Consumer Direction Workgroup
Biennial Report to the Texas Legislature

Prepared by the public members of the
Consumer Direction Workgroup as required by
Texas Government Code, Section 531.052

Health and Human Services Commission
September 2012

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Executive Summary

Overview

The Consumer Direction Workgroup (CDW) is established by Texas Government Code, Section 531.052, to advise the Health and Human Services Commission (HHSC) about the delivery of services through consumer direction in all programs offering long-term services and support. This report provides information to the Texas Legislature as required by Government Code Section 531.052(g).

Consumer-directed services (CDS)—when compared to agency-directed services—offer more freedom, choice, and control to people that use long-term services and supports and mental health services. They have more say in deciding who provides their services and supports and when those services will be delivered. As of May 2012, 11,330 Texans chose the CDS option for services and supports through Medicaid managed care or home and community-based programs.

HHSC's Executive Commissioner appoints workgroup members with input from the commissioners of health and human services agencies that administer programs with the consumer direction services option. As mandated by statute, the majority of appointed members represent three major stakeholder groups: consumers (or family members), advocates, and consumer directed services agencies. State agency representatives, including the presiding officer, are non-voting members.

CDS Environment

Since its inception in Texas more than a decade ago (2001), there has been growing acceptance and support of expanding consumer-direction options for people with disabilities and people who are older who want to live in the community and have maximum choice and control. Still, only 6.9 percent of people who could use the consumer-directed services option do use it.

The CDW urges members of the Legislature to provide direction and support to state agencies and stakeholders to improve access for participation in CDS.

- The CDS option is not uniformly available for all services in all waiver programs. Only one waiver program—Texas Home Living (TxHmL)—offers the CDS option for every service. People participating in other home and community-based waivers are more limited regarding the services that can be self-directed.
- There are significant variances in hourly reimbursement rates for similar services in different waivers. For example, the rate for supported home living in the Home and Community Based Services (HCS) program is $22.01. For the Community Living Assistance and Support Services (CLASS) program, the rate for a similar service—habilitation—is $13.05. From this rate, the CDS employer pays wages, employer support (such as a fax machine), and payroll and withholding taxes.
- The attendant care labor force is "aging out" and anecdotal information from CDS participants indicates new attendants are not coming into the profession due to low wages and lack of benefits. This is a deterrent to efforts to increase participation in the CDS option in some Medicaid waiver programs.

- The implementation of Electronic Visit Verification (EVV), a telephone and computer-based system that electronically verifies service delivery, as introduced in Texas, is not compatible with the goals of independent, community living and CDS. Some stakeholders involved in the early stages of implementation have told the CDW they actively discourage people from selecting the CDS option as a way to avoid the EVV hassles associated with being a CDS employer.
- Many consumers, family members, agency workers, providers, support advisors, and other key stakeholders do not have a complete or accurate understanding of consumer-directed services.
- Despite excellent training materials developed over the last two years by DADS, case workers frequently fail to educate and accurately inform their clients on CDS. Continued outreach to DADS and DSHS case workers is needed.
- For some individuals who may be considering the consumer directed option, concerns about personal liability for injured employees may be a barrier. While a CDS employer may purchase workers' compensation insurance, the expense of an individual policy within a limited service budget may be prohibitive.
- CDS option utilization is higher for some groups, such as those in managed care and programs that serve with children, than for adults with physical disabilities and seniors.

Fiscal Year 2011-12 Key Achievements

Workgroup Organization

CDW members devoted considerable time and energy to strengthening the workgroup's structure and processes to support a more dynamic and effective advisory role.

Policy/Program Impact

- ***Electronic Visit Verification:*** In 2011-12 biennium, the Department of Aging and Disability Services (DADS) expanded the Electronic Visit Verification (EVV) pilot project—initiated in DADS Region 9 in 2010—to new areas of the state. The CDW played an important role in bringing numerous technical and policy concerns about EVV to the attention of DADS leadership. As a result, workgroup members—spearheaded by members of the Employer Support Committee—worked with DADS staff to make recommendations and offer direct feedback on a broad range of EVV concerns. While there are still significant issues that require ongoing attention, DADS implemented a number of the CDW recommendations, as detailed on page 10.
- ***Revisions to Texas Administrative Code (TAC):*** State rules governing the consumer directed services option are contained in TAC, Title 40, Part 1, Chapter 41. DADS conducted a major revision of the CDS rules in 2007. Since that time, the CDS option has been expanded to multiple programs, including those operated by HHSC, and to additional services, such as nursing and professional therapies. Some rules that may have made sense then are now impractical or duplicative. The Quality Assurance Committee conducted a thorough review of the chapter and has submitted recommendations for changes, described in more detail on page 10 to DADS staff for inclusion in the current rule revision project.

Education and Outreach

Workgroup members provided input on case manager service coordinator training material and CDS brochure related to outreach initiatives to increase awareness of the CDS option among individuals receiving long-term services and supports administered by DADS.

Recommendations for Legislative Action

The CDW commends the state agency leadership and staff that are committed to giving people more choice and control in the long-term services and supports they receive. Consumer direction was introduced in Texas more than a decade ago. Through the combined efforts of agencies and stakeholders, Texas has a strong foundation on which to build a more comprehensive system of self-directed services that meets the diverse needs of the people that use them.

The following recommendations are intended as steps toward that goal. They were developed by the CDW committees and approved by a majority of the voting members present at meetings held on April 27 and July 20, 2012.

1. Direct HHS agencies to postpone further implementation of Electronic Visit Verification (EVV) in Medicaid waiver and managed care programs until the accessibility issues are resolved including Americans with Disabilities Act (ADA) accessibility requirements, technology improvements for adaptability in meeting the goals of self-determination, and the development of an effective training program to address the needs of the employees and consumers.

2. Direct health and human service agencies to adopt permanent policies to allow CDS employers the choice of full, partial, or no participation in EVV.

3. Direct the Texas Department of Insurance (TDI) to devise a model of worker's compensation insurance affordable for individuals who choose the CDS option.

4. Direct DADS and HHSC to expand flexibility and control in consumer direction through use of an individualized budget option.

5. Direct DADS and HHSC to expand flexibility in consumer direction through purchase of goods and services.

6. Direct the Department of State Health Services (DSHS) to expand CDS to individuals using public mental health services. Using the experience and lessons learned from the consumer direction pilot project, expand the opportunity to use the CDS service option in the mental health system. Expansion should include additional regions as well as increasing the number of participants in each region.

7. Direct HHSC, DSHS, and DADS to convene a task force—to include agency staff, managed care organizations, and CDSAs—to address the complexity of following different rules (including billing and budgeting) for 11 different programs under the direction of HHSC, DSHS, PCS, DADS, and STAR+PLUS managed care programs.

8. Direct HHSC and DADS to expand the CDS option to include all services within all the Medicaid waiver programs and STAR+PLUS based on the broad consumer direction option in the TxHmL program.

9. Direct HHSC and DADS to review and revise as necessary the annual employer supports limit to reflect cost of living increases, advances in technology, and increased employer costs due the expansion of programs to include nursing.

10. Direct HHSC to standardize CDS pay rates for attendant/habilitation services among waivers including a tiered reimbursement rate for services based on the level of support needed instead of diagnosis or the program in which the individual is receiving services.

11. Direct HHSC to standardize supported employment pay rates among waivers and expand the CDS option to include supported employment for all waiver programs

12. Direct DADS to expand consumer direction to include case management and service coordination.

Overview

This report provides information to the Texas Legislature as required by Government Code Section 531.052(g): "Not later than September 1 of each even-numbered year, the workgroup shall report to the Legislature regarding activities of the workgroup."

The Consumer Direction Workgroup (CDW) is established by Texas Government Code, Section 531.052, to advise the Health and Human Services Commission regarding the delivery of services through consumer direction in all programs offering long-term services and support, as well as assisting HHSC in developing and implementing consumer direction models.

HHSC's Executive Commissioner appoints workgroup members with input from the commissioners of health and human services agencies that administer consumer direction programs. As mandated by statute, the majority of appointed members represent three major stakeholder groups: consumers (or family members), advocates, and providers. State agency representatives, including the presiding officer, are non-voting members.

This report, prepared by the public members of the workgroup, outlines the activities of the Consumer Direction Workgroup, summarizes the guidance and recommendations provided to HHSC and the Department of Aging and Disability Services (DADS), and provides recommendations for improving and expanding consumer direction in Texas long-term services and supports.

About the Consumer Directed Services (CDS) Option

Consumer-directed services (CDS)—when compared to agency-directed services—offer more freedom, choice, and control to people that use long-term services and supports and mental health services. Individuals have more say in deciding who provides their services and supports and when those services will be delivered. As of May 2012, 11,330 Texans chose the CDS option for services and supports through Medicaid managed care or home and community-based programs.

CDS Environment

Consumer-directed services in Texas began as a pilot for two attendant services programs as authorized by the 75th Texas Legislature in 1997. The pilot proved successful and, with passage of S.B. 1586, 76th Legislature, Regular Session, 1999, authorized "the vendor fiscal intermediary" (VFI) option—the forerunner of the CDS option. In 2001, the Department of Human Services (now DADS) initiated the consumer direction option in two Medicaid waiver programs—Community Living Assistance and Support Services (CLASS) and Deaf Blind Multiple Disabilities (DBMD). Additional waiver programs added the CDS option as follows:

- 2002 – Community Based Alternatives (CBA) and Primary Home Care (PHC)
- 2003 – STAR+PLUS
- 2005 – Medically Dependent Children's Program (MDCP)
- 2007 – Personal Care Services (PCS)
- 2008 – Home and Community based Services (HSC) and Texas Home Living (TxHmL).

In the years since, there has been growing acceptance and support of expanding consumer-direction options and promoting it as empowering for people with disabilities and people who are older who want to live in the community and have maximum choice and control. Also, given legislative and state agency interest and support for expanding consumer direction, it is evident there is a growing recognition that CDS is an effective means of helping people live as independently as possible in their communities—and not in costly institutions.

As indicated in Tables 1 and 2, there is some level of CDS offered in every Medicaid waiver program operated by Texas health and human services agencies. This is evidence of the effort, hard work, and commitment to CDS principles put forth by legislators, agency staff, and stakeholders.

That said, as indicated in Table 3, only 6.9 percent of people who could use consumer-directed services do use them. Though there has been slight growth in most of the waiver programs from year to year, the overall CDS enrollment is low compared to total program numbers.

In a nutshell, the CDW is charged with advising HHSC about the expansion of CDS to more programs and services, and providing better access and support to persons who want to use the CDS option. The recommendations offered later in this report are specific actions intended to eliminate or reduce some of the more persistent barriers to greater participation in CDS. Briefly stated, some of these barriers are:

- The CDS option is not uniformly available for all services in all waiver programs. Only one waiver program—TxHmL—offers the CDS option for every service. People participating in other home and community-based waivers are more limited regarding the services that can be self-directed.
- There are significant variances in hourly reimbursement rates for similar services in different waivers. For example, the rate for supported home living in the HCS program is $22.01. For the CLASS program the rate for a similar service—habilitation—is $13.05. From this rate, the CDS employer pays wages, employer support (such as a fax machine), and payroll and withholding taxes.
- The implementation of Electronic Visit Verification (EVV), a telephone and computer-based system that electronically verifies service delivery, as introduced in Texas, is not compatible with the goals of independent, community living and CDS. Some stakeholders involved in the early stages of implementation have actively discouraged people from selecting the CDS option as a way to avoid the hassles and complexities of using the EVV system.
- Many consumers, family members, agency workers, providers, support advisors, and other key stakeholders do not have complete or accurate understanding of consumer-directed services.
- Despite excellent training materials developed over the last two years by DADS, case workers frequently fail to educate, accurately inform, and update their clients on CDS. Continued outreach to DADS and the Department of State Health Services (DSHS) case workers is needed.
- For some individuals who may be considering the consumer directed option, concerns about personal liability for injured employees may be a barrier. While a CDS employer may purchase workers' compensation insurance, the expense of an individual policy within a limited service budget may be prohibitive.
- CDS option utilization is higher for some groups, such as those in managed care and programs that serve with children, than for adults with physical disabilities and seniors.

These and related systemic issues must be resolved for CDS to reach its full potential to benefit people with disabilities and people who are older. Some of these issues are long-standing and known to the agencies that operate programs that offer the CDS option, but a number of factors seem to get in the way of resolving them. For instance, any discussion of equalizing rates for similar services is likely to be met with strong resistance from some special interest groups who fear losing the higher rates in some programs. We encourage members of the Legislature to provide direction and support to agencies and stakeholders that want to resolve these issues.

Table 1. Medicaid Waivers in Brief

Waiver | *Services*	**Population Served**
Community Based Alternatives (CBA) *Personal assistance services, respite, nursing, physical therapy, occupational therapy and speech/hearing therapy, adaptive aids, minor home modifications, dental, assisted living, transition assistance, medical supplies, adult foster care, emergency response systems, home delivered meals, and prescription drugs.*	Adults (age 21 and older) with a disability who qualify for nursing facility services who live in counties not covered by STAR+PLUS.
Community Living Assistance and Support Services (CLASS) *Habilitation services, respite services, nursing, physical therapy, occupational therapy, speech/hearing therapy, specialized therapies, adaptive aids and medical supplies, minor home modifications, case management, behavioral support, supported employment, auditory enhancement training, dietary services, support family services, pre-vocational services, continued family services, and transition assistance (Note: people who use the CDS option can also get support consultation)*	People of who have a qualifying disability, other than an intellectual disability, which originated before age 22 and which affects their ability to function in daily life. Statewide.
Home and Community-Based Services (HCS) *Individuals may live in any one of four residential assistance types. Other services include, day habilitation, respite, adaptive aids, minor home modifications, nursing, dental treatment, professional therapies, (includes audiology, speech/language pathology, occupational therapy, physical therapy, dietary services, social work and behavioral support), transition assistance and supported employment. (Note: People who use the CDS option can also get support consultation.)*	People of all ages diagnosed with an intellectual disability or a related condition, who are living with their family, in their own home or in other community settings, such as small group homes. Statewide.

Table 1. Medicaid Waivers in Brief (continued)

Waiver | *Services*	**Population Served**
Medically Dependent Children Program (MDCP) *Respite, adjunct support services, adaptive aids, minor home modifications, and transition assistance services.*	Children and young adults under age 21 who are at risk of nursing facility placement because of complex medical needs and qualify for nursing facility

	services. Statewide.
Deaf-Blind with Multiple Disabilities (DBMD) *Residential habilitation (less than 24 hours), intervener, respite services, adaptive aids and medical supplies, assisted living, behavioral support, orientation and mobility, case management, chore provider, environmental accessibility, nursing services, professional therapies, supported employment, employment assistance, transition assistance, minor home modifications, dietary services, case management prescription drugs (if not covered through Medicare), and support consultation for those using the CDS option.*	People of all ages who are deaf, blind, and have a third disability who qualify for Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICF/MR/RC) Level of Care VIII. Statewide.
STAR+PLUS *State Plan services including Primary Home Care and Day activity and health services (DAHS). Personal assistance services (PAS, home delivered meals, adaptive aids, adult foster care home services, adult day care services, assisted living, emergency response services, medical supplies, minor home modifications, nursing services, respite care (short-term supervision), and therapies (occupational, physical and speech-language, service coordination), and transitional assistance services available in the HCBS STAR+PLUS Waiver.*	Enrollment in STAR+PLUS is *required* for Medicaid recipients who live in a STAR+PLUS service area and fit one or more of the following criteria: • Have a physical or mental disability and qualify for supplemental security income (SSI) benefits or for Medicaid due to low income. • Qualify for Home and Community Based Services STAR+PLUS Waiver services. • Age 21 or older and receive Supplemental Security Income (SSI).

Table 1. Medicaid Waivers in Brief (continued)

Waiver | *Services*	Population Served
Texas Home Living (TxHmL) *The Community Living Service category includes community support, day habilitation, employment assistance, supported employment, and respite services. The Technical and Professional Supports Services category includes skilled nursing, behavioral support, adaptive aids, minor home modifications, dental treatment, and specialized therapy services (includes audiology, speech/language pathology, occupational therapy, physical therapy, dietary services, and support consultation for people who use the CDS option.*	Persons of all ages with an intellectual disability, related condition, or both who live with their families or in their own homes.
Texas Self-Directed Care (SDC) *Counseling and therapy, employment training and support, computer training, personal fitness training, diet and nutrition counseling, and complementary medicine*	Persons with serious mental illness who elect to participate in a pilot study being conducted in a seven-county area served by the North Texas Behavioral Health Authority.

Notes: 1) DADS is the operating agency for all of the programs listed above except three. DSHS operates PCS and the SDC Pilot, and the Health and Human Services Commission (HHSC) operates STAR+PLUS. 2) Unless stated otherwise, all waivers are available statewide.

Key Achievements

Organization

CDW members devoted considerable time and energy to strengthening the workgroup's structure and processes to support a more dynamic and effective advisory role by:

- Refocusing priorities to better reflect the workgroup's legislative mandate.
- Giving committees a more proactive role in identifying, studying, and making recommendations about issues that will promote, expand, or enhance consumer directed services.
- Changing the committee structure to better support the new priorities and strengthen the voting members' voice in workgroup direction, as outlined in Table 4.

Policy/Program Impact

Electronic Visit Verification

- In 2011-12 biennium, DADS proceeded to expand the EVV pilot project—initiated in Region 9 in 2010—to new areas of the state. The CDW played a critical role in bringing numerous practical, technical, legal, and philosophical concerns about EVV's to the attention of DADS leadership. As a result, the workgroup collaborated with DADS staff to make recommendations and offer direct feedback on a broad range of EVV concerns. The effort is ongoing, but DADS has made the following changes to date:
    - Elimination of a record-keeping requirement that required CDS participants in the MDCP to maintain duplicate timesheets (paper and electronic).
    - Revision of the EVV training materials for CDS Employers to be more user-friendly and accessible for people with a variety of disabilities and accessibility needs in response to the CDW's recommendations based on direct interaction with the EVV contractor (Sandata).
    - Implementation of a new policy giving CDS Employers a choice of three levels of participation including the use paper timesheets and the option to opt out of all or part of EVV. This policy will remain in effect until system complexity and adaptive software compatibility are fully addressed by the contractor.
    - Implementation of new policy to reduce the need for computer-based timesheet corrections, allow the use of employer cell phones to document services beginning and/or ending outside of the home, permit employers to register more than one approved phone number on a case-by-case basis, and approve the use of one code for changes in the system.

Revisions to Texas Administrative Code (TAC)

- State rules governing the consumer directed services option are contained in 40 TAC, Chapter 41. Most of the rules were written when consumer direction was first introduced in Texas and have not been updated since 2007. Some rules that may have made sense then are now impractical, duplicative, or cumbersome as the programs, services, and practices have grown. The Quality Assurance Committee conducted a thorough review of the chapter and has submitted recommendations for changes to DADS staff. In general, the changes would:
    - Give CDS employers more flexibility in using their budgeted dollars to award bonuses based on employee performance.
    - Streamline processes, reduce duplicated efforts, and minimize delays in implementing service plans.
    - Clarify roles and responsibilities between CDS employers and Consumer Directed Services Agencies (CDSAs) for certain activities.

Education and Outreach

- Workgroup members provided input on case manager service coordinator training material and CDS brochure related to outreach initiative to increase awareness of the CDS option among individuals receiving long-term services and supports administered by DADS.

Table 2. Consumer Directed Services Utilization
State Fiscal Years 2008 – 2012*

Program	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012*	Change from 2008	Overall program enrollment*	Percent Using CDS
CBA	89	127	144	188	166	77	10,825	1.5%
CLASS	1,730	1,905	2,125	2,341	2,231	501	4,447	50.2%
CMPAS	44	67	58	50	59	15	353	16.7%
DBMD	2	2	3	3	6	4	150	4.0%
FC	6	3	5	7	13	7	5,296	0.2%
HCS**	22	71	125	223	273	251	4,015	6.8%
MDCP	639	1,206	1,746	2,192	2,379	1,740	5,781	41.2%
TxHmL	34	58	71	155	375	341	4,789	7.8%
CAS	79	78	122	185	229	150	49,464	0.5%
PCS	0	843	1,726	2,475	2,958	2,958	10,610	27.9%
PHC	23	67	119	70	47	24	11,601	0.4%
STAR+PLUS	862	1,080	1,307	1,819	2,594	1,732	57,158	4.5%
TOTAL	3,530	5,507	7,551	9,708	11,330	7,800	164,489	6.9%

*Source: HHSC and DADS enrollment data through 3rd Quarter fiscal year 2012. 4th Quarter information is not available at this writing.
** HCS participants using Supported Home Living—the only group that can use the CDS option. Overall HCS enrollment is approximately 20,000.

Acronym Key: CBA= Community Based Alternatives; CLASS=Community Living Assistance and Support Services; CMPAS= Consumer Managed Personal Attendant Services; DBMD=Deaf Blind with Multiple Disabilities; FC=Family Care; HCS=Home and Community-based Services; MDCP= Medically Dependent Children Program; TxHmL=Texas Home Living CAS=Community Attendant Services PCS=Personal Care Services; PHC=Primary Home Care

Table 3. Services that can be self-directed through Consumer Directed Services

Funding Source	Program/Type of Service	CD Option
1915(c) Waiver	**CBA**: Personal assistance services (PAS), respite, nursing, physical therapy, occupational therapy, and speech/hearing therapy **CLASS**: Habilitation services, respite services, nursing, physical therapy, occupational therapy, speech/hearing therapy, and support consultation **DBMD**: Residential habilitation (less than 24 hours), intervener, respite services, and support consultation **HCS**: Supported home living, respite services, and support consultation **MDCP**: Adjunct and respite services provided by an attendant or a nurse **TxHmL**: All services and support consultation	CDS
Medicaid State Plan	**CAS**: PAS **PCS**: PAS for children **PHC**: PAS for adults	CDS / SRO
Texas Healthcare Transformation and Quality Improvement Program 1115 Waiver —Medicaid Managed Care	**STAR+PLUS:** Personal assistance services (PAS), respite, nursing, physical therapy, occupational therapy, and speech/hearing therapy	CDS / SRO
General Revenue (non-Medicaid)	**CMPAS**: PAS	CDS
Title XX	**Family Care**: PAS	CDS / SRO
General Revenue, Mental Health Block Grant, Local Funds, Meadows Foundation grants	**SDC:** Counseling and therapy, employment training and support, computer training, personal fitness training, diet and nutrition counseling, and complementary medicine. **Note:** This is a pilot program serving people with serious mental illness in a seven-county area in North Texas.	CDS

Acronym Key: CAS=Community Attendant Services; **CBA**= Community Based Alternatives; **CDS**=Consumer Directed Services; **CLASS**=Community Living Assistance and Support Services; **CMPAS**= Consumer Managed Personal Attendant Services; **DBMD**=Deaf Blind with Multiple Disabilities; **FC**=Family Care; **HCS**=Home and Community-based Services; **MDCP**= Medically Dependent Children Program; **PHC**=Primary Home Care; **SDC**=Self-Directed Care; **SRO**= Service Responsibility Option; **TxHmL**=Texas Home Living

Table 4. Consumer Direction Workgroup Committees and Priorities

Committee	Related Legislative Charge	Priorities
Education/ Outreach	Increase the use of consumer direction models by consumers.	• Involve workgroup members in their regions to promote CDS. • Find ways to promote and help consumers take advantage of the support consultation option.
Employer Support	Expand the delivery of services through consumer direction to other programs serving person with disabilities and elderly persons.	• Help *c*onsumers be better employers (develop materials, training, mentoring, etc.). • Incorporate case management in consumer directed services to help people figure out what they need to do and how to do it. • Research programs and best practices for that help CDS employers connect with qualified, trained staff (i.e. attendant certification program at A&M)
Service Expansion	Expand the delivery of services through consumer direction to other programs serving person with disabilities and elderly persons. Expand the array of services delivered through consumer direction. Expand access to support advisors for those consumers receiving long-term services and supports through consumer direction.	• Expand the CDS option to include all services within all the Medicaid waiver programs and STAR+PLUS as it is in the TxHmL waiver. • Standardize the CDS reimbursement rates in the waivers. • Incorporate case management in consumer directed services. • Allow flexibility and control in consumer budgeting. • Allow consumer purchase of non-traditional goods and services. • Expand use of CDS in the provision of public mental health services beyond the current North Star pilot.
Quality Assurance	Optimize the provider base for consumer direction.	• Make sure CDSAs are qualified and sufficiently trained to provide services and meet expectations. Identify and make recommendations for program improvement.

Recommendations for Legislative Action

The CDW commends the state agency leadership and staff for their commitment to giving people more choice and control in the long-term services and supports they receive. Consumer direction was introduced in Texas approximately 10 years ago. Through the combined efforts of agencies and stakeholders, Texas has a strong foundation on which to build a more comprehensive system of self-directed services to meet the diverse needs of the people using them.

The following recommendations are intended as steps toward that goal. They were developed by the CDW committees and approved by a majority of the voting members present at meetings held on April 27 and July 20, 2012.

1. Direct health and human services agencies to postpone further implementation of EVV in Medicaid waiver and managed care programs until Americans with Disabilities Act (ADA) accessibility issues are resolved, technology improvements for adaptability in meeting the principles of self-determination are made, and effective training program to address the needs of the employees and consumers is available.

*Background***:** At a minimum, a system intended for use by people with disabilities should be accessible to people with disabilities. However, the EVV system introduced in Texas—as experienced by consumers—fell far short of acceptable. The electronic system itself, as well as related training materials, did not meet accepted standards for usability and accessibility for people with vision, hearing, mobility, or cognitive disabilities. At this writing, DADS has delayed further implementation of EVV until the problems are fixed. Given the experience thus far, the CDW is concerned about who defines "fixed" and encourages the Legislature to offer direction to state agencies in this matter.

2. Direct health and human services agencies to adopt permanent policies to allow CDS employers the choice of full, partial, or no participation in EVV.

*Background***:** The EVV system as introduced in Texas is incompatible with the intent and nature of community-based, consumer-directed services. Many people choose to be CDS employers because it offers maximum flexibility and control in managing the often complex and varied services and supports they need to successfully live in the community. There are any number of legitimate variances in when, where, or how a service or support is delivered. While the EVV system in use by DADS does have a mechanism for recording variations (called visit maintenance), it is cumbersome, difficult to use, and time-consuming.

In May 2012, in response to recommendations offered by the CDW and other stakeholders, DADS introduced a policy to allow CDW employers the option of participating in EVV at one of three levels:

1) Full participation. EVV calls are made by the CDS employee, and visit maintenance is conducted by the CDS employer.

2) Partial participation. EVV calls are made by the CDS employee, and visit maintenance is conducted by the CDS agency.

3) No participation. EVV calls are not made, and visit maintenance is not conducted. CDS employers document visits on paper timesheets and submit them to the CDS agency for processing.

The CDW believes these options adequately address the concerns about EVV and wants to ensure they are in place permanently, both for existing programs that use EVV and any new programs or services that HHS agencies implement with an EVV component.

3. Direct the Texas Department of Insurance, in cooperation with DADS and HHSC, to devise a model of workers compensation insurance affordable for individuals who choose the CDS option.

Background: Currently, only individual workers compensation policies are available to persons using consumer direction. A CDS employer must secure the insurance through an individual agent whose administrative overhead increases the cost. Efforts by CDSAs and DADS to structure a reasonably priced policy within current insurance regulations have been unsuccessful, as there is no clear mechanism to bring CDS employers together as a group or to use the CDSAs as a way to form a group which could lower the administrative cost. Other states have designed programs specifically for consumer direction and are operating them at a quarter of the cost of an individual policy and are experiencing an extremely low claims rate. These efforts have been more successful in states with a small number of entities performing financial management services.

4. Direct DADS and HHSC to expand flexibility through use of an individualized budget option.

A) With input from the CDS Workgroup, create a consumer directed services option to allow "maximum budget flexibility" through an "individualized budget" option.

B) This option can be accomplished in a pilot program or through existing community-based programs including 1915 (c) Medicaid waivers, Primary Home Care, Personal Care Services, and STAR+PLUS.

C) Whether the option is available in existing waivers and programs and other community-based programs or through a new pilot, it must be cross-disability.

Background: Currently, Texas does not allow full budget authority, as permitted by the Centers for Medicare and Medicaid Services (CMS), in programs that provide community-based supports and services. An individual's state approved annual budget, expressed in a dollar amount, represents the anticipated cost of services and supports determined to be necessary and sufficient to meet a participant's needs.

Key components of individual budgeting are: assessing need, developing a service plan, calculating a budget amount, and determining a spending plan. The practice of person-centered planning is the foundation for individual budgeting. Once the budget is determined, the participants and their informal supports (and counselors as needed and desired) develop a detailed outline of how the funds will be distributed throughout the month or other designated period. Generally, participants elect to hire a personal care worker and spend a nominal amount on the purchase of goods and services related to their personal care needs. Financial Management Services currently available through Texas' CDSAs would be available and required in this option as well. CDSAs use a variety of tracking methods to manage and monitor individual budgets. Individuals are not given cash.

5. Direct DADS and HHSC to expand flexibility through purchase of goods and services.

A) With input from the CDS Workgroup, create a consumer directed services option to allow purchase of "individual goods and services" that increase independence or substitute for human assistance, to the extent that expenditures would otherwise be made for that human assistance.

B) This option can be accomplished in a pilot program or through existing community-based programs including 1915 (c) Medicaid waivers, Primary Home Care, Personal Care Services, and STAR+PLUS.

C) Whether the option is available in existing waivers and other community-based programs or through a new pilot, it must be cross-disability.

Background: Currently, Texas does not utilize the option allowed by CMS for purchase of "individual goods and services" that increase independence or substitute for human assistance, to the extent that expenditures would otherwise be made for that human assistance. This option allows funds allocated in the state-approved service plan budget to be used for permissible purchases according to federal guidelines and as determined by each state. Services, supports, and items that are purchased must be linked to an assessed need or goal in the established state-approved service plan. Purchases must be accommodated within the participant's budget without compromising the participant's health and safety. Goods and services are provided to, or directly exclusively toward, the benefit of the participant.

Examples of "individual directed goods and services" and "permissible purchases" that have been purchased in other states include, small kitchen appliances, laundry service; washing machines; durable medical equipment; and pharmaceutical supplies.

Examples of "individual directed goods and services" not covered or allowed are services covered by third parties or services that are the responsibility of a non-Medicaid program or service include room and board, rent or mortgage payments, experimental treatments, and social or recreational purchases that are unrelated to a need or goal in the person-centered plan.

6. Direct the Department of State Health Services (DSHS) to expand CDS to individuals using public mental health services. The pilot is part of a study to evaluate self-direction of services by individuals with psychiatric disabilities. Using the experience and lessons learned from the consumer direction pilot project, expand the opportunity to use the CDS service option in the mental health system. Expansion should include additional regions as well as increasing the number of participants in each region.

Background: The CDS model of service delivery has been in place for DADS waiver recipients for several years. It has provided great opportunities for individuals to have more control over who provides their services. It also is one avenue for addressing the workforce shortage crisis.

In the behavioral health service systems (mental health and substance use), there is only one CDS pilot and little evidence that expansion is being considered.

According to DSHS staff, data collection will end in early calendar year 2013, with the results expected to be published in late 2013. Implications for expansion will be more fully understood once results are published. In the meantime, the current pilot is being continued for fiscal year 2013 for many of the pilot members who have completed their time in the study portion. Additionally, elements of self-direction are being tested with the STAR+PLUS members in the

Harris service delivery area who choose to join the Wellness, Incentives, and Navigation study funded by CMS and supported by DSHS.

7. Direct HHSC, DSHS, and DADS to convene a task force—to include agency staff, managed care organizations, and CDSAs—to address the complexity of following different rules (including billing and budgeting) for 11 different DSHS, PCS, DADS, and STAR+PLUS managed care programs.

Background: Currently, CDSAs must follow three different billing mechanisms: One for DSHS PCS services, one for managed care STAR+PLUS services, and one for DADS long-term care programs. Only the DADS format allows the budget and service delivery flexibility that is the core basis for consumer direction. Additionally the billing format used by DADS provides a clear audit trail not present in the PCS and STAR+PLUS models.

If the CDS option must operate in both the "dollars" environment and the "units" environment, CDSAs must have specific instructions for how each aspect of the program is to be billed and paid in each environment. TAC 41 is written for the original "dollars" programs that started the CDS option. It does not address billing in three very different environments. Further there is a need to address the complexity of following 11 sets of program rules which presents difficult challenges to CDS agencies.

8. Direct HHSC and DADS to expand the CDS option to include all services within all the Medicaid waiver programs and STAR+PLUS based on the broad consumer direction option in the TxHmL program**.**

Background: The TxHmL Medicaid waiver program is the one Texas waiver program in which all services may be consumer directed. The other programs offering the CDS option limit which services may be consumer directed.

9. Direct HHSC and DADS to review and revise as necessary the annual employer supports limit to reflect cost of living increases and advances in technology.

Background: A) The employer supports limit ($600 or $50 per month) has not changed since its inception in 2007. B) Startup expenses are the same, whether there are two months left on the plan year or 12, so the $50 per month limit is a barrier to service. C) Between programs, there is a wide variance in what the funds are expected to pay for. For example, $600 is more than adequate for a person in the PHC program; but it will barely cover gloves and antiseptic wipes for a person receiving nursing services in CBA. D) Consider a "dollar" base linked to the Consumer Price Index but with exceptions allowed for high need consumers.

10. Direct HHSC to standardize CDS pay rates for attendant/habilitation services among waivers including a tiered reimbursement rate for services based on the level of support needed instead of diagnosis or the program the individual is receiving services from.

*Background***:** As shown in Table 5 (page 21), "CDS Rate Disparity between Waivers for Similar Services," there are disparities between CDS rates for similar services between waiver programs for Habilitation (CLASS), Personal Attendant Services (CBA), Community Support Services (TxHmL) and Supported Home Living (HCS), and Residential Habilitation (DBMD). These are all necessary services that support an individual to live at home *and engage in their community.*

11. Direct HHSC to standardize supported employment pay rates among waivers and expand the CDS option to include supported employment for all waiver programs.

A) Raise the CLASS supported employment rate to make it equal to the other waivers so CLASS consumers can be provided with the job supports they need in order to work. This should increase the number of CLASS consumers who can be gainfully employed. This is an identical service among waivers; therefore we recommend standardizing these rates.

B) Expand the CDS option to include supported employment for all waiver programs.

Background: There is a disparity in rates among waivers for the same service of supported employment, as detailed in Table 6, "Disparity in Supported Employment Rates between Waivers." Table 6 also shows the number of consumers receiving supported employment services (two in CLASS and 244 in HCS). The significantly lower supported employment pay rate for CLASS compared to HCS hinders employment for those receiving CLASS services that need job supports in order to be successfully employed. At the current CLASS supported employment rate, a consumer would not be able to hire someone to offer the job supports they need in order to remain employed; therefore the service is not able to be utilized in CLASS. The CLASS supported employment rate is the only rate that is not comparable to the other waivers.

12. Direct DADS to expand consumer direction to include case management and service coordination.

A) Increase consumer direction across all programs by allowing choice of qualified service coordinator or qualified case manager.

   a. Case management and service coordination can be consumer directed through either the full CDS or Service Responsibility Option (SRO) service delivery options.

   b. DADS can set qualifications and identify individuals and organizations approved to provide case management/service coordination services.

B) Ensure conflict-free case management and qualifications for case management or service coordinator professionals.

C) Allow individuals in HCS residential services, including foster/companion care and group homes, to choose their service coordinator.

*Background***:** Currently case management and service coordination varies from program to program. Program participants do not have a choice of case managers or service coordinators and the qualifications per program vary. In addition, Texas limits CDS options based on an individual's "living arrangement" or where the person lives. For example, individuals in HCS group homes do not have access to any consumer direction.

Table 5. CDS Rate Disparity between Waivers for Similar Services

Home and Community Based Services (HCS)	Supported home living	$22.01
Community Living Assistance and Support Services (CLASS)	Habilitation	$13.05
Texas Home Living (TxHmL)	Community support services	$28.85
Community Based Alternatives (CBA)	Personal attendant services	$10.86
Primary Home Care (PHC)	Personal attendant services	$ 9.61
Deaf Blind Multiple Disabilities (DBMD)	Residential habilitation	$13.05

Note: From the rates shown above, CDS employers pay wages, employer support (such as a fax machine), and payroll and withholding taxes.

Table 6. Disparity in Supported Employment Rates between Waivers*

		Employment Services			
		Employment Assistance: A service that assists an individual in obtaining competitive, integrated employment		Supported Employment: A service that assists an individual in maintaining competitive, integrated employment	
		Persons receiving service*	**Hourly rate**	**Persons receiving service***	**Hourly rate**
1915(c) Medicaid waivers serving individuals with intellectual and developmental disabilities (IDD)	HCS	Does not offer this service.		244	$33.10
	TxHmL	17	$33.44	42	$33.44 CDS= $32.44
	CLASS	Does not offer this service.		2	**Up to $13.85**
	DBMD	0	$33.10	0	$33.10
	CWP	0	$13.85	1	$33.10

Source: DADS staff report, October 2011.

*Annual unduplicated number of individuals receiving service during fiscal year 2011, based on payment data through Sept. 30, 2011.

Notes: 1) DARS payment rate for supported employment is $37.50 per hour. 2) CWP is no longer a waiver program.