Maryland Department of Health
Fiscal Year 2021 Operating Budget
Response to Department of Legislative Services Budget Analysis
of the Developmental Disabilities Administration Budget

House Appropriations Committee
Health and Social Services Subcommittee
Chair Kirill Reznik
February 26, 2020

Senate Budget and Taxation Committee
Health and Human Services Subcommittee
Chair Melony Griffith
February 27, 2020

Policy Questions

DDA should discuss whether it has experienced any backlogs in approving person-centered plans so far at any stage in the process, and if so, the extent of the backlogs. DDA should also comment on whether it has processing or timing requirements to ensure that the plans are moved through the workflow steps efficiently. The Department of Legislative Services (DLS) recommends adopting committee narrative that would request that DDA define performance goals and measurements in the annual MFR submission related to processing person-centered plans, beginning with the fiscal 2022 submission. (pg. 8)

There are 47,156 Person Centered Plans (PCP) in the Long Term Services and Supports system. These include annual plans, those that have been extended beyond their due date, initial plans, and revised plans. The chart below shows the status of the 47,156 PCPs as of February 21, 2020. There are 3,558 PCPs pending review ("the backlog") by the DDA's regional offices.

Total Person Centered Plans (PCP) by Status Statewide as of February 21, 2020

Approved	37,211	78.90%
Clarification requested	545	1.16%
Consult requested	5	0.01%
Denied	523	1.11%

In progress	4,979	10.56%
In progress - clarification requested	335	0.71%
Pending Regional Office review	3,558	7.55%
Total	**47,156**	**100.00%**

To address the PCPs pending the regional office reviews, the DDA developed and issued guidance for the Coordinators of Community Services (CCS) and the DDA regional offices. Training on the guidance for the CCS and the regional office staff was held on February 7th, followed by an internal call with the regional offices on February 10th.

The DDA is tracking the progress of the PCP process weekly and reporting to the Deputy Secretary on the 15th of each month. In addition, the DDA is monitoring the change in progress week to week.

DDA should comment on why the number and percentage of individuals meeting their training goals declined significantly in fiscal 2019 after the agency met its performance goal in fiscal 2018. (pg. 10)

The number of residents meeting competency goals is generally a poor benchmark for training procedures implemented by the Secure Evaluation and Therapeutic Treatment (SETT) facility. Residents with intellectual disability / developmental disability may arrive at the facility with an inability to ever obtain the capacity to understand and reason with the information to apply and reason with the information to successfully navigate the court process. It can take some time to gather the information necessary to provide evaluators with the necessary data to make this determination, however, for individuals who lack the capacity to obtain this information there is no level of intervention that will make them reach that level of understanding. Residents who enter the program and are never able to achieve competency to stand trial are likely to eventually be found to be unrestorable by an evaluator, which is an adjudicative process rather than an administrative one.

DDA should discuss the anticipated provider impact based on the rates announced in October 2019 and explain how it is taking the transition from daily to hourly billing into account. The agency should also discuss the extent to which the rates have changed since October and the extent to which they are still subject to change before July 2020. DDA should explain how it will notify providers of the finalized rates and any significant changes to the new rates before July 2020. (pg. 24)

The DDA continues to meet with the Technical Work Group, which is comprised of DDA service providers and the Maryland Association of Community Services (MACS), to address concerns and make refinements to the rates as necessary. DDA will finalize the rates based on feedback from the Technical Work Group and will share them with the broader provider community.

DDA should discuss what level of personal information was found on the attached documents and explain how it will restrict user access before the April release. The agency should clarify what personal information each system user will have access to in the separate long-term care programs after the April release. (pg. 26)

The ability to upload attachments was to enable CCS to include supplemental information; however, it was not intended to include personal or health related information. Over time, however, such information was attached and therefore, was able to be viewed by case management entities other than those assigned to an individual. The ability to share information across programs was designed to improve service planning. DDA is working with the software vendor to restrict what case management entities that do not support an individual can view only the minimum information necessary for the purposes of care coordination. It should be noted that all Medicaid providers and case management agencies are required to sign and abide by the requirements outlined in the State's Business Associate Agreement and/or the Medicaid provider agreement.

As noted in the DLS analysis, the restrictions will be implemented in April. Until then, DDA is working with Medicaid to query the system to see whose data may have been viewed by an entity that does not support them. Using this data, DDA will then notify the individuals whose data may have been viewed and advise them to contact MDH if they think the information has been misused.

DDA should comment on the initial results of the LTSS pilot and its transition plan for scaling the system up from the limited pilot group to all individuals receiving community-based services statewide. (pg. 27)

The DDA pilot program was instituted to allow the Department the opportunity to test the system and processes live. It is currently for five providers and 35 DD Medicaid waiver participants. This has allowed DDA to focus on the technology system and process issues that have been identified since the pilot started on December 1, 2019. The issues identified include defects in the system, as exists with any technology, and these defects have been fixed or are on a path to be resolved. Additionally, DDA has identified opportunities for system improvements and are working with the vendor to prioritize and implement the technical system improvements that ease user workflow. Furthermore, this pilot has identified non-system process improvements that are needed to better support DDA and the service delivery model as a whole.

The DDA pilot program has identified issues with LTSS and other processes external to LTSS. These issues have been documented so systemic resolutions can be deployed and are in the process of being resolved.

The Department's programs team are working on these process issues and implementing an effort to clear out hindrances over the next couple months as well as redirect and retrain processes to support the scaling of this effort and full transition for all providers. The Department appreciates the pilot affording the opportunity to gather this information, analyze the data and to plan the transition around it. The Department will be working to create a DDA provider transition toolkit, establish policies and processes that will further guide this new service model, implement DDA internal processes across fiscal, operations and programs all while ensuring that

case management efforts are not significantly impacted so as to not hinder the planning and coordination of services for individuals.

DDA should explain how the clinical practices have changed and how this will prevent future resident assaults and maintain staff safety. The agency should also discuss how psychiatric and DDA bed capacity has impacted how court-involved individuals who are dually diagnosed are assigned to the State-run facilities. (pg. 29)

The Department has implemented the following system-wide facility improvements, as discussed at the state government agencies workforce hearing in October 2019 with the budget committees.

- Weekly conference calls with CEO s and the Office of Human Resources to discuss staffing levels, recruitment techniques, and best practices;
- Demeanor, Respect, Informed Care, Vigilance, and Engagement (DRIVE) Safety Principles Training implemented at all facilities;
- "Team Huddles" after each patient incident (code) to discuss causes, successes, and future actions to de-escalate patient and improve overall safety;
- Quarterly meetings with Chesapeake Employers' Insurance Company (Maryland's workers' compensation carrier, formerly IWIF) at each facility to assess workers' comp data to inform management on methods to improve staff safety.

For the Potomac Center, the Department has implemented the following specific initiatives:

- Safety
    - Enhanced Training - all staff are now trained in de-escalation techniques.
    - Staff training in how to identify triggers in residents.
    - The administrative and clinical teams now jointly review 100 percent of incident reports to implement proactive measures to prevent further resident incidents.
- Facility safety enhancements (discussed in more detail later).
- Resident Care Improvements:
    - All behavior plans to include de-escalation techniques that are resident specific.
    - Daily resident rounds to identify areas of concern and to observe the environment.
- New Management and Recruitment:
    - Potomac Center leadership changes, including a change of CEO and down to the cottage manager and shift supervisor level.
    - Job Fairs and increased targeted advertising for open positions.
- Results to date:
    - Staff are more actively engaging with residents.
    - Since the beginning of the fiscal year, the number of staff members on leave as a result of patient assaults is down by 71 percent (32 to 3).
    - Since July 2019, the number of staff members requiring outside medical treatment as a result of patient assaults is down by 83% (12 to 0).

Dually-diagnosed court-involved individuals committed to the Department are first clinically stabilized at a Department psychiatric facility. Depending on their discharge plan, they may be transferred to the SETT, the Potomac Center, or placed in the community.

DDA should discuss the reason for relocating the SETT unit and the extent to which State employees at the Potomac Center will be working with individuals in both the SETT unit and Potomac Center cottages. The agency should provide an update on its efforts to fill both programs' vacancies. (pg. 30)DDA should discuss the reason for relocating the SETT unit and the extent to which State employees at the Potomac Center will be working with individuals in both the SETT unit and Potomac Center cottages. The agency should provide an update on its efforts to fill both programs' vacancies. (pg. 30)

The SETT Transition has been a 18-month long process that has closely involved state and local officials to ensure that community concerns have been taken into account. The purpose of the SETT Transition is to ensure resident safety and increase the ability of staff to assist Potomac Center residents to transition back into their community. The SETT was relocated to the Potomac Center site for better provision of administrative and clinical services, as these services were being shared at 2 sites, approximately 60 miles apart.

When an individual who is developmentally disabled and suffers from a behavioral or mental health illness becomes court-involved, the individual is clinically treated and stabilized at one of the Department's psychiatric facilities. In many instances, these individuals have not had a criminal trial, and are thus innocent of their alleged crimes. This presumption of innocence stays with them until their charges are resolved by a court. Following their discharge, they are moved to the SETT program to assist them in transitioning back into their original community. Depending on the exact medical and life-skill needs of a patient, SETT staff and Potomac Center staff will guide these individuals as they find either a developmental disabilities services community provider or a department-operated developmental disabilities facility.

When the Department originally began the SETT Transition in September 2018, the original intent was to provide better clinical services and resident assistance by merging the staff of the Springfield unit and the Potomac Center unit as they were essentially the same staff. The Department worked with Hagerstown Police Chief Paul Kifer and Washington County Schools Superintendent Boyd Michael on designing a transition plan that respected the needs of the adjacent Marshall School and the local community. Chief Kifer generously assisted the Department with his staff's time and resources in creating a security evaluation plan to add this transitional effort. The Department has implemented all of the recommendations in Chief Kifer's plan. In addition, the Department has kept state and local officials, Superintendent Michael, and Chief Kifer updated at regular intervals.

On January 22, 2020, MDH completed the transition of the SETT from Springfield Hospital Center to the Potomac Center. For discussion on vacancies, please see the discussion, above, on Potomac Center initiatives.

MDH should comment on when all of these facility enhancements will be completed. (pg. 31)

All facility enhancements at the Potomac Center have been completed except for the installation of site lighting. The Department has consulted a professional engineer to develop a comprehensive site lighting plan to replace and increase existing site lighting fixtures with a new energy-efficient comprehensive site lighting system. Facility-wide upgraded lighting should be completed in the next 6 months.

Budget Questions

DDA should explain why it has not been able to provide detailed proposals for expanded uses of the WLEF or any projections for how its proposed uses would impact individuals waiting to receive community services. DLS recommends that the budget committees withhold $500,000 in general funds budgeted for administration until DDA submits a report with a plan and timeline for changing the allowable WLEF uses and spending down the $8.6 million WLEF closing balance. (pg. 14)

The Department respectfully disagrees with the recommendation because the Department has submitted a report on possible uses of the Waiting List Equity Fund in 2019. The DDA and the stakeholders are still working to formalize specific recommendations

The fiscal 2021 allowance budgets approximately $1.8 million in total funds (50% general funds and 50% federal funds) for the QIO services contract. However, the vendor's certification as a QIO-like entity will allow DDA to receive a 75% federal match for these services. DLS recommends reducing the fiscal 2021 general fund appropriation for QIO services by $461,354 due to expected federal fund availability as a result of the enhanced federal match. (pgs. 14-15)

The Department respectfully does not concur with this recommendation because the 75% enhanced federal match is not automatic. The Department only recently awarded the contract and now needs to apply to the Centers for Medicare and Medicaid Services for the enhanced match, which is not guaranteed. A reduction to the contract, therefore, would be premature at this time.

DLS recommends amending the proposed BRFA provision to defer the 4% provider rate increase to January 1, 2021, rather than reducing the annual rate to 2%. (pg. 19)

The Department respectfully disagrees with the recommendation to delay and then implement the full 4% provider rate increase. Although the recommendation does not have a fiscal impact in FY 2021, there would be a significant out-year fiscal impact from future rate increases building off of a 4% increase as opposed to the 2% increase included in the Governor's budget.

DLS recommends that the general fund appropriation for community services be reduced by $4.1 million in fiscal 2020 through an additional BRFA provision in anticipation of increased federal fund attainment based on the average FFP in the past two fiscal years. However, as discussed below, due to significant uncertainty over fiscal 2021 spending levels based on the proposed changes to the DDA rate and service structure, DLS does not recommend applying the same argument to the fiscal 2021 budget. (pg. 21)

The Department respectfully disagrees with this recommendation. The recommendation appears to assume a rate taken from the average of FY 2018 and FY 2019 actual expenditures, which may not necessarily be the same for FY 2020. Based upon current utilization and rates for DDA Community Services, the year-to-date federal fund participation (FFP) halfway through FY 2020 is 46.9%, which is in line with the FY 2020 budget and therefore has no projected federal fund offset to generate general fund savings. While the current rate of 46.9% is slightly less than the average of FY 2018 and FY 2019's FFPs, the fiscal year is only half over and there may be variations in the FFP in upcoming months.

Developmental Disabilities Administration's Federal Fund Participation, FY 2017-2020 YTD

Fiscal Year	Budgeted	Actual
2017	45.9%	46.7%
2018	45.2%	46.9%
2019	47.3%	47.5%
2020 YTD	46.9%	46.9%

DDA should comment on whether there are other factors beyond FFP, such as utilization trends or provider capacity, that are responsible for recent general fund underspending in the Community Services Program. (pg. 21)

New individuals to the system begin services throughout the year. Therefore, there is a direct correlation between when a person starts services and expenditures. Transitioning Youth (TY's) are the largest group of new people to start DDA services in any year. For example, in past years, approximately 70% of TY's initiated services during July, August, and September. However, in FY 2019, 48% started services during the same time period. Instead of having 9 to 12 months of expenditures for 70% of the TY's, there was 52% with expenditures over 1 to 9 months. An additional factor is people changing services, particularly if they move from a more expensive service, like Residential, to a less expensive service like Personal Support Services.

To continue monitoring the roll-out of DDA's new rate structure, DLS recommends budget bill language withholding [$1 million] general funds budgeted for administration until DDA submits two reports updating the committees on the transformation plan activities. (pgs. 27-28)

The Department respectfully disagrees with the recommendation to withhold funds. The reporting requirements are extremely onerous and prescriptive. Creating and submitting the June 1, 2020 report on-time will be problematic. The Department stands ready to provide information and updates to the Committee. Throughout this entire process, the Department has kept all stakeholders actively involved and informed. The Department would be happy to include the

Committees or any interested members in those stakeholder updates and respectfully suggest one report for December 1, 2020.