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Rider or Bill Numbers	Mandate/Directive	Responsible Party	Status
Section 11.28 Article IX	<u>Appropriation of State Fiscal Relief Federal Fund</u> (will provide for partial restoration of rate reductions).	LBB & Governor	Via letter dated 8-5-03 from the AG's Office to the Governor partial restoration was approved. DONE
Rider 36	<p><u>Rate Analysis and Reporting Requirements</u></p> <p>a. None of the funds appropriated by this act to HHSC may be expended or distributed by the Commission unless:</p> <p>(1) the Commission submits to the LBB at least 60 days prior to the approval of any rate increase or program expansion for the Medicaid or CHIP programs:</p> <p>i. notification of the proposed rate increase or program expansion; and</p> <p>ii. a five-year cost impact analysis report using the most current caseload forecast.</p> <p>(2) The cost impact analysis report shall be prepared in a format approved by the LBB.</p> <p>b. Each report submitted to the LBB pursuant to this provision must contain a certification by the Chief Financial Officer (CFO) and HHSC that the information provided is true and correct based upon their belief together with supportive documentation. Additionally, the CFO and HHSC must either indicate that the proposed action is within biennial appropriations/available funding or estimate the amounts (including General Revenue and All Funds) by which the proposed action will exceed biennial appropriated/available funding.</p> <p>c. The Office of the State Auditor shall review the Commission's documentation, supporting records, and justification, and report back to the LBB prior to the approval action.</p> <p>d. The Comptroller of Public Accounts shall not allow the expenditure of funds appropriated by this Act to HHSC if the LBB certifies to the Comptroller of Public Accounts that HHSC is not in compliance with this provision.</p>	HHSC	Ongoing procedural requirement DONE
Rider 44	<p><u>Evaluation of MR Service System</u></p> <p>HHSC shall work with providers, advocates, appropriate agency staff, and other persons to:</p>	HHSC	Letter dated 7-24-03 sent to HHSC inquiring about status and noting interest in participating in

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Rider 44 cont'd	Evaluate its current regulatory and administrative functions, and those of the agencies under its jurisdiction, relating to the provision of mental retardation services, and recommended ways to eliminate duplicative functions, while maintaining services and ensuring ongoing agency accountability in an effort to achieve a reduction in paperwork requirements by at least 10% by 9-1-05. Plan to be developed by 10-10-04.		<p>the process.</p> <p>3-23-04 – Informed by Tom Valentine that HHSC is seeking an outside consultant to assist with this.</p> <p>3-23-04 – [Submitted Tom Valentine’s preliminary list of overly burdensome rules.]</p> <p>9-23-04 – HHSC has contracted with Morning Side Research and Consulting to fulfill this Rider. Robin Herskowitz will be the contact. Focus Groups will be used to identify rules and processes that need to be changed or eliminated or added.</p> <p>11-2-04 – PPAT representatives met with Robin Herskowitz to discuss rules and processes that fell under preview of Rider 44.</p> <p>11-18-04 – provided Robin summary of concerns and accompanying rules.</p> <p>1-24-05 – DADS staff informed PPAT that draft report was provided to HHSC and DADS.</p>
Rider 45	<p><u>MR Provider Cost Reporting</u></p> <p>HHSC shall review and revise its mental retardation provider cost reporting rules, regulations and procedures to simplify the cost reporting process and reduce overall administrative costs to the state and providers while providing fair and accurate financial information to the state necessary to the proper planning and funding of mental retardation services. HHSC shall capture any and all costs, follow GAAP standards and as possible, utilize financial statements similar to those prepared for banking, tax and other common business financial planning, evaluation, and reporting purposes.</p> <p>In implementing this directive, the Commission shall work with providers, advocates, agency staff and private sector financial experts, and shall ensure a clear separation between the rate setting and analysis functions from the audit functions.</p>	HHSC	<ul style="list-style-type: none"> - Letter dated 7-24-03 sent to HHSC inquiring about status and interest in participating in the process. - D. Henegar, K. Hutto, & C. Smith met with Mr. Suehs on 10-23-03 regarding this matter. Mr. Suehs asked us to submit names for the workgroup. - Letter sent to Mr. Suehs dated 11-19-03 providing a list of participants for the workgroup. - Several calls to Mr. Suehs’ Office have been made regarding a response to the letter with no reply. The letter was resent on January 11, 2004

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Rider 45 cont'd			<p>with no reply. On February 2, 2004 PPAT staff met with HHSC rate staff, and while there was no mention of this mandate, it was noted that HHSC will be establishing a workgroup in late March/early April to examine the current reimbursement methodology and identify areas for improving it. It was further noted that the current ICF/MR and HCS reimbursement rules will be revised within the next several months to parallel the reimbursement rules for community care programs.</p> <p>-June 9, 2004, received letter from HHSC noting that HHSC would address this directive this summer and seek provider input. The intent is for the revised reports to be completed in time for distribution to providers in December or early January. The letter does not specifically state, as directed in the rider, that a workgroup will be established-- only that input will be incorporated.</p> <p>-January 14,2005: Received phone call from Ray Wilson, HHSC, informing PPAT of the following: a) HHSC was issuing RFP to solicit an entity/ person to complete the mandate of Rider 45, b) intent was for contract to be executed by 2/25/05 with start date by 4/25/05, c) 2004 cost report training would begin in March with cost reports due by May 31, 2005. (see January 31, 2005 PPAT Alert for details)</p>
Rider 46	<p><u>Medicaid Provider Reimbursement-Application of FY 04-05 Reductions</u> Medicaid rate reductions related to any long term care budget strategy shall be calculated without</p>	HHSC	Rate reductions were applied in accordance with this requirement.

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	rebasement of current reimbursement factors and shall be shared equally across all Medicaid providers.		
Rider 54	<p><u>Application of QAF to Certain Waiver Programs</u> HHSC shall work collaboratively with TDMHMR to aggressively seek new ways to maximize the use of federal funds to pay for the cost of services provided through 1915 (c) waivers operated by TDMHMR, including the possibility of assessing a Quality Assurance Fee on waiver services. Additional funds gained through this effort are hereby appropriated to the Department to be used to restore rate reductions in the HCS waiver, the MRLA waiver, and non-state operated ICF/MR programs. To the extent possible, the rate restoration shall be retroactive to the time of the initial reimbursement rate reduction. Any excess funds shall be used to reduce or eliminate the wage disparity between the wage component in the HCS and MRLA reimbursement model and the wages paid to comparable direct support professional services workers in state-operated programs for persons with mental retardation; and then, to reduce or eliminate the disparity between the wage component of the non-state operated ICF/MR program professional services workers in state-operated ICF/MR programs.</p>	HHSC	As of October 2003, HHSC has reported that CMS will not authorize application of the QAF on the waiver in the manner proposed in the Rider. DONE according to HHSC
Rider 55	<p><u>Study of Facility Closure and Consolidation</u> Study the feasibility of closure and consolidation of state schools and hospitals. Provide a report with site specific recommendations on closure and consolidations when the 2006-07 Legislative Appropriations Request is submitted to the Legislature.</p>	HHSC	<p>-RFP to contract with a consultant to study feasibility of this mandate was issued by HHSC in the 10-31-03 Texas Register. Proposals are due to HHSC by 12-03-03 with work to be completed by 06-30-04. -1-9-04 HHSC posted a revised RFP that is due to HHSC on 2-10-04. -2-25-04 HHSC announced that the tentatively scheduled award announcement was being postponed. -3-16-04 Contract awarded to Public Consulting Group. -7-8-04 Announcement made that completion of</p>

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			<p>report will be delayed until late July. New: August 13, 2004 Texas Register- Notice of intent to renew contract with consulting firm. Feb. 7, 2005: Report still not completed.</p>
Rider 12	<p><u>HCS Waiver Program</u> The department shall ensure the cost-effectiveness of the HSC program by limiting the average annual HCS expenditure per client to 80 percent of the average annual per client ICF/MR expenditure. Expenditures for individual clients may exceed this cap as long as the overall average expenditure for HCS clients remains below 80 percent of the ICF/MR annual average. Furthermore, it is the intent of the Legislature that, in order to increase the number of clients served, the overall average monthly expenditure per client may not exceed \$3,389 per month in fiscal year 2004 and 2005. TDMHMR and HHSC shall report to the LBB and the Governor by October 1 of each year of the biennium, on the measures taken to decrease the average cost per person and to increase the number of clients served in the HCS program.</p>	TDMHMR	<p>Ongoing- This is the long-standing 80% cost cap rider. The rider does though require that monthly expenditures per client may not exceed \$3,389 in FYs 04 and 05.</p> <p>Note: For FYs 06-07 expenditures are proposed at \$ 3,336/month/consumer.</p>
Rider 30	<p><u>Reimbursement of Advisory Committee Members</u> Pursuant to Government Code, §2110.004, reimbursement of expenses for advisory committee members, out of the funds appropriated above not to exceed \$18,978 per year, is limited to the following advisory committee: Mental Health Planning and Advisory Committee.</p>		<p>See HB 2292, Section 2.151 for more details. DONE</p>
Rider 70	<p><u>Feasibility Study of Six Bed Waiver Settings</u> To make TDMHMR waiver services more cost effective and maximize the number of persons served, TDMHMR shall study the feasibility, costs, and benefits of converting waiver residential services to six bed settings, with the intent that any feasible conversion begin in fiscal year 2006.</p> <p>The Department will complete the study by March 31, 2004.</p>	TDMHMR Ernest McKenney	<p>Letter dated 7-27-03 sent to the Department from PPAT inquiring about the status and noting interest in participating on workgroup. Received letter dated 8-7-03 from MHMR acknowledging receipt of the 7-27-03 letter and in noting that a workgroup will be formed this fall. First meeting held on October 23, 2003 from 9:30 a.m. to 2:30 p.m. in Rm. 240 at TDMHMR.</p>

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			PPAT has two representatives: Genelle Edwards & Jane Steur. - Via message dated 5-13-04, MHMR has indicated that the report will not be completed until August 31, 2004 as 2002 cost reports have yet to be fully audited and such data is necessary to address some of the components of Rider 70. - August 13, 2004, workgroup convened to review final "draft" report. - September 7, 2004 Final Report completed.
Rider 66	<u>Contingency Appropriation for HB 2292</u> Contingent upon the enactment of HB 2292, or similar legislation related to imposing a Quality Assurance Fee on facilities owned by TDMHMR, by the Seventy-eighth Legislature, Regular Session, the amounts appropriated above from the Quality Assurance Account No. 5080 include an estimated \$27,779,438 in fiscal year 2004 and an estimated \$27,780,950 in fiscal year 2005 from fees collected pursuant to House Bill 2292.	TDMHMR	Relates to QAF at State Schools DONE
Rider 69	<u>Expenditures on Bond Homes</u> Expenditures made for the provision of client services in bond homes operated by TDMHMR shall not exceed the approved reimbursement rates.	TDMHMR	DONE
HB 2292	Reorganization Bill for Health and Human Services System. Key sections follow.		

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<p>Sec. 2.03</p> <p>Sec. 203 cont.</p>	<p><u><i>Flexibility in Provider use of Reimbursement</i></u></p>	<p>HHSC</p>	<p>- D. Henegar, K. Hutto, & C. Smith met with Mr. Suehs on 10-23-03 regarding this matter. Mr. Suehs asked us to submit our position.</p> <p>- Letter sent to Mr. Suehs dated 11-19-03 providing PPAT's position.</p> <p>- As of 2-23-04 there has been no reply to the letter although several calls to HHSC have been made to inquire about a reply. A follow-up letter dated 1-11-04 has been sent.</p> <p>- As of 06-04, HHSC has yet to implement this provision contending that it did apply flexibility in the manner in which it applied the FY '03 rate reductions across the direct and indirect components of the rate methodology. PPAT does not believe that this was the intent of Section 2.03 based on the July 7, 2003 letter Rep. Sid Miller sponsor of the provision, sent to HHSC which detailed his intent. Note: Via a letter dated June 9, 2004 from HHSC, T Suehs indicated that a workgroup was convened on March 29, 2004 and again on April 8, 2004 to address issues that should be considered for developing a new reimbursement methodology and that after review by HHSC revisions will be made to the rates.</p> <p>Feb. 6, 2005: PPAT will pursue implementation with the 79th Legislature.</p>
<p>Sec. 2.55, 2.56, 2.68, 2.69, & 2.73</p>	<p><u><i>Exemption from HCSSA Licensure</i></u></p>	<p>TDHS/TDMHMR, Marc Gold & Steve Riggle</p>	<ul style="list-style-type: none"> • TDMHMR sent letter dated 6-23-03 to providers regarding status. • DHS will proceed with proposed rules to

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			meet this mandate as follows: 8-1-03 – ADAC presentation 8-8-03 – TDHS Board presentation 8-9-03 – Texas Register publication 11-20-03 – Effective Date <ul style="list-style-type: none"> Compliance Fee- TDMHMR informed PPAT that as the language in HB 2292 is permissive there will be no steps to collect or enact rules related to the compliance fee. DONE
Sec. 2.77	<u>Privatization of a State School</u> After 8-31-04 but before 9-1-05 allows for privatization providing it can be done at least 25% less than the cost to the department.	TDMHMR	RFI issued in Texas Register on 9-5-03. RFP issued in Texas Register on 12-12-03. MHMR announced on 2-17-04 that the one bid that was submitted on 2-13-04 was rejected. 3-5-04 TDMHMR issued letters to those who submitted letters of intent, but no response to the RFP, a survey inquiring as to why no response was submitted. DONE
Sec. 2.78	<u>Privatization of a State Mental Hospital</u> Same as 2.77	TDMHMR	RFI issued in Texas Register on 9-5-03. RFP issued in Texas Register on 12-12-03. On 2-17-04 MHMR announced that no bids were received to privately manage a state hospital. 3-5-04 TDMHMR issued letters to those who submitted letters of intent, but no response to the RFP, a survey inquiring as to why no response was submitted. DONE

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Sec. 2.74, 2.82, & 2.82A	<u><i>Dual Role of MRA as Authority and Provider</i></u>	TDMHMR	<p>In December, 2003 TDMHMR informed MRA's that they would need to issue an RFI to all interested stakeholders to determine what entities were in their areas who were interested in/available to provide the non-medicaid funded services currently performed by the MRA's. Target date for completion is June 1, 2004 with a plan related to implementation of PLR due to TDMHMR on October 1, 2004.</p> <p>- Beginning in May 2004 the TX Council and PPAT entered into discussions re: PLR to determine if any consensus could be reached.</p> <p>Feb. 7, 2005: PPAT and TX Council have completed their negotiations and are working with the 79th Legislature to implement. HB 470 (Davis) directs establishment of the regional authorities and is the bill to which we are currently trying to influence changes that parallel our agreements.</p>
Sec. 2.76	<u><i>Allocation of Duties Under Certain Medicaid Waiver Programs</i></u> (Conversion of MRLA to HCS)	TDMHMR	<p>TDMHMR adopted rules effective 9-1-03 that convert MRLA to HCS. Training for the conversion was conducted in 3 locations across Texas. DONE</p>
Sec. 2.64, 2.65, 2.66, & 2.67	Sec. 2.64 - <u><i>OAF for State Schools</i></u>	HHSC/TDMHMR/ TDHS	<p>TDMHMR has adopted rule changes to allow for the retroactive application of this fee back to 9-1-02 as well as adopted rules to approve application of the fee effective 9-1-03. See August 29, 2003 Texas Register. DONE</p>

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Sec. 2.151	Requires HHSC to certify based on its review, the exemption from abolition of those advisory committees under the auspices of all health and human services it deems necessary to fulfill the Commission's responsibilities and to abolish those it feels do not meet this criteria.	HHSC	Via the August 29, 2003 <u>Texas Register</u> , all committees abolished and all exempted from such were published. DONE
SB 1182	<u>Local Authority Planning</u> Requires Authorities to develop local service plans to maximize authority's services by using the best and most cost effective means of using federal, state, and local resources to meet the needs of the local community.	TDMHMR	As of 7-1-03 we have no information. As of 2-7-05 we have no information although the State Auditors Report (#05-021, Jan. 11, 2005) on community centers is available. Go to www.sao.state.tx.us .
Rate Reduction	<u>ICF/MR & HCS/MRLA</u>	HHSC	<ul style="list-style-type: none"> • TDMHMR issued letters to providers dated 7-7-03 related to this matter. NOTE: The QAF fee will increase from 5½ % of gross receipts to 6% of gross receipts as noted in the July 7, 2003 letter from TDMHMR to providers and as provided for under new HHSC rule (see August 29, 2003 <u>Texas Register</u> for details). The letter also informs providers of 1) the rate reduction and possibility of an adjustment upward if new federal funds are identified for these programs and 2) the reduction in the personal needs allowance (PNA) for ICF/MR residents from \$60.00/month to \$45.00/month. • On 8-6-03 TDMHMR stated that proposed rate reductions will be ½ less than initially proposed as the result of the

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			application of the temporary FMAP increase and in accordance with Section 11.28 of Article IX of the Appropriations Bill. The FY'04 proposed rate reductions are as follows: ICF/MR: 1.75% reduction from FY'03 rates. HCS: 1.1% reduction from FY'03 rates. DONE