



COMMISSIONER
James R. Hine

December 7, 2005

To: Community Living Assistance and Support Services (CLASS) Providers
Deaf-Blind with Multiple Disabilities Program (DBMD) Providers
Community Based Alternatives (CBA) Providers
Consolidated Waiver Program (CWP) Providers
Medically Dependent Children Program (MDCP) Providers

Subject: Information Letter #05-58 New Individual Cost Limit Provisions for Certain Waiver Programs as a Result of Senate Bill 626

The purpose of this letter is to inform you about new Texas Human Resources Code, §32.058, added by Senate Bill 626 (79th Texas Legislature), which codifies Rider 7b of the 2004-05 General Appropriations Act (78th Texas Legislature). The new statute applies only to the five Medicaid waiver programs formerly operated by the legacy Texas Department of Human Services (DHS).

The statute prohibits the Texas Department of Aging and Disability Services (DADS) from providing services to an individual in the five Medicaid waiver programs if the cost of services exceeds the specified individual cost limit for the particular waiver. The law makes two specific exceptions to the prohibition and allows the Health and Human Services Commission executive commissioner to adopt rules allowing DADS to grant an exemption in individual cases.

The exceptions are:

- Individuals who were receiving services on September 1, 2005, at a cost that exceeded the individual cost limit, if continuation of the services is necessary for individuals to live in the most integrated setting appropriate and does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements; and
- Individuals whose services exceed the cost limit if the cost over a 12-month period does not exceed 133.3% of the cost limit, if continuation of the services is necessary for individuals to live in the most integrated setting appropriate and does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements.

To implement the new law, DADS plans to propose new rules at the January 12, 2006, Medical Care Advisory Committee meeting and the January 25, 2006, Texas Aging and Disability Services Council meeting. The new rules are similar to current rules except for the following:

- The proposed new rules specifically provide that an individual who was receiving waiver services on September 1, 2005, at a cost that exceeded the individual cost limit will continue to receive those services, if continuation of the services is necessary for the individual to live in the most integrated setting appropriate and does not affect DADS' compliance with federal cost-effectiveness and efficiency requirements. The current

rules either do not specify a date or use September 1, 2003, as the date on which the individual must have been receiving services.

- The proposed new rules state that DADS will continue to provide waiver services to an individual whose services exceed the cost limit under certain circumstances, including if the cost of providing the services over a 12-month period does not exceed 133.3% of the cost limit. In contrast, the current rules specify that the cost of providing services may not exceed 133.3% of the individual cost limit when averaged over a six-month period.
- The proposed new rules state that the DADS commissioner may exempt an individual from the 133.3% cost limit, while the current sections authorize the former Texas Board of Human Services or the former DHS commissioner to grant such an exemption.

Please note that the proposed new rule for the CBA Program continues the provision in the current rule that allows an individual receiving MDCP services to transition into the CBA Program at age 21 under the 133.3% cost limit provision.

If you have any questions regarding these cost limit provisions, please contact Wanda Stout Adams, Program Specialist, Provider Services, at (512) 438-4852 or by email at wanda.adams@dads.state.tx.us.

Sincerely,

[signature on file]

Barry C. Waller
Assistant Commissioner
Provider Services

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