N00I0006

Office of Home Energy Programs

Department of Human Resources

Operating Budget Data

($ in Thousands)

	FY 11 Actual	**FY 12 Working**	**FY 13 Allowance**	**FY 12-13 Change**	**% Change Prior Year**
General Fund	$0	$9	$0	-$9	-100.0%
Adjusted General Fund	**$0**	**$9**	**$0**	**-$9**	**-100.0%**
Special Fund	60,401	55,996	57,939	1,943	3.5%
Adjusted Special Fund	**$60,401**	**$55,996**	**$57,939**	**$1,943**	**3.5%**
Federal Fund	84,866	87,208	87,638	430	0.5%
Adjusted Federal Fund	**$84,866**	**$87,208**	**$87,638**	**$430**	**0.5%**
Adjusted Grand Total	**$145,267**	**$143,214**	**$145,577**	**$2,363**	**1.7%**

- The fiscal 2013 allowance of the Office of Home Energy Programs (OHEP) increases by $2.4 million, or 1.7%, compared to the fiscal 2012 working appropriation. Special funds ($1.9 million) and federal Low Income Home Energy Assistance Program (LIHEAP) ($429,708) funds increase, while general funds provided in fiscal 2012 to support the employee bonus are eliminated in the fiscal 2013 allowance.

- Special funds from the Strategic Energy Investment Fund increase due to the anticipation of higher revenue from the Regional Greenhouse Gas Initiative carbon dioxide emission allowance auctions in the second compliance period ($2.8 million); the increase is partially offset by a reduction the Electric Universal Service Program (EUSP) funds ($883,716).

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

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Personnel Data

	FY 11 Actual	FY 12 Working	FY 13 Allowance	FY 12-13 Change
Regular Positions	13.87	13.87	13.87	0.00
Contractual FTEs	0.41	0.00	0.00	0.00
Total Personnel	**14.28**	**13.87**	**13.87**	**0.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.94	6.78%
Positions and Percentage Vacant as of 12/31/11	1.00	7.21%

- There are no changes in the number of regular positions in OHEP in the fiscal 2013 allowance.

- Turnover expectancy increases from 6.18 to 6.78% in the fiscal 2013 allowance.

- As of December 31, 2011, OHEP had 1 vacant position, a vacancy rate of 7.21%. To meet its turnover expectancy, OHEP must maintain 0.94 vacant position in fiscal 2013.

Analysis in Brief

Major Trends

Reduced Funding Results in Fewer Cash Benefits Provided: After dramatic growth between fiscal 2008 and 2010, the number of cash benefits decreased slightly in fiscal 2011 as a result of the suspension of the arrearage assistance program in February 2011. Through January 2012, applications and households receiving benefits are lower than the same time period in fiscal 2011. Although the reason is not clear, the declines in fiscal 2012 are likely the result of the mild winter during this time period.

Fewer Eligible Households Receive Benefits: The percent of eligible households receiving Maryland Energy Assistance Program and EUSP bill assistance benefits decreased in fiscal 2011, compared to the previous year, largely as a result of an increase in the number of eligible households.

Despite Overall Reductions in Eligible Households Receiving Benefits, Growth Occurs Among Targeted Populations: Each of the three targeted populations (household with individuals over the age of 60, an individual who is disabled, or a child under the age of 6) had a higher percent of eligible households receiving benefits. Increases in eligible targeted populations receiving benefits are expected to continue through fiscal 2013 due to economic conditions.

Issues

Plan for Long-term Funding Sustainability: Over concern regarding funding uncertainty in light of ongoing growth in applications and benefit recipients, the 2011 *Joint Chairmen's Report* requested that the Department of Human Resources (DHR) submit a plan for long-term funding sustainability, including options to adjust benefit levels, eligibility levels, and the EUSP ratepayer surcharge. DHR submitted the plan in November 2011 which contained recommendations including removing the EUSP eligibility limit from statute, limiting the available EUSP funds for arrearage retirement to $5 million, and reducing the maximum arrearage assistance benefit.

Major Information Technology Project for Data System: In fiscal 2012, DHR has undertaken a substantial project to improve the OHEP data system. This project involves the replacement of data servers and the re-examination of the business logic. The project is expected, among other changes, to improve the user interface. Although the project is expected to cost $1 million, the project was not submitted for review under the Major Information Technology Development Project process.

Recommended Actions

1. Add budget bill language requiring major information technology development projects to receive approval of the Department of Information Technology and be identified separately in the budget.

2. Adopt committee narrative requesting an update for the committees on the outcome of the Public Service Commission review of energy assistance programs.

Updates

Corrective Actions in OHEP: In June 2010, the United States Government Accountability Office (GAO) released a report on the potential for fraud and improper payments in the LIHEAP. This report noted several fraud prevention control measures that were not in place in Maryland, primarily related to data matching. A subsequent fiscal compliance audit by the Office of Legislative Audits included a related finding and cited the GAO report. Language in the fiscal 2012 budget bill withheld funds until the department submitted a report on corrective actions taken in response to these findings. In December 2011, DHR submitted a report in response to this language. This report highlighted 29 actions taken or planned that address concerns raised in the GAO report. Of these actions, 23 were fully or partially implemented by the date the report was submitted, including some measures that were in place prior to the GAO report.

Use of Funds Available from the FirstEnergy Corporation and Allegheny Energy, Inc. Merger: As a condition of approval for the merger of FirstEnergy Corporation and Allegheny Energy, Inc., Potomac Edison was ordered by the Public Service Commission to contribute $600,000 to the EUSP to be used for arrearage retirement in the Potomac Edison service territory. Through December 29, 2011, arrearage benefits totaling $508,312 had been provided to 703 recipients as a result of the funding available from this contribution.

Office of Home Energy Programs

Department of Human Resources

Operating Budget Analysis

Program Description

The Office of Home Energy Programs (OHEP) is a program of the Family Investment Administration in the Department of Human Resources (DHR). The services of OHEP include cash benefits, budget counseling, vendor arrangements, referrals, and assistance with heating/cooling equipment repair and replacement. OHEP administers two energy assistance programs for residential customers using local agencies including local departments of social services in each county and Baltimore City. These two programs are (1) the Maryland Energy Assistance Program (MEAP) funded from the federal Low Income Home Energy Assistance Program (LIHEAP) providing bill payment assistance, crisis assistance, and furnace repair/replacements for a variety of energy sources; and (2) the Electric Universal Service Program (EUSP) funded from a ratepayer surcharge and the Strategic Energy Investment Fund (SEIF) that provides both bill payment and arrearage assistance to electric companies.

The key goals of OHEP are to provide access to the benefits and services of OHEP to as many low income eligible households as possible to help reduce the home energy cost burden and to meet the immediate needs of households experiencing energy crises by preventing or remedying off-service or out-of-fuel emergencies.

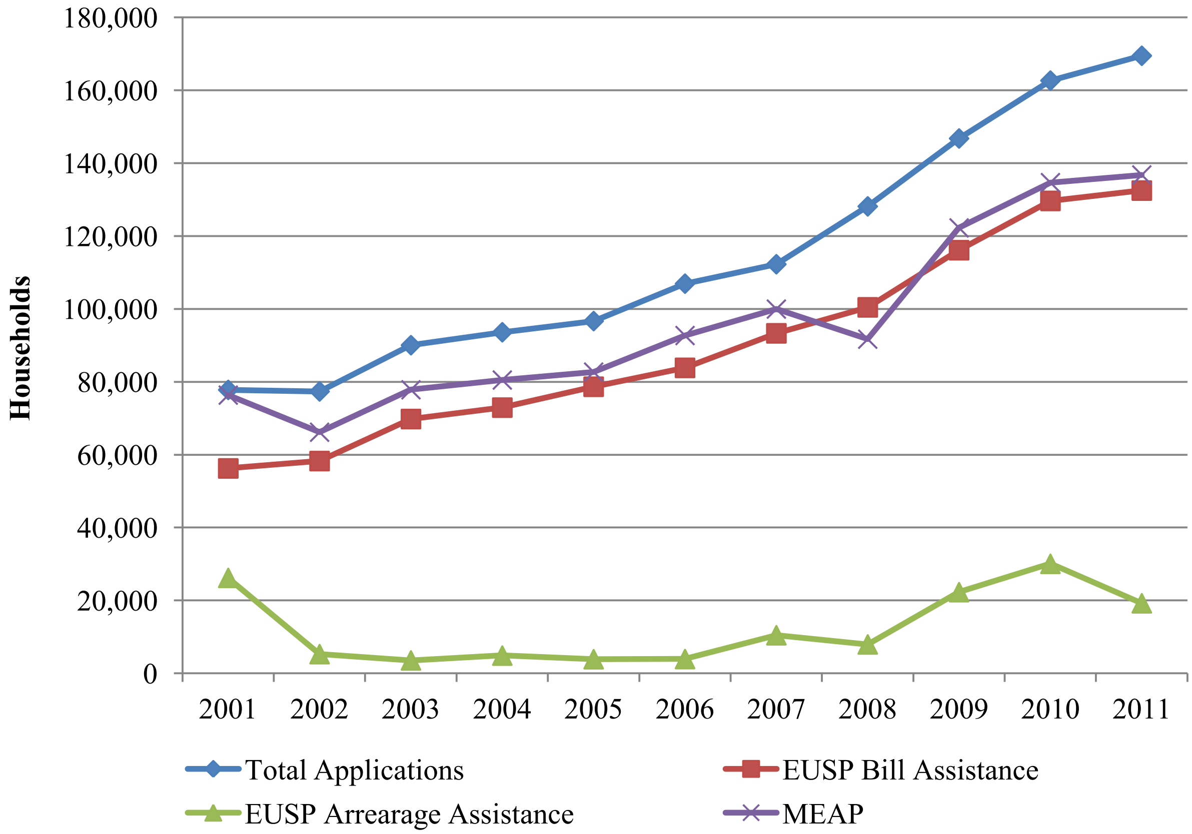
Performance Analysis: Managing for Results

As shown in **Exhibit 1**, the total number of energy assistance applications increased by 58.5% from fiscal 2006 to fiscal 2011; the households receiving benefits also increased substantially:

- EUSP bill assistance benefits 58.0%; and
- MEAP benefits 47.5%.

After increases of more than 10.0% in fiscal 2009 and 2010, year-to-year growth began to moderate in fiscal 2011, with growth of only 2.2% for EUSP bill assistance and 1.6% for MEAP assistance. The number of households receiving arrearage assistance decreased by 36.0% in fiscal 2011, primarily due to funding concerns which led to a suspension of the arrearage benefits in February 2011. As a result, considerably lower expenditures ($30.8 million in fiscal 2010 compared to $17.9 million in fiscal 2011) were incurred.

Exhibit 1
OHEP Benefit Provision History
Fiscal 2001-2011

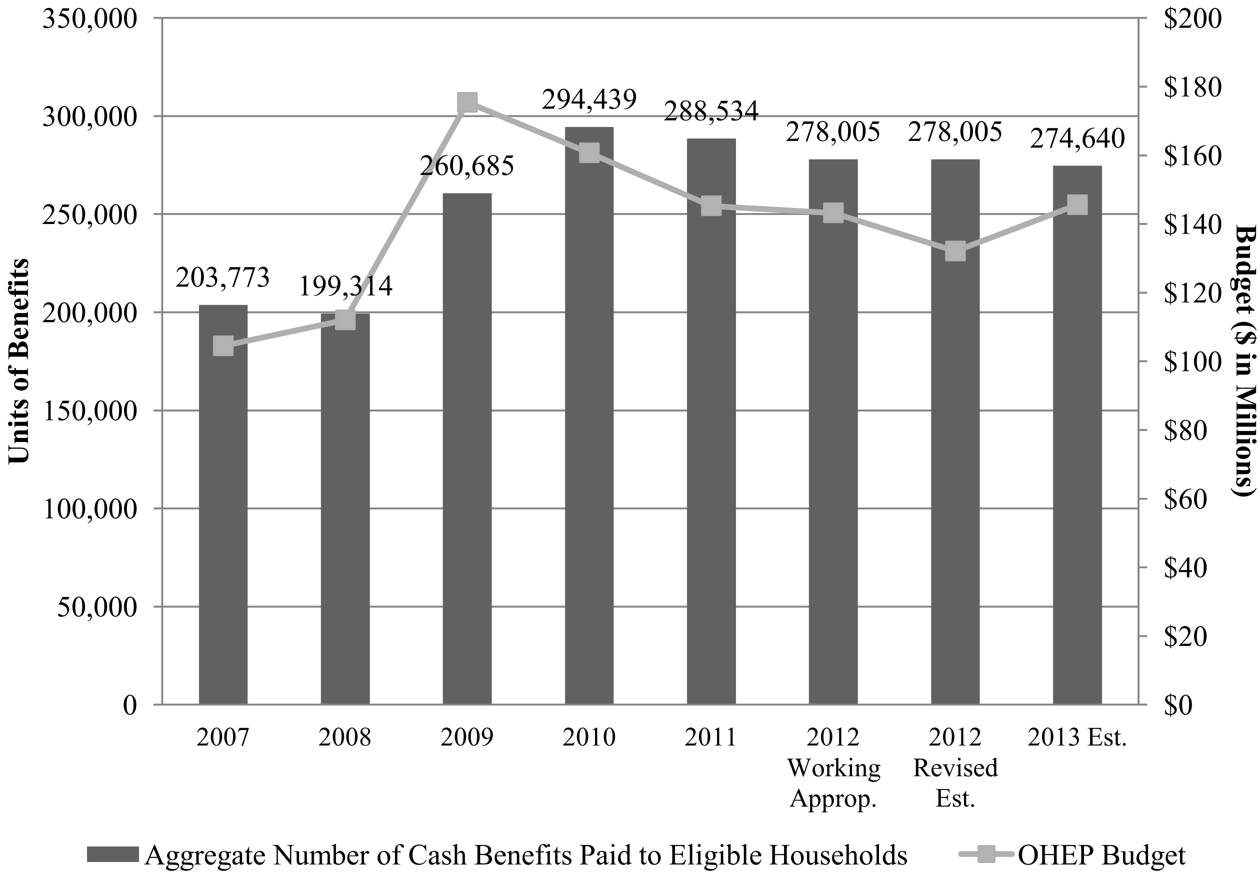


EUSP: Electric Universal Service Program
MEAP: Maryland Energy Assistance Program
OHEP: Office of Home Energy Programs

Source: Department of Human Resources

The ongoing growth in bill assistance benefits, shown in Exhibit 1, has translated to increases in the aggregate number of cash benefits provided to eligible households from fiscal 2008 to 2010, as shown in **Exhibit 2**. Units of cash benefits are MEAP and EUSP bill payment assistance and EUSP arrearage assistance. In fiscal 2010, the growth continued, despite decreased funding, due to adjustments in the benefit level. The decrease in arrearage assistance benefits provided in fiscal 2011, however, resulted in a decline in the total units of cash benefits provided, even as bill assistance benefits increased. Units of cash benefits provided are expected to continue to decline through fiscal 2013 as a result of both funding challenges and an expected improvement in the economy.

Exhibit 2
OHEP Outcomes vs. Expenditures
Fiscal 2007-2013



OHEP: Office of Home Energy Programs

Note: Fiscal 2012 revised estimate reflects changes from the fiscal 2012 working appropriation to reflect Maryland's allocation of federal Low Income Home Energy Assistance Program funding based on the federal appropriation level as well as fiscal 2011 carryover funding.

Source: Department of Human Resources; Governor's Budget Books; U.S. Department of Health and Human Services

Unexpectedly, applications for each benefit type have decreased through January 2012 in fiscal 2012, as shown in **Exhibit 3**, contributing to declines in households receiving benefits. Although no definitive cause for the unexpected year-to-year decrease is known, DHR indicates possible reasons that relate to the relatively mild winter to date and decisions to stagger application mailings to prior year recipients by some local administering agencies to address workflow concerns.

Exhibit 3
OHEP Applications and Benefits Data
July through January Data

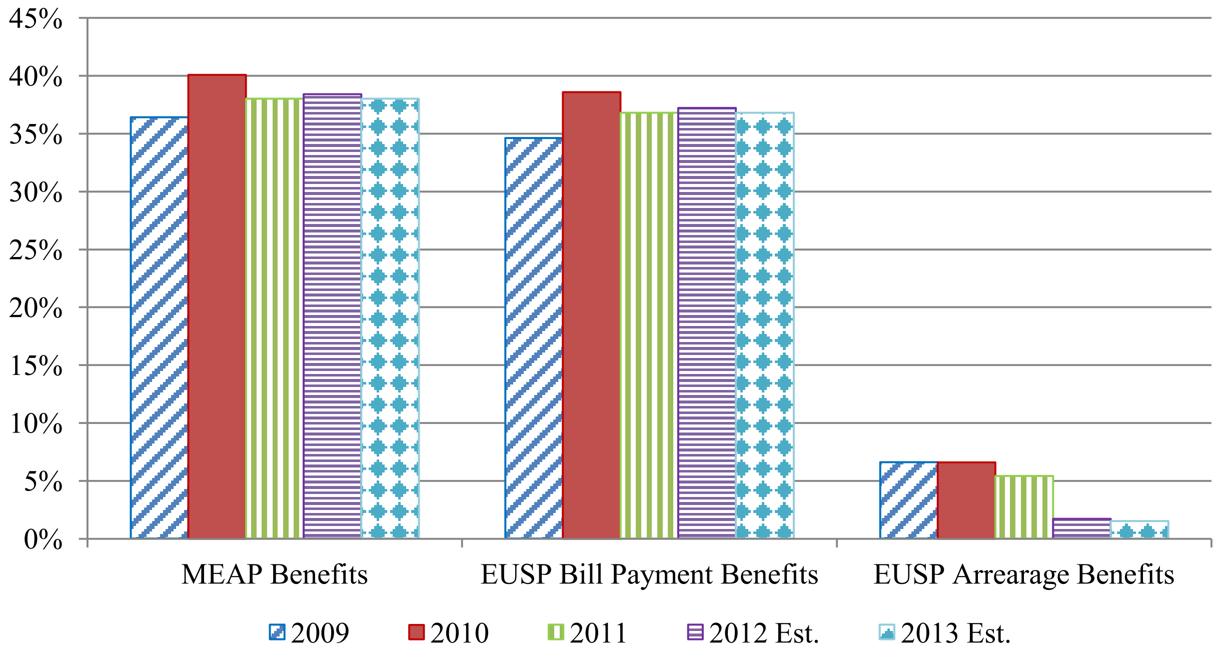
	Fiscal 2011	Fiscal 2012	Change	% Change
Applications				
MEAP	129,925	122,114	-7,811	-6.0%
EUSP Bill Payment	127,790	118,049	-9,741	-7.6%
EUSP Arrearage	20,965	9,643	-11,322	-54.0%
Receiving Benefits				
MEAP	91,840	84,627	-7,213	-7.9%
EUSP Bill Payment	89,690	83,246	-6,444	-7.2%
EUSP Arrearage	16,097	6,736	-9,361	-58.2%
Average Benefit				
MEAP	$453	$342	-$111	-24.5%
EUSP Bill Payment	$441	$338	-$103	-23.4%
EUSP Arrearage	$927	$868	-$59	-6.4%
Benefits Paid ($ in Millions)				
MEAP	$41.6	$28.9	-$12.7	-30.5%
EUSP Bill Payment	$39.6	$28.1	-$11.5	-29.0%
EUSP Arrearage	$14.9	$5.8	-$9.1	-60.8%
Total Benefits Paid	**$96.1**	**$62.9**	**-$33.2**	**-34.6%**

EUSP: Electric Universal Service Program
MEAP: Maryland Energy Assistance Program
OHEP: Office of Home Energy Programs

Source: Department of Human Resources

Despite increases in the number of households receiving bill assistance benefits, the percent of eligible households receiving these benefits decreased in fiscal 2011, as shown in **Exhibit 4**. DHR indicates that this decline occurred as a result of an increase in the estimated number of eligible households from 336,038 to 359,590. Although a slight improvement is expected in fiscal 2012, OHEP anticipates the percent of eligible households receiving benefits will decrease again in fiscal 2013 due to reduced need as the economy improves.

Exhibit 4
Eligible Households Certified for Energy Assistance Benefits
Fiscal 2009-2013



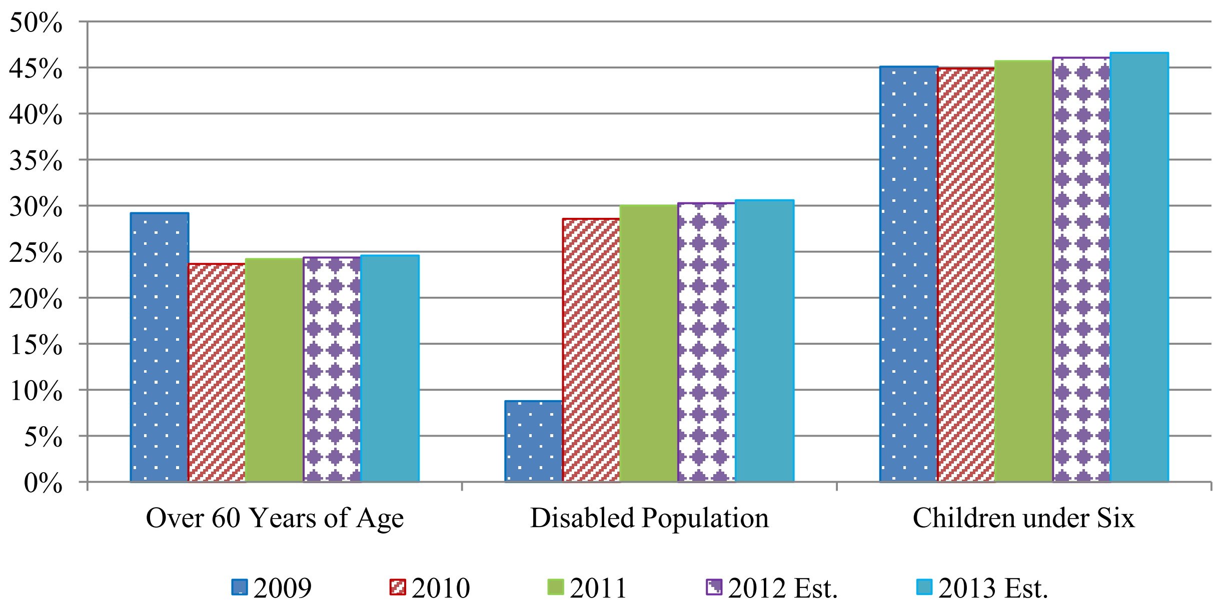
EUSP: Electric Universal Service Program
MEAP: Maryland Energy Assistance Program

Source: Department of Human Resources; Governor's Budget Books

The percent of eligible households receiving arrearage assistance decreased in fiscal 2011, compared to fiscal 2010, and is expected to continue to decrease through fiscal 2013 largely due to reduced funding that has led the agency to institute spending caps for the program in fiscal 2011 and 2012. In fiscal 2011, DHR suspended the program in February 2011. In fiscal 2012, DHR originally expected to have only $54.0 million in federal funds (in addition to EUSP and SEIF) and as a result planned a $5.0 million cap which essentially ended the program in most of the State by December 2011. The federal fiscal 2012 allocation was actually $69.0 million, and as a result, the department has increased the cap to $12.0 million and reopened the program. The additional funds were distributed to jurisdictions January 30, 2012.

The percent of each of three targeted populations (households with an individual over the age of 60, with an individual who is disabled, or with a child under the age of 6) receiving benefits increased slightly in fiscal 2011, and small increases are expected to continue through fiscal 2013, as shown in **Exhibit 5**. DHR explained that these households are expected to continue to struggle financially due to the proportion of these populations with fixed income sources.

Exhibit 5
Targeted Populations Receiving Benefits
Fiscal 2009-2013



Source: Department of Human Resources; Governor's Budget Books

Proposed Budget

As shown in **Exhibit 6**, OHEP's fiscal 2013 allowance increases by $2.4 million, or 1.7%. Special funds increase by $1.9 million primarily due to an increase in funding from the SEIF, which primarily receives its revenue from the Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions, partially offset by a reduction in funds available from EUSP. Federal LIHEAP funds also increase by $429,709. General funds, which were provided to support the $750 bonus provided to State employees in fiscal 2012, are eliminated in the fiscal 2013 allowance.

Aside from the increase in energy assistance benefits, the fiscal 2013 allowance of OHEP is essentially level funded, an increase of $2,524. Personnel expenditures in the fiscal 2013 allowance decrease by $506 compared to the fiscal 2012 working appropriation. Increases in personnel expenditures largely occur in the areas of employee and retiree health insurance ($16,110) and employee retirement ($5,740). These increases, plus modest increases in other salaries and fringe benefits, are offset by reductions to account for the removal of the one-time employee bonus ($10,790), reclassifications ($7,741), and a slight increase in turnover expectancy ($4,792).

Exhibit 6
Proposed Budget
DHR – Office of Home Energy Programs
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Total
2012 Working Appropriation	$9	$55,996	$87,208	$143,214
2013 Allowance	0	57,939	87,638	145,577
Amount Change	-$9	$1,943	$430	$2,363
Percent Change	-100.0%	3.5%	0.5%	1.7%
Contingent Reductions	$0	$0	$0	$0
Adjusted Change	-$9	$1,943	$430	$2,363
Adjusted Percent Change	-100.0%	3.5%	0.5%	1.7%

Where It Goes:

Personnel Expenses	
Employee and retiree health insurance	$16
Employee retirement	6
Salaries, accrued leave payout, Social Security contributions, and unemployment insurance	1
Turnover expectancy increases from 6.18 to 6.78%	-5
Eliminate funding for reclassifications	-8
Remove one-time employee bonus	-11
Energy Assistance Benefits	
Energy assistance benefits due to higher anticipated revenue from SEIF and federal LIHEAP funding partially offset by EUSP funding	2,361
Administrative Expenses	
Call center contract previously centrally budgeted in DHR	18
Postage and telephone expenditures to align with recent experience	5
Travel	1
Data processing materials and legal services	-2
Printing expenses including for various forms	-5
Utilities due to a change in budgeting of local administering agencies expenditures	-7
Outreach materials due to declining funding	-8
Total	**$2,363**

DHR: Department of Human Resources
EUSP: Electric Universal Service Program
LIHEAP: Low Income Home Energy Assistance Program
SEIF: Strategic Energy Investment Fund

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

Energy Assistance

The fiscal 2013 allowance for energy assistance benefits increases by $2.4 million, or 1.8%, compared to the fiscal 2012 working appropriation. This increase is understated when accounting for the federal funds actually available to the program in fiscal 2012. However, the fiscal 2013 allowance could be overstated by as much as $30 million as a result of optimistic assumptions about the availability of federal LIHEAP funds and EUSP funds.

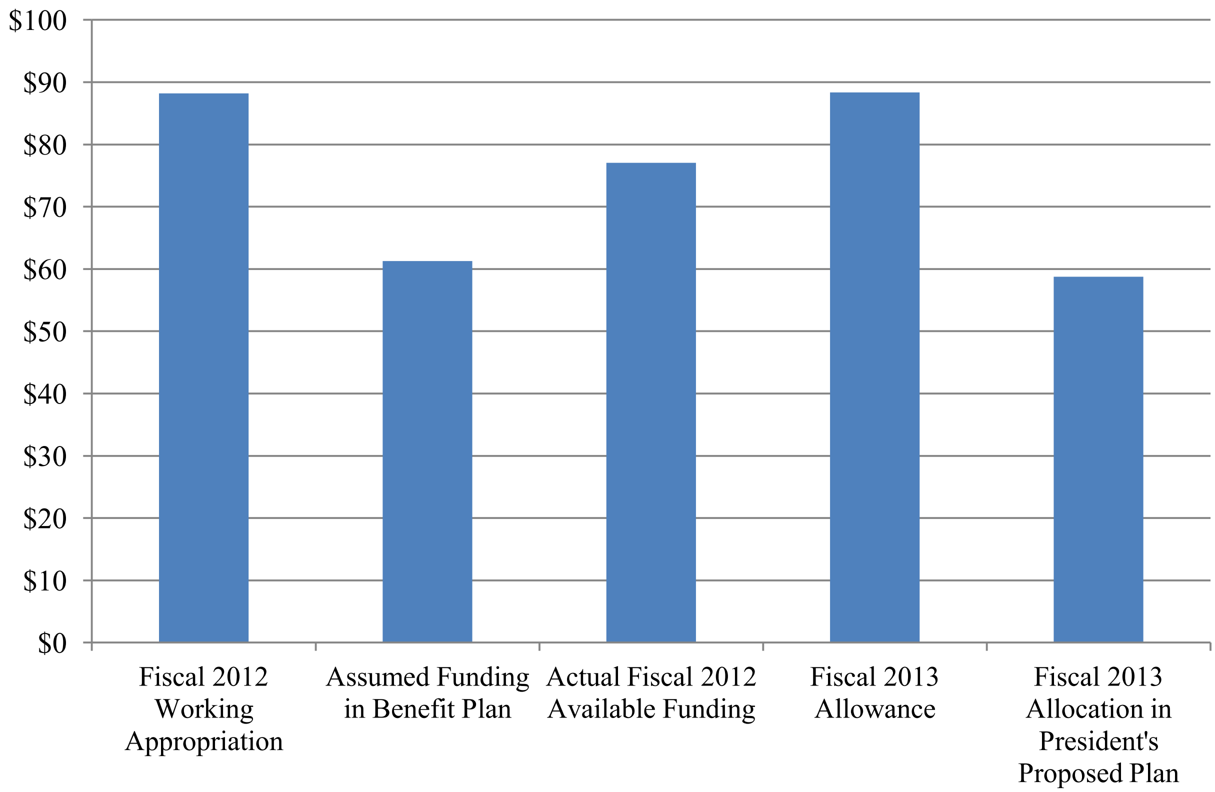
LIHEAP

Federal LIHEAP funds in the fiscal 2013 allowance, including those funds in the Office of Technology for Human Services (OTHS), increase by $160,209 compared to the fiscal 2012 working appropriation. However, due to a decrease in the anticipated costs of maintenance for the OHEP data system and other changes in the use of these funds in OHEP, federal LIHEAP funds budgeted for energy assistance benefits increase by $401,358 (to a total of $87.6 million). The fiscal 2012 working appropriation, however, does not accurately reflect the amount of LIHEAP funds Maryland will receive.

Maryland's allocation of the $3.4 billion national appropriation for LIHEAP in federal fiscal 2012 is only $69.8 million. Due to a higher than expected allocation of emergency contingency funds in fiscal 2011, Maryland was able to retain $7.3 million for use in fiscal 2012, cushioning the overall reduction in funding. In total, OHEP will have about $76.1 million of LIHEAP available for its administrative expenditures and energy assistance benefits with $77.1 million in total available to the department. This level of funding is higher than was initially anticipated based on President Barack H. Obama's federal fiscal 2012 proposed budget but represents a substantial reduction from recent history and is $11 million less than the LIHEAP appropriation in the fiscal 2012 budget ($88.2 million).

Prior to the determination by Congress of the final appropriation, Maryland adjusted benefit levels assuming only $54.0 million would be allocated, providing Maryland with a total of $61.3 million in LIHEAP, including carryover. **Exhibit 7** presents a comparison of the fiscal 2012 working appropriation, the amount assumed in the fiscal 2012 benefit plan, the actual available funding in fiscal 2012, and the fiscal 2013 allowance. When accounting for the actual allocation of LIHEAP funds and the fiscal 2011 carryover funding, the fiscal 2013 allowance is $11.5 million higher than the available fiscal 2012 funding.

Exhibit 7
LIHEAP Funding Comparison
Fiscal 2012-2013
($ in Millions)



LIHEAP: Low Income Home Energy Assistance Program

Source: Department of Human Resources; Governor's Budget Books; U.S. Department of Health and Human Services

Although ultimately Maryland received more than it initially appeared, uncertainty persists regarding the near- and long-term funding allocations. The national appropriation has been reduced from the all-time high level of $5.1 billion in federal fiscal 2009 and 2010, to $4.7 billion and $3.4 billion in federal fiscal 2011 and 2012, respectively. In addition, LIHEAP is subject to sequestration as a result of the Super Committee failing to reach a deficit cutting agreement. President Obama's federal fiscal 2013 proposed budget would provide federal LIHEAP funding of $3.0 billion, of which $200.0 million is reserved for emergency contingency funds. As shown in Exhibit 7, under this proposal Maryland would receive $58.8 million, $29.6 million less than DHR's fiscal 2013 allowance of LIHEAP. Based on recent experience and the President's proposed budget, federal LIHEAP funds are unlikely to be available to Maryland at the level included in the fiscal 2013 allowance. Maryland is likely to have some carryover funding available from fiscal 2012, given the reduced level of applications and mild winter weather, potentially cushioning any reduction.

Maryland may carryover a maximum of 10% of LIHEAP from one federal fiscal year to the next. **DHR should comment on changes to the program that may be required if federal funds are not received at the level anticipated in the fiscal 2013 allowance.**

EUSP

EUSP included in the fiscal 2013 allowance, in OHEP and OTHS for computer system maintenance, totals $38.7 million, of which $32.7 million supports benefit payments. Although this represents an overall decrease of $1.2 million in EUSP in the budget of DHR compared to the fiscal 2012 working appropriation, the fiscal 2013 allowance for these funds is $1.7 million more than is statutorily allowed to be collected from ratepayers. However, DHR reports that in each of the last three fiscal years EUSP funds have been collected at a level higher than the level allowed in statute, $37.0 million. The Public Service Commission (PSC) is responsible for monitoring these collections, and this issue is further discussed in the analysis for that agency.

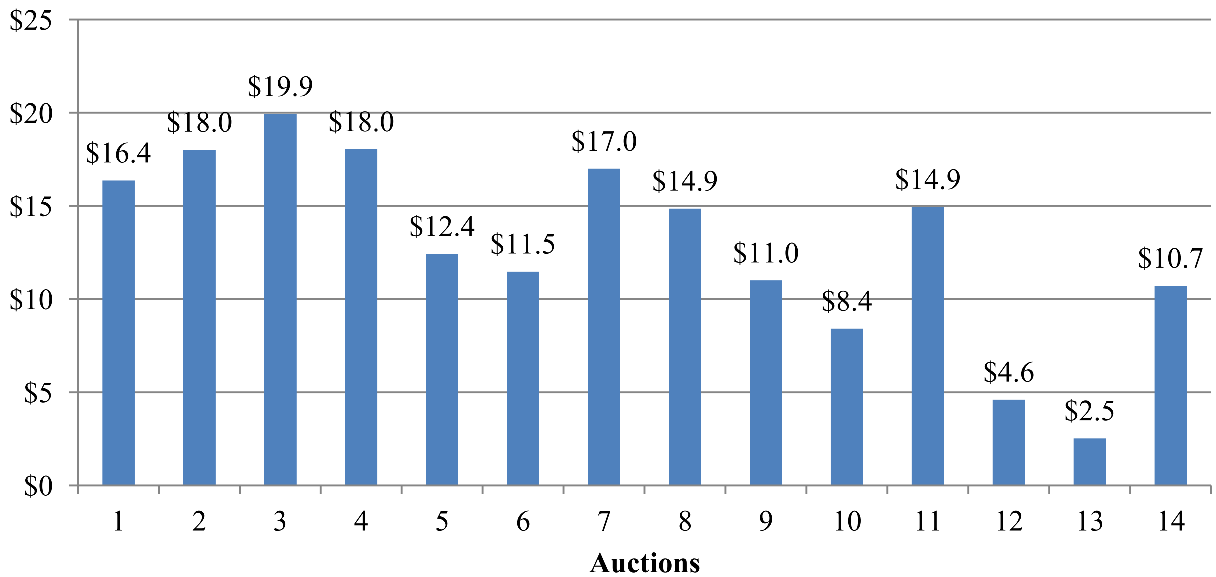
As a result of the overall reduction of EUSP in the fiscal 2013 allowance, EUSP available to support energy assistance benefits also decreases ($867,065).

SEIF

OHEP began receiving special funds from the SEIF in fiscal 2009 as a result of Chapters 127 and 128 of 2008 which allocated 17% of the revenue from RGGI carbon dioxide emission allowance auctions to be used for electricity assistance programs in DHR. Since fiscal 2010, OHEP has received 50% of the revenue received from these auctions as a result of the Budget Reconciliation and Financing Act (BRFA) of 2009 and BRFA of 2011. The SEIF allocation has been used entirely for benefit payments.

Revenue fell from RGGI auctions in the first compliance period as emissions were far below the level of the cap, leading to reduced demand, as shown in **Exhibit 8**. With the start of the second compliance period in calendar 2012, entities will again need to purchase allowances to match their level of emissions. Although there is considerable uncertainty regarding the timing of purchases and the number of allowances that will be needed, the fiscal 2013 allowance assumes $42.0 million in revenue will be available from the sale of 22.2 million allowances. Based on the statutory allocation and accounting for other required allocations, $19.9 million of the SEIF is expected to be available in fiscal 2013 allowance to support energy assistance, an increase of $2.8 million.

Exhibit 8
RGGI Auction Revenue
Auctions 1-14, First Compliance Period
($ in Millions)



RGGI: Regional Greenhouse Gas Initiative

Source: Regional Greenhouse Gas Initiative, Inc.

Additional Energy Assistance Funding

On February 17, 2012, PSC conditionally approved the merger between Exelon Corporation (Exelon) and Constellation Energy Group (CEG). One of the conditions of the merger requires Exelon to contribute $113.5 million in equal annual installments over the three-year period following the merger (approximately $37.8 million) to a Customer Investment Fund. This fund would be used exclusively for Baltimore Gas & Electric (BGE) customers. The allocation of the funds would be made at the direction of PSC. PSC indicated that the funds would be available to the following types of programs:

- low-income energy assistance;
- energy efficiency and weatherization programs for low-income customers;
- zero-interest and low-interest financing for residential and commercial energy efficiency and conservation projects;

- targeted energy efficiency programs for businesses; and

- other innovative programs related to energy efficiency that serve the purpose of removing barriers to adoption of technologies and behaviors related to energy use in homes and small businesses.

PSC explained that it would hold additional proceedings to determine how to allocate these funds. PSC noted that in the allocation, it would attempt to create the maximum possible long-term benefit to complement the short-term rate relief benefit provided in another condition.

The timing of these additional proceedings and the determination of the allocation is unclear. As a result, at this time, the actual additional funding available for low-income energy assistance or other programs is unknown or if these allocations would be provided to State agencies. If a portion of these allocations are available to energy assistance programs, it is not known what restrictions might be placed on the provision of these funds, beyond a limitation of use in the BGE territory. Based on experience with a similar contribution by Potomac Edison, as discussed in the Updates section of this analysis, it is likely these funds would be required to supplement, not supplant, funding otherwise provided for this purpose. **To provide the General Assembly opportunity to review and consider these allocations, the Department of Legislative Services (DLS) recommends that language be added in the Budget Reconciliation and Financing Act of 2012 requiring any funding provided as a condition of the merger between Exelon and CEG by PSC provided for use by State agencies be expended only through appropriations in the State budget bill.**

Issues

1. Plan for Long-term Funding Sustainability

In response to funding uncertainty and the continued growth in the households receiving benefits that occurred through fiscal 2011, the 2011 *Joint Chairmen's Report* requested DHR to develop a plan for long-term funding sustainability including options to adjust eligibility, benefit level, and the ratepayer surcharge for EUSP. The plan was submitted in November 2011, and included several recommendations and options for the program. In the opening statement of the Executive Summary, DHR states, "[s]ecuring a stable and adequate source of funding for EUSP is the best way to ensure that benefit levels are sufficient to reduce the electric bills of needy residents to an affordable level." DHR noted in this plan that, absent additional funding, it is the intention of the department to stay within the appropriation and indicates that sufficient flexibility exists to do so. However, the questions that exist pertain to "how many families can be served" and "will the benefits be adequate."

Eligibility

DHR recommended that the language in Section 7-512.1(a)(1) of the Public Utilities Article be revised to provide flexibility in the income eligibility for EUSP similar to language regarding eligibility for LIHEAP in federal law. State statute requires the program to serve customers with income up to 175% of the federal poverty level (FPL). The federal statute allows states to set income eligibility within a range, at least 110% of FPL but no higher than 150% of FPL or 60% of the state median income. DHR indicates if the State language were revised, the department would adjust income guidelines for the upcoming year in the *EUSP Proposed Operations Plan* required to be reviewed and approved by PSC. Although not part of its recommendations, DHR noted that additional options exist to limit the number of households able to receive benefits through shortening the application period or limiting the number of applications it would accept each year.

Arrearage Benefits

DHR also recommended two changes to the current arrearage assistance. First, DHR recommended reinstituting an annual cap on arrearage benefits ($5.0 million). Prior to Chapters 305 and 306 of 2009, which eliminated a statutory cap, the statutory limit was $1.5 million. Reinstituting an official cap would require a statutory change; however, DHR could choose instead to self impose a limit, as it did in fiscal 2012 ($5.0 million initially and later increased to $12.0 million). With this type of limit, some households requiring assistance are unable to receive it. Under the original cap in fiscal 2012, arrearage assistance funds, which are distributed to each jurisdiction, were exhausted as early as September 2011 in some areas of the State, and by December 2011, arrearage benefits were only available in the Potomac Edison service territory (Western Maryland).

Second, DHR also recommended reducing the maximum arrearage benefit from $2,000 to $1,500, as needed, which would not require a statutory change. In each year from fiscal 2008 to

2011, more than 10% of the arrearage assistance benefits were between $1,500 and $2,000, and in fiscal 2010, 23% of arrearage assistance benefits were within that range.

Benefit Levels

DHR currently has flexibility to adjust the percent of the bill paid at each benefit level (one component of its benefit calculation). The *EUSP Proposed Operations Plan* submitted each year proposes the percent of the bill to be paid for EUSP bill payment benefits. MEAP benefits, although not required to be approved by PSC, are adjusted as necessary as well. DHR recommends maintaining its current method of calculating benefits allowing adjustments to be made as necessary to stay within its available funding.

In fiscal 2010 and 2011, by reducing the percent of the bill paid, DHR was able to stay within its declining funding levels while accommodating growth in recipients. Although also impacted by other factors, as an example of the impact of this type of reduction, **Exhibits 9** and **10** present a comparison of average benefits by benefit level for EUSP bill assistance and MEAP in fiscal 2009, 2010, 2011, and through January in fiscal 2012. As shown in these exhibits, total average benefits have declined in fiscal 2012 by 24.2% compared to fiscal 2011.

Exhibit 9
EUSP Average Benefit by Benefit Level
Fiscal 2009-2012 (January)

	2009	2010	2011	2012	Difference Between 2011 and 2012
0-75% FPL	$1,064	$957	$700	$490	-30.0%
>75-110% FPL	815	721	508	400	-21.3%
>110-150% FPL	698	583	386	335	-13.2%
>150-175% FPL	438	451	254	236	-7.1%
Subsidized	308	256	243	170	-30.0%
Rent with Heat	270	516	411	294	-28.5%
Average Benefit	**$688**	**$612**	**$446**	**$338**	-24.2%

EUSP: Electric Universal Service Program
FPL: federal poverty limit
MEAP: Maryland Energy Assistance Program

Note: Average benefits may not match the amount reported in the *Report on Long-Term Funding Sustainability for Energy Assistance* because the impact of refunds may not fully be reflected.

Source: Department of Human Resources

Exhibit 10
MEAP Average Benefit by Benefit Level
Fiscal 2009-2012 (January)

	2009	2010	2011	2012	Difference Between 2011 and 2012
0-75% FPL	$771	$423	$624	$440	-29.5%
>75-110% FPL	683	394	542	422	-22.1%
>110-150% FPL	598	356	427	373	-12.6%
>150-175% FPL	397	264	330	283	-14.2%
Subsidized	113	169	233	158	-32.2%
Rent with Heat	752	454	529	405	-23.4%
Roomer/Boarder	235	158	196	184	-6.1%
Submetered	0	434	500	228	-54.4%
Subsidized/Submetered	360	224	224	202	-9.8%
Average Benefit	**$530**	**$331**	**$451**	**$342**	**-24.2%**

EUSP: Electric Universal Service Program
FPL: federal poverty limit
MEAP: Maryland Energy Assistance Program

Note: Average benefits may not match the amount reported in the *Report on Long-term Funding Sustainability for Energy Assistance* because the impact of refunds may not fully be reflected.

Source: Department of Human Resources

EUSP Ratepayer Surcharge and Other Funding Options

DHR made only one recommendation regarding the funding level of the program, which was to support maintaining a minimum $5.1 billion national appropriation level for LIHEAP. However, DHR discussed several other options including increasing the residential ratepayer surcharge, the use of State general funds, or creating an electric rate discount program.

DHR indicated that $68.0 million is required to serve 125,000 to 135,000 low-income customers in the EUSP bill assistance and arrearage assistance programs. The current ratepayer funding, in which residential customers pay $0.37 a month ($4.44 per year) and commercial and industrial customers are charged various amounts based on historic usage, raises $9.6 million and $27.4 million, respectively, for a total of $37.0 million. DHR states that to raise a total of $40.6 million from residential ratepayers for cumulative collections of $68.0 million, the monthly surcharge for residential ratepayers would be approximately $1.54 ($18.48 per year), an increase of $1.17 per month. Increasing the surcharge would require a statutory change.

DHR does not consider the use of general funds to support the program a long-term funding solution, as these funds require an annual appropriation and are subject to general fund revenue constraints.

DHR also noted that some states have a discount on electric rates for low-income customers but provided no additional detail on how such a program would work.

Recent Action

Due to the recent decline in applications, likely the result of a mild winter, and a higher than expected allocation of federal LIHEAP funds, OHEP appears poised to stay within its available funding. DHR has, in fact, made several enhancements to the energy assistance program from its initial plans, once it was confirmed that LIHEAP funding would be a bit better than feared. These changes:

- provide an additional $7.0 million for arrearage assistance;
- provide a supplemental MEAP benefit to recipients who heat with electricity or gas and are utility customers; and
- provide for additional outreach to families who received a benefit last year but have not applied in fiscal 2012.

Although OHEP's funding outlook for fiscal 2012 has improved, it is not clear that a wait-and-see approach is sustainable. This approach creates uncertainty for eligible households and places the State in a precarious position if a winter is colder than normal or the federal allocation continues to decline. If DHR had not been able to raise the $5.0 million cap in fiscal 2012 on arrearage assistance, benefits would have been exhausted before December in most of the State, leaving households vulnerable to termination. Therefore, despite the apparent positive outcome in fiscal 2012, the long-term funding sustainability options should continue to be examined by the department for possible implementation.

PSC Review

In January 2012, over concern regarding the ongoing struggle of OHEP to meet the needs of customers, PSC launched a review of Maryland's energy assistance programs. PSC stated in the announcement of the review that concerns raised by OHEP in its annual report raise questions about whether the energy assistance programs are currently fulfilling the intended purposes and whether the programs are appropriately funded. The review is expected to consider:

- the scope, causes, and trends of arrearages and inability to pay;
- the goals of the programs and recommendation on whether the goals have or should change;

- the eligibility criteria;
- the coordination with other assistance programs;
- the logistical, mechanical, and technological issues that would need to be addressed to improve the efficiency of the distribution of resources;
- the relative impact on customer bills between increasing bill assistance contributions and writing off a greater portion of uncollectibles; and
- the best practices of other states.

DLS recommends committee narrative requesting a report on the outcome of the program review being conducted by PSC, any changes to the program operations that might result, and any statutory changes that would be required to implement recommendations coming out of the review.

2. Major Information Technology Project for Data System

Section 3A-301 of the State Finance and Procurement Article defines a major information technology development project (MITDP) as a project meeting one of the following criteria:

- with a total estimated development cost equal to or exceeding $1.0 million;
- the project is undertaken to support a critical business function associated with the public health, education, safety, or financial well-being of the citizens of Maryland; or
- the Secretary of the Department of Information Technology (DoIT) determines that the project requires special attention and consideration due to certain factors.

Under a change in process included in the BRFA of 2011, agencies must now undertake a two-step process when planning to begin a new MITDP. The first step includes a request for the planning phase of the project under which agencies (1) describe the project; (2) provide the reasons for the project, potential risks, and alternatives; (3) define the scope of the project; and (4) estimate the cost required to complete planning for the project and the fund sources of the project. The agency must preliminarily estimate the total cost of the project to determine whether it qualifies as an MITDP. After the project has been approved for planning by DoIT and funding has been approved in the budget, an agency may proceed with the project.

Once the agency has completed the planning process, the agency submits a request to DoIT to begin full design, development, and implementation. In this process the agency provides similar information as in the planning request document, but the agency is also expected to include information on how the project meets the goal of the statewide master plan and an estimate of the total project cost and fund sources available. Only after the agency has been approved to proceed with implementation and funding is approved, may the agency continue with the project.

OHEP Data System Project

The OHEP data system is used in the processing of energy assistance applications and benefit determinations. The maintenance contract for the OHEP data system has been included in the budget for OTHS beginning in fiscal 2011. The fiscal 2012 appropriation of OTHS includes nearly $2.0 million ($1.0 million of special funds and $966,808 of federal funds) for this purpose. DHR has advised that $1.0 million of this maintenance contract funding will actually be used to support a re-engineering of the data system. The project is expected to involve:

- upgrading servers;
- other equipment changes that will improve system response time;
- reviewing business logic;
- updating the user interface; and
- reviewing and adjusting existing reports.

As a result of this project, DHR expects that the system will be easier to use, response times will be faster allowing for the generation of reports at any time, and software conflicts will be eliminated. DHR began the project on July 1, 2011, and it is expected to be completed on August 9, 2012.

Although the estimated cost of the project and the critical function of energy assistance provision that the project supports would qualify the project as an MITDP, the project was not identified as such in the fiscal 2012 budget. Because the funding for the project was included as part of the department's overall maintenance contract for the system, the General Assembly was not afforded the opportunity to review and approve the project. **The department should explain why the proper steps for approval of an MITDP were not followed for this project. In addition, DLS recommends budget bill language prohibiting the use of existing information technology maintenance and enhancement contracts in OTHS to conduct an MITDP without the project being approved by DoIT and identified separately in the budget.**

Recommended Actions

1. Add the following language:

 Provided that no funds appropriated for the purpose of an information technology maintenance or enhancement contract within the Office of Technology for Human Services may be used to support an enhancement or significant redesign, reengineering, or modernization of the system with an estimated cost of at least $1,000,000 without the project having received approval of the Department of Information Technology and been identified separately in budget code N00F00.02 Major Information Technology Development Projects.

 Explanation: In fiscal 2012, the Department of Human Resources (DHR) has undertaken a significant reengineering of the Office of Home Energy Programs (OHEP) data system, with a total estimated cost of $1.0 million, as part of its existing maintenance contract for the system. The project was not identified separately in the fiscal 2012 budget limiting transparency and preventing the General Assembly from having the opportunity to review and approve the project. This language prohibits funding included in the budget for DHR's information technology maintenance or enhancement contracts in fiscal 2013 from being used for a project that would qualify as a major information technology project without being identified as such and having received the pre-approval of the Department of Information Technology.

2. Adopt the following narrative:

 Public Service Commission Review of Energy Assistance Programs: In January 2012, the Public Service Commission (PSC) announced a plan to conduct a comprehensive review of the energy assistance programs in Maryland due to concerns raised by the fiscal 2011 *Electric Universal Service Program Annual Report* submitted to PSC in November 2011. PSC indicates that the report raised fundamental questions about whether the current suite of programs as designed and implemented is fulfilling, or can fulfill, the intended purpose and whether the programs are appropriately funded. The committees request that the Department of Human Resources (DHR), in conjunction with PSC, submit an update on:

 - the outcome of the review;
 - operational changes that result from the review; and
 - recommendations for statutory changes to the program or the program funding level that results from the review.

Information Request	Authors	Due Date
Report on the outcome of the PSC review of energy assistance programs	DHR PSC	December 1, 2012

Updates

1. Corrective Actions in OHEP

In June 2010, the U.S. Government Accountability Office (GAO) released a report on the potential for fraud and abuse in LIHEAP. In Maryland, LIHEAP operates under the name MEAP. The report examined case studies of fraud and abuse and key weaknesses in the program's internal controls. In the audit, GAO reviewed case files for seven states (Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Virginia) and conducted proactive testing in West Virginia. GAO findings included:

- 260,000 applications with invalid identity information;
- 11,000 deceased individuals included as an applicant or household member;
- 725 incarcerated individuals as an applicant or household member;
- 1,100 federal employees with federal salaries exceeding income requirements receiving benefits;
- benefits issued to individuals with significant assets, although GAO acknowledged the individuals may have met income requirements; and
- in proactive testing, all five cases were issued benefits (three to a fake energy company and two to a fake landlord).

GAO focused on the lack of specific guidance by the U.S. Department of Health and Human Services on preventing fraud and specifically on the development of a fraud prevention system. In addition, the GAO report indicated that states also lacked the key elements of a fraud prevention system. Maryland had only one of the six fraud prevention control measures in place that were highlighted in the GAO report. Measures Maryland did not have in place related to validating identity information, comparing information to death and prison records, comparing information to long-term care patient information, and verifying income independently. GAO also noted that some state officials acknowledged that investigations and prosecutions related to LIHEAP are not typically pursued. The report included six recommendations for improvement, primarily related to verifying information through comparison of data, obtaining Social Security numbers, and developing methods to prevent duplicate benefits.

Subsequent to the release of the GAO report, in February 2011, the Office of Legislative Audits released a fiscal compliance audit of the Family Investment Administration which contained eight findings, four of which were related to the energy assistance program. One of these findings was also related to the program's use of data matches to verify information.

Actions Taken by DHR

Language in the fiscal 2012 budget bill restricted $100,000 of the special fund appropriation in OHEP until a report was submitted to the budget committees on actions taken by DHR and OHEP in response to the GAO report and the audit finding related to the use of data matching. The report was submitted on December 14, 2011, the budget committees authorized the release of the funds on January 16, 2012.

The report outlined 29 actions planned or implemented in response to the report. Of the 29 actions, 23 had been fully or partially implemented by the date of the report, with another 3 expected to be implemented at the beginning of calendar 2012. Six of the measures were already in place in OHEP prior to the release of the GAO report. Implemented activities include:

- verifying the legitimacy of new energy suppliers or vendors included on applications through a database from the State Department of Assessment and Taxation and other business databases;

- validating Social Security numbers with the Social Security Administration and to match applications to death and prison records; and

- previewing payments prior to issuance with the ability to remove duplicate payments.

OHEP has also begun the process of verifying employment and income independently through the use of the New Hires Directory and other third party systems but indicates that this item will not be fully implemented until fiscal 2013.

The three actions that are planned but not expected to be implemented in fiscal 2012 are:

- incorporating a "watch list" of disqualified persons to alert staff of ineligible applications due to previously identified fraud (anticipated completion fiscal 2013);

- implementing through regulations an administrative penalty to all verified fraud cases in which criminal prosecution is not pursued (anticipated completion July 1, 2012); and

- implementing document imaging to improve client identification and cross-checking with other benefit programs (anticipated completion in fiscal 2014).

DHR also indicates that upon release of a federal Program Integrity workgroup report (expected in June 2012), it will review and follow-up on recommendations contained in that report.

2. Use of Funds Available from the FirstEnergy Corporation and Allegheny Energy, Inc. Merger

On February 11, 2010, FirstEnergy Corp. (FirstEnergy) and Allegheny Energy, Inc. (Allegheny) announced a merger agreement. The press release described it as a stock-for-stock transaction with a total value of approximately $4.7 billion. FirstEnergy also agreed to assume the outstanding debt of Allegheny, approximately $3.8 billion. The merged company was to operate under the name FirstEnergy, and FirstEnergy shareholders were expected to hold 73% of the total company stock.

Section 6-105 of the Public Utilities Article requires prior authorization from PSC before a person can acquire directly or indirectly the power to exercise substantial influence over the actions or policies of electric, electric and gas, or gas companies. To grant the application, PSC must find that the transaction is consistent with public interest, convenience, and necessity, including benefits and no harm to consumers. On January 18, 2011, PSC granted approval of the transaction contingent on 20 conditions. One of these conditions required a $600,000 contribution from Potomac Edison for arrearage assistance that is not recoverable in rates. The company was required to submit an implementation plan within 30 days of the closing of the transaction. The transaction closed on February 25, 2011.

Implementation Plan

On March 25, 2011, FirstEnergy submitted the required implementation plan. The implementation plan indicated that Potomac Edison (the Maryland distribution company for FirstEnergy) would enter into a memorandum of understanding (MOU) with OHEP outlining the use of the funds. In particular, the funds were to be contributed by July 1, 2011, and were to represent an additional amount of funds available for arrearage assistance beyond the amount that would otherwise be available to households in the Potomac Edison territory. For the purposes of providing arrearage assistance with these funds, OHEP was to waive certain eligibility criteria that might limit the use of funds:

- a maximum arrearage benefit of $2,000;
- a minimum arrearage benefit of $300; and
- receipt of arrearage assistance only once every seven years.

In part, the waivers were intended to allow OHEP the flexibility to expend all funds in one year. OHEP was to track the funds and administer the funds only to residential customers of Potomac Edison. Potomac Edison was to record the contribution in a category that is not used in the distribution rate making process. In comments filed on April 20, 2011, OHEP concurred with the suggested waivers but noted that all waivers must be approved by the central office. On May 11, 2011, PSC considered and approved the implementation and directed the proposed MOU to be finalized.

Use of Funds

As of December 29, 2011, the funds provided as a result of this contribution had been distributed to 703 recipients for a total of $508,312. DHR anticipates that 785 recipients will receive a benefit from this contribution; however, the final number of recipients will vary based on the value of benefits awarded. The awards, as required, have occurred among Potomac Edison customers. The largest numbers of recipients have occurred in Allegany, Frederick, and Garrett counties. Smaller numbers of recipients received awards in Carroll, Howard, Montgomery, and Washington counties.

Waivers have been used to provide arrearage benefits to recipients with arrearages of less than $300 (202 waivers) and more than $2,000 (31). In addition, 536 waivers have been granted to recipients that would otherwise not qualify because an arrearage benefit had been received within the previous seven years. Some recipients may have received multiple waivers based on the circumstances.

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets
DHR – Office of Home Energy Programs
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2011					
Legislative Appropriation	$0	$81,189	$49,726	$0	$130,915
Deficiency Appropriation	0	-19,768	13,039	0	-6,729
Budget Amendments	0	-1,020	29,377	0	28,357
Reversions and Cancellations	0	0	-7,276	0	-7,276
Actual Expenditures	**$0**	**$60,401**	**$84,866**	**$0**	**$145,267**
Fiscal 2012					
Legislative Appropriation	$0	$55,996	$87,207	$0	$143,203
Budget Amendments	9	0	2	0	11
Working Appropriation	**$9**	**$55,996**	**$87,208**	**$0**	**$143,214**

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

Fiscal 2011

The fiscal 2011 expenditures of OHEP were approximately $14.4 million higher than the legislative appropriation.

The special fund appropriation was reduced by approximately $19.8 million through a deficiency appropriation as a result of lower than expected availability of the SEIF. Revenue from the RGGI auctions, the primary source of the SEIF, was lower than anticipated during budget development.

A decrease of $2 million ($1 million special funds and $980,000 federal funds) was the result of transferring the appropriation for the OHEP data system maintenance contract to OTHS pursuant to language in the fiscal 2011 budget bill.

These decreases were more than offset by increases of approximately $43.4 million through a deficiency appropriation and budget amendment to reflect a higher than anticipated allocation of federal LIHEAP funds.

OHEP cancelled $50 of the special fund appropriation. OHEP also cancelled approximately $7.3 million of the federal LIHEAP funds due to the higher than expected release of emergency contingency funds. These funds are available for use in fiscal 2012.

Fiscal 2012

The fiscal 2012 appropriation of OHEP has increased by $10,790 ($9,176 general funds and $1,614 federal funds) as a result of the distribution of funds centrally budgeted to support the $750 bonus provided to employees.

Object/Fund Difference Report
DHR – Office of Home Energy Programs

Object/Fund	FY 11 Actual	FY 12 Working Appropriation	FY 13 Allowance	FY 12 - FY 13 Amount Change	Percent Change
Positions					
01 Regular	13.87	13.87	13.87	0.00	0%
02 Contractual	0.41	0.00	0.00	0.00	0.0%
Total Positions	**14.28**	**13.87**	**13.87**	**0.00**	**0%**
Objects					
01 Salaries and Wages	$ 1,342,238	$ 870,324	$ 869,818	-$ 506	-0.1%
02 Technical and Spec. Fees	309,541	1,250	1,250	0	0%
03 Communication	39,758	44,797	49,919	5,122	11.4%
04 Travel	5,654	1,883	3,076	1,193	63.4%
06 Fuel and Utilities	6,636	7,407	0	-7,407	-100.0%
08 Contractual Services	142,552,903	142,211,860	144,587,737	2,375,877	1.7%
09 Supplies and Materials	90,945	71,331	60,169	-11,162	-15.6%
10 Equipment – Replacement	5,839	0	0	0	0.0%
11 Equipment – Additional	4,332	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	839,244	0	0	0	0.0%
13 Fixed Charges	69,702	4,875	4,875	0	0%
Total Objects	**$ 145,266,792**	**$ 143,213,727**	**$ 145,576,844**	**$ 2,363,117**	**1.7%**
Funds					
01 General Fund	$ 0	$ 9,176	$ 0	-$ 9,176	-100.0%
03 Special Fund	60,401,110	55,996,352	57,938,936	1,942,584	3.5%
05 Federal Fund	84,865,682	87,208,199	87,637,908	429,709	0.5%
Total Funds	**$ 145,266,792**	**$ 143,213,727**	**$ 145,576,844**	**$ 2,363,117**	**1.7%**

Note: The fiscal 2012 appropriation does not include deficiencies.