

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 509 (Delegate Kaiser, *et al.*)
 Health and Government Operations

Developmental Disabilities - Community Providers - Federal Participation for Local Funds

This bill requires the Maryland Department of Health (MDH) to develop a process to receive federal financial participation for county or municipal general funds appropriated to community providers that serve individuals with developmental disabilities. MDH must (1) establish or modify MDH resources, rates, practices, or software systems and (2) coordinate with the federal Centers for Medicare and Medicaid Services (CMS). MDH must allocate the federal financial participation received to the community providers to which county or municipality general funds were appropriated. By December 1, 2024, and every six months thereafter, MDH must submit a report to the General Assembly that describes specified actions taken, resources required, and the progress made to satisfy the bill’s requirements. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: MDH expenditures increase by \$1.9 million (72% federal funds, 28% general funds) in FY 2025 for personnel, one-time system updates, and contractual services to develop the required process; federal matching revenues increase accordingly. Federal fund revenues and expenditures increase by an additional indeterminate but likely significant amount beginning as early as FY 2025 to allocate federal funds to community providers under the bill (not shown below). Out-years reflect ongoing costs.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
FF Revenue	\$1,350,100	\$520,900	\$540,300	\$560,300	\$581,200
GF/FF Exp.	\$1,886,700	\$1,028,400	\$1,067,200	\$1,107,100	\$1,148,800
Net Effect	(\$536,600)	(\$507,400)	(\$526,800)	(\$546,800)	(\$567,700)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: To the extent that MDH obtains federal matching funds and allocates them to community providers under the bill, counties and municipalities may be available to pay higher rates or pay additional providers, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Current Law: MDH’s Developmental Disabilities Administration (DDA) provides direct services to intellectually and developmentally disabled individuals through the funding of a coordinated community-based service delivery system. The State receives federal matching funds for services provided through three Medicaid waivers: Community Pathways; Community Supports; and Family Supports. “Community provider” means a community-based agency or program funded by DDA to serve individuals with developmental disabilities.

Home- and Community-based Services Waiver

Home- and community-based services (HCBS) waivers meet the needs of individuals who prefer to receive long-term care services and supports in their home or community, rather than in an institutional setting. MDH submits completed waivers to CMS. If permitted by CMS, an individual must be determined to be medically eligible to receive services under the waiver if the individual requires (1) skilled nursing care or other related services; (2) rehabilitation services; or (3) health-related services above the level of room and board available only through nursing facilities.

Waiver services are covered under an approved waiver if the services (1) are needed and chosen by an eligible waiver participant as an alternative to admission to or continued stay in a nursing facility; (2) are part of a plan of service approved by the program; (3) assure the waiver participant’s health and safety in the community; and (4) cost no more per capita to receive in the community than in a nursing facility. Waiver services include assisted living services, case management services, family training, dietitian and nutritionist services, medical day care services, and senior center plus services.

Geographic Differential Rate Setting

The community provider rate setting system for DDA HCBS waiver programs includes a geographic differential rate for participants living in high cost-of-living jurisdictions. CMS mandates that the cost of the waiver program must not exceed the estimated annual average per capita expenditure of the cost of services in the absence of a waiver.

Community Services Rate Increases

Chapters 10 and 11 of 2019 established a mandated appropriation for community service providers for fiscal 2021 through 2026. Specifically, the Governor's proposed budget for DDA must include an annual 4.0% rate increase for community service providers over the funding provided in the prior year's legislative appropriation. A portion of the funds may be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by DDA. Likewise, the Acts required the fiscal 2021 through 2026 budgets to include an annual specified rate increase (in the range of 3.0% to 4.0% depending on the year and type of provider) for other specified health care providers over the funding provided in the prior year's legislative appropriation.

Chapter 2 of 2023 increased the State minimum wage for all employers to \$15.00 per hour beginning January 1, 2024, and repealed specified rate increases for community providers for fiscal 2025 and 2026. The fiscal 2025 budget as introduced includes a 3% community service provider rate increase, in addition to an accelerated 8% provider rate increase due to the State minimum wage acceleration.

State Fiscal Effect: MDH advises that implementation of the new process required under the bill requires a significant increase in auditing, actuarial, financial management, rate-setting, and other administrative costs, as well as the need for additional personnel.

Thus, MDH expenditures increase by an estimated \$1,886,734 (72% federal funds, 28% general funds) in fiscal 2025, which accounts for a 90-day start-up delay from the bill's July 1, 2024 effective date. This estimate reflects the cost of hiring one accountant, five health policy analysts, one fiscal services administrator, and two division chiefs to coordinate with CMS, oversee a new accounts receivable operation, work with actuarial and rate-setting support vendors, complete waiver and rate updates, oversee receipt of federal fund participation, and complete the required report every six months. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Personnel costs are eligible for a 50% federal matching rate. This estimate also reflects (1) one-time-only programming costs of \$1.0 million (90% federal funds, 10% general funds) to update the Maryland Long Term Services and Support System (LTSS) and the Medicaid Management Information Systems (MMIS) to reflect the new process; (2) an estimated \$100,000 (43% federal funds, 57% general funds) in annual contractual actuarial and rate-setting services; and (3) an estimated \$55,000 (75% federal funds, 25% general funds) for contractual auditing and quality assurance services.

	<u>FY 2025</u>	<u>FY 2026</u>
New Positions	9.0	-
Salaries and Fringe Benefits	\$666,430	\$863,535
One-time LTSS System and MMIS Updates	1,000,000	-
Contractual Services	155,000	155,000
Operating Expenses	<u>65,304</u>	<u>9,817</u>
Total State Administrative Expenditures	\$1,886,734	\$1,028,352

In fiscal 2026, MDH expenditures increase by \$1,028,352 (51% federal funds, 49% general funds) to reflect annualization of personnel costs, elimination of one-time expenditures, and ongoing expenses.

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Federal Fund Supplemental Rates

Under the bill, MDH is required to develop a process to receive federal financial participation for payments made by a county or municipality to support community providers and allocate those federal funds to the providers. The estimate above reflects only the administrative costs associated with developing that process and allocating any received funds but does not reflect the receipt or allocation of any federal funding.

MDH advises that local participation under the bill cannot be reliably estimated at this time; however, to the extent that counties or municipalities participate, MDH federal fund revenues and expenditures (48% federal funds, 52% general funds) increase, likely significantly, beginning as early as fiscal 2025. *For illustrative purposes only*, Montgomery County anticipates providing approximately \$21.0 million to supplement rates for community providers in fiscal 2024. To the extent that these same expenditures are made in fiscal 2025 and MDH is able to obtain federal matching funds (at a matching rate of 48%) and allocate those funds to community providers, MDH federal fund revenues and expenditures would increase by approximately \$10.0 million.

Local Fiscal Effect: Montgomery County advises that rates for certain DDA services may not be fully funded in the State budget. Thus, some counties pay a supplemental rate to providers in their county to ensure that the provider receives the full rate set by the DDA rate-setting system. The intent of the bill is to allow funds paid by a county or municipality to community providers to receive federal matching funds, which in turn allows counties and municipalities to “buy up” the rates for DDA services that are not fully funded in the State budget.

Montgomery County advises that current support for community providers will likely continue under the bill and any federal funds received under the bill will support additional community providers. Additionally, HCBS waiver programs in Montgomery County are subject to a higher geographical differential rate; therefore, federal funding will allow the county to supplement higher community provider rates.

Small Business Effect: Receipt of additional federal funding for community providers likely benefits small business providers that serve individuals with developmental disabilities.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 599 (Senator Kramer) - Finance.

Information Source(s): Maryland Association of County Health Officers; Anne Arundel, Baltimore, and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2024
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