

Department of Legislative Services  
 Maryland General Assembly  
 2016 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

Senate Bill 413  
 Finance

(Senator Guzzone, *et al.*)

Health and Government Operations and  
 Appropriations

Developmental Disabilities Administration - Crisis Resolution and Prevention  
 Resolution Services - Funding and Reporting

This bill requires that, beginning in fiscal 2018, the Governor’s proposed budget for a specified program include a general fund appropriation of at least \$3.5 million more than the legislative appropriation in the prior fiscal year. The new funds are required to be used to provide *ongoing* services to individuals in the “crisis resolution category” (of the waiting list for developmental disabilities services). The bill also expands the required content of the annual report on the Waiting List Equity Fund (WLEF).

The bill takes effect July 1, 2016.

Fiscal Summary

**State Effect:** No effect in FY 2017. General fund expenditures increase by \$3.5 million in FY 2018 and by an additional \$3.5 million in each subsequent fiscal year. Federal fund revenues increase by approximately \$3.15 million for every \$3.5 million in general funds, beginning in FY 2018, and federal fund expenditures increase correspondingly. Expansion of WLEF reporting requirements can be handled with existing resources. **This bill establishes a mandated appropriation beginning in FY 2018.**

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
FF Revenue	\$0	\$3,150,000	\$6,300,000	\$9,450,000	\$12,600,000
GF Expenditure	\$0	\$3,500,000	\$7,000,000	\$10,500,000	\$14,000,000
FF Expenditure	\$0	\$3,150,000	\$6,300,000	\$9,450,000	\$12,600,000
Net Effect	\$0	(\$3,500,000)	(\$7,000,000)	(\$10,500,000)	(\$14,000,000)

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

**Local Effect:** The bill is not anticipated to materially impact local government operations or finances.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** The bill defines multiple terms related to individuals who have applied for, but have not yet received, services from the Developmental Disabilities Administration (DDA). “Waiting list” means the list for developmental disabilities services on which DDA places the name of an individual who:

- has applied to DDA for developmental disability services;
- has been determined eligible for services; and
- has not received the services for which the individual has applied.

“Crisis resolution category” means the waiting list category for which an individual qualifies if the individual:

- is homeless or is living in temporary housing under specified circumstances;
- is at serious risk of physical harm;
- is at serious risk of causing physical harm to others; or
- is living with a caregiver whose inability to provide the individual with adequate care, due to the caregiver’s impaired health, may place the applicant at risk of serious physical harm.

“Crisis prevention category” means the waiting list category for which an individual qualifies if the individual is determined by DDA to have an urgent need for services *and* either is at a substantial risk for meeting one or more of the criteria for the crisis resolution category within one year or has a caregiver who is age 65 or older.

### *Requirements for Mandated Funding*

The funds must be added to the total budget for program M00M01.02, Community Services-Developmental Disabilities Administration, within the budget of the Department of Health and Mental Hygiene (DHMH).

After providing services to all individuals in the crisis resolution category, the bill allows any remaining funds from the increased appropriation to be used to provide services to individuals in the crisis prevention category.

The bill also expresses legislative intent that an individual who receives services provided with funds appropriated under the bill should continue to receive uninterrupted developmental disabilities services in accordance with the individual's needs.

### *Contents of Annual Report*

The bill expands the required content of the annual report on WLEF, prepared by the Secretary of Health and Mental Hygiene, to include (1) the number of individuals added to the crisis resolution category during the previous year; (2) the number of individuals estimated to be added to the crisis resolution category during the next year; and (3) the cost to provide services to all individuals in the crisis resolution category. The bill also clarifies that the report must be submitted to the General Assembly and the Department of Legislative Services (DLS) in accordance with the State Government Article.

**Current Law/Background:** A developmental disability is a condition attributable to a mental or physical impairment that results in substantial functional limitations in major life activities and which is likely to continue indefinitely. Examples include autism, blindness, cerebral palsy, deafness, epilepsy, intellectual disability, and multiple sclerosis. DDA provides direct services to these individuals in State residential centers and through funding of a coordinated service delivery system that supports the integration of these individuals into the community. Because the majority of the individuals served are Medicaid eligible, the State receives federal matching funds for services provided to Medicaid-enrolled individuals. Individuals who do not fit the criteria for a developmental disability but are still in need of services are not typically Medicaid eligible and are eligible for "supports only." The State does not receive matching funds for these individuals.

As of July 1, 2015, there were 6,720 individuals with developmental disabilities on the waiting list to receive services as well as an additional 4,456 individuals who were eligible for support services only. Of these, 104 individuals with developmental disabilities and 13 individuals eligible for support services only were included in the crisis resolution category – the highest category of need for individuals not receiving services.

### *Community-based Services*

DDA provides services through a variety of home- and community-based programs. One example is the Community Pathways waiver, which provides services and supports to individuals with developmental disabilities, of any age, living in the community. Services include resource coordination, residential habilitation, day habilitation, supported employment, family and individual support services, community-supported living arrangements, assistive technology and adaptive equipment, employment discovery and customization, community learning services, environmental modifications, respite care,

behavioral support services, live-in caregiver rent, medical day care, and transition services. Individuals can receive one or more of these services depending on their specific needs. The number of individuals enrolled in services is based on the number of slots available, which varies from year to year. Individuals may not be added to the waiver unless State funds are available to match federal funding. Chapter 262 of 2014 included 3.5% cost-of-living increases for community services providers from fiscal 2016 through 2019. The increase for fiscal 2016 only was subsequently moderated to be 3% in the operating budget (Chapter 310 of 2015).

Serving individuals in the community continues to be the model of service delivery pursued by DDA. Accordingly, DDA's Community Services Program has experienced significant budgetary growth in recent years, in large part due to expansion of services, including the Transitioning Youth Program, crisis services, emergency services, court-involved placements, and WLEF placements. Community services are typically expanded every year. In fiscal 2016, expenditures reached \$1.03 billion (total funds). The Governor's proposed fiscal 2017 State budget includes \$1.09 billion (including a \$569.72 million mandated general fund appropriation) for contractual community services.

#### *Waiting List Equity Fund*

WLEF was established to ensure that funding associated with serving individuals in a State residential center follows them to the community when they are transitioned to a community-based care setting, and that any funds remaining be used to provide community-based services to individuals on the waiting list. Services that may be provided are (1) individualized supported living arrangements services; (2) respite care; (3) individual and family support services; (4) supported employment; and (5) individualized community integration day services. WLEF monies may not be used to supplant funds for emergency placements or transitioning youth. The Governor's proposed fiscal 2017 budget includes \$466,330 for WLEF. Funding from WLEF may be used to provide the first year of services to individuals on the waiting list. In subsequent years, services for these individuals must be paid for using other funds designated to provide community-based services, such as through the Community Pathways waiver program.

DHMH regulations outline how funds are to be utilized. The regulations also authorize the use of money in the fund to provide services to individuals who (1) are in crisis and need emergency services (crisis resolution) and (2) are not in crisis and do not need emergency services (crisis prevention). These categorizations are also the basis for prioritizing community-based services, with the first priority given to the individuals on the waiting list with the oldest caregivers.

The annual WLEF appropriation must be equal to (1) the cost of providing services to an individual in a State residential center for each fiscal year, or part of a fiscal year, that the

individual is no longer served in a State residential center and is provided community-based services; (2) the net proceeds from contributions under the income tax checkoff system; and (3) any other money from any other source. Any unspent money remains in WLEF.

The annual report on WLEF prepared by the Secretary of Health and Mental Hygiene is required to include (1) an accounting of all receipts and expenditures to and from the fund; (2) the number of individuals who left and entered State residential centers during the previous year; (3) the number of additional persons who were on the waiting list for developmental disabilities services during the previous year; and (4) an accounting of each of the factors used in determining the cost of providing services to an individual in a State residential center.

### *Prior Legislative Activity*

In the 2011 session, the legislature appropriated an additional \$15.0 million to DDA for fiscal 2012 based on its concern over the lack of services available to meet the demand for individuals with developmental disabilities. Funding was provided through Chapter 571 of 2011, which increased the State sales and use tax rate imposed on alcoholic beverages from 6% to 9% and required a supplementary appropriation of \$15.0 million for DDA to fund services to individuals on DDA's waiting list. Specifically, funding had to be used to assist individuals in the crisis resolution and crisis prevention categories of the waiting list. The \$15.0 million supplementary appropriation was also partially matched by federal funds, based on the number of individuals served in the crisis resolution category.

Ultimately, in fiscal 2012, DDA spent an additional \$18.0 million in general funds and \$5.0 million in matching federal funds to serve those on the waiting list, exceeding its \$15.0 million general fund appropriation by \$3.0 million. DDA used \$12.1 million to place individuals in the crisis resolution category into ongoing services, doubling the number of placements over fiscal 2011. All individuals in the crisis prevention category of the waiting list were eligible for up to \$10,000 in one-time assistance for services of short duration (SSD). DDA used the remaining \$10.9 million to provide SSD to 1,172 individuals in the crisis prevention category.

### *Funding the Crisis Resolution Category of the Waiting List*

In January 2016, DLS calculated that, to fully fund first-year placements in necessary services for the 112 individuals remaining on the waiting list in the crisis resolution category as well as the 12 individuals eligible for support services only (as of October 16, 2015), general fund expenditures would need to increase by \$3.14 million. This number assumes \$2.43 million in matching federal funds. To continue to fully fund services for these 124 individuals in subsequent years, future year general fund expenditures would reach \$6.28 million, assuming \$4.87 million in matching federal funds.

DDA advises that it has budgeted a total of \$5.46 million in fiscal 2017 for the placement of new individuals from the crisis resolution category of the waiting list into services. This includes \$2.87 million in general funds and \$2.59 million in federal funds, which assumes an approximately 53% general fund, 47% federal fund split. This funding would be used to provide the initial year of services to individuals. In subsequent years, these individuals would continue to receive services using other funds designated to provide community-based services, such as through the Community Pathways waiver program. However, DDA advises that future funding for the placement of new individuals from the crisis resolution category of the waiting list into services is dependent on a variety factors and may not be available in subsequent years.

**State Fiscal Effect:** General fund expenditures increase by \$3.5 million in fiscal 2018 and by an additional \$3.5 million in each subsequent fiscal year, while federal fund revenues and expenditures increase, according to DDA, by approximately \$3.15 million in fiscal 2018 and by an additional \$3.15 million in each subsequent fiscal year, as shown in **Exhibit 1**. Both general and federal funds are used to provide initial and then ongoing services for individuals who are in the crisis resolution category. This assumes a 53% general fund, 47% federal fund split.

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**Exhibit 1**  
**Mandated Funding under the Bill Compared to**  
**Funding Needed to Serve Initial Individuals on the Crisis Resolution Waiting List**

	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
New general funds	\$3,500,000	\$7,000,000	\$10,500,000	\$14,000,000	\$17,500,000
New federal funds	3,150,000	6,300,000	9,450,000	12,600,000	15,750,000
<b>New funding total</b>	<b>\$6,650,000</b>	<b>\$13,300,000</b>	<b>\$19,950,000</b>	<b>\$26,600,000</b>	<b>\$33,250,000</b>
Funding needed*	\$5,574,520	\$11,149,040	\$11,149,040	\$11,149,040	\$11,149,040

\*Reflects only the first-year and then ongoing funding for the **124** total individuals in the crisis resolution category as of October 1, 2015. Residual funding is likely available in fiscal 2018 and 2019 to cover additional individuals. By fiscal 2020, sufficient funding is available to cover significantly more individuals who may have been added to the crisis resolution category as well as individuals in the crisis prevention category.

Source: Developmental Disabilities Administration; Department of Legislative Services

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The DLS calculations discussed above only address funding for 112 individuals for the full range of services (with federal fund participation) and another 12 individuals for support services only (funded entirely with general funds). The calculations do not account for any *new* individuals who may be added to the waiting list each year. Moreover, the model assumes only six months of services in the first year of placement, with a full year of ongoing services annually thereafter. This analysis reflects funding following each individual who is moved off the crisis resolution waiting list. The analysis does not account for any inflation factor in the cost of care for an individual receiving services (such as the 3.5% cost-of-living increases required to be provided to community services providers through fiscal 2019 by Chapter 262 of 2014).

As shown in Exhibit 1, the difference between the amount required to fully fund the 124 individuals in the crisis resolution category and the total new funding received in fiscal 2018 is \$1.08 million. Should fewer individuals remain in the crisis resolution category in fiscal 2018 (as a result of increased placements in waiver services or due to the fiscal 2017 appropriation to provide services to individuals in the crisis resolution category), even more funding could be available to further reduce the waiting list. Any remaining balance would be used to place any new individuals in the crisis resolution category into services. Should any funds still remain, the residual may be used to place individuals in the crisis prevention category into services. Alternately, some of these individuals could receive services for more than the six months projected in the first year.

Any individual placed into services in fiscal 2018 or in future years requires ongoing funding in each subsequent year to continue to receive services. As such, the annualized cost of providing care for any individual added in a given year must be deducted from any projected surplus in subsequent years. In that way, the cumulative impact of the year-over-year increase in the mandated appropriation not only allows for continued full funding of services to those who had been on the waiting list but allows for new individuals to be served from both the crisis resolution and crisis prevention categories. The waiting list for crisis prevention services is much longer; if all individuals on that list were able to be served, the first-year cost would be \$36.9 million (\$21.4 million in general funds) for that population. In the out-years, the ongoing cost would grow to \$73.7 million (\$42.8 million in general funds).

Expansion of WLEF reporting requirements can be handled with existing resources.

**Small Business Effect:** To the extent that small businesses provide community-based support services, the bill will increase the need for such services, resulting in a meaningful increase in business.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 1499 (Delegate Cullison, *et al.*) – Health and Government Operations and Appropriations.

**Information Source(s):** Department of Budget and Management, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2016  
kb/ljm Revised - Senate Third Reader - March 28, 2016

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