
**Department of Health and
Mental Hygiene
Fiscal 2016 Budget Overview**

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

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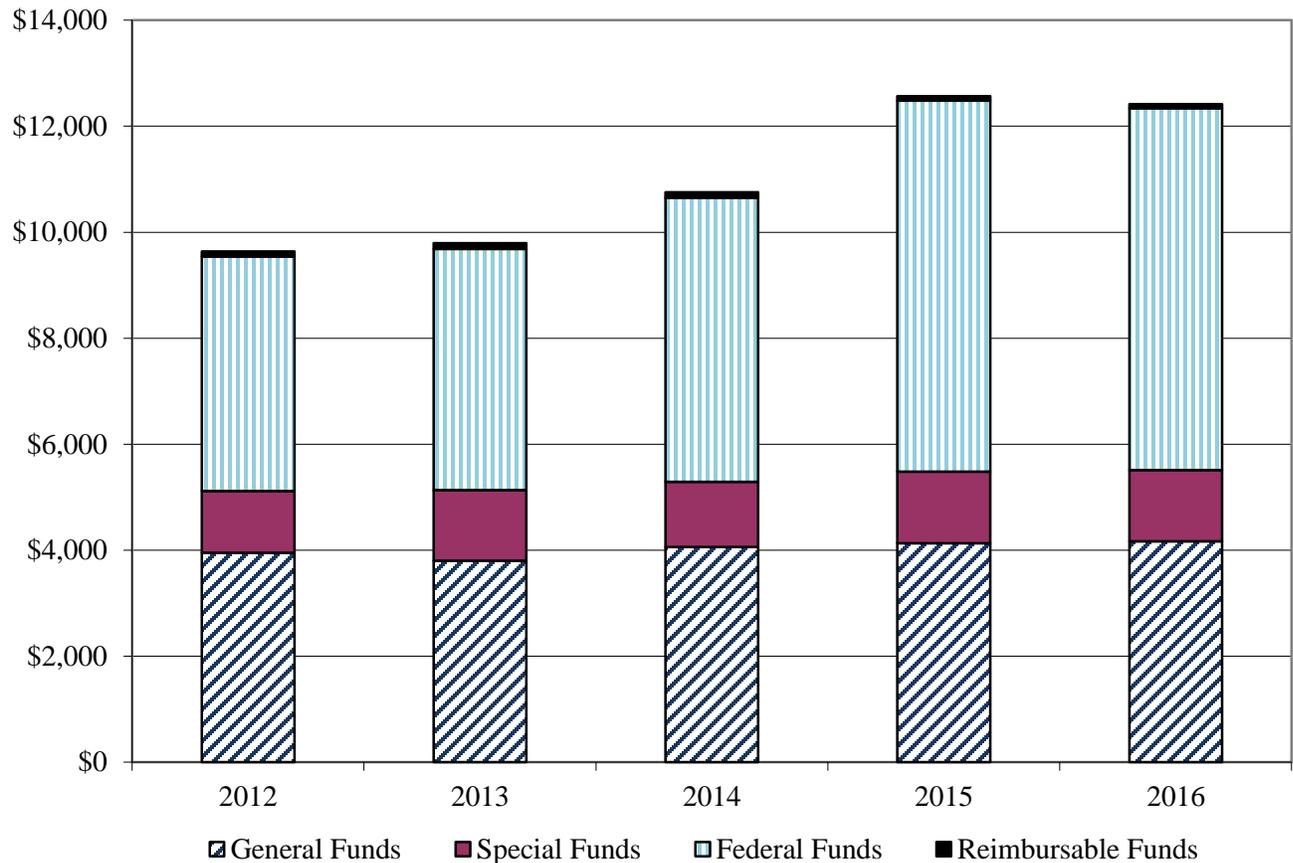
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Analysis of the FY 2016 Maryland Executive Budget, 2015

M00 – DHMH – Fiscal 2016 Budget Overview

M00
Department of Health and Mental Hygiene
Fiscal 2016 Budget Overview

Department of Health and Mental Hygiene
Five-year Funding Trends
Fiscal 2012-2016
(\$ in Millions)



Note: Includes fiscal 2015 deficiencies and Board of Public Works cuts as well as fiscal 2016 contingent and back of the bill reductions.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Budget Overview
Fiscal 2012-2016
(\$ in Millions)**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>Change 2015-16</u>
General Funds	\$3,949	\$3,811	\$4,061	\$4,091	\$4,243	
Fiscal 2015 Deficiencies				103		
Contingent, Planned, and Back of Bill Reductions				-64	-80	
Adjusted General Funds	\$3,949	\$3,811	\$4,061	\$4,131	\$4,164	\$33
Special Funds	\$1,166	\$1,335	\$1,227	\$1,338	\$1,331	
Fiscal 2015 Deficiencies				14		
Contingent and Back of Bill Reductions					13	
Adjusted Special Funds	\$1,166	\$1,335	\$1,227	\$1,352	\$1,345	-\$7
Federal Funds	\$4,426	\$4,554	\$5,363	\$6,999	\$6,830	
Fiscal 2015 Deficiencies				1		
Contingent and Back of Bill Reductions					-2	
Adjusted Federal Funds	\$4,426	\$4,554	\$5,363	\$7,000	\$6,828	-\$172
Reimbursable Funds	\$97	\$107	\$105	\$87	\$81	-\$6
Total	\$9,637	\$9,807	\$10,756	\$12,570	\$12,417	-\$153
Annual % Change from Prior Year	7.7%	1.8%	9.7%	16.9%	-1.2%	

Note: Includes fiscal 2015 deficiencies and Board of Public Works cuts, as well as fiscal 2016 contingent and back of the bill reductions. Numbers may not sum due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Fiscal 2015 Deficiencies**

<u>Program</u>	<u>Item</u>	<u>General Funds</u>	<u>Total Funds</u>
Medicaid	Funding to cover anticipated shortfall in provider reimbursements*	\$10,500,000	\$67,500,000
Medicaid	Funding to cover provider reimbursements in light of Cigarette Restitution Fund shortfall	53,000,000	7,450,000
Medicaid	Funding to cover fiscal 2014 medical claims that carried over into fiscal 2015	38,000,000	38,000,000
Medicaid	Supplemental payments to managed care organizations to cover the cost of specialty pharmaceuticals for Hepatitis C	17,300,000	17,300,000
Medicaid	Cost containment reduction (2%) to managed care organization calendar 2015 rates	-16,500,000	-16,500,000
Developmental Disabilities	Funding from local governments for day services	0	2,700,000
Developmental Disabilities	Funding to cover consultant services needed to implement new financial management and reforms	1,104,272	1,922,733
Health Care Quality	Five new positions to support the Developmental Disabilities Unit	89,737	119,648
Fiscal 2015 Deficiencies Total		\$103,494,009	\$118,492,381

DHMH: Department of Health and Mental Hygiene

*Amounts assume reduction of \$45 million of general funds contingent on the use of the Maryland Health Insurance Plan fund for Medicaid provider reimbursements.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

Fiscal 2015 Other DHMH Budget Actions

<u>Program</u>	<u>Item</u>	<u>General Funds</u>	<u>Total Funds</u>
January 2015 Board of Public Works Reductions			
Public Health	Reduction of funding to reflect delay in the opening of the new public health laboratory	-\$1,069,696	-\$1,069,696
Developmental Disabilities and Behavioral Health	Elimination of funding for the nonoperational Community Services Reimbursement Rate Commission	-106,680	-106,680
Behavioral Health	Reduction to psychiatric reimbursement rates	-685,000	-685,000
Developmental Disabilities and Behavioral Health	Reduction to mid-year provider rate increases (from 4% to 2%)	-8,400,000	-8,400,000
Medicaid	Reduction to home health care provider rate increases	-650,000	-650,000
Medicaid	Reduction to physician reimbursement rates	-9,000,000	-9,000,000
Medicaid	Reduction to nursing home rate increase	-2,000,000	-2,000,000
Medicaid	Reduction to pharmacy dispensing fees	-101,823	-101,823
Health Systems and Infrastructure	Reduction to targeted local health funding. Savings represent a return to fiscal 2014 funding levels	-5,923,665	-5,923,665
Medicaid	Reduction to special funded cancer research grants and substitution of those special funds for general funds in Medicaid	-7,450,000	0
Behavioral Health	Reduction of general funds and substitution of special funds from Community Health Resources Commission to cover behavioral health services for uninsured population	-3,000,000	-3,000,000
DHMH	Savings as a result of a reduction to DHMH's general fund appropriation. Savings represent DHMH's portion of a statewide \$112.8 million reduction	-25,448,100	-25,488,100
Total January 2015 Board of Public Works Reductions		-\$63,834,964	-\$56,424,964

M00 – DHMH – Fiscal 2016 Budget Overview

		<u>General Funds</u>	<u>Total Funds</u>
Fiscal 2015 Other Savings Assumed in Governor’s Fiscal 2016 Budget Plan			
Medicaid	Savings to Medicaid from reduction in hospital uncompensated care costs. The Budget Reconciliation and Financing Act of 2015 would require HSCRC to enact policies to achieve these savings	-\$8,000,000	-\$8,000,000
Transfers from Other Funds			
Board of Nursing	Transfer from special fund to general fund	\$0	\$2,500,000
Board of Physicians	Transfer from special fund to general fund	0	1,800,000
Board of Pharmacy	Transfer from special fund to general fund	0	1,600,000
Spinal Cord Injury Trust Fund	Transfer from special fund to general fund	0	1,000,000
Transfers from Other Funds Total		\$0	\$6,900,000
Adjustments to Revenues			
DHMH	Early Medical Loss Ratio payment recognized as fiscal 2015 revenue	\$10,000,000	\$10,000,000

DHMH: Department of Health and Mental Hygiene
HSCRC: Health Services Cost Review Commission

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Fiscal 2016 Other DHMH-related Items**

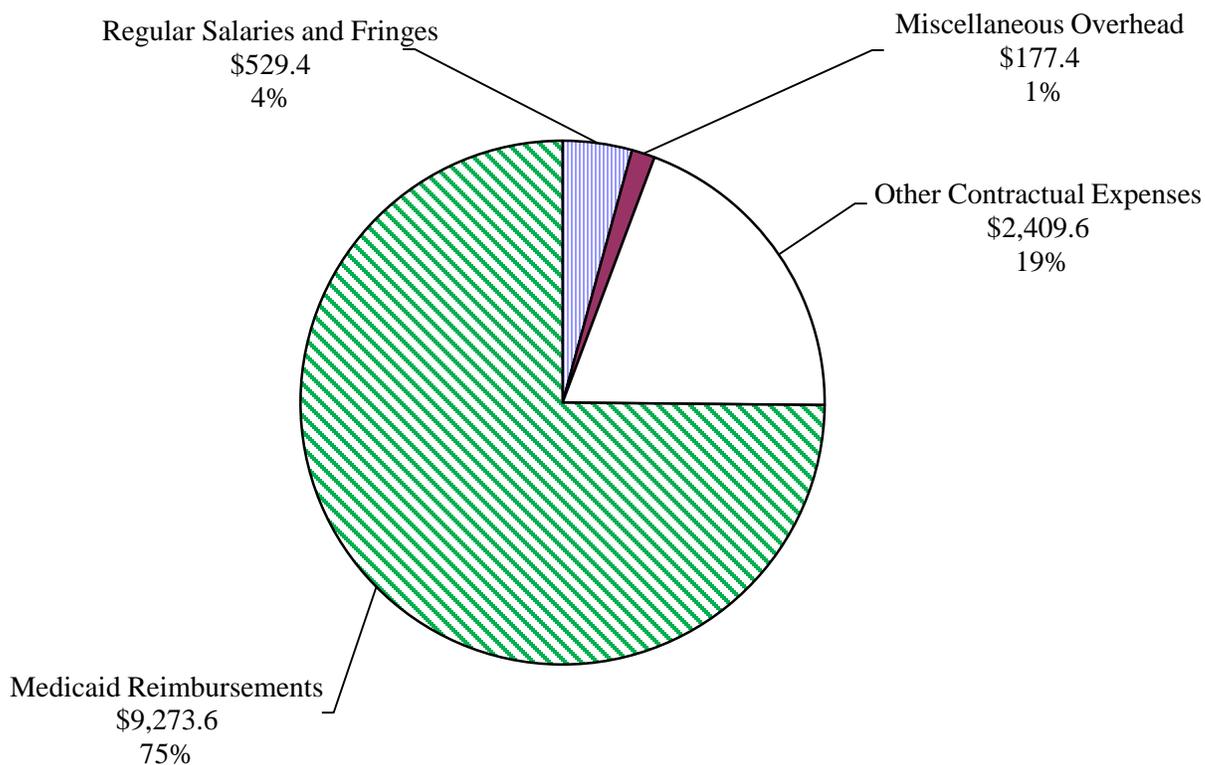
<u>Program</u>	<u>Item</u>	<u>General Funds</u>	<u>Total Funds</u>
Back of the Bill Reductions			
DHMH	Savings as a result of a 0.6% reduction to DHMH’s general fund appropriation. Savings represent DHMH’s portion of a statewide \$118.0 million reduction	-\$27,215,000	-27,215,000
DHMH	Savings as a result of a 2% pay cut. Savings represent DHMH’s portion of a statewide \$93.6 million reduction	-6,344,000	-8,112,000
DHMH	Savings as a result of the elimination of fiscal 2016 salary increments. Savings represent DHMH’s portion of a statewide \$102.5 million reduction	-7,552,124	-8,901,427
Back of the Bill Reductions Total		-\$41,111,124	-\$44,228,427
Reductions Contingent on Legislation			
Health Systems and Infrastructure	Savings as a result of a reduction to targeted local health funding. Savings represent a return to fiscal 2014 funding levels	-\$7,841,378	-\$7,841,378
Developmental Disabilities	Savings as a result of halving mandated rate increases for community providers	-9,152,894	-9,152,894
Medicaid	Savings as a result of a delay in reducing the Medicaid Deficit Assessment from estimated hospital savings from the implementation of the new Medicare waiver	-14,500,000	-14,500,000
Medicaid	Savings as a result of a reduction to special funded cancer research grants and substitution of those special funds for general funds in Medicaid	-7,200,000	-7,200,000
Contingent Reductions Total		-\$38,694,272	-\$38,694,272
Fiscal 2016 Other Savings Assumed in Governor’s Fiscal 2016 Budget Plan			
Medicaid	Savings to Medicaid from a reduction in uncompensated care costs. The Budget Reconciliation and Financing Act of 2015 would require the Health Services Cost Review Commission to enact policies to achieve these savings	-\$16,700,000	-\$16,700,000

DHMH: Department of Health and Mental Hygiene

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Functional Breakdown of Spending
Fiscal 2016 Allowance
(\$ in Millions)**



Note: The chart includes fiscal 2015 deficiencies and Board of Public Works cuts as well as fiscal 2016 contingent and, in general, back of the bill reductions. However, a 2% across-the-board back of the bill reduction is excluded for purposes of this chart because it is unclear how those savings will be allocated. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Budget Overview: All Funding Sources
Fiscal 2014-2016
(\$ in Thousands)**

	Actual 2014	Working 2015	Allowance 2016	\$ Change 2015-16	% Change 2015-16
Medical Programs/Medicaid	\$7,748,828	\$9,380,527	\$8,894,680	-\$485,846	-5.2%
Provider Reimbursements	7,433,290	9,007,493	8,537,317	-470,176	-5.2%
Maryland Children’s Health Program	224,975	225,742	217,574	-8,169	-3.6%
Other	90,563	147,291	139,790	-7,501	-5.1%
Behavioral Health	\$1,291,148	\$1,388,493	\$1,657,525	\$269,032	19.4%
Program Direction	16,742	17,974	20,986	3,012	16.8%
Community Services	999,568	1,088,472	1,347,314	258,842	23.8%
Facilities	274,838	282,047	289,225	7,178	2.5%
Developmental Disabilities	\$949,710	\$988,431	\$1,067,724	\$79,293	8.0%
Program Direction	9,086	10,343	9,419	-924	-8.9%
Community Services	900,098	937,078	1,017,693	80,615	8.6%
Facilities	40,525	41,010	40,612	-398	-1.0%
Health Systems and Infrastructure Development	\$97,796	\$100,848	\$106,562	\$5,714	5.7%
Targeted Local Health	46,236	46,236	46,236	0	0.0%
Other	51,559	54,612	60,326	5,714	10.5%
Prevention and Health Promotion Administration	\$327,966	\$350,316	\$328,912	-\$21,405	-6.1%
Women, Infants, and Children	94,228	123,297	115,315	-7,981	-6.5%
CRF Tobacco and Cancer	47,371	31,328	31,606	278	0.9%
Maryland AIDS Drug Assistance Program	63,015	58,814	57,663	-1,152	-2.0%
Other	123,352	136,878	124,328	-12,550	-9.2%
Other Budget Areas	\$340,770	\$386,733	\$389,088	\$2,355	0.6%
DHMH Administration	48,565	51,098	52,329	1,230	2.4%
Public Health Administration	67,642	76,655	81,360	4,705	6.1%
Office of Health Care Quality	14,962	19,138	19,504	366	1.9%
Health Occupations Boards	28,044	33,366	37,125	3,759	11.3%
Health Regulatory Commissions	181,557	206,476	198,770	-7,706	-3.7%
Departmentwide Reductions		-\$25,448	-\$27,215	-\$1,767	
Total Funding	\$10,756,216	\$12,569,901	\$12,417,276	-\$152,624	-1.2%

CRF: Cigarette Restitution Fund

DHMH: Department of Health and Mental Hygiene

Note: Includes fiscal 2015 deficiencies and Board of Public Works cuts as well as fiscal 2016 contingent and back of the bill reductions. For the purpose of this chart, fiscal 2015 and 2016 fee-for-service community mental health expenditures for Medicaid recipients are shown under the Behavioral Health Administration as opposed to Medicaid where they are budgeted. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Budget Overview: General Funds Only**

Fiscal 2014-2016

(\$ in Thousands)

	Actual 2014	Working 2015	Allowance 2016	\$ Change 2015-16	% Change 2015-16
Medical Programs/Medicaid	\$2,503,898	\$2,555,154	\$2,505,748	-\$49,406	-1.9%
Provider Reimbursements	2,403,668	2,453,622	2,442,666	-10,956	-0.4%
Maryland Children’s Health Program	75,128	72,430	33,277	-39,153	-54.1%
Other	25,101	29,103	29,805	702	2.4%
Behavioral Health	\$785,711	\$803,583	\$862,580	\$58,998	7.3%
Program Direction	11,946	13,658	16,892	3,234	23.7%
Community Services	508,648	518,428	566,901	48,473	9.4%
Facilities	265,118	271,497	278,788	7,290	2.7%
Developmental Disabilities	\$551,206	\$562,648	\$596,376	\$33,728	6.0%
Program Direction	5,457	5,085	5,679	594	11.7%
Community Services	506,016	516,343	550,595	34,252	6.6%
Facilities	39,733	41,219	40,101	-1,118	-2.7%
Health Systems and Infrastructure Development	\$86,051	\$86,863	\$87,996	\$1,133	1.3%
Targeted Local Health	41,743	41,743	41,743	0	0.0%
Other	44,308	45,119	46,253	1,133	2.5%
Prevention and Health Promotion Administration	\$53,217	\$54,180	\$36,822	-\$17,359	-32.0%
Women, Infants, and Children	51	65	65	0	0.0%
Cigarette Restitution Fund Tobacco and Cancer	352	826	847	20	2.5%
Maryland AIDS Drug Assistance Program	0	0	0	0	\$0
Other	52,814	53,289	35,910	-17,379	-32.6%
Other Budget Areas	\$80,513	\$94,149	\$101,368	\$7,219	7.7%
DHMH Administration	24,546	25,999	27,599	1,600	6.2%
Public Health Administration	45,517	56,315	60,478	4,163	7.4%
Office of Health Care Quality	10,016	11,448	11,809	361	3.2%
Health Occupations Boards	343	387	1,482	1,095	283.0%
Health Regulatory Commissions	91	0	0	0	0%
Departmentwide Reductions		-25,448	-27,215	-\$1,767	
Total Funding	\$4,060,596	\$4,131,129	\$4,163,675	\$32,546	0.8%

DHMH: Department of Health and Mental Hygiene

Note: Includes fiscal 2015 deficiencies and Board of Public Works cuts as well as fiscal 2016 contingent and back of the bill reductions. For the purpose of this chart, fiscal 2015 and 2016 fee-for-service community mental health expenditures for Medicaid recipients are shown under the Behavioral Health Administration as opposed to Medicaid where they are budgeted. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Proposed Budget Changes
Department of Health and Mental Hygiene
(\$ in Thousands)**

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
2015 Working Appropriation	\$4,131,129	\$1,351,859	\$7,000,036	\$86,876	\$12,569,901
2016 Governor’s Allowance	4,163,675	1,344,689	6,828,208	80,704	12,417,276
Amount Change	32,546	-7,170	-171,828	-6,172	-152,624
Percent Change	0.8%	-0.5%	-2.5%	-7.1%	-1.2%

Where It Goes:

Personnel

\$16,253

Employee and retiree health insurance	\$13,261
Regular earnings	12,452
Retirement contribution	6,499
Other fringe benefit adjustments.....	1,054
2% pay cut.....	-8,112
Elimination of salary increments	-8,901

Major Programmatic Changes (Excluding Medicaid)

\$318,443

Behavioral Health Administration

\$261,202

Fee-for-Service Community Mental Health Services

ACA enrollment (all federal funds)	\$64,924
Other enrollment and utilization	4,851
Replacement of funds for uninsured services	3,000
ACA Emergency Psychiatric Grant expiration	-2,200
Rate adjustment for community providers (returning to fiscal 2014 rates)	-23,004

Community Mental Health Grants and Contracts

Community Mental Health Grants and Contracts (primarily to local CSAs and ASO contract)	\$6,935
Various federal mental health grants	-221
Expiration of Alternatives Grant.....	-7,187

Substance Abuse Services

Substance Use Disorder Fee-for-Service Medicaid Transfer.....	\$211,430
Substance Abuse Treatment Funding (SAPT Block Grant)	1,195
Various other federal substance abuse grants	-1,133

M00 – DHMH – Fiscal 2016 Budget Overview

Where It Goes:

Program Direction

Increased enforcement of tobacco counter-marketing activities 2,612

Developmental Disabilities Administration **\$82,912**

Additional funding for annualization and expansion \$59,227

Rate increase for community providers (1.75%) 23,684

Public Health Administration **\$2,462**

Rent and operating costs for new public health laboratory in first full year of operation \$2,462

Health Systems and Infrastructure Administration **\$4,337**

State Innovations Models (SIM) Project..... \$4,337

Prevention and Health Promotion Administration **-\$24,733**

MADAP and MADAP-Plus Programs (federal funds)..... -\$1,263

WIC Special Supplemental Food and Nutrition Program (federal funds) -8,469

Expiration of Prince George’s County Hospital operating subsidy -15,000

Health Professional Boards and Commissions **\$1,267**

Natalie M. LaPrade Medical Marijuana Commission..... \$1,267

Regulatory Commissions **-\$9,004**

Expiration of Small Employer Health Benefit Premium Subsidy..... -\$1,600

Various expiring projects for the Maryland Health Care Commission..... -7,404

Medicaid/Medical Care Programs Administration **-\$480,956**

Enrollment and utilization..... \$246,899

Hospital presumptive eligibility 50,000

Community First Choice increased utilization..... 48,359

MCO kick payments for new Hepatitis C drugs 47,666

Medicaid Management Information System (MMIS) contracts 20,206

Clawback payment..... 11,860

MCO supplemental payments 10,000

Waiver and other administrative contracts..... 7,649

Health IT grants and administration..... 4,657

Prior year grant reconciliation..... 2,169

Pharmacy administrative contracts 1,914

Medicare Part A&B reimbursement 1,302

Contractual assistance 1,302

Medicaid program recoveries..... 1,204

Community First Choice administration..... 1,003

M00 – DHMH – Fiscal 2016 Budget Overview

Where It Goes:

Transportation grants	-\$3,056
Money Follows the Person rebalancing	-3,274
Pharmacy rebates	-3,883
Health home	-4,164
School based services (all reimbursable funds)	-7,260
Maryland Children’s Health Program.....	-8,169
Balancing Incentive Payment Program.....	-8,385
Miscellaneous adjustments to account for costs not attributed to a particular coverage group.....	-10,609
Nursing home cost settlements	-11,595
Major IT Development Projects.....	-14,015
Other cost-containment including elimination of coverage for pregnant women over 185% FPL, extended family planning coverage, and lower Community First Choice service rates	-25,417
Transfer of substance abuse services carved out from MCOs to Behavioral Health.....	-211,423
Rate reductions and assumptions	-625,896
 2% Across-the-board Reduction	 -\$1,764
 Other	 -\$4,600
 Total	 -\$152,624

- ACA: Affordable Care Act
- ASO: administrative services organization
- CSA: Community Services Administration
- FPL: federal poverty level
- IT: information technology
- MADAP: Maryland AIDS Drug Assistance Program
- MCO: managed care organization
- SAPT: substance abuse prevention and treatment
- WIC: women, infants, and children

Note: Includes fiscal 2015 deficiencies and Board of Public Works cuts as well as fiscal 2016 contingent and back of the bill reductions. For the purpose of this chart, fiscal 2015 and 2016 fee-for-service community mental health expenditures for Medicaid recipients are shown under the Behavioral Health Administration as opposed to Medicaid where they are budgeted. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Regular Employees
Fiscal 2014-2016**

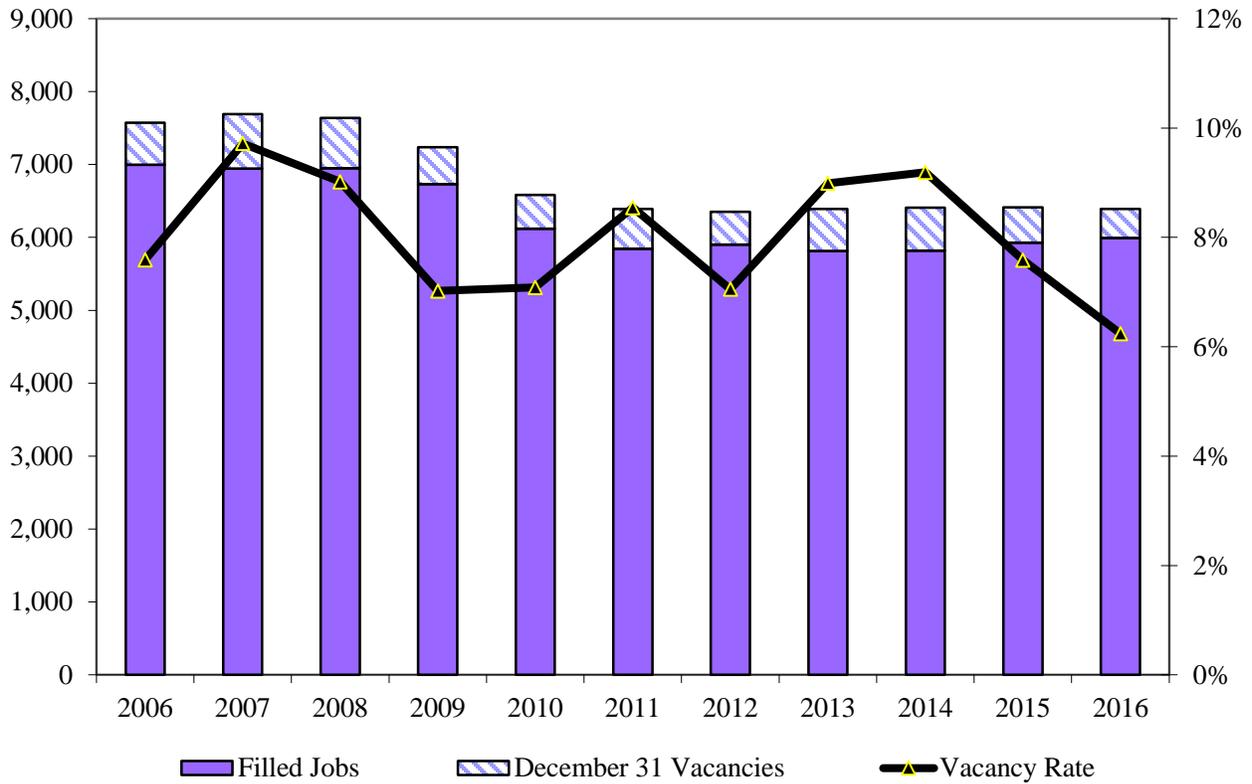
	<u>Actual 2014</u>	<u>Working 2015</u>	<u>Allowance 2016</u>	<u>Change 2015-16</u>	<u>% Change 2015-16</u>
DHMH Administration	371.0	368.6	368.6	0.0	0.0%
Office of Health Care Quality	187.7	192.7	196.7	4.0	2.1%
Health Occupations Boards	265.7	271.7	286.2	14.5	5.3%
Public Health Administration	399.9	396.9	396.9	0.0	0.0%
Health Systems and Infrastructure Administration	532.1	526.8	531.8	5.0	0.9%
Administration	10.0	14.0	19.0	5.0	35.7%
Institutions	522.1	512.8	512.8	0.0	0.0%
Prevention and Health Promotion Administration	364.8	359.8	359.8	0.0	0.0%
Behavioral Health Administration	2,919.5	2,911.9	2,912.4	0.5	0.0%
Administration	148.0	146.4	146.9	0.5	0.3%
Institutions	2,771.5	2,765.5	2,765.5	0.0	0.0%
Developmental Disabilities Administration	648.5	638.5	638.5	0.0	0.0%
Administration	160.0	157.0	157.0	0.0	0.0%
Institutions	488.5	481.5	481.5	0.0	0.0%
Medical Care Programs Administration	618.0	623.0	633.0	10.0	1.6%
Health Regulatory Commissions	99.7	103.7	103.7	0.0	0.0%
Total Regular Positions	6,406.8	6,393.6	6,427.6	34.0	0.5%

DHMH: Department of Mental Health and Hygiene

Source: Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Regular Employee Filled Jobs and Vacancy Rates
Fiscal 2006-2016**



Note: Fiscal 2016 data reflects the number of vacancies required to meet turnover. Fiscal 2015 data reflects vacancies for November, the most recent month for which data is available.

Source: Department of Legislative Services; Department of Health and Mental Hygiene

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Regular Employees – Vacancy Rates
November 2014**

	<u>FTE Vacancies</u>	<u>FTE Positions</u>	<u>Vacancy Rate</u>
DHMH Administration	23.6	368.0	6.4%
Office of Health Care Quality	17.4	192.7	9.0%
Health Occupations Boards	38.1	271.7	14.0%
Public Health Administration	32.5	396.9	8.2%
Health Systems and Infrastructure Administration	51.5	525.8	9.8%
Prevention and Health Promotion Administration	31	359.8	8.6%
Behavioral Health Administration	172.6	2,911.9	5.9%
Developmental Disabilities Administration	38.5	638.5	6.0%
Medical Care Programs Administration	68.5	623.0	11.0%
Health Regulatory Commissions	12.8	103.7	12.3%
Total Regular Positions	486.45	6,392.0	7.6%

DHMH: Department of Health and Mental Hygiene
FTE: full-time equivalent

Source: Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Contractual Employees
Fiscal 2014-2016**

	<u>Actual 2014</u>	<u>Working 2015</u>	<u>Allowance 2016</u>	<u>Change 2016-16</u>	<u>% Change 2015-16</u>
DHMH Administration	6.48	10.63	8.64	-1.99	-18.7%
Office of Health Care Quality	6.70	12.80	6.50	-6.30	-49.2%
Health Occupations Boards	9.51	13.01	15.20	2.19	16.8%
Public Health Administration	9.81	13.10	13.10	0.00	0.0%
Health Systems and Infrastructure Administration	22.98	20.32	18.90	-1.42	-7.0%
Administration	0.00	0.00	0.00	0.00	0.0%
Institutions	22.98	20.32	18.90	-1.42	-7.0%
Prevention and Health Promotion Administration	4.41	8.90	7.22	-1.68	-18.9%
Behavioral Health Administration	216.13	207.98	214.47	6.49	3.1%
Administration	5.73	9.00	15.55	6.55	72.8%
Institutions	210.40	198.98	198.92	-0.06	0.0%
Developmental Disabilities Administration	16.60	28.02	23.77	-4.25	-15.2%
Administration	4.32	9.00	6.00	-3.00	-33.3%
Institutions	12.28	19.02	17.77	-1.25	-6.6%
Medical Care Programs Administration	69.54	105.46	141.75	36.29	34.4%
Health Regulatory Commissions	0.00	0.00	0.00	0.00	0.0%
Total Contractual Positions	362.16	420.22	449.55	29.33	7.0%

DHMH: Department of Health and Mental Hygiene

Source: Department of Budget and Management

M00 – DHMH – Fiscal 2016 Budget Overview

**Department of Health and Mental Hygiene
Budget Overview: Selected Caseload Measures
Fiscal 2012-2016**

	<u>Actual 2012</u>	<u>Actual 2013</u>	<u>Actual 2014</u>	<u>Working 2015</u>	<u>Allowance 2016</u>	<u>Change 2015-16</u>	<u>% Change 2015-16</u>
Medical Programs/Medicaid							
Medicaid Enrollees	811,050	842,237	898,111	923,020	952,073	29,053	3.1%
Maryland Children’s Healthcare Program	103,011	111,132	114,648	114,901	115,302	401	0.3%
Affordable Care Act Medicaid Expansion			168,093	226,713	261,229	34,516	15.2%
Total	914,061	953,369	1,180,852	1,264,634	1,328,604	63,970	5.1%
Primary Adult Care ¹	61,233	73,464	83,028				
Developmental Disabilities Administration²							
Residential Services	5,990	6,040	6,107	6,095	6,335	240	3.9%
Day Services	13,246	13,353	13,810	13,921	14,750	829	6.0%
Support Services	9,115	8,011	8,259	8,897	8,350	-547	-6.1%
Number of Individuals Served Average Daily Census at Institutions ³	23,359	24,445	25,183	26,888	27,573	685	2.5%
	168	155	146	152	149	-3	-2.0%
Behavioral Health Administration							
<i>Average Daily Populations at State-run Psychiatric Hospitals:</i>							
<i>Hospitals Excluding RICAs and</i>							
Assisted Living	946	949	942	954	954	0	0.0%
RICAs	67	65	66	70	70	0	0.0%
Assisted Living	130	56	55	60	60	0	0.0%
Total	1,143	1,070	1,063	1,084	1,084	0	0.0%
<i>Number Receiving Community Mental Health Services:</i>							
Medicaid Eligible	144,712	153,576	158,643	169,000	177,000	8,000	4.7%
Medicaid Ineligible	14,412	14,104	11,297	11,297	11,297	0	0.0%
Total	159,124	167,680	169,940	180,297	188,297	8,000	4.4%
Clients with Substance Abuse Served in Various Settings:	70,652	69,419	67,531	70,300	71,840	1,540	2.2%

RICA: Regional Institutions for Children and Adolescents

¹ Effective January 1, 2014, the Primary Adult Care program ended and recipients became eligible for full Medicaid benefits under the Medicaid expansion option provided in the federal Affordable Care Act.

² Residential services include community residential services and individual family care. Day services include activities during normal working hours such as day habilitation services, supported employment, and summer programs. Support services include individual and family support, Community Supported Living Arrangements, and self-directed services.

³ The Developmental Disabilities Administration data includes secure evaluation and therapeutic treatment center units.

Source: Department of Legislative Services; Department of Health and Mental Hygiene

Issues

1. Cigarette Restitution Fund: Ongoing Litigation Has Significant Impact on Fiscal 2015 and 2016 Budget

Background

The Cigarette Restitution Fund (CRF) was established by Chapters 172 and 173 of 1999 and is supported by payments made under the Master Settlement Agreement (MSA). Through the MSA, the settling manufacturers pay the litigating parties – 46 states (Florida, Minnesota, Mississippi, and Texas had previously settled litigation), five territories, and the District of Columbia – substantial annual payments in perpetuity as well as conform to a number of restrictions on marketing to youth and the general public.

The distribution of MSA funds among the states is determined by formula, with Maryland receiving 2.26% of MSA monies, which are adjusted for inflation, volume, and prior settlements. In addition, the State collects 3.3% of monies from the Strategic Contribution Fund, distributed according to each state’s contribution toward resolution of the state lawsuits against the major tobacco manufacturers.

The use of the CRF is restricted by statute. Activities funded through the CRF in fiscal 2015 include the Tobacco Use Prevention and Cessation Program; the Cancer Prevention, Education, Screening, and Treatment Program; substance abuse treatment and prevention; the Breast and Cervical Cancer Program; Medicaid; tobacco production alternatives; legal activities; and nonpublic school textbooks.

The Nonparticipating Manufacturer Adjustment

One of the conditions of the MSA was that the states take steps toward creating a more “level playing field” between participating manufacturers (PM) to the MSA (and thus subject to annual payments and other restrictions) and nonparticipating manufacturers (NPM) in the agreement. This condition is enforced through another adjustment to the states’ annual payments, the NPM adjustment. The PMs have long contended that the NPMs have avoided or exploited loopholes in state laws that give them a competitive advantage in the pricing of their products. If certain conditions are met, the MSA provides a downward adjustment to the contribution made by PMs based on their MSA-defined market share loss multiplied by three. This adjustment is known as an NPM adjustment. The agreement also allows PMs to pursue this adjustment on an annual basis.

Under the MSA, PMs have to show three things in order to prevail and reduce their MSA payments:

- a demonstrable loss of market share of over approximately 2%;

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- that the MSA was a significant factor contributing to that loss of market share; and
- a state was not diligently enforcing its qualifying statute.

The qualifying statute is intended to create a more level playing field with regard to the price between the PMs and the NPMs. Originally included in the MSA as a model statute, Maryland's qualifying statute was enacted in 1999 (Chapter 169), with subsequent revisions in the 2001 and 2004 sessions.

As shown in **Exhibit 1**, litigation regarding the NPM adjustment started in 2005, beginning with the NPM adjustment for sales year 2003. Arbitration regarding the “diligent enforcement” issue for 2003 commenced in July 2010. As further shown in the exhibit, Maryland was 1 of 15 states that did not settle with the PMs during the arbitration process and was 1 of 6 states that were found to not have diligently enforced its qualifying statute. Among the findings made by the arbitration panel were that Maryland lacked dedicated and trained personnel to conduct enforcement efforts and that the Comptroller's office, in particular, failed to meaningfully participate in enforcement efforts.

Exhibit 1 **Nonparticipating Manufacturer Litigation Timeline**

<u>Date</u>	<u>Item</u>
April 2004	PMs give notice to state attorneys general that they were pursuing an NPM adjustment with respect to a loss of market share in sales year 2003. A similar adjustment is sought for subsequent sales years. The PMs may place that portion of their annual payments they believe should be reduced under this process into an escrow account. Some PMs elect to do this, reducing the funding available to the states in any given year.
March 2006	An economic firm rules for PMs that MSA participation was a significant factor in the PMs' market share loss, which had previously been calculated by the MSA Independent Auditor. Similar rulings are made for subsequent sales years.
April 2006	Additional PMs place disputed payments related to 2003 NPM Adjustment into escrow account.
Calendar 2006-2009	Maryland (like many other states) argues that the issue of whether it diligently enforced its Qualifying Statute should be made in State courts. The PMs prevail in that the diligent enforcement issue is subject to the MSA's arbitration clause.
January 2009	Most states sign an agreement to enter into arbitration. The agreement includes a 20% refund of the liability of each joining state that is eventually determined to not have diligently enforced.
July 2010	Arbitration proceedings begin for 46 states, the District of Columbia, and various territories.
November 2011	PMs file statements of contest against all but 15 states in the arbitration.

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<u>Date</u>	<u>Item</u>
March-June 2013	Twenty other states and the District of Columbia enter into a settlement agreement with the PMs – leaving 15 states, including Maryland, to proceed with arbitration.
September 2013	Six states (Indiana, Kentucky, Maryland, Missouri, New Mexico, and Pennsylvania) are determined to not have diligently enforced their qualifying statute for sales year 2003. These states not only lose payments from PMs that have been held in escrow for that sales year, but also see a reduction in their future MSA payments for the states that are found to have diligently enforced their qualifying statutes. In addition to the \$16 million placed in escrow for that sales year, and after the 20% refund resulting from entering into arbitration, Maryland sees a reduction in its April 2014 MSA payment of \$67 million.
November 2013	Maryland petitions the Baltimore City Circuit Court to vacate the arbitration award finding that Maryland did not diligently enforce its qualifying statute during 2003 as well as the arbitration panel's judgment reduction.
February 2014	A hearing is held in Baltimore City Circuit Court. Supplemental briefs are filed by both sides in March through May 2014.
July 2014	The Baltimore City Circuit Court denies Maryland's petitions.
August 2014	Maryland appeals the Baltimore City Circuit Court's decision to the Maryland Court of Special Appeals. Appellate briefs are to be filed by both sides between February and April 2015, with oral argument set for May 2015. Meanwhile, arbitration regarding Maryland's diligent enforcement during sales year 2004 is expected to begin within calendar 2015.

MSA: Master Settlement Agreement
NPM: nonparticipating manufacturer
PM: participating manufacturer

Source: Office of the Attorney General; 2003 NPM Adjustment Arbitration Ruling, September 2013; Department of Legislative Services

As also noted in the exhibit, Maryland not only forfeited \$16 million that the PMs placed in escrow for the 2003 sales year, but under the MSA arbitration framework, also saw its fiscal 2014 payment reduced by \$67 million. The fiscal 2015 budget assumed that the State would receive \$40 million in relief from the adverse arbitration ruling, but since the State lost its first appeal of the ruling, the collection of any relief in fiscal 2015 is unlikely. The State is now appealing the circuit court's decision, and ongoing litigation may still result in a reduction of Maryland's 2003 NPM adjustment liability. Thus, the budget provides Medicaid with a \$40 million general fund deficiency for fiscal 2015 but assumes that the State's liability will be reduced by \$40 million in fiscal 2016. Oral argument before the Maryland Court of Special Appeals is set for May 2015.

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At this time, it is inappropriate to speculate on the likelihood that the State will prevail in its appeal. It is also impossible to know how long proceedings will take, although it is likely that any ruling will be appealed to the Maryland Court of Appeals.

Fiscal 2014-2016 CRF Programmatic Support

Exhibit 2 provides CRF revenue and expenditure detail for fiscal 2014 to 2016.

Exhibit 2
Cigarette Restitution Fund Budget
Fiscal 2014-2016
(\$ in Millions)

	<u>2014 Actual</u>	<u>2015 Working</u>	<u>2016 Allowance</u>
Beginning Fund Balance	\$6.3	\$9.3	\$1.6
Settlement Payments	131.2	130.7	130.8
NPM and Other Shortfalls in Payments ¹	-16.9	-16.9	-16.9
Awards from Disputed Account	0.0	0.0	0.0
Other Adjustments ²	34.5	34.5	34.5
Tobacco Laws Enforcement Arbitration	-66.6		40.0
Fiscal 2014 Overpayment Adjustment		-13.0	
Subtotal	\$88.5	\$144.6	\$189.9
Prior Year Recoveries	\$1.1	\$1.1	\$1.1
Total Available Revenue	\$89.6	\$145.7	\$191.0
Health Uses			
Tobacco	\$7.7	\$7.7	\$7.7
Cancer ³	25.0	17.9	17.9
Substance Abuse	21.0	21.0	21.0
Medicaid ⁴	1.2	70.7	115.6
Breast and Cervical Cancer	14.7	13.2	13.2
Subtotal	\$69.6	\$130.6	\$175.5

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	<u>2014 Actual</u>	<u>2015 Working</u>	<u>2016 Allowance</u>
Other Uses			
Aid to Nonpublic School	\$5.7	\$6.1	\$6.1
Tobacco Transition Program	4.6	6.5	6.0
Attorney General	0.4	0.9	0.9
Subtotal	\$10.8	\$13.5	\$13.1
Total Expenses	\$80.4	\$144.1	\$188.5
Ending Fund Balance	\$9.3	\$1.6	\$2.5

NPM: nonparticipating manufacturer

¹ The NPM adjustment represents the bulk of this total adjustment.

² Other adjustments include the strategic contribution payments and the National Arbitration Panel Award.

³ Amounts reflect a fiscal 2015 Board of Public Works cut and fiscal 2016 contingent reduction to CRF-funded cancer research grants and substitution of those funds for general funds in Medicaid. See text for additional details.

⁴ Fiscal 2014 Medicaid funding reflects the withdrawal of \$70 million in available funding based on the September 2013 arbitration ruling. Fiscal 2016 Medicaid funding assumes some adjustment in the arbitration ruling. See text for additional details.

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Department of Budget and Management

As shown in the exhibit, available fiscal 2015 revenues have been reduced by \$13 million to adjust for an overpayment in fiscal 2014. This one-time underpayment is attributable to an underpayment made to another state (Pennsylvania) in fiscal 2014. In April 2014, just as payments to states were being made, a Pennsylvania court ruling restored most of the 2014 payment that Pennsylvania was going to lose as a result of an arbitration panel’s ruling in 2013. In addition, compared to data shown during fiscal 2015 budget deliberations:

- actual fiscal 2014 revenues were slightly higher than projected while expenses for legal activities for nonpublic school textbooks were slightly lower than projected, translating into a larger fiscal 2014 fund balance;
- as discussed in detail above, available fiscal 2015 revenues have been reduced by \$40 million (reflected in lower Medicaid support) as a result of the recent adverse ruling on the State’s appeal; and

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- for fiscal 2016, CRF support is anticipated to significantly increase. While underlying revenues are assumed to be the same as in fiscal 2015 (other than the removal of the one-time overpayment adjustment), again as discussed above, assumptions are made about revenues related to the arbitration ruling.

On the expenditure side, significant growth in funding for Medicaid reflects anticipated higher available CRF support. A 2015 Board of Public Works action reduced funding for CRF cancer research grants to academic health centers by \$7.45 million and substituted those special funds for general funds in Medicaid. A fiscal 2016 contingent reduction reduces funding for CRF cancer research grants to academic health centers by \$7.2 million for the same purpose – bringing funding for each fiscal year to \$5.8 million, as shown below in **Exhibit 3**. This amount of funding is equal to what was provided in fiscal 2013.

Exhibit 3
Cigarette Restitution Fund Support for Cancer Research Grants to Academic Health Centers
Fiscal 2006-2016
(\$ in Millions)



Note: Amounts reflect a fiscal 2015 Board of Public Works cut and fiscal 2016 contingent reduction to cancer research grants and substitution of those special funds for general funds in Medicaid. See text for additional details.

Source: Department of Health and Mental Hygiene

It should be noted that the Budget Reconciliation and Financing Act of 2015 would reduce statutorily mandated CRF funding for academic health centers from \$13.0 million annually to \$5.8 million annually in fiscal 2016 and beyond.

Beyond the 2003 Sales Year

The NPM adjustment is in dispute for future years; thus, unless it is settled or Maryland's diligence is not contested, there will be future arbitrations assessing Maryland's enforcement for future years. It is worth noting that although the arbitration ruling found that Maryland was not diligent in enforcing its qualifying statute in the 2003 sales year, the ruling also notes that the State did take actions to position it "well for diligent enforcement in 2004." Data regarding the extent of noncompliant packs of cigarettes, NPM escrowing, and enforcement efforts support this comment not only for the 2004 sales year but also subsequent years.

Those states that did settle with the PMs realized a one-time cash windfall with the release of funds from disputed payments escrow accounts for sales years 2003 through 2012. However, under the terms of the settlement, the PMs were given credit for future payments from those states (*i.e.*, reducing the payments to those states), and those states need to enact new legislation and will be held to an enhanced standard in NPM adjustment disputes beginning in 2015.

The PMs have sought a multi-state arbitration related to sales year 2004 for Maryland and those other states that did not settle the 2003 sales year litigation. Arbitration regarding Maryland's diligent enforcement during sales year 2004 is expected to begin within calendar 2015.

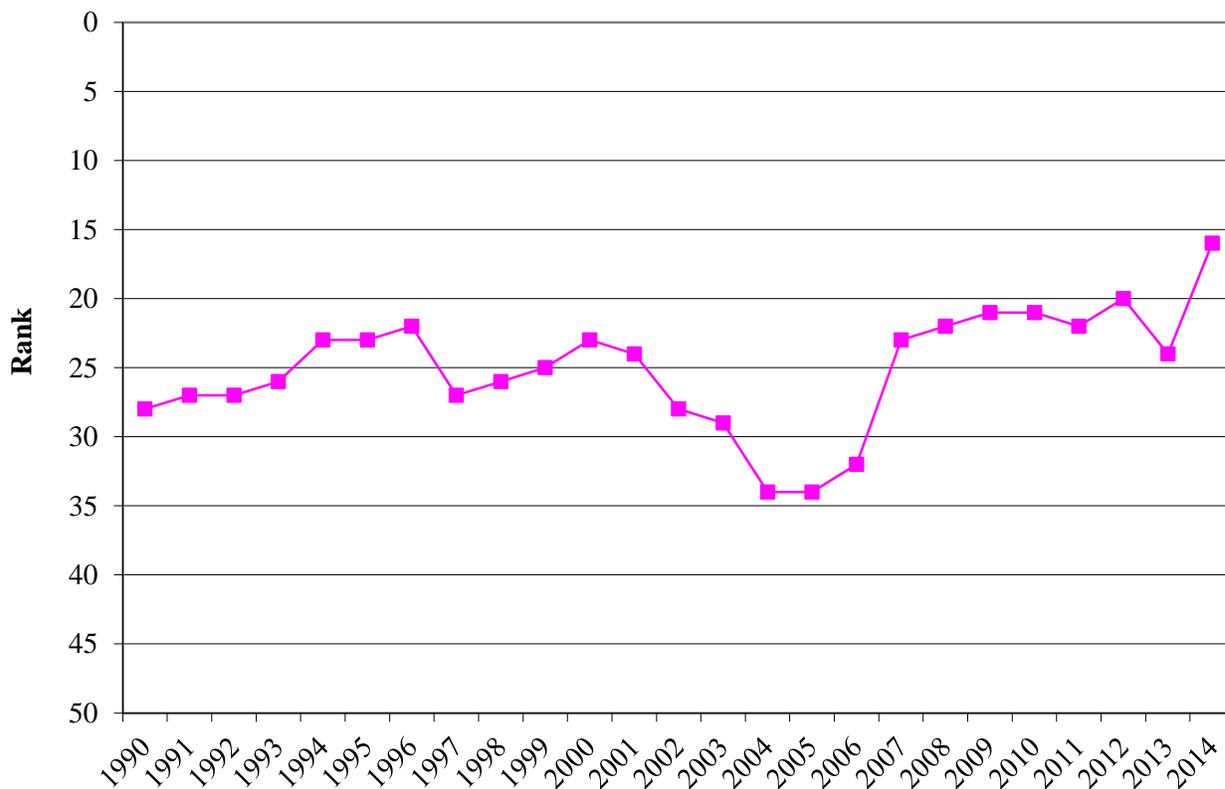
2. Measuring Progress in Health: *America's Health* Rankings, 2014

One of the more comprehensive and longstanding nationwide health rankings is developed by the United Health Foundation (a nonprofit, private foundation established by UnitedHealth Group), the American Public Health Association (an organization representing public health professionals), and Partnership for Prevention (a national nonprofit organization dedicated to health improvement). Since 1990, in a publication entitled *America's Health: State Health Rankings*, individual state rankings have been produced using data that represents a broad range of issues affecting a population's health, that is available at a state level and that is current.

America's Health rankings are developed from a variety of so-called determinant factors that include behaviors (*e.g.*, the prevalence of smoking and obesity), community and environmental factors (*e.g.*, air pollution levels and children in poverty), public health policies (*e.g.*, rates of health insurance and immunization coverage), and clinical care (*e.g.*, access to dental and primary health care practitioners), as well as a variety of outcomes (*e.g.*, rate of adult diabetes and infant mortality).

As shown in **Exhibit 4**, in the 2014 edition of *America's Health*, Maryland's overall ranking rose to 16 from 24 in the prior year. This represents the State's highest-ever ranking among the states and is attributable to positive trends in child poverty, smoking, and binge drinking. Along with low prevalence of smoking, areas of strength for the State include high immunization coverage among children and ready availability of primary care physicians, while the State's most significant health challenges continue to be relatively high rates of violent crime, air pollution, and low birthweight.

Exhibit 4
America's Health: State Health Rankings
1990-2014
Maryland



Source: *America's Health, State Health Rankings*, 2014 Edition