Maryland Department of Health's Responses to the DLS FY 2019 Developmental Disabilities Administration Budget Analysis
February 27, 2018 (House) and March 1, 2018 (Senate)

Response to Recommendations

DLS recommends committee narrative requesting that DDA include the number of assaults to both staff and other residents at each of the SRCs administered through DDA in the annual MFR submission. (pg. 13)

The Department concurs.

DLS recommends reducing funds for expansion of TCM by 75% to align levels with recent actuals and to account for expected growth in the program. Additionally, DLS recommends reducing the provider rate increase associated with TCM to correspond with the proposed reduction. (pg. 18)

The Department respectfully does not concur with the recommendations. The budget for TCM was calculated based on the number of units billed in FY 2017 with a 10% increase in FY 2019, additional units needed to serve 800 people leaving the Waiting List and starting services under the Family Support Waiver and Community Support waivers, and additional units needed to implement the Person Centered Plan.

The reduction for the provider rate from 3.5% to 1% in the BRFA includes the provider rate increase for TCM.

Therefore, DLS recommends adding a provision to the BRFA of 2018 to reduce the fiscal 2018 working appropriation by $1.85 million in general funds. (pg. 19)

The Department respectfully does not concur with the recommendation. The Joint Chairmen's Report of 2017 included the following language: ", provided that if the funding for the proposed capped family supports waiver or community supports waiver cannot be utilized in fiscal 2018, the Developmental Disabilities Administration shall use the funding to provide services for individuals on the waiting list."

To date, approximately 600 individuals on the Waiting List have been contacted about the availability of funding through the two new waivers and, depending on the services needed, the comprehensive waiver known as Community Pathways.

DLS recommends narrative expressing intent that the fiscal 2020 budget submission separate the two programs into distinct subprograms codes. (pg. 19)

The Department concurs. The Family Support Waiver and the Community Support Waiver have been separated into distinct PCA's in FY 2018 to accurately capture expenditures. The assignment of the new PCA's occurred after the FY 2019 budget was submitted. The Community Support Waiver is P220 and the Family Support Waiver is P221.

DLS recommends adding a provision to the BFRA of 2018 reducing the entire fiscal 2018 appropriation [$3,232,938 GF and $5,622,500 TF] for utilization review. (pg. 21)

The Department concurs.

DLS recommends adding a provision to the BRFA of 2018 reducing the entire fiscal 2018 appropriation [$115,000 GF and $200,000 TF] for Self-Directed Financial Management Services. (pg. 21)

The Department concurs.

Additionally, DLS recommends restricting $500,000 in general funds from the M00M0101 Program Direction budget in fiscal 2019 pending the receipt of a report that explains procurement delays. (pg. 21)

The Department respectfully does not concur with the recommendation. The DDA has followed the procurement procedures required by the Department of Health Office of Procurement and Support Services and by the Department of Budget and Management. Development and review of complex procurements involving new approaches for which there is no previous experience takes significant time.

DLS recommends withholding $100,000 from the M00M0101 Program Direction budget pending submission of the master rate file to the budget committees.

The Department respectfully does not concur with the recommendation to withhold $100,000 GF. The Master Rate File has not been released because adjustments are still being made based on feedback from service providers and further discussions with the Technical Work Group comprised of service providers and MACS. However, DDA will share the Master Rate File with the Department of Legislative Services.

Additionally, DLS recommends withholding $100,000 from the M00M0101 Program Direction budget pending submission of caseload data for fiscal 2018 and language expressing intent that DDA submit monthly caseload data for each of the community based services programs.

The Department respectfully does not concur with the recommendation to restrict $100,000 GF from the Program Direction budget. The DDA has been submitting the enrollment data by service monthly to the Department of Budget and Management and to the Department of Legislative Services as part of a department-wide data sharing effort. DDA contacted the DLS analyst who clarified the data request to actual placements by funding category. DDA committed to provide this data.

DLS recommends a provision to the BRFA restricting the identified $27.6 million fiscal 2018 general fund surplus to be used to pay down the federal audit disallowance pending the receipt of a disallowance letter from the federal government. In the event that MDH does not receive a disallowance letter the surplus should revert to the general fund. (pg. 28)

The Department respectfully does not concur with the recommendation. The method used to calculate the general fund surplus is incorrect in that it uses FY 2019 funding split percentages that are higher than those that DDA is currently experiencing based on its FY 2018 projections. DDA's funding splits for FY 2019 were increased based upon a recent trend over several years since FY 2015. FY 2018 projections do indicate a slight increase in FFP over FY 2017 but not to the extent of FY 2016 to FY 2017, which was significant. The current trajectory of the FFP splits in FY 2018 will enable DDA to do several things: First, continue to address the Waiting List; second, enable DDA to support an outstanding Contribution To Care (CTC) liability of $4.2 million; and third, backfill unanticipated cost increases in the DDA Administration and DDA facilities' budgets.

If and when a disallowance letter is received, the DDA is prepared to exhaust all administrative appeal processes, which will delay payment beyond FY 2018 and likely FY 2019.

Response to Issues

The agency should explain exactly how consolidation took place, when Jessup closed, and when additional beds opened in Sykesville. (pg. 9)

In preparation for the move, the Sykesville SETT was renovated and the camera system upgraded and expanded. The 12 residents at the Jessup SETT were transferred to the Sykesville unit the morning of November 16, 2016 with the assistance of the staff. Operations at the Jessup SETT ceased the next day on November 17, 2016. Office equipment such as the copier, camera systems and other equipment were cleared from the Jessup SETT in early December 2016. The transition of the residents from the Jessup SETT to the Sykesville SETT on November 16, 2016 increased the Sykesville census from 17 to 29.

The agency should explain steps taken to attempt to decrease repeat commitments in fiscal 2018. (pg. 10)

There are some variables involved with the repeat commitments that can not be addressed, such as persons returned as incompetent after restoring competency. Competency is fluid; however, the Department will continue to provide competency restoration services when necessary and continue to recommend to the Court the support needs and accommodations for maintaining competency, i.e. expedient docket scheduling, limited courtroom observers, best means in processing information. Continued court involvement is the only recourse in having defendants continue in court-ordered services. Once the court case is closed, and services become exclusively voluntarily, some people choose to leave services and return to prior lifestyles and residences. This recidivism rate is lower than those not supported in the criminal justice system. For those who remain in services and have court ordered conditions of release, their service plan is monitored by the Office of Court Ordered Evaluations and Placements. For the others who remain in DDA funded services, they are assigned a Coordinator of Community Services (case manager) who monitor their services. Provider capacity continues to be enhanced and increased within the DDA service network to provide specialized services. Additionally, we will continue to work in diversion measures with community providers, other departmental resources and court stakeholders.

The agency should comment on actions taken since the October 2017 staff protest to ensure worker safety and on strategies to reduce mandated overtime. (pg. 14)

The October 31, 2017 protest staged by the AFSCME union was explained to management as being representative of a statewide issue and not specific to Potomac Center exclusively. The protest timing was difficult to understand as there was a decrease in assaults from 2016 (210 total) to 2017 (136 total), and an announcement made in late June 2017 of Potomac Center's expansion with subsequent recruitment and hiring of 40 additional positions, 23 of which were direct care associates. As the first hire began in August and continues, the amounts of mandated overtime are now significantly reduced.

The agency should comment on how MDH intends to use the growing fund balance in the WLEF. (pg. 20)

The DDA plans to discuss the status of the Waiting List Equity Fund with the DD Coalition to explore how best to utilize the funds.

The report does not clarify the definition of each differential or how they will be applied. The agency should provide this information to the committees. (pg. 24)

Johnston, Villegas-Grubbs & Associates (JGVA) recommended one differential and that is for acuity. JVGA and the DDA are working with the Technical Work Group to define the criteria to determine when the acuity differential will be applied. The acuity differential is an enhanced program support percentage to cover the additional costs for people who have substantial medical and psychological needs, and provide options for people who need very intense levels of support.

The agency should provide an explanation for why wage increases should drive all other rate increases. (pg. 25)

Focusing on increase to wages only will negatively affect the other costs to support people with developmental disabilities. The current rate system consists of two components: a consumer or individual component based on individual need and a provider component based on a flat rate. The provider component funds the administrative, general, capital, transportation and other program support services.

The Brick™ Method recommended by Johnston, Villegas-Grubbs and Associate (JVGA) considers how the cost components relate to the direct support professional wage. The cost components include Employment Related Expenditures, Facility Costs for day services only, Program Support, Transportation, and General and Administrative. Based on the recommendation from the Service Quality Work Group, training was added as a stand alone cost component. If increases are targeted to wages only, then over time, the infrastructure of a provider organization will not be able to sufficiently support the programmatic activities, i.e. direct services.

The agency should comment on when the meeting with stakeholders will be scheduled, an updated timeline for submission of this report, and how this information will guide the rate-setting process. (pg. 27)

The DDA consulted with MACS on when to convene a meeting and it was agreed that a meeting be held in mid to late April. The revised timeline for submission of this report is October 1, 2018. How this effort will guide the rate setting process is dependent on the data that is available and the recommendations of the stakeholders.