

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 984 (Delegate Cullison, *et al.*)
 Health and Government Operations and
 Appropriations

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

This bill requires that, beginning in fiscal 2019, 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, 2017.

Fiscal Summary

State Effect: No effect in FY 2018. General fund expenditures increase by \$3.5 million in FY 2019 and by an additional \$3.5 million in each subsequent fiscal year, as discussed below. Federal fund revenues increase by approximately \$3.02 million for every \$3.5 million in general funds, beginning in FY 2019, 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 2019.**

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
FF Revenue	\$0	\$3,020,500	\$6,041,100	\$9,061,600	\$12,082,100
GF Expenditure	\$0	\$3,500,000	\$7,000,000	\$10,500,000	\$14,000,000
FF Expenditure	\$0	\$3,020,500	\$6,041,100	\$9,061,600	\$12,082,100
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 increase; (-) = indeterminate decrease

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

Small Business Effect: Meaningful.

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 disabilities 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 February 3, 2017, there were 5,609 individuals with developmental disabilities on the waiting list to receive services as well as an additional 2,213 individuals who were eligible for support services only. Of these, 61 individuals with developmental disabilities and 12 individuals eligible for support services only were included in the crisis resolution category – the highest category of need for individuals not receiving services. DDA advises that, as of February 3, 2017, all 61 individuals with developmental disabilities in the crisis resolution category had initiated the placement process.

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 3.0% in the operating budget (Chapter 310 of 2015). In fiscal 2017, providers received the full 3.5% increase. However, the proposed Budget Reconciliation and Financing Act of 2017 (Senate Bill 172/House Bill 152) reduces the increase in fiscal 2018 to 2.0%.

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 2017, expenditures reached \$1.09 billion (total funds). The Governor's proposed fiscal 2018 State budget includes \$1.1 billion in total funds 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 2018 budget includes \$478,750 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 6.0% to 9.0% 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 estimated that, to fully fund first-year placements in necessary services for the 112 individuals remaining on the waiting list in the crisis resolution

category at that time, as well as the 12 individuals eligible for support services only, general fund expenditures would need to increase by \$3.14 million (assuming \$2.43 million in matching federal funds). However, additional study indicated that such an estimate was unfounded and that the time required to move those individuals off of the waiting list and into services was due to a variety of factors, including difficulty creating appropriate treatment plans and identifying providers for the individuals, rather than only a lack of available funding. In fact, in fiscal 2016, DDA reverted approximately \$11.0 million to the general fund. In fiscal 2017, the general fund reversion is anticipated to total approximately \$17.1 million. DLS advises that a portion of the reversion, though not all, is likely due to changes in reimbursements paid to providers as a result of individuals transitioning from supported living arrangements, where services are reimbursed on a daily basis, to personal support services, where services are reimbursed on an hourly basis, which results in lower total expenditures.

DDA advises that the Governor's proposed fiscal 2018 budget includes \$3.8 million for the placement of new individuals in the crisis resolution category of the waiting list into services. This includes \$2.05 million in general funds and \$1.77 million in federal funds. 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 of factors and may not be available in subsequent years.

State Fiscal Effect: General fund expenditures increase by \$3.5 million in fiscal 2019 and by an additional \$3.5 million in each subsequent fiscal year, while federal fund revenues and expenditures increase by approximately \$3.02 million in fiscal 2019 and by an additional \$3.02 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 an approximately 54.0% general fund, 46.0% federal fund split.

DDA advises that the increased funding would enable it to place approximately 100 to 120 individuals into DDA-funded services, first from the crisis resolution category of the waiting list, and then from the crisis prevention category. As discussed above, DLS is not able to calculate the cost of providing services to individuals currently awaiting services. Accordingly, DLS is also unable to provide a more specific estimate of the number of individuals DDA will be able to place into services as a result of the additional funding provided under the bill, or an estimate of when additional individuals in the same or lower category of the waiting list will be able to receive services.

Exhibit 1
Total New Mandated Funding Under the Bill
Fiscal 2019-2023

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
New General Funds	\$3,500,000	\$7,000,000	\$10,500,000	\$14,000,000	\$17,500,000
New Federal Funds	3,020,500	6,041,100	9,061,600	12,082,100	15,102,000
New Funding Total	\$6,520,500	\$13,041,100	\$19,561,600	\$26,082,100	\$32,602,600

Source: Developmental Disabilities Administration; Department of Legislative Services

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 increases the need for such services, resulting in a meaningful increase in business.

Additional Information

Prior Introductions: As amended, SB 413 of 2016 passed the Senate and received a hearing in the House Health and Government Operations Committee, but no further action was taken. Its cross file, HB 1499, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: SB 475 (Senator Guzzone, *et al.*) - Finance.

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

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