



COMMISSIONER  
Adelaide Horn

May 12, 2006

To: Community Living Assistance and Support Services (CLASS) Providers  
Deaf-Blind with Multiple Disabilities (DBMD) Providers

Subject: Information Letter 06-40 – New Rules Concerning Individual Cost Limits for CLASS and DBMD Programs

Effective June 1, 2006, the Texas Department of Aging and Disability Services (DADS) will adopt new rules concerning individual cost limit provisions for the Community Living Assistance and Support Services (CLASS) and Deaf-Blind with Multiple Disabilities (DBMD) programs.

The new rules prohibit DADS from providing CLASS and DBMD program services to an individual if the cost of services exceeds the program's individual cost limit, with two exceptions. DADS continues to provide CLASS or DBMD program services to an individual:

- who was receiving those services on September 1, 2005, at a cost that exceeded the program's individual cost limit, if continuation of those services is necessary for the individual to remain in the community, while maintaining the program's cost neutrality; or
- whose individual service plan (ISP) cost exceeds the program's individual cost limit by 133.3% or less over a 12-month period (excluding the cost of minor home modifications and adaptive aids), if continuation of those services does not interfere with the program's cost neutrality.

**NOTE:** DADS will not enroll an individual in the CLASS or DBMD program if the initial ISP cost exceeds the program's individual cost limit.

**Procedure when ISP exceeds individual cost limit**

If the interdisciplinary team (IDT) for any individual receiving CLASS or DBMD services develops an ISP with a cost that exceeds the program's individual cost limit by any amount, the case manager must submit to CLASS or DBMD program staff in DADS' State Office:

- a copy of the ISP;
- a completed Form 6509, Request for Authorization of ISP over Cost Ceiling;
- a copy of the Individual Program Plan (IPP); and
- other documentation that supports the requested service level, such as therapy assessments, a nursing assessment, or a behavioral/communication assessment.

A copy of Form 6509 and instructions for completing the form can be accessed at:  
[http://www.dads.state.tx.us/news\\_info/publications/handbooks/index.html#forms](http://www.dads.state.tx.us/news_info/publications/handbooks/index.html#forms).

**NOTE:** Although the new CLASS and DBMD rules state that the cost of minor home modifications and adaptive aids is excluded in determining whether an ISP exceeds 133.3% of the program's individual cost limit, the case manager must include those costs in the ISP submitted to DADS' State Office program staff.

**State Office procedure when ISP exceeds 133.3% of individual cost limit**

If an ISP exceeds 133.3% of the program's individual cost limit after DADS' State Office program staff exclude the cost of minor home modifications and adaptive aids, State Office program staff will work with the individual's case manager to identify alternatives, such as community resources, that may reduce the ISP cost. If the ISP cost still exceeds 133.3% of the individual cost limit, DADS' State Office program staff are permitted by the CLASS and DBMD rules to request that the DADS' commissioner exempt the individual from the program's individual cost limit.

**Additional information**

The new rules implement Texas Human Resources Code (HRC), §32.058, added by Senate Bill 626 (79<sup>th</sup> Legislature). The bill codified the individual cost limit provisions from Rider 7b of the 2004-05 General Appropriations Act (78<sup>th</sup> Legislature) with certain key differences. A description of the new cost limit provisions and how they differ from the Rider 7b provisions was provided in Information Letter 05-58, dated December 7, 2005, *New Individual Cost Limit Provisions for Certain Waiver Programs as a Result of Senate Bill 626*. The information letter is posted on DADS' website at: <http://www.dads.state.tx.us/business/communitycare/infoletters/index.cfm>

If you have questions about the content of this information letter, please contact:

CLASS	Carolyn Fleming at 512/438-3078 <a href="mailto:carolyn.fleming@dads.state.tx.us">carolyn.fleming@dads.state.tx.us</a>
DBMD	Carol Griebel at 512/438-2622 <a href="mailto:carol.griebel@dads.state.tx.us">carol.griebel@dads.state.tx.us</a>

Sincerely,  
[signature on file]

Kim Wedel  
Section Director  
Community Services

KW:ss

Attachments

Title 40	Social Services and Assistance
Part 1	Department of Aging and Disability Services
Chapter 42	Medicaid Waiver Program for People Who Are Deaf-Blind with Multiple Disabilities
Rule	§42.12

#### **§42.12. Providing DBMD Services When Costs Exceed the Individual Cost Limit.**

(a) The Department of Aging and Disability Services (DADS) does not provide Deaf-Blind with Multiple Disabilities (DBMD) services to an individual if the cost of providing those services exceeds the individual cost limit specified in §42.6(c) of this chapter (relating to Planning For and Provision of Services), except:

(1) DADS continues to provide DBMD services to an individual who was receiving those services on September 1, 2005, at a cost that exceeded the individual cost limit, if continuation of those services:

(A) is necessary for the individual to live in the most integrated setting appropriate to the individual's needs; and

(B) does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements under United States Code (U.S.C.), Title 42, §1396n(b) and (c)(2)(D); or

(2) DADS continues to provide DBMD services to an individual who is ineligible to receive those services under this subsection if:

(A) the cost of providing those services over a 12-month period, excluding the cost of minor home modifications and adaptive aids, does not exceed 133.3% of the individual cost limit; and

(B) continuation of those services does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements under 42 U.S.C. §1396n(b) and (c)(2)(D).

(b) The DADS commissioner may exempt an individual receiving DBMD services from the cost limit described in subsection (a)(2)(A) of this section.

Title 40	Social Services and Assistance
Part 1	Department of Aging and Disability Services
Chapter 48	Community Care for Aged and Disabled
Subchapter C	Medicaid Waiver Program for Persons with Related Conditions
Rule	§48.2123

**§48.2123. Providing CLASS Program Services When Costs Exceed the Individual Cost Limit.**

(a) The Department of Aging and Disability Services (DADS) does not provide Community Living Assistance and Support Services (CLASS) Program services to an individual if the cost of providing those services exceeds the individual cost limit specified in §48.2103(c) of this chapter (relating to Participant Eligibility Criteria), except:

(1) DADS continues to provide CLASS Program services to an individual who was receiving those services on September 1, 2005, at a cost that exceeded the individual cost limit, if continuation of those services:

(A) is necessary for the individual to live in the most integrated setting appropriate to the individual's needs; and

(B) does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements under United States Code (U.S.C.), Title 42, §1396n(b) and (c)(2)(D); or

(2) DADS continues to provide CLASS Program services to an individual who is ineligible to receive those services under this subsection if:

(A) the cost of providing those services over a 12-month period, excluding the cost of minor home modifications and adaptive aids, does not exceed 133.3% of the individual cost limit; and

(B) continuation of those services does not affect DADS' compliance with the federal cost-effectiveness and efficiency requirements under 42 U.S.C. §1396n(b) and (c)(2)(D).

(b) The DADS commissioner may exempt an individual receiving CLASS Program services from the cost limit described in subsection (a)(2)(A) of this section.