduction Proposals</th>
<th>Total GR Biennium</th>
<th>Total All Funds Biennium</th>
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<tbody>
<tr>
<td>7a Cap CLASS Specialized Therapies at 90th Percentile</td>
<td>$0.8</td>
<td>$1.8</td>
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<tr>
<td>7b Cap CLASS Specialized Therapies at 85th Percentile</td>
<td>$1.2</td>
<td>$2.9</td>
</tr>
<tr>
<td>7c Cap CLASS Specialized Therapies at 80th Percentile</td>
<td>$1.7</td>
<td>$4.2</td>
</tr>
<tr>
<td>7d Cap CLASS Specialized Therapies at 75th Percentile</td>
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<tr>
<td>7e Eliminate CLASS Specialized Therapies</td>
<td>$14.4</td>
<td>$34.2</td>
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<th>Total GR Biennium</th>
<th>Total All Funds Biennium</th>
</tr>
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<tbody>
<tr>
<td>8. Eliminate Requisition/Specification Fees in CBA and CLASS</td>
<td>$1.8</td>
<td>$4.3</td>
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<tr>
<td>9. Nursing Facility Utilization Review (RUGS)</td>
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</tr>
<tr>
<td>10. DADS Regulatory Staff Reduction – Extend ALF and ADC Licensing Period</td>
<td>$0.0</td>
<td>$0.0</td>
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<tr>
<td>11. Flexibility Related to 300% SSI Eligibility</td>
<td>$0.0</td>
<td>$0.0</td>
</tr>
<tr>
<td>12. Asset Transfer Changes</td>
<td>$0.0</td>
<td>$0.0</td>
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Medicaid Long-term Services and Supports Overview
Medicaid Entitlement

• “Entitlement” means the federal government does not, and a state cannot, limit the number of eligible individuals who can enroll in the program. Each individual who meets eligibility requirements must be served, and Medicaid must pay for any service included in the State Medicaid Plan.

• States are not allowed to establish waiting lists for entitlement services.
Medicaid Entitlement

LTSS Medicaid entitlements in the Texas state plan include both institutional and community-based services.

- Institutional entitlements
  - Nursing facilities
  - Intermediate care facilities for persons with MR (ICFs/MR) – includes State Supported Living Centers
  - Hospice, a service that may be received in a home, community or facility setting

- Community-based entitlements
  - Primary Home Care (PHC)
  - Community Attendant Services (CAS)
  - Day Activity and Health Services (DAHS)
• DADS operates state supported living centers (SSLCs), which are certified as ICFs/MR.
• SSLCs provide residential services and supports for persons with intellectual disabilities at 13 locations:
  • Abilene
  • Austin
  • Brenham
  • Corpus Christi
  • Denton
  • El Paso
  • Lubbock
  • Lufkin
  • Mexia
  • Richmond
  • Rio Grande*
  • San Angelo
  • San Antonio

*Note: The Rio Grande State Center is operated by the Texas Department of State Health Services and provides ICF/MR services through a contract with DADS.
Medicaid Community Services 1915(c) Waivers

Federal laws and regulations also provide flexibility for states to design waiver programs to address the needs of a specific population.

- A “waiver” is an exception to the usual Medicaid requirements, granted to a state by the Centers for Medicare and Medicaid Services (CMS), usually to provide services in home and community-based settings rather than an institution.

- A state’s authority for waivers comes from the federal Social Security Act.

- A state must ensure overall cost neutrality of a waiver compared to the cost of the institutional entitlement.
Waiver programs provide community-based services and supports to an individual who would have qualified for admission to a nursing facility or an ICF/MR.

In contrast to the entitlements, which are automatically available to individuals statewide who meet the eligibility criteria, waiver programs may limit:

- Scope of eligibility
- Geographical location in which services are provided
- Scope of services
- Amount of services
- Number of people served
- Delivery model of services
Medicaid Community Services 1915(c) Waivers

• Medicaid community services waiver programs:
  • Three waive off nursing facility eligibility:
    – STAR+PLUS
    – Community-Based Alternatives (CBA)
    – Medically Dependent Children Program (MDCP)
  • Four waive off ICF/MR eligibility:
    – Home and Community-based Services (HCS)
    – Community Living Assistance and Support Services (CLASS)
    – Deaf-Blind with Multiple Disabilities Program (DBMD)
    – Texas Home Living (TxHmL)
  • One waives off both nursing facility and ICF/MR eligibility:
    – Consolidated Waiver Program (CWP)

• Waiver programs are administered by DADS, with the exception of STAR+PLUS, which is administered by HHSC.
• An individual can be enrolled in only one waiver program. Legislative appropriations determine the availability of waiver services.
The Affordable Care Act contains a maintenance of effort (MOE) provision that prohibits states from reducing eligibility standards that were in effect on March 23, 2010.

• This provision is in effect for adults until January 1, 2014, and for children and the aged and disabled eligibility group until September 30, 2019.

• CMS has interpreted this provision to also restrict states from reducing the number of individuals served in 1915(c) waiver programs.
  – However, when a waiver expires, the state may cease operating the waiver.

• CMS can withhold up to 100% of a state’s federal match for Medicaid services if MOE restrictions are violated.
Long-term Services and Supports Co-Pays
### Proposed Medicaid LTSS Co-Payment Levels

#### Maximum Medicaid LTSS Personal Assistance Services Co-Payments (per hour)

<table>
<thead>
<tr>
<th></th>
<th>&lt;100% FPL&lt;sup&gt;1&lt;/sup&gt;</th>
<th>101 – 150% FPL</th>
<th>&gt; 150% FPL</th>
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<tbody>
<tr>
<td></td>
<td>Max&lt;sup&gt;2&lt;/sup&gt;</td>
<td>Proposed&lt;sup&gt;3&lt;/sup&gt;</td>
<td>Max&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td>Primary Home Care (PHC)</td>
<td>$0.65</td>
<td>$0.20</td>
<td>N/A</td>
</tr>
<tr>
<td>(Up to 74% FPL)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community Attendant Services (CAS)</td>
<td>$0.65</td>
<td>$0.20</td>
<td>$0.94</td>
</tr>
<tr>
<td>(75% - 220% FPL)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Community-based Alternatives (CBA)</td>
<td>$0.65</td>
<td>$0.15</td>
<td>$1.05</td>
</tr>
<tr>
<td>(Up to 220% FPL)</td>
<td></td>
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<sup>1</sup>Services cannot be denied to individuals under 100% FPL who do not pay the co-pay.
<sup>2</sup>Based on rates for personal assistance services following 10% rate reduction.
<sup>3</sup>Amounts set to allow the majority of individuals to pay for each hour of service without exceeding their federal cost-sharing limit of 5% of monthly income, while leaving some room for acute care co-pays.

Notes: Co-pays cannot be charged to CBA consumers in certain assisted living facilities. HHSC is awaiting clarification from the Centers for Medicare and Medicaid Services about whether charging co-pays in CAS and CBA would violate maintenance of effort requirements in the Affordable Care Act.
### 2011 Federal Poverty Level (FPL) Annual Incomes

<table>
<thead>
<tr>
<th>Family Size</th>
<th>100% FPL</th>
<th>150% FPL</th>
<th>185% FPL</th>
<th>200% FPL</th>
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<tr>
<td>1</td>
<td>$10,890</td>
<td>$16,335</td>
<td>$20,147</td>
<td>$21,780</td>
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<tr>
<td>2</td>
<td>$14,710</td>
<td>$22,065</td>
<td>$27,214</td>
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<tr>
<td>3</td>
<td>$18,530</td>
<td>$27,795</td>
<td>$34,281</td>
<td>$37,060</td>
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<tr>
<td>4</td>
<td>$22,350</td>
<td>$33,525</td>
<td>$41,348</td>
<td>$44,700</td>
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Medicaid and CHIP Co-Payment
Estimated Implementation Timeline

6/2011
Legislative Direction
Provided regarding Co-Pays
for Medicaid

12/2011
TIERS Implementation
Complete

12/2012
Medicaid Co-Pays
Implemented
for Long-Term Care

12/2012
TIERS System
Changes to Implement
Medicaid Co-pays
Complete
Medicaid Co-Payments – Limitations

• Most Medicaid consumers are exempt from paying co-pays:
  • Infants and children ages 0-5 under 133% federal poverty limit (FPL)
  • Children ages 6-18 under 100% FPL
  • Children in foster care or adoption assistance
  • Pregnant women (for pregnancy-related services)
  • Individuals in hospice care
  • Women in the breast and cervical cancer program
  • Facility patients required, as a condition of eligibility, to apply most of their income to the cost of care
  • Certain American Indians and Alaska Natives.

• Total cost-sharing cannot exceed 5% of a family’s income on a monthly basis.
Medicaid Co-Payments – Eligible Populations

• Texas options for requiring co-pays:
  • Parents that continue to receive Medicaid during the transitional period off Temporary Assistance for Needy Families (TANF) over 100% FPL
  • Infants from 133% -185% FPL
  • Individuals who receive Medicaid acute care services because they are enrolled in a Medicaid waiver program.

• Texas options for charging co-pays with no requirement for individuals to pay (all at/below 100% FPL):
  • Parents receiving TANF or transitioning off TANF
  • Adults with disabilities with Supplemental Security Income
  • Adults receiving LTSS through home and community based care programs.
Medicaid Co-Payment –
LTSS Personal Assistance Services

• Medicaid co-payments could be charged for personal assistance services provided through LTSS programs, such as:
  • **Primary Home Care (PHC)** – serves individuals with disabilities with incomes up to 74% FPL
  • **Community Attendant Services (CAS)** – serves individuals with disabilities with incomes above 74% FPL, but not more than 220% FPL
  • **Community-based Alternatives (CBA)** – serves individuals with incomes up to 220% FPL who qualify for nursing facility services.
Medicaid LTSS Co-Payment Considerations

- Co-payment collection may be challenging given the frequency of visits and the fact services are provided in the consumer’s home.
- These factors will complicate tracking and reporting of co-payments by providers, which is federally required.
Medicaid Co-Payment – Implementation Assumptions

• Anticipated implementation date: December 1, 2012, with state and federal approval.

• Impact to providers:
  • Providers would collect co-pays from consumers
  • Payment to providers may be reduced by the amount of the co-pay, regardless of whether the co-pay is collected.
Medicaid Co-Payment – Implementation Assumptions

• Medicaid Systems Changes:
  • Extensive Medicaid systems changes will be needed
  • Implementation of Medicaid cost sharing would follow the completion of the TIERS rollout (December 2011)
  • Medicaid ID and health information card will be used to track Medicaid co-pays (tracking is required for clients and providers)
Appendix
Nursing Facility - Entitlement

- Serves individuals of any age.
- Services include:
  - Institutional care to Medicaid recipients whose medical condition requires the skills of licensed nurses on a regular basis
  - The nursing facility must provide for the total medical, nursing, and psychosocial needs of each resident, including:
    - Medical supplies and equipment
    - Over-the-counter drugs
    - Personal needs items
    - Room and board
    - Social services.
Intermediate Care Facilities for Persons with MR (ICFs/MR) - Entitlement

- Serves individuals of any age.
- Services are provided in residential facilities of six beds or more, including SSLCs, and include:
  - Adaptive aids (e.g., wheelchair or appliance to assist in eating when holding a utensil is difficult)
  - Habilitation services (assistance developing and refining skills for community life/work)
  - Nursing and prescription services
  - Skills training (e.g., money management, self-administration of medication, adaptive behavior/equipment)
  - Speech, occupational, and physical therapy
  - Supervision and support 24-hours per day/7 days a week.
Intermediate Care Facilities for Persons with MR (ICFs/MR) - Entitlement

- ICFs/MR are operated by both public and private entities.
- There are three sizes of ICFs/MR:
  - Large facility – 14 or more beds (includes SSLCs)
  - Medium facility – 9 to 13 beds
  - Small facility – 8 or fewer beds
- Active treatment, the core requirement for certification as an ICF/MR, is the aggressive, consistent implementation of a program of specialized and generic training, treatment and health services.
- Individual ICF/MR providers may set criteria for admission to their facilities to ensure the health and safety and appropriate provision of services to all residents. For example:
  - SSLCs serve those with severe or profound MR and people with MR who are medically fragile or have behavioral challenges
  - A provider may determine a 6-bed home will serve males, females or be co-ed
Hospice - Entitlement

- Serves individuals of any age.
- Requires certification by a physician that the individual has fewer than six months to live.
- Palliative care consisting of medical, social, and support services for a period of six months.
- Services include:
  - General inpatient care
  - Home health aide services
  - Nursing care
  - Physician services
- An example of a hospice consumer is an individual with terminal cancer.
Primary Home Care (PHC) - Entitlement

• Serves individuals age 21 and older.
• Services include:
  • Non-technical, non-medical attendant services for individuals whose chronic health problems impair their ability to perform activities of daily living
  • Assistance with performing daily tasks such as:
    – Arranging or accompanying individuals on trips to receive medical treatment
    – Bathing
    – Dressing
    – Housekeeping
    – Meal preparation
    – Shopping.
Community Attendant Services (CAS) - Entitlement

- Serves individuals of any age.
- Services include:
  - Non-technical, non-medical attendant services for individuals whose chronic health problems impair their daily living and whose income makes them ineligible for Primary Home Care
  - Assistance with performing daily tasks such as:
    - Arranging or accompanying individuals on trips to receive medical treatment
    - Bathing
    - Dressing
    - Housekeeping
    - Meal preparation
    - Shopping.
Day Activity and Health Services (DAHS) - Entitlement

• Serves individuals 18 and over.*

• Services include:
  • Daytime services Monday through Friday to individuals residing in the community
  • Services are designed to address an individual’s physical, mental and social needs, including:
    – Meals
    – Nursing and personal care
    – Physical rehabilitation
    – Social, educational and recreational activities
    – Transportation.

* Individuals under 18 are not ineligible; however, those under 18 are not able to attend a licensed adult day care due to licensure requirements.
Community-Based Alternatives (CBA)

- Serves individuals age 21 or older who meet the medical necessity criteria for nursing facility admission.
- As of January 31, 2011, there were:
  - 20,813 individuals receiving CBA services
  - 33,342 on the interest list
  - 2,498 individuals receiving ICM Waiver (Non-Mandatory) services; 2,605 individuals receiving ICM Waiver (Mandatory) services
- Services and supports include:
  - Adaptive aids
  - Adult foster care
  - Assisted living
  - Emergency response services
  - Home-delivered meals
  - Medical supplies
  - Minor home modifications
  - Nursing
  - Personal assistance services
  - Rehabilitative therapies
  - Respite
  - Transition assistance services
- Services may be provided to individuals in non-STAR+PLUS areas who live at home or in a contracted assisted living facility.
Serves individuals under 21 years of age who meet the medical necessity for nursing facility admission.

As of January 31, 2011, there were:
- 2,497 individuals receiving MDCP services
- 20,063 on the interest list

Services and supports include:
- Adaptive aids
- Minor home modifications
- Respite

Services are provided to individuals who live at home.
Home and Community-Based Services (HCS)

- Serves individuals of any age with an intellectual disability or a related condition as an alternative to living in an ICF/MR.
- As of January 31, 2011, there were:
  - 19,501 individuals receiving HCS services
  - 48,943 on the interest list
- Services and supports include:
  - Adaptive aids
  - Case management
  - Counseling and therapies (e.g., occupational, physical and speech therapy; dietary services; social work; behavioral supports)
  - Day habilitation
  - Dental
  - Financial management
  - Minor home modifications
  - Nursing
  - Residential assistance (e.g., group home or foster care home)
  - Supported home living
  - Supported employment
  - Support consultation
- Services may be provided to individuals who live at home, in a three-or four-person group home or a foster home.
Community Living Assistance and Support Services (CLASS)

- Serves individuals of any age who have a disability other than MR that originated before age 22 and affects the person’s ability to function in daily life (e.g., seizure disorders such as epilepsy, autism spectrum disorders, spina bifida or cerebral palsy)
- As of January 31, 2011, there were:
  - 4,521 individuals receiving CLASS services
  - 34,597 on the interest list
- Services are provided to individuals who live at home.
• **Services and supports include:**
  • Adaptive aids
  • Habilitation services - training on activities of daily living
  • Medical supplies
  • Minor home modifications
  • Nursing
  • Respite
  • **Specialized therapies include:**
    – **Massage therapy:** The manipulation of soft tissue by hand or through a mechanical or electrical apparatus for the purpose of body massage and includes effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics.
    – **Aquatic therapy:** Involves a low-risk exercise method done in water to improve an individual's range of motion, flexibility, muscular strengthening and toning, cardiovascular endurance, fitness, and mobility.
– Recreational therapy: Assists an individual to restore, remediate or habilitate the individual's level of functioning and independence in life activities, promote health and wellness, and reduce or eliminate the activity limitations caused by an illness or disabling condition.

– Hippotherapy/Therapeutic horseback riding: The provision of therapy that involves an individual interacting with and riding on horses, is designed to improve the balance, coordination, focus, independence, confidence, and motor and social skills of the individual; and is provided by two service providers at the same time.
CLASS Program

- **Auditory integration training/auditory enhancement training:** Specialized training that assists an individual to cope with hearing dysfunction or over-sensitivity to certain frequency ranges of sound by facilitating auditory processing skills and exercising the middle ear and auditory nervous system.

- **Nutritional Services:** Assists individuals in meeting their basic and/or special therapeutic nutritional needs. Through a nutritional assessment, a dietician evaluates the nutritional needs of an individual based on biochemical, anthropometric, physical and dietary data to determine nutrient needs and to recommend appropriate nutritional intake through counseling and/or in consultation with the physician.
Deaf-Blind with Multiple Disabilities Program (DBMD)

- Serves individuals of any age with deaf-blindness and one or more other disabilities that impair independent functioning.
- As of January 31, 2011, there were:
  - 147 individuals receiving DBMD services
  - 372 on the interest list
- Services and supports include:
  - Adaptive aids and medical supplies
  - Behavioral support services
  - Case management
  - Chore services (heavy housework)
  - Habilitation
  - Nursing
  - Intervener services (to assist with communication/community access)
  - Occupational, physical and speech therapy
  - Orientation and mobility
  - Respite
- Services may be provided to individuals who live at home, or in a group home or small contracted assisted living facility.
Texas Home Living (TxHmL)

• Serves individuals of any age with an intellectual disability or a related condition who live in their own home or their family’s home.

• As of January 31, 2011, there were:
  • 724 individuals receiving TxHmL services
  • There is no separate interest list for TxHmL. Names are drawn from the HCS interest list

• Services and supports include:
  • Adaptive aids
  • Behavioral support
  • Dental
  • Minor home modifications
  • Skilled nursing
  • Specialized therapies

• The cost must not exceed $17,000 per person, per year.
Consolidated Waiver Program (CWP)

- CWP operates in Bexar County as a pilot project (since 2001) and serves individuals on the interest lists for STAR+PLUS, CLASS, DBMD, HCS, and MDCP.
- There were 167 individuals receiving services through CWP as of January 31, 2011.
- CWP provides services to individuals who are eligible for nursing facility services as well as those who are eligible for ICF/MR services.
- Serves individuals of any age and provides a comprehensive array of services similar to those across other waiver programs.
- SB 705, 81st Legislature, discontinued the CWP program. Due to a potential funding conflict with maintenance of effort provisions contained in the American Recovery and Reinvestment Act of 2009 and the Affordable Care Act of 2010, CWP will not be abolished until December 31, 2013, or later.
- When the CWP pilot ends, consumers will transition to other waiver programs.