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Available For Questions: Robert White, Chief Operating Officer, Developmental Disabilities
Administration

Maryland Department of Health (MDH) Developmental Disabilities Administration
Fiscal Year 2025 Operating Budget
Response to Department of Legislative Services Analysis

House Appropriations Committee
Health and Social Services Subcommittee
Delegate Emily Shetty
February 22, 2024

Senate Budget and Taxation Committee
Health and Human Services Subcommittee
Senator Cory McCray
February 23, 2024

The Department thanks the Governor, the Department of Budget and Management (DBM), and the Budget Committees for their support. We thank the Department of Legislative Services for its insightful budget analysis and for its recommendations to concur with the Governor's allowance.

DDA should comment on why there were unfilled waiver slots in fiscal 2023 and on current efforts to fill all available slots in fiscal 2024. (page 6)

MDH Response: As detailed in the 2023 p. 121 *Joint Chairmen's Report* regarding reservation of waiver slots for emergency placements, each waiver has special reserved categories to support targeted groups like Transitioning Youth, Emergency, and numerous other categories. The DDA-operated Medicaid waiver programs include 16 unique reserved categories. A number of unfilled

reserved slots are expected each year as we project the need during the annual renewal for a five year period. We can request an increase in slots on an as needed basis if we exceed our projections. This small number of unfilled reserved slots helps to preserve capacity within the waiver to immediately address needs for new emergency situations, individuals in crisis, transitioning youth, psychiatric discharges, and other purposes.

Together with Regional Offices and Coordinators of Community Services, the DDA attempts to enroll the maximum number of individuals into each waiver each year, while maintaining reserve capacity where needed. Reserve categories account for the majority of unfilled slots in the Community Pathways Waiver in fiscal 2023.

While the presence of reserve slots affects the total enrollment level in all waivers, several additional factors have resulted in reduced enrollment for the Community Supports Waiver (CSW) and Family Supports Waiver (FSW). Because the FSW was designed to support children and youth up to age 21, and because many children and youth are often supported by other service delivery systems under the State, approximately 50% of the families with children and youth on the DDA Waiting List have declined to apply for the FSW due to receiving other service system support or reported no current service needs.

The DDA has taken several measures to increase enrollment in both the CSW and the FSW in recent years. These measures have included amending the CSW to support more Transitioning Youth, amending both the CSW and FSW to remove hard limits on participant budgets, and actively contacting people and families on the DDA Waiting List to discuss applications for these two waivers. Efforts to increase CSW and FSW enrollment have continued through the present fiscal year.

DDA should comment on the status of efforts to reduce the waitlist. (page 8)

MDH Response: The DDA follows the federally-approved Medicaid waiver applications and regulations to determine an individual's eligibility for DDA-funded services, priority category, and placement on the Waiting List for community services. The DDA assesses the waitlist to identify individuals that meet any of the following reserve categories and provide an opportunity to apply to a waiver:

- Families with Multiple Children on Waiting List;
- Transitioning Youth; and
- Waiting List Equity Fund (related to individuals with the oldest caregiver).

The DDA-operated Medicaid waiver programs also include a designated reserved category for individuals on the waiting list in the Crisis Resolution category. Individuals that meet this category have been determined to meet one of the following criteria:

- Homelessness or housing that is explicitly time-limited, with no viable non-DDA funded alternative;
- At serious risk of physical harm in the current environment;
- At serious risk of causing physical harm to others in the current environment; or
- Living with a caregiver who is unable to provide adequate care due to the caregiver's impaired health, which may place the applicant at risk of serious physical harm

Once determined to meet the crisis resolution criteria, the individual is then supported with the waiver application process.

In addition, the DDA-operated Medicaid waiver programs include End the Wait Act 2022 reserved slots. These slots support individuals currently on the waiting list to access waiver services.

In Maryland and nationally there is a shortage of direct support professionals, which has been exacerbated by the Coronavirus Disease 2019 (COVID-19) public health emergency. The Department's Medicaid waiver programs rely on direct support professionals to provide waiver services. Current providers have high vacancy rates which make it challenging for providers to expand and support new participants. In order to improve provider capacity and retain providers, MDH is developing and implementing provider recruitment strategies.

DDA should comment on the reasons why the fund continues to grow and why there is low spending from the fund. Additionally, DDA should discuss limitations on expending these funds and efforts to ensure that these funds are being used. (page 8)

MDH Response: The Waiting List Equity Funds statute includes restrictive limitations on spending: "For individuals eligible for, but not receiving, services from [the DDA], the Waiting List Equity Fund shall be used to provide:

- (1) Individualized supported living arrangements services;
- (2) Respite care;
- (3) Individual and family support services;
- (4) Supported employment; and
- (5) Individualized community integration day services."

The Fund's balance as of July 1, 2022 was \$12,001,234.21 and the ending balance as of June 30, 2023 was \$14,847,181.59 representing a net increase at the end of Fiscal Year (FY) 2023 of \$2,845,947.38. The DDA notes that statutory restrictions on WLEF-eligible expenditures within Health-General Article §7-205 prohibit many types of spending within the Fund, resulting in increasing balances.

Overall, there were 15 admissions and 19 discharges from the MDH State Residential Centers – the Potomac Center and Holly Center – during Fiscal Year 2023.

The Department is actively exploring ways to utilize monies available under the Waiting List Equity Fund. This could include:

- Providing rental subsidies;
- Paying one-time startup costs each year for a select number of individuals moving from a family home to community or supported living;
- Annualizing the second year of services and transition expenditures for a select number of individuals for base service enrollment; or
- Providing for one-time only services for a select number of applicants currently on the waiting list for applicable services, such as respite and vehicle modifications, to name a few.

The Department will continue to work with the DD Coalition and stakeholders to leverage these funds to meet the needs of individuals with intellectual and developmental disabilities and families.

The Department of Legislative Services (DLS) recommends adding language restricting funds pending a report on the additional upfront lump sum payments for advances and claims paid to providers in fiscal 2023 during the LTSS transition, including the amounts paid, reason for providing upfront lump sum payments, and plan and timeline to recoup duplicate payments. (pages 9-10)

MDH Response: MDH concurs with the submission of the report, but respectfully requests that no funds be restricted.

DDA should detail which Appendix K flexibilities have ended and whether any program changes implemented through Appendix K have been extended or incorporated into ongoing DDA waiver policies. (page 10)

MDH Response: The Department worked closely with the DD Coalition during the public health emergency (PHE) on the creation of Appendix K flexibilities. In addition, the Department facilitated over 40 meetings with the DD Coalition regarding the strategic unwinding of these flexibilities. As providers work together with the DDA across the state to plan to reopen day and employment services, the DDA also conducted a survey for participants and families to identify flexibilities utilized and help guide the DDA provider network in its plans for reopening. Based on the results of the survey, waiver amendments were submitted and approved to include some Appendix K flexibility ongoing such as providing some services virtually.

The following DDA Appendix K flexibilities have ended:

<p><u>Funding and retainer payments:</u></p> <ul style="list-style-type: none"> ● Meaningful Day, Personal Supports, and Residential* retainer payments ● Increased rate (isolation) ● Residential day time shared service hours.* ● Suspension of the minimum number of hours of Meaningful Day services to be provided during a single day. A provider may bill for the entire day in PCIS2 only if they provide the person with, at minimum, three hours of cumulative supports. 	<p><u>Hiring and training requirements:</u></p> <ul style="list-style-type: none"> ● Waiving all but essential training ● Policy on Reportable Incidents and Investigations (PORII) training provided in an expedited format ● Sharing staff among providers ● CPR and First Aid exceptions ● Suspension of MANDT® training ● Waiver of high school or GED requirement.* ● Annual training requirement extension for DSPs who have previously completed all training requirements (less than 18 months ago) ● Hiring relatives and legally responsible individuals.* 	<p><u>Service Flexibilities:</u></p> <ul style="list-style-type: none"> ● Services provided any day of the week* and exceed eight hours a day* and 40 hours per week within the person's authorized budget. ● Services provided in acute care settings and virtual supports* <p><u>Staff ratios:</u></p> <ul style="list-style-type: none"> ● Staffing ratios (exceed maximum) ● Staffing ratios -- 1:1 and 2:1 exceptions <p><u>Self-Direction:</u></p> <ul style="list-style-type: none"> ● Budget Modifications without prior authorization.* ● Support Broker <ul style="list-style-type: none"> ○ Provided up to 20 hours per month.* ○ Paid to provide other waiver services.
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Note: Flexibilities noted with an (*) will have some service-level exceptions through DDA's waiver programs.

The following DDA Appendix K flexibilities have been made permanent as noted in the approved federal waiver programs:

- Services provided in an acute care setting;
- Virtual supports;
- Residential retainer payment;
- Residential day time shared service hours;
- Meaningful day services can be provided any day of the week;
- Employment Service On-going Job Support hours per day;
- Waiver of high school or GED requirement for certain workers;
- Hiring relatives and legally responsible individuals; and
- Budget modifications.

Approved waivers and DDA guidance contains additional information and requirements for stakeholders. Additionally, Appendix K retainer payments required compliance with meeting specified federal guardrails.

MDH should clarify whether the 8% provider rate increase was applied differently for

DDA services and explain why the Medicaid rate increase notice listed a 7.7% rate increase for DDA providers only. (page 10)

MDH Response: Fiscal Year 2024 saw a mandated 4% provider rate increase which was applied to Fiscal Year 2023 rates starting July 1, 2024. There was also an additional 8% rate increase applied on January 1, 2024, as mentioned in the analysis. This resulted in Fiscal Year 2024 rates receiving a total increase of 12% compared to Fiscal Year 2023 rates.

The notice clarified that the January 1, 2024 8% rate increase had a net effect of 7.7% because we used the same base year of FY 2023.

DDA should provide an update on the status of awarding these grants to the organizations. (page 10).

MDH Response: The DDA instructed our grant administrator to reach out to the grantees to start the application process.

DDA should provide a detailed breakdown of the Community Services program growth, including how much of the total increase is due to the costs of providers transitioning to LTSS and how much of the increase is attributable to expansion of services and waiver enrollment. MDH should outline the specific service and placement expansions planned for fiscal 2025. (page 12)

MDH Response: The Governor's proposed budget for DDA community services is roughly \$192.9 million above the fiscal 2024 working appropriation. Of this amount, \$58.2 million is attributable to the 3% provider rate increase, while the remaining \$134.7 million is attributable to annualization and growth in the Community Services program.

This growth is attributable to a number of factors. As detailed in the 2023 p. 120 *Joint Chairmen's Report* regarding the cost analysis of rates paid to providers as part of the LTSS pilot program, Residential Services saw an average of 7% higher reimbursement and Meaningful Day Services saw an average of 9% higher reimbursement in LTSS *Maryland* vs. PCIS2. When forecasting, the DDA currently utilizes an average annual Community Services program growth assumption of 3.2% per year. Residential Services account for 54.45% of our current expenditures, Meaningful Day Services account for 20.66%, and Support Services and Targeted Case Management Account for the other 24.9%.

It is also worth noting the Self-Directed Service Model* accounts for 13.27% of total current expenditures, which could increase based on utilization (for additional information see our answer related to IFDGS). The Fiscal Year 2025 waiver slot limits are presented in the table below.

*The SDS Service Model encompasses services from all of the above mentioned services

Waiver slot allocation for Fiscal Year 2025:

Waiver	Total Slots
CPW	16,498
CSW	4,186
FSW	525
Total	21,209 (+3.3%)

MDH should discuss the expected fiscal 2025 savings from the proposed \$5,000 cap on IFDGS for individuals who self-direct their services. (page 14)

MDH Response: The unlimited IFDGS provision in current law by the Self-Direction Act of 2022 allows participants in self-directed services to access up to 100% of their annual budget, specifically unallocated funds. Person-centered plans and allocated self-directed budgets are based on specific services and units to meet unmet needs. In previous fiscal years, participants in self-directed services have only utilized approximately 45% of their total approved budgets. Any unallocated or unused funding could then be used to support individuals who are awaiting use of DDA funded services. The estimated general fund impact of the current language of the law would be \$90 million assuming 1,000 individuals utilized their full approved budget, and \$270 million if all individuals utilized their total budget. The previous IFDGS cap supported participants to access non-waiver related goods and services up to \$5,500 per plan year.

DLS notes that the proposed budget assumes that the cap on IFDGS funding is in place in fiscal 2025. If the General Assembly rejects the BRFA provision or if the federal government denies the waiver amendment request, a deficiency appropriation of an indeterminate amount may be needed next session. (page 14)

MDH Response: MDH concurs.

DDA should provide an update on when it will submit the second and third quarterly reports on the LTSS transition. (page 18)

MDH Response: The report for the second quarter was submitted to the General Assembly on February 20, 2024. The report for the third quarter will be submitted to the General Assembly by early March.

DDA should comment on why the fiscal 2025 rates are not funded at 100% of the total

comprehensive rate and what the costs to reach 100% would be. (page 19)

MDH Response: Based on the Fiscal Year 2024 rate chart provided by the actuarial firm, residential rates were funded at 86.3%, and meaningful day services at 96.9%. It is common for states to finance a portion of the total comprehensive rate, depending on the availability of state funds. We will continue to evaluate our funding percentage as more providers transition into fee for service and billing in LTSS Maryland to give us a better sense of utilization.

This coupled with the pending provider general ledger data refresh will inform the new glidepath to fund the rates. In order to have the data necessary to support the glidepath, it is imperative that we get 100% provider compliance with data requests. Limitations related to the rate-setting process largely stem from providers not filling out and submitting data collection tools that are requested during the rate review cycle to address member identified rate priorities. Moreover, the general ledger data collection tool is imperative to analyzing the costs of providing services and informing the decision to rebase DDA rates. data requests. Without data, the Department is limited in its ability to conduct statistically sound analysis that can be applied across all provider sizes and types across the state.

DDA should discuss whether the fiscal 2025 allowance adequately captures the expected costs of all the providers having fully transitioned to LTSS by the end of the first quarter of the fiscal year. (page 20)

MDH Response: The most recent projections of annual payments under 100% LTSS billing estimated annual expenditures of \$1,793,291,608.42. The latest projections utilized Fiscal Year 2023 rates. Adjusting the estimated amount for the additional 12% of provider rate increases in Fiscal Year 2024, as well as the proposed 3% provider rate increase in Fiscal Year 2025, this projects annual payments of \$2,068,741,199 which is within the Fiscal Year 2025 allowance for Community Services. The Maryland Department of Health, alongside the Department of Budget and Management will continue to closely monitor DDA's budget and update the General Assembly on the transition to LTSS.

DLS recommends adding language restricting funds pending the submission of a report detailing the status of the provider transitions to LTSS, including year-to-date spending data in LTSS by service type following the completion of provider transitions. (page 20)

MDH Response: MDH concurs with the submission of the report, but respectfully requests that no funds be restricted.



Developmental Disabilities Administration (DDA) Budget Overview

Laura Herrera Scott, MD, MPH
Secretary

Marlana R. Hutchinson, MBA
Deputy Secretary

Robert White, MBA, MHA, FACHE
Chief Operating Officer

FY 2025 Highlights: DDA

- Provides services to **over 25,000 adults and children** with intellectual and developmental disabilities, including ~20,000 in home and community-based services
- Oversees **four regional offices**
- Partners with **over 15,000 direct support professionals** throughout the state of Maryland
- Operates **three Medicaid waiver programs** (Community Pathways, Community Supports, and Family Supports) focused on home and community-based services

FY 2025 Highlights: Programs

- Will engage in a **process mapping** of eligibility processes and services
 - We will improve program efficiency and navigability by addressing various sources of complexity
- Will strengthen programs through a **focus on health equity**, including ensuring that families of color have equal access to services
 - Getting through the door has been a function of affluence and education
- Will complete the **transition to a fee-for-service payment model**, supported by *LTSSMaryland*, by Q2

FY 2025 Highlights: Budget

- Continuing our commitment to making **Maryland a state that serves**, DDA will fund **two additional merit positions** focused on:
 - Supporting transformative program integrity activities to ensure State and federal regulatory and program assurance compliance
 - Enhancing oversight and management of service utilization and expenditures
- Will include a **3% cost of living adjustment** for DDA providers

Department of Legislative Services

Responses to DLS Questions