



Senate Committee on
Health and Human Services
Charge 6

Department of Aging and Disability Services
Commissioner Chris Traylor
May 12, 2010

Department of Aging and Disability Services (DADS) provides access to long-term services and supports for older individuals and individuals with intellectual and physical disabilities.

This presentation focuses on:

- The services and supports provided to support the needs of aging Texans, including:
 - Access
 - Navigating the system
 - Best practices in nursing home diversion (Community Living Program)
- DADS guardianship program, including:
 - Overview of the program
 - Relationship between DADS and the Department of Family and Protective Services (DFPS)
 - Efficiency and effectiveness of the program
 - Protection of clients and their assets

Aging Texans

Access to Services and Supports

Services for older Texans are impacted by two elements:

- Availability - what is available to eligible individuals
 - Access - how people are connected to services for which they are eligible
- The range of services *available* to older Texans is impacted by federal, state and local resources and the individuals' knowledge of services and supports.
 - Improving information about, and methods for, *accessing* services and supports has the potential for positively impacting the lives of older Texans, their families, and other informal caregivers.

Navigating the Long-Term Services and Supports System

- Individuals, their family members and other caregivers become aware of available services and supports through a variety of sources, examples include:
 - Physicians
 - 211 Texas
 - Online
 - Brochures, ads, bus signs, etc.

Navigating the Long-Term Services and Supports System

Older individuals and persons with disabilities access long-term services and supports through DADS “front doors” to simplify access to services across programs and coordinates with multiple partners.

- DADS Local Offices
 - Nine Regional headquarters and 186 field offices throughout the state manage the direct delivery of community care services to older individuals, persons with intellectual disabilities, and family members and caregivers
- MR Authorities (MRAs)
 - 39 MRAs provide services directly and through a network of local providers to persons with intellectual disabilities and their caregivers
- Area Agencies on Aging (AAAs)
 - 28 AAAs around the state provide information and access to community services for older individuals, their family members, and other informal caregivers

Aging and Disability Resource Centers

Integrating the front door

- ADRCs represent an integrated front door to services for older individuals and persons with disabilities.
- An ADRC is a direct access point to services. The primary objectives are:
 - Support older individuals and persons with disabilities by serving as a visible and trusted source of information and assistance regarding available programs, services and benefits
 - Help consumers navigate the system of services and supports and make informed choices
 - Connect individuals with programs that will help them remain independent and in their homes

Aging and Disability Resource Centers

- ADRCs serve as a “no wrong door” for consumers and local models may include the physical co-location of agency staff, staff connected through technology, or a combination.
- Key partner agencies include:
 - All three DADS front doors (DADS local offices, MRAs, and AAAs)
- And may also include:
 - HHSC benefits offices
 - Hospital discharge planners
 - Mental health authorities
 - Independent living centers
 - Other community organizations

Aging and Disability Resource Centers

ADRC models share common referral protocols and provide extensive training for community partners to facilitate referrals and service delivery.

- Eight ADRCs are currently operational
- El Paso's Project Amistad was awarded the ninth ADRC with implementation in June, 2010
- Goal of 20 ADRCs by 2020

Aging and Disability Resource Centers

ADRC locations

2005

Alamo Service Connection

Bexar County

Central Texas ADRC

Bell, Coryell, Hamilton, Lampasas, and Milam Counties

Tarrant County ADRC

Tarrant County

2008

Gulf Coast ADRC

Austin, Brazoria, Chambers, Colorado, Fort Bend,
Galveston, Harris, Liberty, Matagorda, Montgomery,
Walker, Waller, and Wharton Counties

East Texas ADRC

Gregg, Harrison, Marion, Panola, Rusk, and Upshur
Counties

Lubbock County ADRC

Lubbock County

Connect to Care

Dallas County

North Central Texas ADRC

Collin, Denton, Hood, and Somervell Counties

2010

Project Amistad

El Paso, Culberson, Hudspeth, Brewster, Jeff Davis,
and Presidio Counties

Improving Access to Services and Supports

Community Roundtables

- In 2007, in an effort to integrate access to DADS services in a way that makes the most sense to consumers, DADS expanded efforts to work with community partners.
- Part of this effort was a series of 16 community roundtables.
- Each community evaluated its specific strengths and challenges in streamlining its referral practices and other protocols.
- Based on the roundtables and evaluations, DADS and local partners took a variety of actions to improve practices and protocols.

Improving Access to Services and Supports

Results of Community Roundtables

- DADS provides statewide referral resources, including:
 - Development of a comprehensive list of DADS services
 - Creation of a common release of information consent form
 - Access to an e-mail encryption software to facilitate electronic information-sharing between partners
- Local communities now collaborate more effectively by utilizing:
 - Electronically-shared referral forms
 - Formalized interagency training plans
 - United marketing activities and outreach
 - Referrals for a consumer with needs from more than one agency

Community Living Program

- Texas is nationally recognized for its success in helping individuals relocate from nursing facilities back into the community.
- DADS places an emphasis on identifying persons at risk of entering a nursing facility *before* they enter the facility, as well as those who are at risk of exhausting their resources and becoming eligible for Medicaid.
- To address this, DADS partnered with local organizations to develop the Community Living Program.

Community Living Program

- Implemented in 2008, the Community Living Program (CLP):
 - Is funded by the Administration on Aging
 - Partners with two ADRCs in Central Texas and Tarrant County and their local hospital systems
 - Includes services for veterans as one of the targeted populations
- Through the partnership, staff provide individuals with service options that may assist them to remain at home and in their communities.
- Care transition specialists assist hospital discharge planners, using a specialized risk-assessment to identify individuals who are at risk of entering a nursing facility after their hospital stay.

Community Living Program

Once identified, the transition specialist and staff from the ADRC assist the family using several strategies, including:

- Accessing available services from both public and private resources, including the use of the family's own resources.
- Assisting the family to create a monthly service plan and budget.
- Where appropriate, incorporating evidence-based chronic disease self-management interventions, such as diabetes management.

Community Living Program

- One way DADS supports these strategies is to ease some restrictions on the use of Older Americans Act (OAA) funds, allowing the CLP to:
 - Access a wider array of services through the use of vouchers
 - Include consumers at risk of nursing facility placement as a priority population under the OAA
- In addition, CLP staff and DADS local offices expedite the delivery of Social Services Block Grant (Title XX) services, including client attendant services.

Guardianship

Overview of Guardianship

Guardianship is a legal method of protecting the well-being of an incapacitated individual.

- An incapacitated adult is defined in Chapter 13, Probate Code, Section 601, 14 (B) (C) as an individual who:
 - Because of a physical or mental condition, is substantially unable to provide food, clothing, or shelter for himself or herself, to care for their own physical health, or to manage their own financial affairs
 - Must have a guardian appointed to receive funds due the person from any governmental source
- A guardian is a court appointed person or entity who makes decisions on behalf of an incapacitated individual (referred to as a “ward”).

Overview of Guardianship

Chapter 13, Probate Code also defines the purpose and responsibilities of a guardian.

- **Guardian of the Person** has the:
 - Right to have physical possession of the ward and to establish the ward's legal domicile
 - Duty to provide care, supervision, and protection for the ward
 - Duty to provide the ward with clothing, food, medical care, and shelter
 - Power to consent to medical, psychiatric, and surgical treatment other than in-patient psychiatric commitment of the ward
 - Power to establish a trust and direct that the income of the ward be paid directly to the trust upon order of the court

Overview of Guardianship

- **Guardian of the Estate** is entitled to:
 - The possession and management of all property belonging to the ward, to collect all debts, rentals, or claims due to the ward
 - To enforce all obligations in favor of the ward, and to bring and defend suits by or against the ward
- It is the duty of the Guardian of the Estate to:
 - Take care of and manage the person's own property
 - Account for all rents, profits, and revenues the estate would have produced by such prudent management
- DADS is more often appointed Guardian of the Person than Guardian of the Estate.

Guardianship in Texas

- In Texas a number of individuals, entities or fiduciaries may serve as guardian of an incapacitated person. They include:
 - Family Members and Friends
 - Private Professional Guardians
 - Private Guardianship Programs
 - County Operated Guardianship Programs
 - DADS Guardianship Program
- Courts with probate authority have jurisdiction to establish a guardianship.
- Guardianship certification is required for all professional guardians.

DADS Guardianship Program

- Under the Human Resource Code, Section 161.101(b), DADS is directed to provide services to individuals who are:
 - Referred by Adult Protective Services as victims of abuse, neglect or exploitation, and subsequently determined by a court to lack capacity and there are no other means of providing protective services
 - Incapacitated and aging out of Child Protective Services conservatorship who are incapable of managing their own affairs as determined by a court with probate authority
 - Referred directly to the program by a court with probate authority in certain circumstances which includes persons who:
 - Appear to need a guardian and a joint agreement is reached between the court and DADS.
 - Are wards of the court and located more than 100 miles from the court which created the guardianship and no other individual or entity is available to serve as guardian. This type of referral is limited to 55 annually.

DADS Guardianship Program

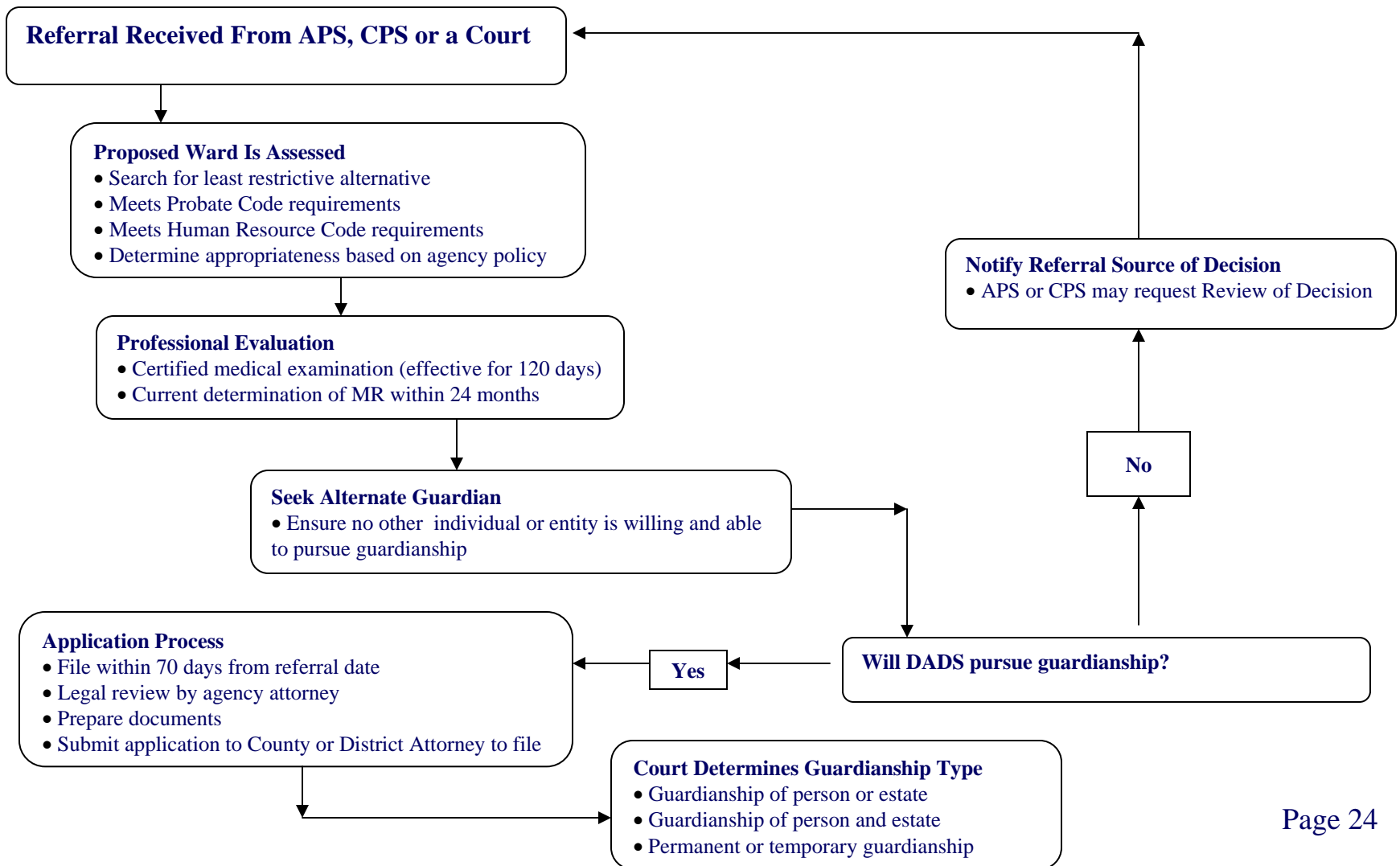
- Number of active guardianships as of March 31, 2010:
 - 1,213 wards are served by the DADS guardianship program
 - 820 wards served directly by DADS staff
 - 393 wards served by contract guardianship providers
- Requirements of a Guardian:
 - DADS staff who deliver guardianship services are required to achieve and maintain certification through the Texas Guardianship Certification Board by passing a comprehensive examination and an initial and recurring fingerprint based criminal background check at the state and federal level
 - Must complete twelve hours of continuing education in the field of guardianship or related subjects for recertification every two years
- According to state law, DADS must limit its Guardianship services to individuals who have private assets or government benefits to fund their needs

Relationship between DADS and DFPS

In an effort to strengthen the relationship between DADS and the Department of Family and Protective Services (DFPS), the agencies have:

- Clarified multiple policies and procedures.
- Established more clear processes for referrals, joint staffing, and reviews of decision
- Strengthen the interagency steering committee authority to discuss trends, issues, and resolve concerns

DADS Guardianship Process



DADS Guardianship Process

- When the DADS Guardianship Program receives a referral from DFPS, a certified guardianship specialist:
 - Conducts a complete and thorough assessment of the individual's circumstances and condition
 - Attempts to identify less restrictive alternatives to guardianship
 - Searches for family members, other individuals or entities to serve as guardian
- DADS files an application with the appropriate court to be appointed guardian if no other alternative is available and DADS guardianship services are appropriate:
 - DADS is required to file for guardianship within 70 days from the date the referral is received from Adult Protective Services (APS)
 - A 30-day extension may be submitted for consideration and approval by APS under extenuating circumstances

DADS Guardianship Process

- After the application is filed, a court with probate authority:
 - Makes the final determination regarding the individual's capacity based on the evidence presented and establishes the type of guardianship
 - May appoint a temporary or permanent guardian of the person, guardian of the estate, or guardian of person and estate
 - May find the individual has capacity and terminate the guardianship proceeding

DADS Guardianship Process

- Once a court makes a determination of incapacity:
 - The court grants the guardian certain authority over the individual, the estate, or both
 - Guardianship responsibilities for the ward may include:
 - Arranging for services (personal care, arranging therapy, finding property managers, social normalization, education, vocational training)
 - Making medical decisions (approving medication, procedures, surgeries, end of life issues)
 - Arranging for placement (locating appropriate facilities, relocating wards)
 - Managing finances (paying bills, applying for benefits, completing taxes, property management, investments)

Protection of Wards

- By the court:
 - Annual report of person
 - Annual accounting of financial management
 - Monitoring by officers of the court
 - Prior court approval for all significant expenditures

- To ensure additional protection DADS:
 - Conducts quality assurance and monitoring visits specific to the delivery of guardianship services by DADS staff and contracted providers
 - Conducts complaint investigations
 - Establishes rules, standards, procedures, and protocols for contracted guardianship providers and DADS staff

Protection of Wards

- Active cases in the DADS program are reviewed annually to ensure:
 - The guardianship is still necessary and appropriate for the individual
 - The individual is being served in the least restrictive, most integrated setting possible
 - DADS is the only program or entity available and appropriate to serve as guardian
- Under the requirements of the Probate Code, DADS staff may help the individual seek restoration and dismissal of the guardianship under the direction of the court.

Appendix

Services for Older Persons

Medicaid services provided through DADS:

- Institutional Entitlements
 - Nursing facilities
 - Hospice (home, community or facility setting)
 - Intermediate Care Facilities for Persons with MR
- Medicaid Entitlement Community Services:
 - Primary Home Care (PHC)
 - Community Attendant Services (CAS)
 - Day Activity and Health Services (DAHS) (adult day care)
- Medicaid waivers:
 - Community-Based Alternatives (CBA) (nursing facility waiver)
 - STAR+PLUS (Bexar, Harris, Nueces, Travis; Feb. 2011 Dallas/Tarrant)
 - Consolidated Waiver Program (CWP) (Bexar County)
 - ICF/MR waivers (Home and Community-based Services, Community Living Assistance and Support Services, Texas Home Living, Deaf-Blind with Multiple Disabilities)
- Medicaid/Medicare service provided through DADS:
 - Program for All-inclusive Care for the Elderly (PACE) (El Paso, Amarillo, and Lubbock coming online soon)

Services for Older Persons

Non-Medicaid services provided through DADS:

- Federally-funded services:
 - Title XX (Social Services Block Grant): administered through DADS Regional and Local Services
 - Adult foster care
 - Consumer Managed Personal Attendant Services
 - Day Activity and Health Services
 - Emergency response services
 - Family care
 - Home-delivered meals
 - Residential care (provided in assisted living facilities)
 - Special services for persons with disabilities
 - Older Americans Act: 28 Area Agencies on Aging contract with DADS to provide services to persons age 60 and over and their caregivers
 - Access and assistance services
 - Nutrition services
 - Services to assist independent living
- State-funded services:
 - In-Home and Family Support (IHFS)

Services for Older Persons

Services for older persons not provided through DADS:

- Public benefits and services
 - Social Security benefits
 - Medicare, Medicare Rx (Part D), and Medicare supplemental insurance policies
 - Acute care Medicaid and Supplemental Security Income (SSI)
 - Veterans Administration (VA) benefits

- Private benefits and services
 - Long-term care insurance
 - Retirement pensions
 - Services available through faith-and community-based organizations
 - Private pay

Example 1 of ADRC Consumer

An older veteran with diabetes caring for his grandson is in need of:

- Assistance with paying for overdue visits to the doctor for both himself and grandson
- Prescription drugs
- Heat for his home
- Food
- Help understanding his Medicare benefits

The ADRC assists by:

- Working with the local Health and Human Services Commission office to enroll him in:
 - The expedited Supplemental Nutrition Assistance Program;
 - Medicaid for himself and Children's Health Insurance Program for his grandson; and
 - The one-time Temporary Assistance for Needy Families cash benefit for grandparents.
- Negotiating with the local gas company on his behalf to restore his heat
- Explaining to him how Medicare works and securing the Low-Income Subsidy benefits to help with premiums
- Working with the local food pantry to secure immediate food
- Scheduling medical appointments for both him and his grandson

Example 2 of ADRC Consumer

A middle-aged woman caring for her 19 year-old son with Down Syndrome and her 79 year-old mother with Alzheimer's disease, needs:

- Assistance paying for medical appointments and prescription drugs for all three family members
- Someone to provide support for her mother and son when she is unavailable
- Rental assistance
- Car repairs

The ADRC assists by:

- Guiding her mother through the enrollment process for Medicare Part D benefits and the Low-Income Subsidy
- Working with the MRA to secure supported employment and other services available to her son
- Working with the local DADS office to help enroll her mother in Medicaid and secure in-home support services and respite care
- Working with Catholic Charities to secure one-time rental and car repair assistance
- Working with the local Alzheimer's Chapter to supplement additional respite services and caregiver support

Guardianship Example 1

A 22-year old woman in Child Protective Services (CPS) conservatorship since the age of two with multiple physical disabilities including an intellectual disability from birth.

- She is unable to manage her own affairs
- She cannot feed and dress herself and perform other activities of daily living and cannot communicate her needs to caregivers
- Less restrictive alternatives could not be identified by DADS or CPS
- There is no family involvement or alternate guardian available
- DADS applied to be named guardian
- The court appointed DADS as guardian of the person

Guardianship Example 2

A 40-year old man with significant mental and physical impairment

- His impairment was caused by a head injury
- Partial paralysis renders him unable to perform activities of daily living
- His impaired judgment causes inappropriate and potentially dangerous behaviors
- Adult Protective Services validated abuse by a caregiver
- There is no family involvement and alternate guardians are not available
- Less restrictive alternatives cannot adequately protect the man
- DADS applied to be named guardian
- Court appointed DADS Guardian of the Person

Guardianship Example 3

A 70-year old woman with severe dementia

- Is medically non-compliant
- Has a tendency to wander which places her in danger of physical harm
- Adult Protective Services validated abuse and exploitation on her caregiver
- Her only family member is inappropriate to become guardian and no other appropriate alternate guardian could be identified
- DADS applied to be named guardian
- Court appointed DADS Guardian of the Person and Estate