# Maryland's Budget Structure and Process

**Report for the**
**Spending Affordability Committee**

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

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November 18, 2008

The Honorable John L. Bohanan, Jr.
Presiding Chair
Spending Affordability Committee

The Honorable Ulysses Currie
Senate Chair
Spending Affordability Committee

Dear Delegate Bohanan and Senator Currie:

Chapter 2 of the 2007 special session directed the Spending Affordability Committee to study Maryland's budget structure and process with a focus on how Maryland compares with other States. Building upon a 2002 study of the Maryland budget process conducted by the Office of Policy Analysis (OPA) and with the assistance of the National Conference of State Legislatures (NCSL), this report fulfills the legislative requirement.

Production of the report was a collaborative effort of the following OPA staff: Flora Arabo, Matt Bennett, Ned Cheston, Nicki Sanduski, and Erika Schissler. Steve McCulloch coordinated the project. The assistance of Ron Snell of the NCSL fiscal staff was greatly appreciated. Kim Landry provided editorial assistance and prepared the manuscript.

I am pleased to be able to provide this report to you and trust it will provide useful in your deliberations.

Sincerely,

Warren G. Deschenaux
Director

WGD/SDM/kjl

cc: Ms. Victoria L. Gruber
Ms. Kristin F. Jones
Mr. John F. Favazza
Mr. Karl S. Aro

# Maryland's Budget Structure and Process

## Origin

Legislation enacted by Chapter 2 of the 2007 special session directed the Spending Affordability Committee (SAC), in cooperation with the Department of Budget and Management, to study Maryland's budget structure and process. In particular, it called for an analysis of existing laws and practices, regional and national comparisons, and the creation, review, and implementation of Maryland's budget by both the Executive and Legislative branches. The language was prompted by ongoing concerns expressed by the legislative committees about their role in the budgetary process and limited ability to respond to changes in the fiscal environment. In addition, in discussions with SAC leadership, a request was made to examine Medicaid spending and optional services in Maryland compared to surrounding states.

## Method of Proceeding

A major study of Maryland's budget process in 2002 by the Department of Legislative Services (DLS) serves as the foundation for this current effort. The 2002 study, entitled *Assessment of the Maryland Budget Process*, was prepared at the request of the President of the Senate and Speaker of the House of Delegates and assessed Maryland's budget process, comparing it to the processes of several states studied by the National Conference of State Legislatures (NCSL) at the request of DLS. The study explored the historical context which shaped the development of the current system of budgeting in Maryland, discussed problems with that structure, and made recommendations to strengthen the legislative role in budget and fiscal policy formulation.

The current report will:

- summarize the 2002 report's findings and recommendations;
- discuss the tools that have been used by the General Assembly to help direct and develop fiscal policy and spending priorities – namely restricting funds in the budget to new uses, mandating appropriations, creating special funds, and passage of supplementary appropriations bills;
- discuss Medicaid spending and services in Maryland compared with surrounding states; and
- provide recommendations for improving the legislature's ability to influence budget and fiscal policy.

## Findings and Recommendations of the 2002 Budget Study

The 2002 report by DLS entitled *Assessment of the Maryland Budget Process* analyzed the strengths and weaknesses in the State's budgetary system and recommended options that would improve the system. The report contained five chapters that reviewed the historical development of Maryland's budget process, the rules governing the current process, a comparative analysis with selected states and the federal government, and options for improving the budget process.

The comparisons of Maryland to selected states revealed the unique qualities of our budgetary process. Unlike many other states, Maryland refers legislation to committees based on subject matter rather than fiscal impact, has a unique spending affordability process, and was the only state in the study where the Governor did not have veto power over the budget bill. Comparisons with the federal government exposed different characteristics of Maryland's budgetary process. The General Assembly has limited authority over spending, whereas Congress has a great deal of control over revenue and fund allocation. And unlike the federal government which is not required to balance the budget, the Governor and legislature must propose and pass a balanced budget bill, respectively.

Some of the suggestions set forth in the report require a constitutional amendment to take effect. The rationale for this is the fact that the State's constitution is the foundation for the existing budget system, and a structural problem would require a structural remedy. One option would permit the legislature to reallocate resources within the total budget proposed by the Governor. Another would require the Governor to submit the budget to the legislature at an earlier date, allowing for greater time devoted to deliberations and negotiation.

However, it was also suggested that the legislature take up procedural changes to strengthen its capacity and extend its reach into budgetary matters without a constitutional amendment. The recommendations included:

- Expanding the authority of SAC to provide guidance on the allocation of resources and include recommendations with respect to taxes and fees;

- Altering committee structure and jurisdiction to allow for greater involvement in fiscal matters amongst the legislative committees by:

    - Conducting additional briefings for legislative committees on the budgetary impact of major agencies of interest;

    - Widening SAC membership to include members of policy committees;

    - Dually assigning members of policy committees to budget subcommittees;

    - Requiring a secondary referral of all bills to policy committees for review; and

- Expanding the budget conference committee to include members of policy committees.

The report concluded that, while Maryland maintained a strong reputation for fiscal prudence, the legislature would need to further contemplate its need and desire to function as an equal branch of government in the budget process.

## Using the Tools Available to Influence the Budget

To help compensate for its relatively weak power in regards to the budget process, the Maryland General Assembly has, to varying degrees over the years, relied on four methods of influencing budget policy: a practice colloquially known as "fencing;" mandating appropriation levels; creating special funds; and passage of supplementary appropriation bills.

### The Use of Fencing

Fencing refers to the practice of adding budget language to an appropriation to restrict the expenditure of funds to a purpose other than that for which they were included in the budget as introduced by the Governor. The use of fencing is based on the General Assembly's authority to restrict appropriations. A recent example of fencing is language added during the 2008 session to the budget of the Maryland Tourism Board which restricted $100,000 of general funds intended to support tourism to only be used to support the War of 1812 Bicentennial Commission.

Fencing does not always accomplish its goal, however. While the Governor may only spend the restricted funds in accordance with the budget language, he or she may elect not to spend the funds for the new purpose and instead let them revert at the end of the year, in the case of general fund restrictions, or be cancelled in the case of special and federal fund restrictions. Although the majority of the fenced funds are expended for the new purpose, governors have, on occasion, elected to not expend the funds. In the 2005 session, for example, language was added to an appropriation for an Aging Studies Program at the University of Maryland, Baltimore County restricting $1 million of general funds to only be used for grants to regional higher educational centers. The funds were never expended and reverted at the end of the fiscal year.

As **Exhibit 1** shows, the quantity of fenced appropriations has varied greatly over the past eight years from a low of just 4 items fenced during the 2002 session to a high of 71 items fenced during the 2005 session. During the 2005 session, a concerted effort was made to free up funds, primarily through the elimination of vacant positions, to be used to increase the State subsidy for employee and retiree health insurance. Even excluding the 42 health subsidy related fences, there were still 29 instances in the 2005 session where funds were fenced. It is not coincidental that the use of fencing increased substantially during the four years Maryland was led by a Republican administration.

**Exhibit 1**
**Number of Fenced Appropriations by Purpose**

| Session Year | Increased Funding | New Use | Health Insurance Subsidy | Total |
|---|---|---|---|---|
| 2001 | 2 | 3 | 0 | 5 |
| 2002 | 3 | 1 | 0 | 4 |
| 2003 | 2 | 3 | 0 | 5 |
| 2004 | 2 | 4 | 0 | 6 |
| 2005 | 5 | 24 | 42 | 71 |
| 2006 | 3 | 17 | 0 | 20 |
| 2007 | 1 | 12 | 0 | 13 |
| 2008 | 1 | 6 | 0 | 7 |
| **Total** | **19** | **70** | **42** | **131** |

Source: *Joint Chairmen's Report*, 2001-2008

**Exhibit 2** shows the dollar amounts associated with the fencing. As can be expected, the greater number of fenced appropriations during the 2005 and 2006 session resulted in the largest dollar amount restrictions during this eight-year period even when the health insurance subsidy dollars are removed from the analysis.

The use of fencing has had moderate success in allowing the General Assembly to influence budget policy. Since the General Assembly cannot force the Governor to expend fenced funds, the desired outcome of fencing effort is not guaranteed. It is, however, one tool that can be used to try to influence budget policy and as such is likely to continue to be used.

**The Use of Mandates**

Mandating funding levels in future budgets for particular programs is the second method the General Assembly has used to influence budget policy. A mandate is a legal requirement for the Governor to include certain levels of funding for specific programs and purposes in the budget as introduced. Related but distinct from mandates are entitlements. An entitlement is a legal commitment to provide certain benefits to certain individuals or groups. Funding must be provided for services to everyone who meets the eligibility criteria for each entitlement.

The power of the General Assembly to impose mandated spending dates back to 1978. In a 1977 court case, legislation to require parity in foster care payments was ruled unconstitutional. This led to a 1978 constitutional amendment allowing the General Assembly to require the

**Exhibit 2**
## Dollar Amount of Fenced Appropriations by Fund

| Session Year | General | Special | Federal | CU | Total |
|---|---|---|---|---|---|
| 2001 | $6,680,000 | $0 | $0 | $0 | $6,680,000 |
| 2002 | 450,000 | 134,165 | 0 | 0 | 584,165 |
| 2003 | 1,432,239 | 3,300,000 | 0 | 0 | 4,732,239 |
| 2004 | 9,775,000 | 0 | 0 | 0 | 9,775,000 |
| 2005 Non-health Insurance Subsidy | 89,112,531 | 42,031,056 | 2,674,394 | 69,479 | 133,887,460 |
| 2005 Health Insurance Subsidy | 22,960,088 | 3,004,455 | 1,266,583 | 0 | 27,231,126 |
| 2006 | 95,048,708 | 19,995,889 | 6,621,112 | 0 | 121,665,709 |
| 2007 | 3,213,900 | 3,508,000 | 5,048,438 | 0 | 11,770,338 |
| 2008 | 13,865,000 | 9,100,000 | 0 | 0 | 22,965,000 |
| **Total** | **$242,537,466** | **$81,073,565** | **$15,610,527** | **$69,479** | **$339,291,037** |
| **Adjusted Total*** | **$219,577,378** | **$78,069,110** | **$14,343,944** | **$69,479** | **$312,059,911** |

CU: current unrestricted

* Excludes Health Insurance Subsidy

Note: Except for $15.3 million in authorized transfers in fiscal 2009, the fenced appropriations did not increase spending but merely reallocated existing funds within the budget.

Source: *Joint Chairmen's Report*, 2001-2008

Governor to include a minimum level of funding for a program in a future budget. Legislation imposing mandated funding levels must be enacted before July 1 of the fiscal year which precedes the fiscal year to which the requirement applies. For example, legislation adopted during the 2009 session could impose mandates effective in the fiscal 2011 budget but would not affect the fiscal 2010 budget introduced that same year.

During the 2007 interim, DLS produced a report entitled *Mandated Appropriations in the Maryland State Budget* which examined the level and growth in mandated spending. This study showed that in fiscal 2008, mandate and entitlement spending consumed approximately 67 percent of the general fund budget. Local aid, largely for education, libraries, and community colleges, accounted for just over 58 percent of the mandated general fund spending, and entitlements represented almost another 30 percent of mandated general fund spending – largely for Medicaid. As shown in **Exhibit 3,** mandated general fund spending increased as a percent of total spending between fiscal 2004 and 2008.

**Exhibit 3**
## Mandated General Fund Spending
**Fiscal 2004 and 2008**
**($ in Millions)**

| | FY 2004 | Percent of Total | FY 2008 | Percent of Total |
|---|---|---|---|---|
| Mandated | $6,724 | 63.7% | $9,783 | 67.2% |
| Non-mandated | 3,834 | 36.3% | 4,778 | 32.8% |
| **Total** | **$10,558** | | **$14,561** | |

Source: Department of Legislative Services

**Advantages and Disadvantages of Mandates/Entitlements**

There are both advantages and disadvantages associated with mandates and entitlement programs. On the plus side:

- they give the legislature a stronger role in priority setting and fiscal policy formulation in a state dominated by a strong executive-budget model;
- they also can protect agencies and interest groups from the annual fight for funding unless the Governor proposes modifying mandates with reconciliation legislation; and
- they can protect priority programs during bad fiscal times.

These advantages have corresponding disadvantages which include:

- reduced flexibility in dealing with revenue declines;
- reduced competition for scarce resources;
- reduced transparency in determining how the budget is prepared and funds allocated;
- the potential to cause structural budget problems by mandating large funding increases without corresponding revenues; and

- creating expectations of funding growth at higher levels such that subsequent legislative reductions which limit the level of increases are viewed as cuts.

### Mandated Spending in Other States

DLS asked for assistance from NCSL in comparing Maryland to other states in the use of mandates. Initially NCSL thought it could successfully survey other legislatures on their enactment of the kinds of mandates Maryland uses. After in-depth discussions with legislative fiscal officers from four different states, however, NCSL concluded that a survey would not elicit the data needed for comparison purposes. There were several issues identified by the four fiscal officers that would hinder them from completing a survey on the subject. These included definitional differences (*e.g*. two of the four reported that the term mandate in their states refer primarily to voter-initiated requirements for state spending), measurement problems such as quantifying spending that results from certain initiatives, and lack of time/resources to do studies similar to the DLS report that would be necessary for other states to respond to such a survey.

NCSL reports that, in general, the responses of the four fiscal officers supports the hypothesis that other states do not make use of spending mandates to the extent Maryland does because of their greater flexibility in making appropriations. The fiscal officer from Colorado indicated that there are no such mandates in Colorado. Another fiscal officer stated that the closest Minnesota comes to such mandates are state programs established in statute that imply a need for a state appropriation but do not specify any funding level.

### Creation of Special Funds

The third way the General Assembly can influence the budget is by creating special funds through legislation. Special funds have statutory dedications identifying a broad purpose for the use of the funds but allow the Governor discretion as to how the funds are allocated and used. Absent legislation to change the uses of the special funds or to transfer balances as has been done from time to time to help balance the budget, the Governor may only include special funds in the budget for the purposes for which the special funds are created. Thus the creation of special funds allows the General Assembly to affect spending in the budget albeit not at a very precise level.

In the fiscal 2009 budget there are 361 special funds. Of these, 119, representing $1.1 billion, were not funded in the fiscal 1999 budget. **Exhibit 4** shows the top ten special funds in fiscal 2009 that were not funded in the fiscal 1999 budget.

**Exhibit 4**
**Ten Largest Fiscal 2009 Special Funds**
**Not Funded in Fiscal 1999**

| **Special Fund** | **Fiscal 2009 Allowance** |
|---|---|
| Cigarette Restitution Fund | $171,205,983 |
| Maryland Health Insurance Plan | 154,629,978 |
| Rate Stabilization Fund | 119,625,000 |
| Chesapeake Bay Restoration Fund | 96,765,904 |
| Uncompensated Care Fund | 85,000,000 |
| Higher Education Investment Fund | 54,915,982 |
| Chesapeake Bay 2010 Trust Fund | 50,000,000 |
| Maryland Economic Development Assistance Authority and Fund | 43,050,235 |
| Universal Services Benefit Program | 37,077,906 |
| State Police Helicopter Replacement Fund | 33,906,000 |

Source: Department of Legislative Services

Special funds have many of the same advantages and disadvantages of mandated appropriations. By dedicating certain revenues to specific uses, funding is generally assured for specially funded programs. This dedication of revenues, however, hampers the State's ability to adapt to changing fiscal conditions by requiring the passage of legislation every time a use other than that authorized in the enabling legislation is contemplated.

**Supplementary Appropriation Bills**

The third method the General Assembly has used to influence the budget is supplementary appropriations. Supplementary appropriation acts allow the legislature to create new appropriations but only if the tax revenue necessary to pay for the appropriation is included in the act. Under Article III § 52(8) of the Maryland Constitution, a supplementary appropriation bill must meet the following four requirements:

- *Single Subject* – Supplementary appropriations must each be in a separate bill and be limited to a single subject.

- *Revenue Support* – Supplementary appropriations must identify the tax revenue necessary to pay the specific appropriation in the bill.

- *Post-budget Passage* – Supplementary appropriations may not be finally acted upon until after the budget bill has been finally acted upon by both chambers.

- *Final Passage and Enactment* – Supplementary appropriations must be passed in each chamber by a majority vote and be presented to the Governor to be enacted or vetoed.

Other than the annual Maryland Consolidated Capital Bond Loan (MCCBL) and any local bond bills – which are considered supplementary appropriations – the use of supplementary appropriations has not been frequent during the past 20 years. Even when passed, the interpretation of the single subject requirement has led to differing opinions over the years on what is permissible. In 1967, the Court of Appeals ruled invalid a supplementary appropriation bill because it attempted to appropriate increased State income tax to State aid for increased police protection, for schools, and for unrestricted State grants to local subdivisions, a clear violation of the single work, object, or purpose limitation.

A similar supplementary appropriation bill passed during the 2006 session of the General Assembly, however, has not been invalidated. The revenue source in the bill was a surcharge to be imposed on every motor vehicle conviction for which points may be assessed. The surcharge is distributed to the State Police Helicopter Replacement Fund and the Volunteer Company Assistance Fund. In addition $328,850 of the surcharge collected in fiscal 2007 was to reimburse the District Court for certain computer modifications related to implementation of the surcharge. After initially raising concerns regarding the District Court appropriation and the single subject rule, the Attorney General ultimately advised that these purposes all clearly relate to a single work, object, or purpose.

Supplementary appropriation bills can clearly be used by the General Assembly to provide appropriations in addition to those in the Governor's allowance. A number of factors, however, limit their widespread use outside of capital appropriations. As with all other legislation except the budget bill, supplementary appropriation bills are subject to the Governor's veto. Since they must also impose a new or increased tax to pay for the proposed appropriation, supplementary appropriations are difficult to pass in an environment where raising additional revenues is politically inexpedient.

## Medicaid Spending and Services Compared with Select States

Medicaid makes up a substantial component of most state budgets. Maryland is no different. In Maryland, Medicaid is the second largest line item in the fiscal 2008 budget and accounts for about 16 percent of general fund spending. **Exhibit 5** compares Maryland's Medicaid spending to selected states for fiscal 2006.

The Centers for Medicaid and Medicare Services (CMS) set out the main rules under which Medicaid operates, such as individuals and services covered; however, each state runs it own program. Although all states must follow the same basic framework, the eligibility rules differ significantly from state to state. **Exhibit 6** shows income eligibility levels for parents, pregnant women, infants, and children for Maryland and other selected states.

**Exhibit 5**
## Medicaid GF Spending Comparison to Selected States, Fiscal 2006
**($ in Millions)**

| | Total GF Expenditures | Medicaid GF Spending | % of General Fund | Medicaid Enrollment as % of Population |
|---|---|---|---|---|
| West Virginia | 3,559 | 315 | 9% | 21% |
| Delaware | 3,193 | 459 | 14% | 21% |
| Virginia | 14,821 | 2,393 | 16% | 12% |
| New Jersey | 28,033 | 4,274 | 17% | 12% |
| **Maryland** | **$12,346** | **$2,250** | **18%** | **15%** |
| Connecticut | 22,580 | 3,141 | 22% | 15% |
| Pennsylvania | 24,665 | 6,111 | 25% | 16% |

GF: general funds

Source: Kaiser Family Foundation; Department of Legislative Services

**Exhibit 6**
## Medicaid Income Eligibility as a Percent of Federal Poverty Level [1]
## Comparison to Selected States, Fiscal 2008

| | Non-working Parents | Working Parents | Pregnant Women | Infants | Children Ages 1-5 | Children Ages 6-19 |
|---|---|---|---|---|---|---|
| **Maryland** | **30%** [2] | **37%** [2] | **200%** | **250** | **250** | **250** |
| Connecticut | 185% | 191% | 250% | 185 | 185 | 185 |
| Delaware | 100% | 106% | 200% | 200 | 133 | 100 |
| New Jersey | 133% | 133% | 200% | 200 | 133 | 133 |
| Pennsylvania | 200% | 200% | 185% | 185 | 133 | 100 |
| Virginia | 24% | 31% | 185% | 133 | 133 | 133 |
| West Virginia | 18% | 35% | 150% | 150 | 133 | 133 |

(1) 2008 federal poverty level guidelines per household are calculated at $10,400 for an individual with $3,600 for each additional person ($21,200 for a four-person family).

(2) In fiscal 2009, Medicaid eligibility has been expanded to parents with incomes up to 116 percent of the federal poverty level. Then, starting in fiscal 2010, the Primary Adult Care (PAC) program benefits will begin to incrementally expand annually, and in fiscal 2013, PAC enrollees will be eligible for full Medicaid benefits. The cost for this expansion begins at $97.6 million in fiscal 2009 ($48.8 million in special funds) and grows to $777.3 million in fiscal 2013 ($204.1 million in general funds).

Source: Kaiser Family Foundation; Department of Legislative Services

While Medicaid is limited to certain populations and services, states may seek federal waivers to cover other populations and services. Medicaid typically covers three main groups:

- children, their caretaker relatives, and pregnant women;
- the elderly; and
- persons with disabilities.

The mandatory services provided under Medicaid are:

- hospital care (inpatient and outpatient);
- nursing home care;
- physician services;
- laboratory and x-ray services;
- immunizations and other early periodic screening, diagnosis, and treatment services;
- family planning services and supplies;
- federally qualified health clinic and rural health clinic services; and
- nurse midwife and nurse practitioner services.

**Exhibits 7** and **8** list the optional populations and services that are covered by the Maryland Medicaid program along with their fiscal 2008 general fund cost. The charts also include a column providing the rationale for covering these services or populations. Items listed in Exhibits 7 and 8 should be considered separately rather than as a comprehensive package; if the costs listed in Exhibits 7 and 8 are totaled, there would be significant double-counting of general fund savings because the cost of optional populations includes the cost of some optional services and vice versa.

## Exhibit 7
# Maryland Medicaid Optional Populations
### ($ in Millions)

| | Fiscal 2008 General Fund Cost | Rationale for Providing the Coverage |
|---|---|---|
| Medically Needy Population[1] | $238.4 | This option provides a pathway to Medicaid coverage for people who have extensive health care needs, but who start out with too much income to receive cash assistance benefits. |
| MCHP Population | 65.9 | MCHP is one of the largest optional coverage groups, and the federal government pays 65 percent of the costs compared to 50 percent for Medicaid enrollees. |
| Primary Adult Care Program | 32.9 | Providing preventive care to this uninsured population could reduce the cost of uncompensated care in the future. |
| Foster Care Population Medically Needy Population[1] | 9.7 | This option provides a pathway to Medicaid coverage for foster care children who have extensive health care needs. |
| Immigrant Population | 6.0 | Providing preventive care to this uninsured population could reduce the cost of uncompensated care in the future. |
| Employed Individuals with Disabilities Population | 2.9 | This program allows individuals with disabilities to return to work while keeping their health benefits by paying a small fee. |
| Subsidized Adoption Population | 2.2 | The State covers the cost of medical care for children in State subsidized adoptions to reduce the cost of adoption to the family. |
| Pregnant Women Population[1] | 2.1 | This program ensures that low-income pregnant women and their newborns that are not otherwise eligible for Medicaid receive the proper medical services. |
| Family Planning Population | 0.6 | Ninety percent of the family planning services are paid for with federal funds, and this program plays a critical role in ensuring access to a broad range of family planning and related preventive health services. |
| **Total** | **$360.7** | |

MCHP: Maryland Children's Health Program

[1] These costs are estimates.

Source: Department of Legislative Services

**Exhibit 8**
## Maryland Medicaid Optional Services
**($ in Millions)**

| | Fiscal 2008 General Fund Cost | Rationale for Providing the Coverage |
|---|---|---|
| Waiver Services for the Developmentally Disabled | $259.0 | These patients are eligible to enter an ICF/MR. This waiver allows the State to receive federal matching funds to provide the clinically determined most appropriate care that maximizes the individual's productivity. Without this waiver, these individuals would be eligible for costlier State-only funded institutional care. |
| Pharmacy Services(1) | 206.4 | This service is a critical component of basic health care. |
| Psychiatric Rehabilitation Services(2) | 106.7 | This waiver allows the State to receive federal matching funds to provide the clinically determined most appropriate care that maximizes the individual's productivity. Without this waiver, these individuals would be eligible for costlier State-only funded institutional care. |
| Older Adult Waiver Services | 37.8 | These patients are eligible to enter a nursing home. Therefore, it is unlikely that savings would be realized if the waiver were ended. |
| Medical Day Care Services | 34.8 | These services help keep medically fragile people in the community rather than in higher cost institutions. |
| ICF/MR Services | 32.5 | This service brings in federal dollars to help pay for State facilities. |
| Autism Waiver Services | 10.8 | This money is budgeted in the Maryland State Department of Education. The waiver brings in federal dollars to help pay for certain services (the State would otherwise fund with State or local dollars). |
| Prosthetic Devices and Durable Medical Equipment(1), (2) | 20.0 | This equipment helps keep disabled persons in the community rather than in higher cost institutions. |
| Living at Home Waiver Services | 13.3 | These patients are eligible to enter a nursing home. Therefore, it is unlikely that savings would be realized if the waiver were ended. |
| Personal Care Services | 11.9 | Personal care helps keep medically fragile people in the community rather than in higher cost institutions. |
| Hospice Services | 10.2 | Hospice services are optional, but treatment services are not; hospice is considered cost effective compared to medical treatment for dying patients. Approximately $5 million of these payments go to nursing homes since many Medicaid recipients do not have homes that are conducive to hospice at home. |

## Exhibit 8 (continued)

| | Fiscal 2008 General Fund Cost | Rationale for Providing the Coverage |
|---|---|---|
| Traumatic Brain Injury Waiver | 1.2 | This waiver allows patients to be discharged from State facilities. It also allows the State to draw down federal funds to support the services. |
| **Total** | **$744.5** | |

ICF/MR: Intermediate Care Facilities for the Mentally Retarded

(1) Does not include costs of services in the HealthChoice Program.
(2) These costs are estimates.

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

Several services provided in Exhibit 8 are provided through the Home and Community Based Services (HCBS) Waiver. These waivers are used to provide services in the home and community as an alternative to the institutional long-term care setting. Every state except Arizona offers community based services through HCBS waivers. **Exhibit 9** compares Maryland's HCBS waiver expenditures to selected states for fiscal 2004.

## Exhibit 9
## Medicaid HCSB Waiver Expenditures Per-person Served, By Population Served, Fiscal 2004

| | DD | Aged | Aged And Disabled | Physically Disabled | Children | HIV/ AIDS | Mental Health | TBI/SCI | Total Expenditures Per-person |
|---|---|---|---|---|---|---|---|---|---|
| **Maryland** | **$38,075** | **$20,452** | **NWO** | **$17,156** | **$27,496** | **NWO** | **NWO** | **$39,255** | **$32,099** |
| Connecticut | 60,923 | NWO | 7,903 | 19,263 | NWO | NWO | NWO | 66,534 | 27,988 |
| Delaware | 70,185 | 4,990 | 10,791 | NWO | NWO | 4,108 | NWO | NWO | 24,874 |
| New Jersey | 36,200 | NWO | 8,566 | 45,491 | 1,522 | 6,322 | NWO | 63,045 | 24,673 |
| Pennsylvania | 40,281 | 11,200 | NWO | 16,429 | 112,623 | 790 | NWO | NWO | 28,364 |
| Virginia | 36,487 | NWO | 9,232 | 112,592 | NWO | 2,225 | NWO | NWO | 20,308 |
| West Virginia | 43,481 | NWO | 11,384 | NWO | NWO | NWO | NWO | NWO | 23,105 |

DD: Developmentally Disabled
NWO: No Waiver Offered
TBI/SCI: Traumatic Brain and Spinal Cord Injury

Source: Kaiser Family Foundation

Medicaid spending consumes a significant amount of general funds in every state. In Maryland, more than 80 percent of Medicaid spending provides services for mandated coverage groups and more than three-quarters of Maryland’s Medicaid spending finances federally mandated services. While overall Medicaid spending in Maryland is around the national average, Maryland outpaces many states in its HCBS waiver expenditures. In 2004, Maryland ranked seventh in the nation in HCBS waiver expenditures. However, many of the optional services covered by the State are believed to save money by preventing more expensive long-term care facility placements (personal care, medical daycare, durable medical equipment, etc.). In addition to preventing more expensive treatment, optional Medicaid programs like psychiatric rehabilitation, targeted case management, the developmental disabilities waiver, and intermediate care facilities for the mentally retarded, also allow the State to claim federal dollars for services which it would otherwise fund entirely with general funds.

## Conclusions and Recommendations

The relatively weak powers of the Maryland General Assembly in dealing with the budget are well documented. Recent years have witnessed an increased use of fencing appropriations and mandating appropriations as a means of extending the ability of the General Assembly vis-à-vis the budget process. While both these tools have their drawbacks, they do reflect a growing desire on the part of the General Assembly to have more of a say in how the State’s resources will be used. Thus the time may be ripe to reconsider modifications to the budget process. One approach could be to permit the legislature greater authority to reallocate funds while reducing its authority to mandate future funding.