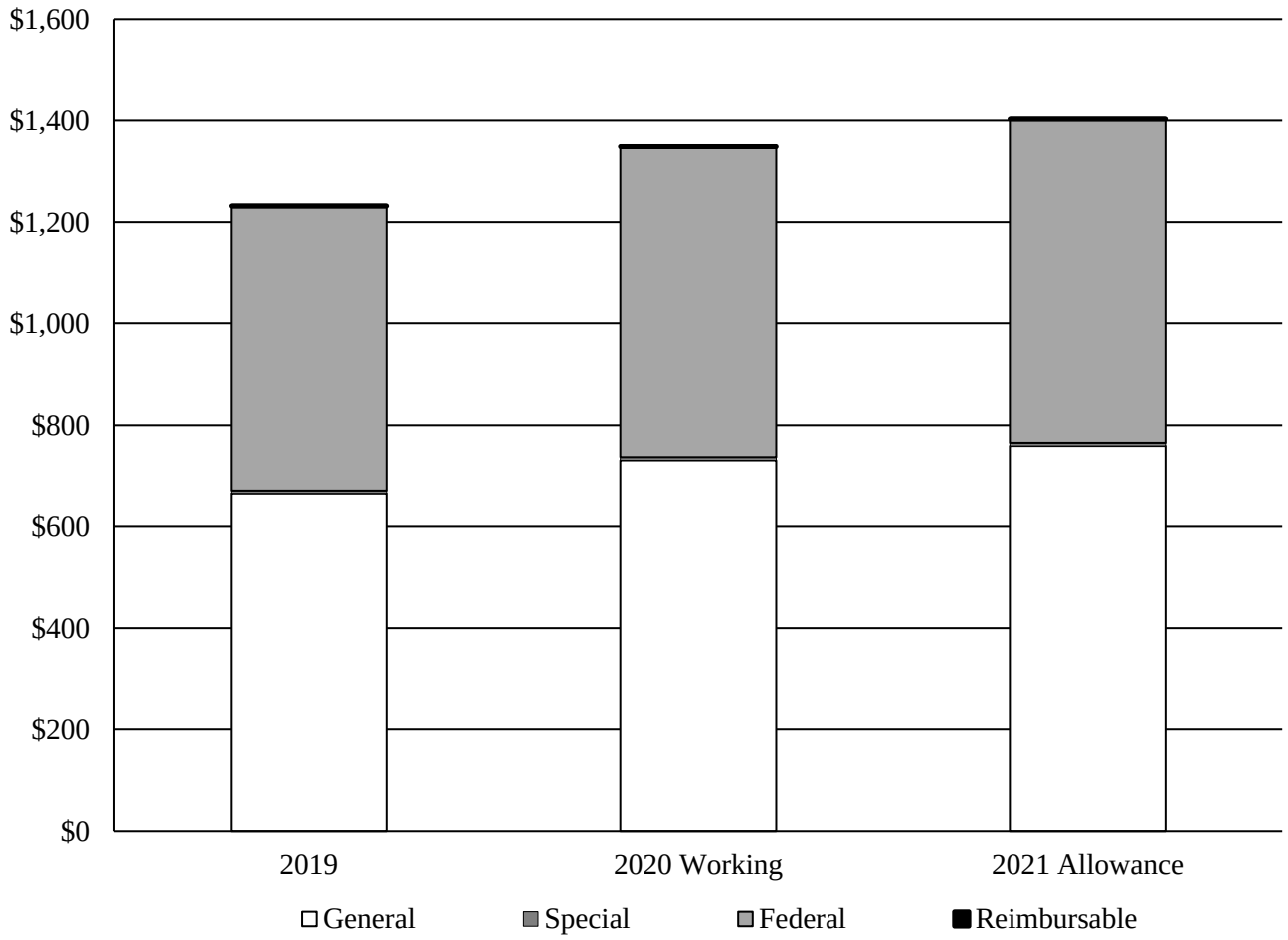
M00M
Developmental Disabilities Administration
Maryland Department of Health

Executive Summary

The Maryland Department of Health (MDH) Developmental Disabilities Administration (DDA) provides direct services to intellectually and developmentally disabled individuals in State facilities and through the funding of a coordinated community-based service delivery system.

Operating Budget Summary

Fiscal 2021 Budget Increases by $53.7 Million or 4.0% to $1.4 Billion
($ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

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- The $53.7 million increase in the adjusted fiscal 2021 allowance is largely due to the projected growth in community-based service expenditures ($26.0 million) and a 2% provider rate increase ($25.1 million).

Key Observations

- ***New Community Service Rates and Long Term Services and Supports Tracking System Transition Set for July 2020:*** DDA is undergoing a transformation that simultaneously launches community service functionalities on the department's care management tracking system, new provider reimbursement rates, a fee-for-service model, and new service options. Many of these changes are set to begin wider implementation in July 2020. However, DDA has not announced an implementation plan and is still conducting a limited pilot.

- ***Waiting List for Community Services Persists:*** DDA maintains a waiting list of over 4,000 individuals with developmental disabilities who are not currently receiving DDA-funded community services. Although DDA has successfully lowered the waiting list recently, it continues to underspend its general fund and Waiting List Equity Fund appropriation.

- ***Secure Evaluation and Therapeutic Treatment (SETT) Unit Transfers to Potomac Center:*** The 28 individuals being served at the SETT unit in Springfield Hospital Center moved to two vacant cottages in the Potomac Center, an intermediate care facility in Hagerstown, on January 22, 2020.

Operating Budget Recommended Actions

		Funds
1.	Add budget language restricting general funds for the purpose of administration until the Developmental Disabilities Administration submits a report regarding the Waiting List Equity Fund.	
2.	Add budget bill language restricting general funds for the purpose of administration until the agency submits two reports on the implementation of the new community service provider rate structure.	
3.	Amend contingent language to make the provider rate reduction based on deferring the 4% provider rate increase until January 1, 2021, rather than reducing it to 2% effective July 1, 2020.	
4.	Reduce the general fund appropriation for the Quality Improvement Organization services contract in anticipation of an enhanced federal fund match.	$ 461,354

5. Amend contingent language to make the provider rate reduction based on deferring the 4% provider rate increase until January 1, 2021, rather than reducing it to 2% effective July 1, 2020.

6. Amend contingent language to make the provider rate reduction based on deferring the 4% provider rate increase until January 1, 2021, rather than reducing it to 2% effective July 1, 2020.

7. Adopt committee narrative recommending new performance measures related to the timing and processing of person-centered plans.

Total Reductions **$ 461,354**

Budget Reconciliation and Financing Act Recommended Actions

1. Amend the Budget Reconciliation and Financing Act of 2020 to defer the mandated 4% provider rate increase to January 1, 2021, rather than reducing the provider rate increase to 2% in fiscal 2021.

2. Add a provision to the Budget Reconciliation and Financing Act of 2020 to reduce $4.1 million in general funds in fiscal 2020 due to anticipated federal fund attainment through the Medicaid waiver programs.

Updates

- MDH is still in the appeals process with the Centers for Medicare and Medicaid Services after receiving a formal disallowance letter in June 2018 concerning $34.2 million in federal funds that were overbilled for residential habilitation services.

M00M
Developmental Disabilities Administration
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Operating Budget Analysis

Program Description

Section 7-101 of the Health-general Article defines a developmental disability as a severe chronic disability that:

- is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;
- is manifested before the individual attains the age of 22;
- is likely to continue indefinitely;
- results in an inability to live independently without external support or continuing and regular assistance; and
- reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

Examples include autism, cerebral palsy, epilepsy, intellectual disability, and other neurological disorders. The Maryland Department of Health (MDH) Developmental Disabilities Administration (DDA) provides direct services to developmentally disabled individuals in two State Residential Centers (SRC), with a Secure Evaluation and Therapeutic Treatment (SETT) unit now located at one of these SRCs, and through the funding of a coordinated community-based service delivery system. The State receives federal matching funds for services provided through three Maryland Medical Assistance Program (Medicaid) waivers (Community Pathways, Community Supports, and Family Supports), and waiver-eligible individuals make up the vast majority of individuals served by the agency.

DDA's key goals include:

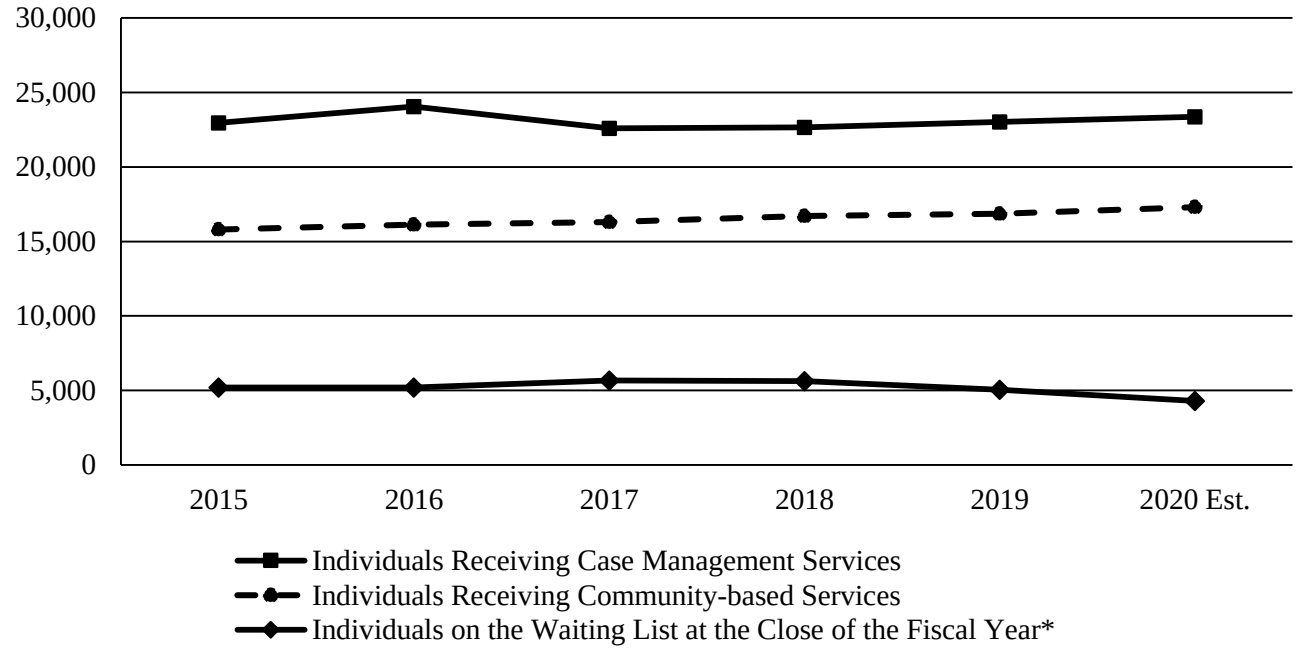
- the empowerment of all individuals with developmental disabilities and their families to choose the services and supports that meet their needs;
- the integration of individuals with developmental disabilities into community life;
- the provision of quality supports that maximize individual growth and development; and
- the establishment of a fiscally responsible, flexible service system that makes the best use of available resources.

Performance Analysis: Managing for Results

1. More Individuals Served in Community-based Services, Waiting List of More Than 4,000 Individuals Persists

Exhibit 1 displays the unduplicated count of individuals receiving DDA-funded case management and community-based services in each fiscal year. One of DDA's performance goals is that the number of individuals receiving community-based services will increase annually. In fiscal 2019, DDA met the goal with increases of 366 more individuals receiving case management services (23,012 individuals total) and 168 more individuals receiving community-based services (16,868 individuals total). The agency expects to fund case management and community-based services for additional individuals in fiscal 2020.

Exhibit 1
Unduplicated Count of Individuals Receiving Community Services and Point-in-time Waiting List Count
Fiscal 2015-2020



*The fiscal 2020 waiting list count shows the point-in-time count on December 31, 2019.

Note: The Developmental Disabilities Administration also tracks individuals on the community services waiting list who do not meet the definition in statute for having a developmental disability. These individuals are considered supports only and are not included in the waiting list counts shown.

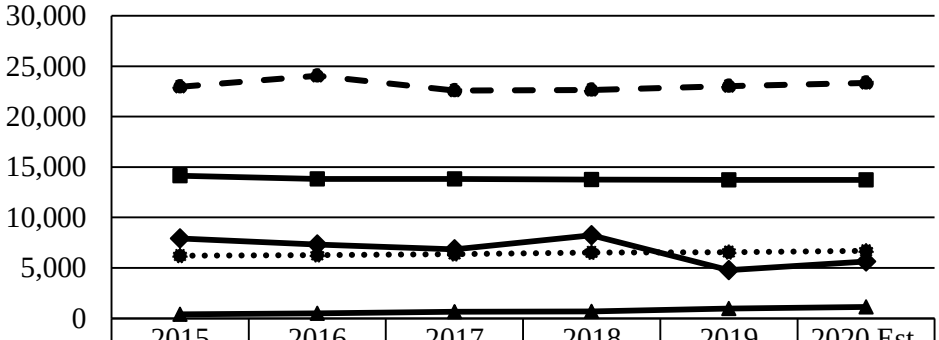
Source: Maryland Department of Health

DDA attributes the increase in DDA-funded community services to increased placement activity in residential and personal support services in fiscal 2019. MDH also received approval from the Centers for Medicare and Medicaid Services (CMS) for the Community Supports and Family Supports Waiver programs that funded more community services, though most individuals still receive DDA-funded services through the Community Pathways Waiver program, which funds 19 types of services to individuals of any age living in the community through licensed provider agencies or self-directed services. DDA received approval for an amendment to its Community Pathways waiver and plans to implement a new service structure as part of the larger transformation plan. **Appendix 4** outlines a crosswalk of DDA-funded services under the current system compared to the new system.

DDA maintains a waiting list of individuals with developmental disabilities, as defined in statute, who are not currently receiving DDA-funded community services. These individuals are able to receive targeted case management while on the waiting list. DDA includes the individuals receiving case management services in its goal to annually increase the number of individuals receiving DDA-funded community services. As a result, meeting this goal does not necessarily equate to a decline in the waiting list. Over the period shown in Exhibit 1, the number of individuals receiving DDA-funded community services increased in each year while, for example, the point-in-time count of individuals on the waiting list grew by 459 individuals in fiscal 2017. DDA has reduced the waiting list in the last three point-in-time counts and reported that it has been able to serve transitioning youth and the highest priority category from the waiting list in recent years.

Within the Community Services Program, DDA funds a variety of services broadly categorized as residential, day, and support services and targeted case management. **Exhibit 2** shows recent enrollment trends across these service types. Individuals eligible for DDA-funded services can also receive self-directed services. Individuals who choose self-directed services can receive the full range of DDA services, but they select their services and support and manage their own budget from DDA. Self-directed services have expanded since 2015 from 388 to 983 individuals choosing this option. In fiscal 2019, self-directed services showed the largest increase in enrollment. DDA indicates that the count of individuals in support services dropped significantly in fiscal 2019 because the individual supports and family support services are being unbundled into stand-alone waiver services, mainly low intensity support services, that were not reported with the agency's Managing for Results (MFR) data submission.

Exhibit 2
Individuals Receiving Community Services by Type
Fiscal 2015-2020



	2015	2016	2017	2018	2019	2020 Est.
TCM Services	22,954	24,052	22,589	22,646	23,012	23,357
Day Services	14,133	13,827	13,807	13,754	13,732	13,735
Residential Services	6,209	6,260	6,367	6,510	6,560	6,693
Support Services	7,918	7,315	6,849	8,222	4,787	5,632
Self-directed Services	388	508	650	688	983	1,131

TCM: Targeted Case Management

Note: This is a duplicated count as individuals can be counted in multiple service types. TCM is provided to individuals on the waiting list. Residential services include individual family care. Day services include day, supported employment, and summer programs. Support services include individual, family, and personal support services.

Source: Maryland Department of Health

2. DDA Lacks Performance Measurement and Goals for the Processing of Person-centered Plans

For an individual to receive authorization for DDA-funded services, they first complete a process referred to as person-centered planning to determine the appropriate and preferred services and supports that they need. The development and approval process for person-centered plans includes the individual, their families, providers, Coordination of Community Services (CCS) agencies, and regional offices. These plans must be approved at least annually, and they can be updated as service needs change. DDA is transitioning this process as it relates to service authorization to the new DDA functionalities on MDH's Long Term Services and Supports (LTSS) information technology (IT) system. This transition is discussed in further detail in Issue 1.

The person-centered plans also have a general workflow, shown in **Appendix 3**, that require approvals and feedback at multiple stages of the process. As DDA is implementing its transformation

plan and launching more functions on LTSS, it should monitor and report any processing or backlog issues with the person-centered plans as they could prevent providers and individuals from being authorized for services.

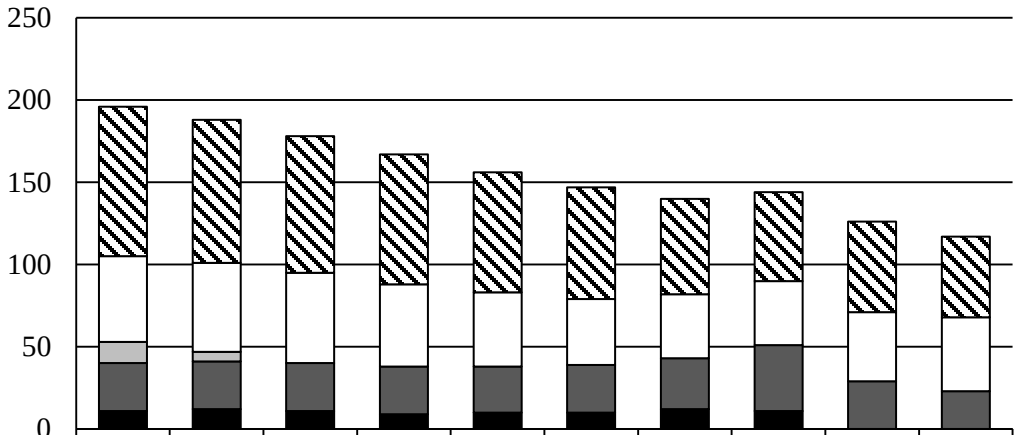
DDA should discuss whether it has experienced any backlogs in approving person-centered plans so far at any stage in the process, and if so, the extent of the backlogs. DDA should also comment on whether it has processing or timing requirements to ensure that the plans are moved through the workflow steps efficiently. The Department of Legislative Services (DLS) recommends adopting committee narrative that would request that DDA define performance goals and measurements in the annual MFR submission related to processing person-centered plans, beginning with the fiscal 2022 submission.

3. Population in DDA Facilities Continues to Decline

Part of DDA's mission is to serve individuals in the least restrictive settings possible. In most cases, this means serving individuals in the community instead of in institutional settings. As a result, there are far fewer individuals served in SRCs and the SETT unit than in the Community Services Program. The State's SETT unit provides assessment and evaluation services, typically for one year, to people with intellectual disabilities who are court-involved. The individuals committed to the SETT unit are fully State funded and may not necessarily meet the requirements in statute to be considered developmentally disabled.

Exhibit 3 shows the average daily population (ADP) of SRCs and the State's SETT units between fiscal 2010 and 2019. ADP in the SETT program decreased in fiscal 2018 by 22 individuals following the consolidation of the two SETT units in fiscal 2017. The Sykesville SETT unit has since transferred to vacant cottages in the Potomac Center, which is discussed in more detail in Issue 2. MDH indicates that the SETT unit and Potomac Center ADP will still be reported separately in the future as they represent two different facility classifications. The Potomac Center's ADP increased slightly from 42 clients in fiscal 2018 to 45 clients in fiscal 2019, while the ADP at the Holly Center has consistently decreased in each fiscal year shown.

Exhibit 3
Average Daily Population of DDA Facilities
Fiscal 2010-2019



	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Holly Center	91	87	83	79	73	68	58	54	55	49
Potomac Center	52	54	55	50	45	40	39	39	42	45
Brandenburg	13	6	0	0	0	0	0	0	0	0
Sykesville SETT	29	29	29	29	28	29	31	40	29	23
Jessup SETT	11	12	11	9	10	10	12	11	0	0
Total	196	188	178	167	156	147	140	144	126	117

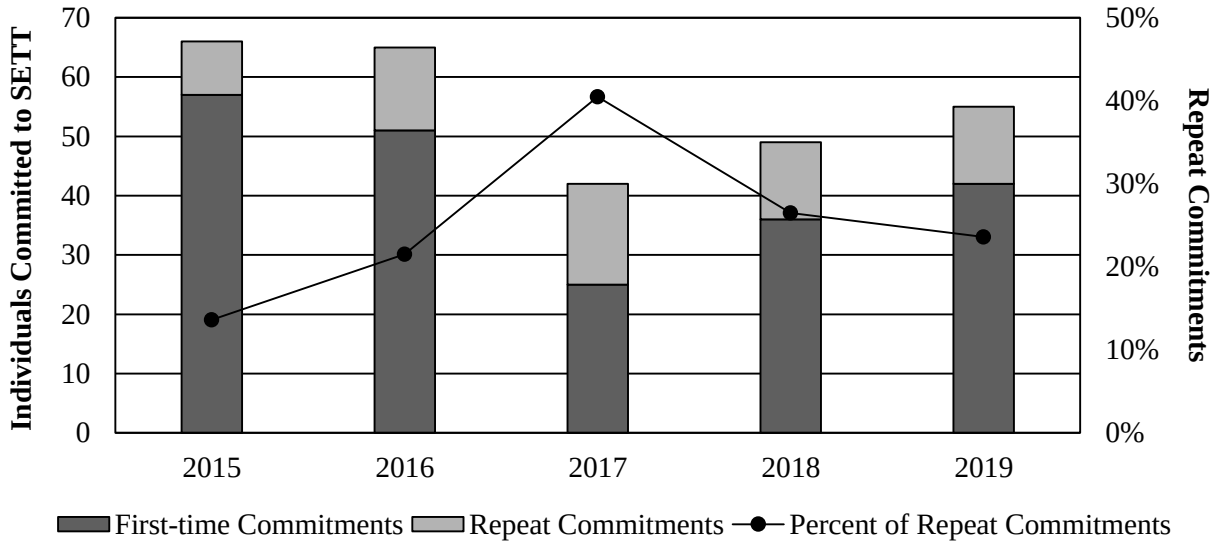
DDA: Developmental Disabilities Administration
SETT: Secure Evaluation and Therapeutic Treatment

Source: Maryland Department of Health

4. Total Commitments to SETT Increase, Repeat Commitments Remain Level

Another performance goal for DDA is to reduce recidivism to the SETT Program so that no more than 18% of total SETT commitments are repeat commitments. DDA uses multiple strategies to reduce repeat commitments, including competency to stand trial restoration services and recommendations to the court regarding the support needs and accommodations for maintaining competency. As shown in **Exhibit 4**, 13 individuals (23.6% of all committed individuals) had repeat commitments to the SETT Program, so DDA did not meet its performance goal. From fiscal 2018 to 2019, there was no change in the number of repeat commitments to SETT. Instead, the share of repeat commitments declined due to there being six more first-time commitments.

Exhibit 4
Individuals with Repeat Commitments to the SETT Program
Fiscal 2015-2019



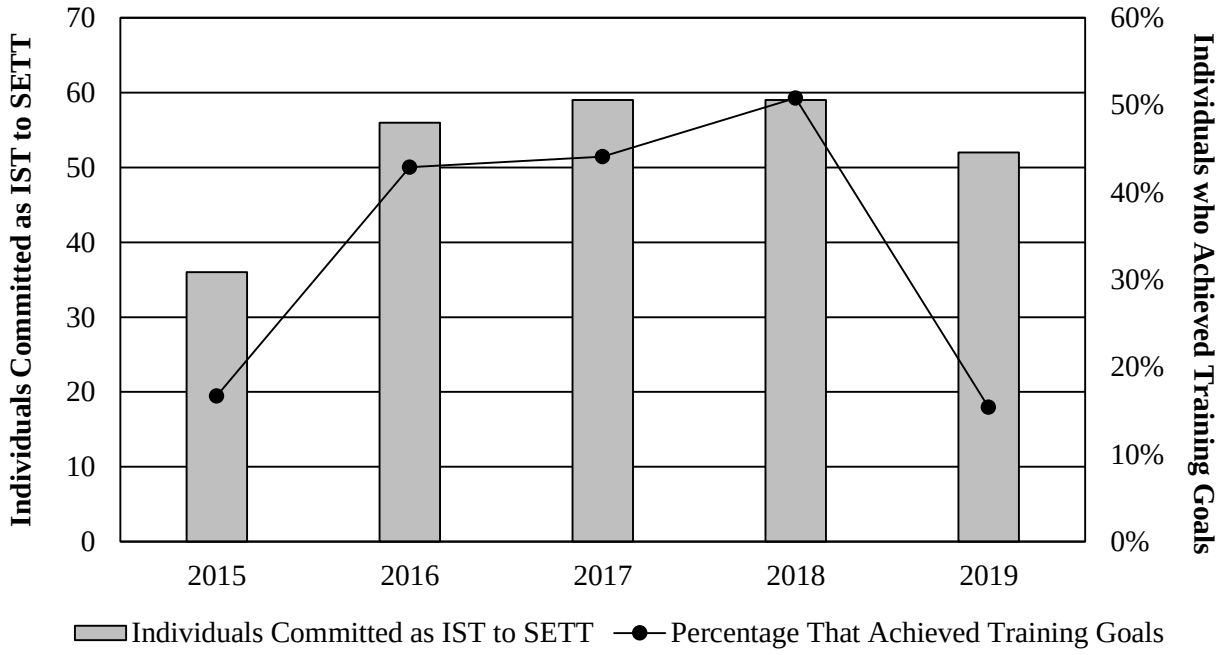
SETT: Secure Evaluation and Therapeutic Treatment

Source: Governor's Fiscal 2021 Budget Books

5. Individuals Committed as Incompetent to Stand Trial Show Sharp Decline in Courtroom Procedure Skills

DDA has a goal that 50% of individuals committed as Incompetent to Stand Trial (IST) will demonstrate increased courtroom procedure skills. The agency measures these skills as the number of individuals committed as IST who are reported as achieving their training goals. **Exhibit 5** presents the total number of individuals committed as IST and the percentage achieving training goals since fiscal 2015. In fiscal 2019, the total number of individuals committed as IST decreased after four years of consistent growth. The percentage of individuals achieving their training goals dropped substantially to 15.4% and the actual number of individuals achieving their goals declined from 30 to 8 individuals in fiscal 2019. **DDA should comment on why the number and percentage of individuals meeting their training goals declined significantly in fiscal 2019 after the agency met its performance goal in fiscal 2018.**

Exhibit 5
Courtroom Procedure Skills among Individuals Committed as IST
Fiscal 2015-2019



IST: Incompetent to Stand Trial
SETT: Secure Evaluation and Therapeutic Treatment

Source: Governor's Fiscal 2021 Budget Books

Fiscal 2019

Capped Medicaid Waiver Programs Underspent in First Year

CMS approved two capped waiver programs in 2017, known as the Community Supports waiver and the Family Supports waiver. The Community Supports waiver provides up to $25,000 per individual per year for nonresidential services in the community, and the Family Supports waiver provides up to $12,000 per individual per year for youth under age 21 and their families to secure supplemental wraparound services in addition to wraparound services provided by the Maryland State Department of Education. For both programs, all spending up to the maximum benefit for the authorized number of slots receives a 50% federal match.

DDA began accepting applications in January 2018. In its first full year of implementation in fiscal 2019, DDA provided services to 747 individuals through the Community Supports waiver and

90 individuals in the Family Supports waiver. CMS approved 400 slots for an initiative to serve individuals on the waiting list and 840 slots specifically to serve transitioning youth in the Community Supports waiver. Through the Family Supports waiver, DDA is authorized to fill up to 400 slots with individuals on the waiting list. DDA indicates that in its enrollment process, it discovered that many people on the waiting list who were eligible for the Family Supports waiver already received services through the Autism Waiver or other public programs. Consequently, enrollment was less than expected.

The fiscal 2019 appropriation allowed for enough funds to pay up to the maximum benefit for all 800 approved slots for individuals on the waiting list. This totaled $10.0 million for the Community Supports waiver and $4.8 million for the Family Supports waiver with funding to serve transitioning youth budgeted in a separate line item. DDA reports that the average expenditure per individual was $12,468 in the Community Supports waiver and $2,014 in the Family Supports waiver. However, DDA emphasized that the range in benefit levels for the Family Supports waiver in fiscal 2019 was $128 to $15,000. In the event that a waiver participants' needs exceed the cap, as was seen in fiscal 2019, DDA considers and authorizes requests for additional supports based on demonstrated assessed need.

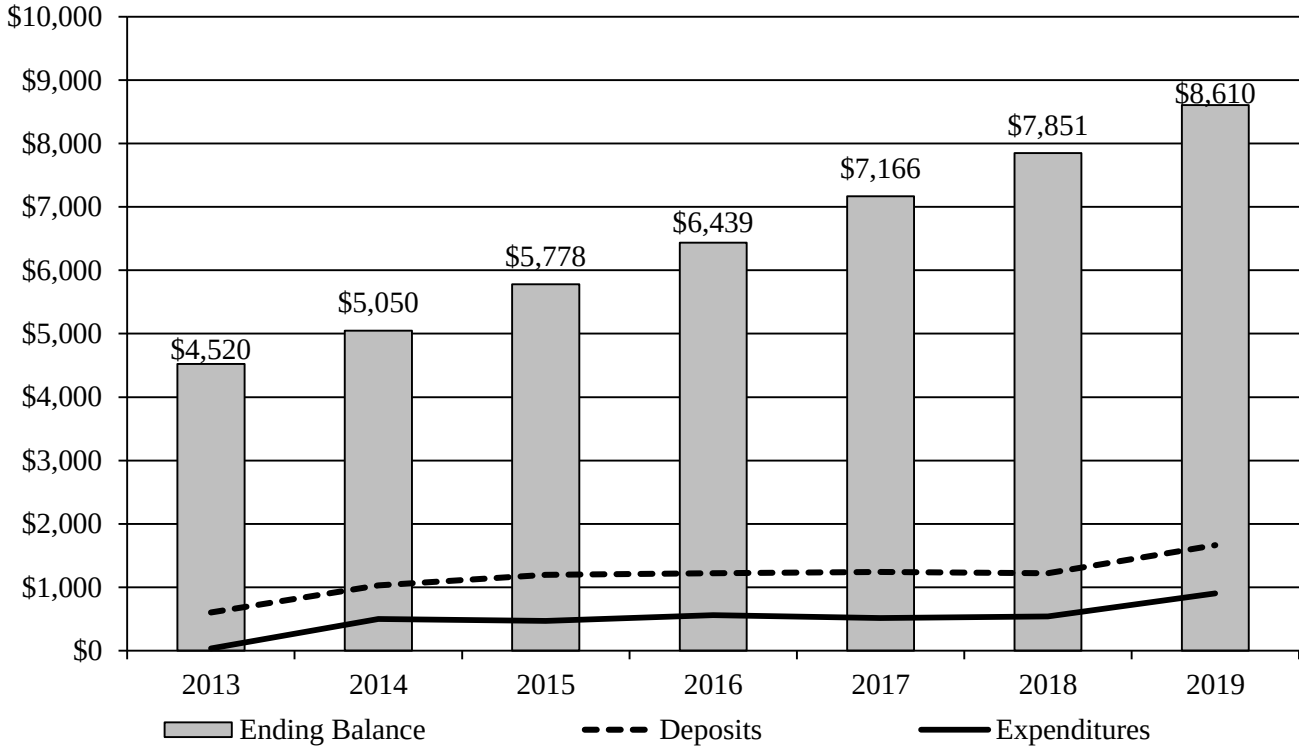
Due to lower enrollment than was budgeted and lower costs of services, DDA underspent the appropriation for the capped waiver programs by $13.6 million (evenly split between general and federal funds). Actual spending in fiscal 2019 for the individuals coming off of the waiting list through these programs was $1.2 million in total funds. The waivers are again budgeted to allow for the maximum benefit for all 800 authorized slots in the fiscal 2020 working appropriation and fiscal 2021 allowance, likely overfunding the programs in both years as the year-to-date average cost of services is $17,765 in the Community Supports waiver and $3,508 in the Family Supports waiver in fiscal 2020.

Growing Waiting List Equity Fund Balance

The Waiting List Equity Fund (WLEF) was established to ensure that funding associated with individuals served in an SRC 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. On December 31, 2019, DDA recorded a total of 4,290 individuals on the community services waiting list across all priority categories. According to statute, WLEF funds may not be used to supplant funds for emergency placements or transitioning youth. Only the first year of placement receives WLEF funding, after which those individuals become part of the base, and their services are funded by a mix of general and federal funds.

Exhibit 6 shows the ending balance of the WLEF, the deposits made to the fund, and the expenditure or placement costs incurred by the fund between fiscal 2013 and 2019. Deposits to the WLEF have outpaced expenditures since fiscal 2013, causing the ending balance to increase in each fiscal year. As of the close of fiscal 2019, the WLEF balance had grown to approximately $8.6 million. Although expenditures increased in fiscal 2019 by approximately $368,000, or 68.6%, WLEF deposits increased by about $443,000, contributing to a higher closing balance compared to fiscal 2018.

Exhibit 6
Waiting List Equity Fund Balance
Fiscal 2013-2019
($ in Thousands)



Note: Deposits include the balance of funds available due to a discharge from a State Residential Center, the interest earned on proceeds from the sale or long-term lease of a Developmental Disabilities Administration facility after it has closed, and any proceeds from a State income tax check-off option.

Source: Maryland Department of Health

DDA and the Developmental Disabilities Coalition (DD Coalition) have agreed that the use of the fund should be expanded beyond current statutory and regulatory authority. The fiscal 2020 budget bill withheld general funds until DDA submitted a report with recommendations for expanded uses of the WLEF and an estimate of the number of individuals who would be served under the recommended uses. In its November 2019 response, DDA indicated that it has worked with the DD Coalition for the past three years to update statutes related to DDA generally and that expanding the use of the WLEF has been part of this work. DDA indicated that it was considering proposing amendments to current statutory language to allow the department to designate through regulation the management and use of the money in the WLEF. The report described possible uses of the WLEF including:

- one-time only costs, like adaptive technology, not covered by DDA's waiver programs;

- the annualization of the second year of services;
- innovative approaches that meet an individuals' needs while aligning with best practices;
- bridge subsidies while an individual awaits permanent housing vouchers; and
- statewide and local self-advocacy efforts.

DDA did not provide any estimates of the number of individuals who would be served under these proposed uses because it was in the process of reviewing statutory and regulatory changes to the fund. It is concerning that DDA could not provide potential uses of the fund in detail with the estimated impact on individuals on the waiting list, especially considering a similar report was requested in the 2018 *Joint Chairmen's Report* (JCR). The chairs of the budget committees chose not to release the withheld funds following receipt of this response and instead requested that DDA resubmit the report with detailed potential uses of the fund and the estimated impacts of these proposed changes before the close of fiscal 2020. As of February 16, 2020, there were no departmental bills introduced in the current legislative session that would amend Section 7-205 of the Health-General Article, which establishes the allowable uses of the fund.

DDA should explain why it has not been able to provide detailed proposals for expanded uses of the WLEF or any projections for how its proposed uses would impact individuals waiting to receive community services. DLS recommends that the budget committees withhold $500,000 in general funds budgeted for administration until DDA submits a report with a plan and timeline for changing the allowable WLEF uses and spending down the $8.6 million WLEF closing balance.

Fiscal 2020

Proposed Deficiency

The fiscal 2021 budget plan proposes a negative deficiency that reduces the DDA appropriation by $2.6 million in general funds and $1.9 million in federal funds to reflect the contracted amount for Quality Improvement Organization (QIO) services. The Board of Public Works approved DDA's five-year contract proposal totaling $7.9 million at the December 4, 2019 meeting. The QIO services contract with Public Consulting Group, Inc. became effective January 1, 2020, so the fiscal 2020 funds are not needed due to the timing of the contract start date. CMS certified the Public Consulting Group, Inc. as a QIO-like entity beginning in June 2017. This certification will allow DDA to receive an enhanced federal fund match of 75% for QIO services once DDA applies for this match and CMS approves. The QIO services contract also requires the vendor to assist DDA with the CMS application process for requesting an enhanced match.

The fiscal 2021 allowance budgets approximately $1.8 million in total funds (50% general funds and 50% federal funds) for the QIO services contract. However, the vendor's certification

as a QIO-like entity will allow DDA to receive a 75% federal match for these services. DLS recommends reducing the fiscal 2021 general fund appropriation for QIO services by $461,354 due to expected federal fund availability as a result of the enhanced federal match.

Under the QIO services contract, Public Consulting Group, Inc. will:

- monitor basic Medicaid waiver assurances by conducting multiple types of reviews, such as qualified provider and critical incident reviews;
- conduct utilization reviews for people receiving DDA-funded services;
- administer the National Core Indicators Survey for DDA performance measurement;
- develop a plan to enable DDA to meet the Council of Quality Leadership accreditation standards; and
- develop a data system to track and aggregate all reviews, track provider performance, and support reporting requirements for CMS performance measures.

The requirement to conduct utilization reviews for people receiving DDA-funded services is especially important as no utilization review audits have been performed since fiscal 2013. In a July 2019 fiscal compliance audit, the Office of Legislative Audits (OLA) found that DDA did not conduct audits of providers to ensure payments were consistent with actual services delivered and in accordance with the consumers' approved individual plans. According to the OLA audit, DDA relied on its CCS agencies to monitor consumer services provided, but the CCS agencies only monitored consumer satisfaction rather than verifying that the amounts and types of services that the consumer received were commensurate with the amounts billed and authorized in their individual plans. If DDA had conducted provider audits since fiscal 2013 and found that services were not provided as funded, the State could have recovered funds in some cases.

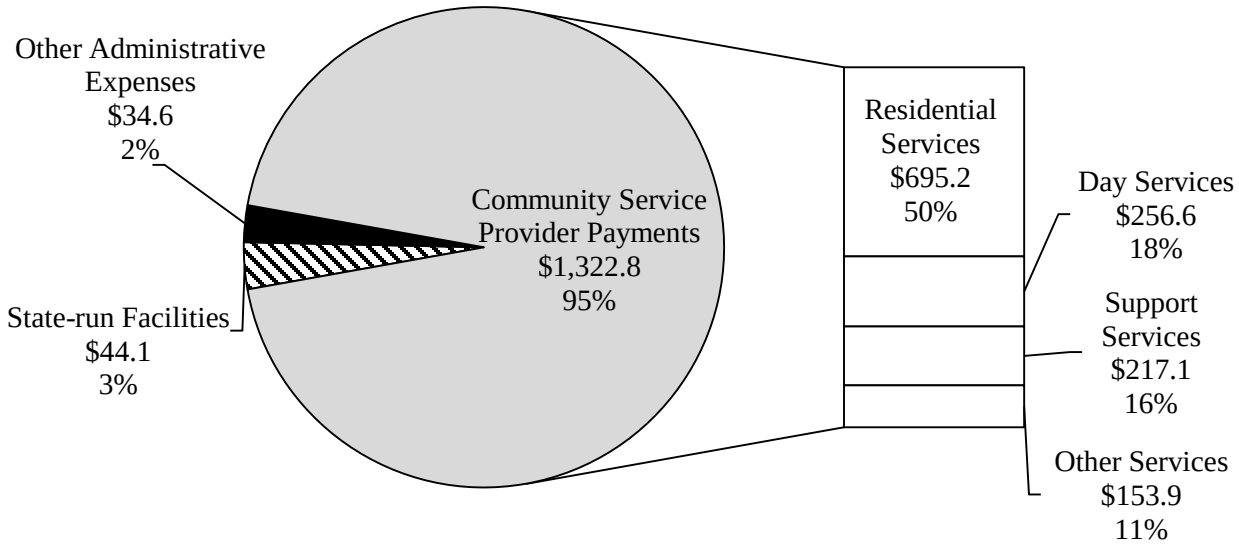
DDA indicates that the QIO services contract and required utilization reviews will correct this audit finding. The vendor and DDA are in the process of determining standards for provider audits, including the required service authorization and billing documentation needed to verify the services rendered. In the first year of the contract, Public Consulting Group, Inc. will conduct audits of a statistically valid sample of billed community services provided in fiscal 2018 and 2019. After the first year, the vendor will complete provider audits for claims from the last complete fiscal year. Further discussion of the OLA audit findings can be found in **Appendix 2**.

Fiscal 2021 Overview of Agency Spending

As shown in **Exhibit 7**, the vast majority ($1.3 billion, or 95%) of the fiscal 2021 allowance funds provider payments for services in community-based settings. State-run facilities, including two SRCs and one SETT unit, account for 3% of total spending. Within the Community Services

Program, residential services account for the largest share, approximately 50% of total spending. DDA reported in its fiscal 2021 MFR submission that the average annual cost per client in residential services is budgeted at $109,836 in the fiscal 2021 allowance. Average annual costs per client for all other services range from $279 (for summer programs) to $68,662 (for self-directed services).

Exhibit 7
Overview of Agency Spending
Fiscal 2021 Allowance
($ in Millions)



Note: Does not include statewide general salary increase.

Source: Governor's Fiscal 2021 Budget Books

Proposed Budget Change

As shown in **Exhibit 8**, the adjusted fiscal 2021 allowance increases by $53.7 million compared to the fiscal 2020 working appropriation. The overall increase is largely due to the projected growth in community-based service expenditures ($26.0 million) and a 2% provider rate increase ($25.1 million).

Exhibit 8
Proposed Budget
MDH – Developmental Disabilities Administration
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimbursable Fund	Total
Fiscal 2019 Actual	$664,037	$5,135	$562,505	$30	$1,231,707
Fiscal 2020 Working Appropriation	731,116	6,094	611,459	30	1,348,698
Fiscal 2021 Allowance	759,140	6,198	637,000	30	1,402,368
Fiscal 2020-2021 Amount Change	$28,024	$105	$25,541	$0	$53,669
Fiscal 2020-2021 Percent Change	3.8%	1.7%	4.2%		4.0%

Where It Goes:	Change
Personnel Expenses	
Employee and retiree health insurance	$1,075
Fiscal 2021 2% general salary increase and net increase from annualization of fiscal 2020 1% general salary increase	590
Turnover adjustments	293
Retirement contribution	171
Miscellaneous adjustment	138
Fiscal 2021 increments and 4% general salary increase for State Law Enforcement Officers Labor Alliance	92
Other fringe benefit adjustments	79
Salaries associated with 8 abolished positions across the State-run facilities	-260
Regular earnings	-264
Program Direction	
Employment outcome data and reporting contract with University of Massachusetts Institute for Community Inclusion	300
Contract with Alvarez and Marsal for fiscal restructuring and implementation of the Long Term Services and Supports System and fee-for-service rate system	-111
Community Services	
Additional funding for services based on net traditional growth for new placements and expansion of services	26,000
Fiscal 2021 provider rate increase (2%)	25,149
Quality Improvement Organization contract (see fiscal 2020 proposed deficiency discussion)	680
Grant for UMBC Hilltop Institute for data analysis using legacy PCIS 2 system and Medicaid Management Information System	260
Other	-71
Support Broker Management contract for oversight and technical assistance for support brokers serving individuals who self-direct their services	-200

Where It Goes:	**Change**
Grants to higher education institutions to develop programs for individuals with intellectual and developmental disabilities	-250
Holly Center, SETT Unit, and Potomac Center	
Contractual services, mainly due to a net increase of 1.3 FTEs and increase in medical service support	165
Dietary services for the Potomac Center provided by the Western Maryland Hospital Center	94
Off-site hospitalization, outpatient, or evaluation services	57
Pharmacy services at the SETT unit	-47
Loan repayment – energy conservation at Holly Center	-271
Total	**$53,669**

FTE: full-time equivalent
PCIS: Provider Consumer Information System
SETT: Secure Evaluation and Therapeutic Treatment
UMBC: University of Maryland, Baltimore County

Note: Numbers may not sum due to rounding. The fiscal 2020 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2021 allowance includes contingent reductions and general salary increases.

Community Services

Expansion Funding

The fiscal 2021 budget includes $26 million in additional funding for expanded placements and services in the Community Services Program. Individuals receive multiple combinations of services, and the number of new placements varies each year. Therefore, the budgeted increase for population and service changes does not translate to an exact number of new individuals served or number of services provided as was projected in the past. Instead, DDA will be able to fund a combination of different service types and placements up to the total budgeted amount of $1.3 billion. Due to DDA undergoing a shift to a new fee-for-service (FFS) rate structure with new community service options, the anticipated number of individuals who will be served in fiscal 2021 is especially uncertain as it is not clear at this time how the new rates will impact the statewide costs for reimbursing each type of service.

The 2019 JCR requested that DDA evaluate the amount of funds that would be needed to serve enough individuals off of the waiting list to reduce the list by 25%, 50%, and 75%. DDA analyzed new placement data from fiscal 2019 to estimate the cost of providing services to individuals currently on the waiting list based on recent experience across different priority categories. The waiting list is organized into priority categories based on the individuals' need for services from crisis resolution, which is the highest priority (risk of harm or homelessness without services), and current request, showing the lowest need (no current risk). **Exhibit 9** presents DDA's findings in terms of the total estimated cost of serving individuals on the waiting list based on their priority category as of October 30, 2019. These estimates are based on the current system of rates and service options, therefore the cost of serving the waiting list could change as DDA implements its systemwide

transformation, discussed in more detail in Issue 1. Although the allowance includes $26 million in expansion funding, not all of this funding will contribute to reducing the waiting list as it will partially support individuals already receiving community services who are authorized for new or alternative services.

Exhibit 9
Estimated Cost to Reduce the Community Services Waiting List
Point-in-time Count as of October 30, 2019
($ in Millions)

Priority Category	Individuals on the Waiting List	Total Estimate	75% Reduction	50% Reduction	25% Reduction
Crisis Resolution	56	$5.5	$4.1	$2.7	$1.4
Crisis Prevention	155	8.2	6.1	4.1	2.0
Current Request	3,989	158.1	118.6	79.1	39.5
Total	**4,200**	**$171.8**	**$128.8**	**$85.9**	**$42.9**

Source: Maryland Department of Health

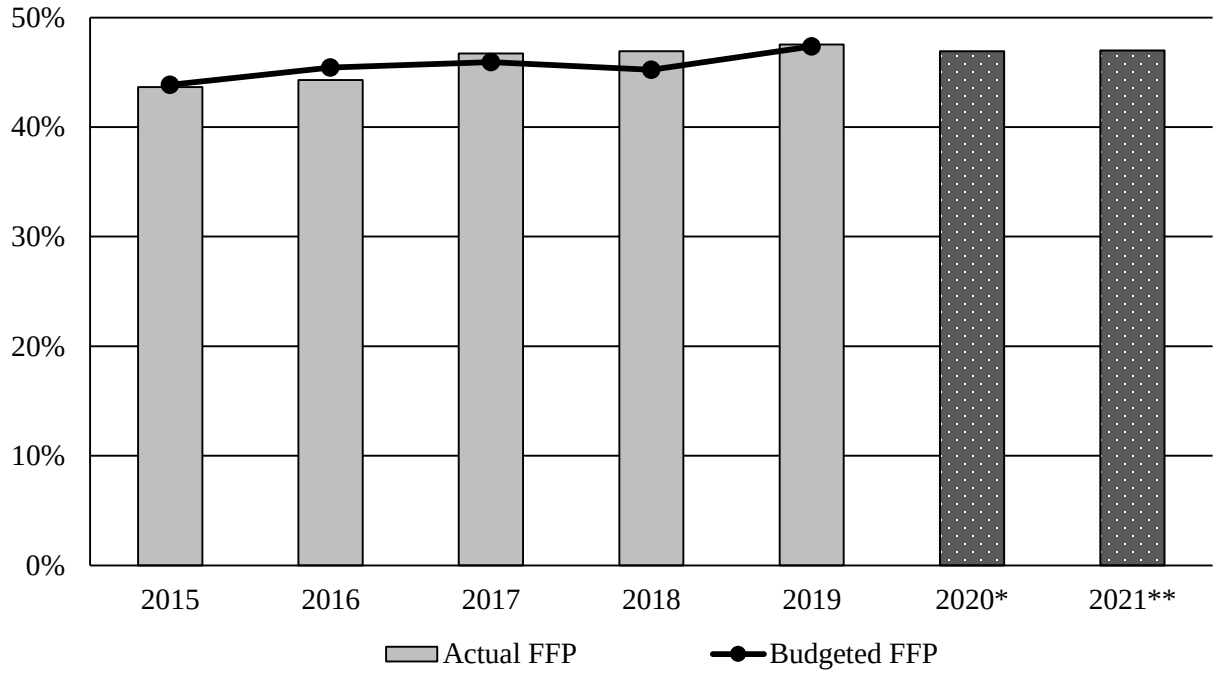
Community Service Provider Rate Increase

Chapters 10 and 11 of 2019 mandated 4% community services provider rate increases annually from fiscal 2021 to 2026. The Department of Budget and Management calculated the mandated rate increase in fiscal 2021 as approximately $50.3 million in total funds ($26.5 million in general funds and $23.7 million in federal funds). However, an action in the proposed Budget Reconciliation and Financing Act (BRFA) of 2020 would reduce the mandated rate increase to 2% in fiscal 2021 only. This provision would reduce the DDA allowance by approximately $25.1 million ($13.3 million in general funds, $11.8 million in federal funds, and $0.1 million in special funds). **DLS recommends amending the proposed BRFA provision to defer the 4% provider rate increase to January 1, 2021, rather than reducing the annual rate to 2%.**

Federal Fund Participation and Recent General Fund Underspending

In fiscal 2019, 97.9% of the DDA-funded individuals in community services were enrolled in one of the agency's three waiver programs under Medicaid. Through the Community Pathways, Community Supports, and Family Supports waiver programs, DDA receives a 50% federal fund match from CMS to provide approved community-based services to enrolled individuals. DDA has adopted the practice that new individuals entering community services must be in one of the three waivers. Certain services and individuals in DDA's community services system are generally not eligible for this match, so the fund split across the entire Community Services Program remains lower than 50%. As shown in **Exhibit 10,** DDA's recent policy to mainly serve waiver-eligible individuals has caused federal fund participation (FFP) to increase, albeit slightly, between fiscal 2015 and 2019.

Exhibit 10
Recent Federal Fund Participation Across Community Services
Fiscal 2015-2021



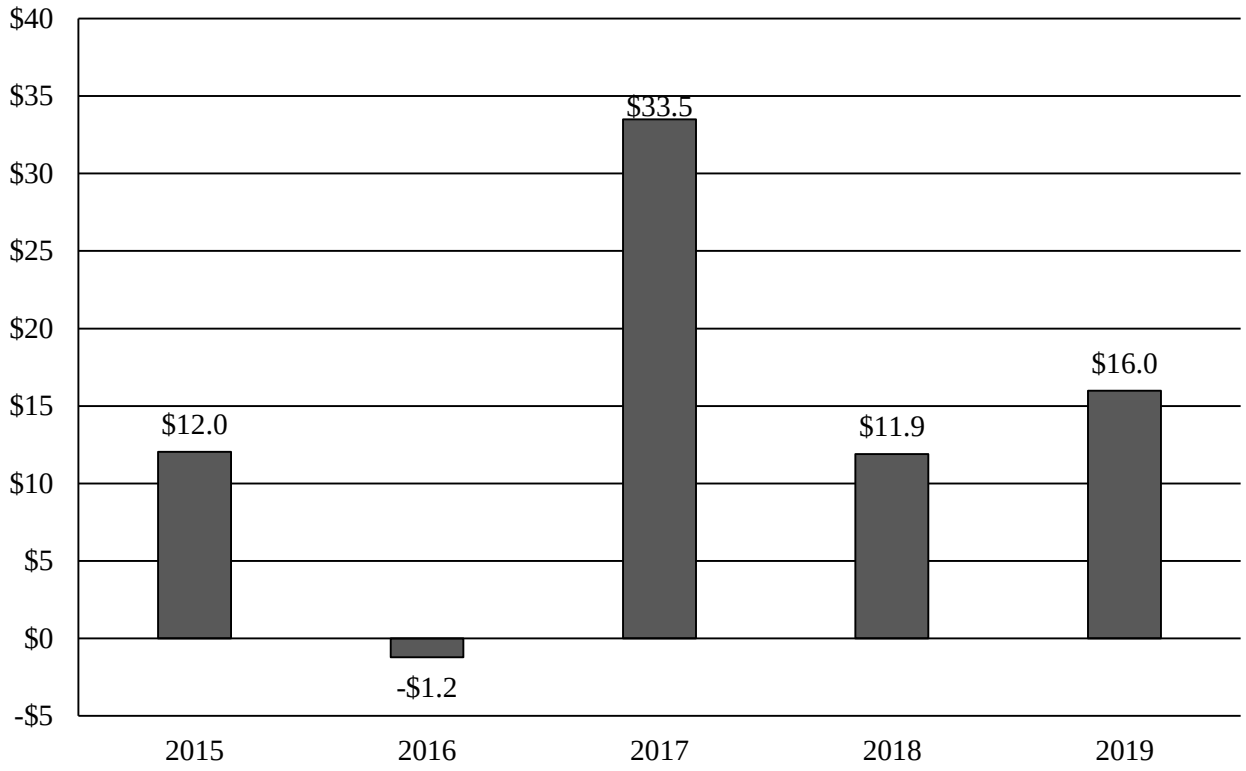
FFP: federal fund participation

*Working Appropriation
**Allowance

Source: Maryland Department of Health; Department of Legislative Services

DDA's actual federal fund attainment has consistently outpaced the budgeted FFP from fiscal 2017 to 2019. Actual federal fund attainment has also increased every year, while the budgeted federal fund participation in the 2020 working appropriation and 2021 allowance is lower than the most recent actual. In years when DDA had higher federal fund attainment than budgeted, this contributed to DDA underspending general funds. **Exhibit 11** displays the total amount of general funds reverted or transferred through budget amendments at the close of each fiscal year to other parts of MDH. In fiscal 2017, DDA underspent its general fund appropriation by approximately $33.5 million, partially due to the actual FFP being over 1% higher than was budgeted.

Exhibit 11
General Fund Underspending in Community Services
Fiscal 2015-2019
($ in Millions)



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

DLS recommends that the general fund appropriation for community services be reduced by $4.1 million in fiscal 2020 through an additional BRFA provision in anticipation of increased federal fund attainment based on the average FFP in the past two fiscal years. However, as discussed in Issue 1, due to significant uncertainty over fiscal 2021 spending levels based on the proposed changes to the DDA rate and service structure, DLS does not recommend applying the same argument to the fiscal 2021 budget.

DDA should comment on whether there are other factors beyond FFP, such as utilization trends or provider capacity, that are responsible for recent general fund underspending in the Community Services Program.

Personnel Data

	FY 19 Actual	FY 20 Working	FY 21 Allowance	FY 20-21 Change
Regular Positions	645.95	650.75	644.55	-6.20
Contractual FTEs	30.56	44.64	44.90	0.26
Total Personnel	**676.51**	**695.39**	**689.45**	**-5.94**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	59.81	9.28%
Positions and Percentage Vacant as of 12/31/19	114.05	17.53%
Vacancies Above Turnover	54.24	

- DDA shows a net decrease of 6.2 regular positions. This is mainly due to 8 abolished positions and 15 position transfers out of the SETT unit and Potomac Center being partially offset by 6 new positions to support the regional offices and 11 position transfers into Program Direction.

- The agencywide vacancy rate of 17.53% is driven by high vacancies in the SRCs and SETT unit. Discussions of staffing and vacancy trends in State-run facilities overall can be found in the MDH Overview and the MDH Administration analyses.

Issues

1. New Community Service Provider Rate Structure and Transition to LTSS

As part of an overarching transformation plan, DDA is transitioning from a prospective payment model to an FFS reimbursement model with new community services and provider rates. DDA is simultaneously launching service authorization and billing functionalities on the State's LTSS IT system on July 1, 2020, with the implementation of the new provider rate structure. As of February 18, 2020, DDA had not finalized key considerations of this process including analyzing the budgetary impact of new rates on providers and the State, systematically correcting any IT or process defects found in the pilot, and determining an implementation plan to scale up the transition from the pilot to the larger community.

New Rates and Resulting Budgetary Impact

Rate Development Process

Chapter 648 of 2014 tasked DDA with conducting an independent and cost-driven provider rate-setting study that considers the actual cost of providing services for individuals with developmental disabilities, including transportation costs, appropriate wage and benefit levels for direct support and supervisory staff, and the fiscal impact of absence days. DDA selected Johnston, Villegas-Grubbs and Associates, LLC (JVGA) to complete the study, which was published in November 2017. JVGA's proposed rates are based on a trademarked approach referred to as the brick method, in which various components (or cost categories) make up one "brick," *i.e.* one hour of services. The foundation of the brick is the wage for direct support professionals (based on the U.S. Bureau of Labor Statistics wage rates). DDA has indicated that the brick methodology established in the JVGA report has not changed and will be the underlying structure of the new rates.

Since the JVGA study was published, DDA has continued working with a technical workgroup of stakeholders to verify the assumptions used in the study and decide how the new services and rates will be operationalized. DDA also contracted with a different vendor (Optumas) to verify and validate the source documentation and the assumptions. One modification so far has been to include a geographic differential in five counties with a higher cost-of-living relative to other regions of the State. A version of the refined rates were shared with the technical workgroup in August 2019. From the initial feedback, DDA found that the proposed rates for residential services were higher than needed, but the rates for day habilitation services would probably not cover the full cost of providing services.

DDA presented a set of rates to the provider community at the quarterly provider meeting on October 10, 2019, and these are the rates that are programmed into the LTSS billing module and are in effect for the LTSS pilot that launched December 1, 2019. DDA notes that it is still working with stakeholders to confirm that the new rates align with, and support all of, the policies and expectations of the new services.

Provider Budgetary Impact

Considering DDA has not provided an up-to-date version of the rates or any notice of rate adjustments since October 2019, unsurprisingly, the full implication of the new rates on provider and State budgets remains unclear. Providers could assess the fiscal impact of the October version of the rates. However, at this time, there does not seem to be any deadline or anticipated date for DDA to publish the final rates before the rates go live in July 2020.

The provider impact analysis is made more complicated by the fact that the new rates will be launched simultaneously with new and updated services that, in some cases, transition from a day rate to an hourly rate. Therefore, some of the new rates for services with new billing units, such as employment services, cannot be applied directly to current utilization. DDA indicates that when other service types, such as personal supports, changed from daily to hourly billing, this caused total provider payments to decrease in some cases due to lower utilization.

To mitigate any adverse impacts of the rates (as announced on October 2019) on the LTSS pilot group, DDA indicates that it will complete a reconciliation with the payments that would have been made under the current system for the 10 participating providers. This reconciliation process lowers the financial risk for the pilot group, but it does not reflect a systematic approach to ensuring that the rates accurately cover the costs of services. DDA has reported that it is considering ways that it can provide bridge funding to providers at the beginning of fiscal 2021 as the new rates roll out. Bridge funding could be disbursed through the prospective payment model for at least the first billing cycle of fiscal 2021, but there have not been any formal announcements to providers for how this funding may be allocated and for how long.

A shift in rates would undoubtedly affect provider budgets differently based on the types of services they provide, the region of the State they operate in, and the size of the organization, among other factors. However, if there is a chance that the new rates could have significantly adverse or positive impacts on providers once the rates are applied more broadly, it does not appear that DDA has shared any analysis or expectations for which types of providers or services will see significant budgetary changes.

DDA should discuss the anticipated provider impact based on the rates announced in October 2019 and explain how it is taking the transition from daily to hourly billing into account. The agency should also discuss the extent to which the rates have changed since October and the extent to which they are still subject to change before July 2020. DDA should explain how it will notify providers of the finalized rates and any significant changes to the new rates before July 2020.

State Budgetary Impact

As part of its contract with DDA, Optumas performed a systemwide budget impact analysis of the October 2019 iteration of the rates based on utilization data under the current rate and service structure. From this analysis, Optumas projected that fiscal 2020 provider reimbursements would have

increased by approximately $97.0 million in total funds from $1.3 billion to $1.4 billion under the new rates. This estimate was based on fully funding a year of new rates across all providers and services.

DDA has since reported that it is still refining the rates and announced that it would consider a phased-in approach to implementation. Without more detail in how the rates and implementation will occur beginning on July 1, 2020, there is no way to project the statewide impact in fiscal 2021 or future years. The fiscal 2021 allowance includes a total of $52.7 million in additional funds under the Community Services Program, which is based on the continuation of the current service structure and utilization. Nor does it account for any possible bridge funding at the start of fiscal 2021, which would be required due to the nature of transitioning from a prospective payment system to an FFS model.

LTSS Privacy and Pilot Concerns

DDA is in the process of transitioning to using MDH's integrated care management tracking system, LTSS, as a replacement for the legacy Provider Consumer Information System (PCIS) 2. New DDA functionalities on LTSS impact community service providers and clients at many stages, including eligibility, person-centered planning, service authorization, billing and provider reimbursement, and service monitoring. Additional discussion of LTSS enhancements across other long-term care programs is found in the Medical Care Programs Administration analysis.

Privacy Concerns Related to Client Search Function

In August 2018, MDH launched the initial LTSS release of DDA functions, such as client profiles, waiver applications and determinations, and person-centered plan development. This included the functions that MDH employees, regional office employees, and coordinators of community services use to track and serve assigned individuals for case management. Part of the goal of DDA transitioning to LTSS was better planning across long-term care programs and some system integration so that agency employees and coordinators could better identify the services that an individual connecting with MDH is eligible for or already receiving across programs.

Since the August 2018 launch, coordinators of community services that have access to the LTSS client search function have been able to access certain personal information about individuals across the entire LTSS system, including individuals in the DDA system and other MDH long-term care programs who are not assigned to them. System users in other MDH long-term care programs have also been able to access the same level of personal information about individuals served by DDA. DDA confirmed that individuals' first and last names, LTSS identification number, Medicaid number, last four digits of the Social Security number, and attachments were all accessible across the LTSS system through the client search. In addition, DDA indicated that the attached documents had other personal information about DDA-funded individuals in some cases. Providers have expressed concern that the sharing of this information has violated Health Insurance Portability and Accountability Act (HIPAA) confidentiality requirements.

MDH consulted a HIPAA compliance officer on whether the client search on LTSS was a violation by sharing this personally identifiable information across programs. The officer advised that the LTSS client search was not a violation, but DDA notes that it is working on restricting what can be

viewed through the client search based on the users' role in the system. At this time, DDA reports that the restrictions are being programmed and are set to launch on the LTSS system in an April 2020 release. **DDA should discuss what level of personal information was found on the attached documents and explain how it will restrict user access before the April release. The agency should clarify what personal information each system user will have access to in the separate long-term care programs after the April release.**

Provider Staff Training

Because the legacy system is not equipped to support an FFS payment model or the new services, DDA indicates that the transition to the new rates and services is dependent on the launch of the service authorization and billing functions on LTSS. MDH reports that it is still in the process of onboarding users and system accounts to the DDA module of LTSS. MDH has also held training sessions for approximately 1,475 provider staff members, including administrators and program staff, on the service authorization function. From April through July 2020, DDA plans to train up to 935 provider staff who will use the billing functions on the system. At this time, DDA does not know the exact number of provider staff members overall that it will need to train but estimates up to 3,250 staff members for service authorization and billing functions combined.

Pilot Program

To test the LTSS functions and new rate structure, DDA began implementing a pilot program on December 1, 2019. Chapter 390 of 2019 and an amendment to DDA's Medicaid waiver programs authorized the pilot. According to DDA, 10 providers and 35 participants are in the pilot and actively using the new system for service authorization and billing. The size of the sample, which accounts for approximately 5% of the provider community in the State and barely 0.002% of the number of individuals receiving community-based services statewide, is cause for concern. DDA has not indicated that it plans to bring more providers or individuals into a second stage of the pilot before rate implementation begins on July 1, 2020. While DDA announced that it would consider a phased-in approach to implementation, there have not been any follow up announcements regarding the phase-in and how the limited pilot would be expanded until it reaches statewide implementation.

At the most recent quarterly provider meeting in January, DDA acknowledged that some system adjustments were necessary after seeing issues in the pilot. In these cases, the issue was noted shortly after December 1, 2019, and DDA reportedly remedied the issue in the system between the pilot launch and January 1, 2020. However, some providers have indicated that the agency's remedies for technical issues have been to override the system, rather than diagnose the issue and correct the system as a whole. This causes concern that LTSS could have defects that impact more providers upon a wider launch, and MDH would not have the capacity to respond with overrides as needed in a timely manner. DDA has listed the timeline for the pilot's implementation as December 1, 2019, to June 30, 2020, so it is not clear how this timeline will allow for DDA to fully evaluate the results of the pilot before launching the new rates and LTSS functionalities more broadly on July 1, 2020.

DDA should comment on the initial results of the LTSS pilot and its transition plan for scaling the system up from the limited pilot group to all individuals receiving community-based services statewide.

Implementation Plan

At the quarterly provider meeting on October 10, 2019, DDA announced that it was still in the process of deciding the implementation plan for the new rates, but it would likely apply a phased-in approach. After that meeting, DDA convened a Provider Advisory Group of approximately 35 providers to advise the agency on operational needs, training needs, and implementation strategies for providers to transition to LTSS. The Provider Advisory Group met three times with the last meeting on December 16, 2019. DDA has not yet announced an implementation plan, but it described certain transition considerations it would need to take into account, such as electronic-visit verification (EVV) requirements.

EVV Requirement

The federal Twenty-first Century Cures Act requires states to implement EVV for all Medicaid personal care services that require an in-home visit by a provider. The deadline for compliance was January 2020. MDH has used the In-home Supports Assurance System (ISAS) housed on LTSS to meet the requirement for other Medicaid programs and will transition DDA to using this system when it begins using LTSS. ISAS is not currently configured for DDA's legacy PCIS 2 system and will launch with the LTSS transition. MDH was granted a good-faith effort exception to meet the EVV requirement until January 2021. Beginning in January 2021, if DDA has not met the EVV requirement by transitioning to LTSS, the FFP for all MDH programs providing personal care services will be reduced by 0.25% with the penalty increasing in each year after January 2021. MDH estimates that federal fund attainment in fiscal 2021 could decrease by up to $1.0 million resulting from a 0.25% FFP penalty for all personal care services, including those provided through Medicaid, Community First Choice, and the Community Pathways waiver program.

DDA reports that to meet the EVV requirement before the January 2021 deadline, it would need to transition all individuals and providers receiving or providing personal support services to LTSS. This further complicates the implementation of the LTSS functionalities as DDA has not yet decided whether it will phase-in the new system by service type, by individual, or by provider. To completely transition the personal support services in time, the majority of DDA providers (175) would need to begin using LTSS before January 2021. According to DDA, only 12 providers do not provide personal supports. All individuals receiving personal support services (approximately 5,000) would also have to make the transition to LTSS, which would mean that if any other provider bills for services for that individual, they would also have to transition or operate both billing systems at the same time.

Given the recent issues that MDH has experienced in its transition to a new Administrative Service Organization, it is concerning that DDA has not finalized many of the aspects of its transformation plan and has not sufficiently determined an implementation plan that takes all of the implications on individuals, providers, other agencies, and the State overall into account. **To continue monitoring the roll-out of DDA's new rate structure, DLS recommends budget bill language**

withholding general funds budgeted for administration until DDA submits two reports updating the committees on the transformation plan activities.

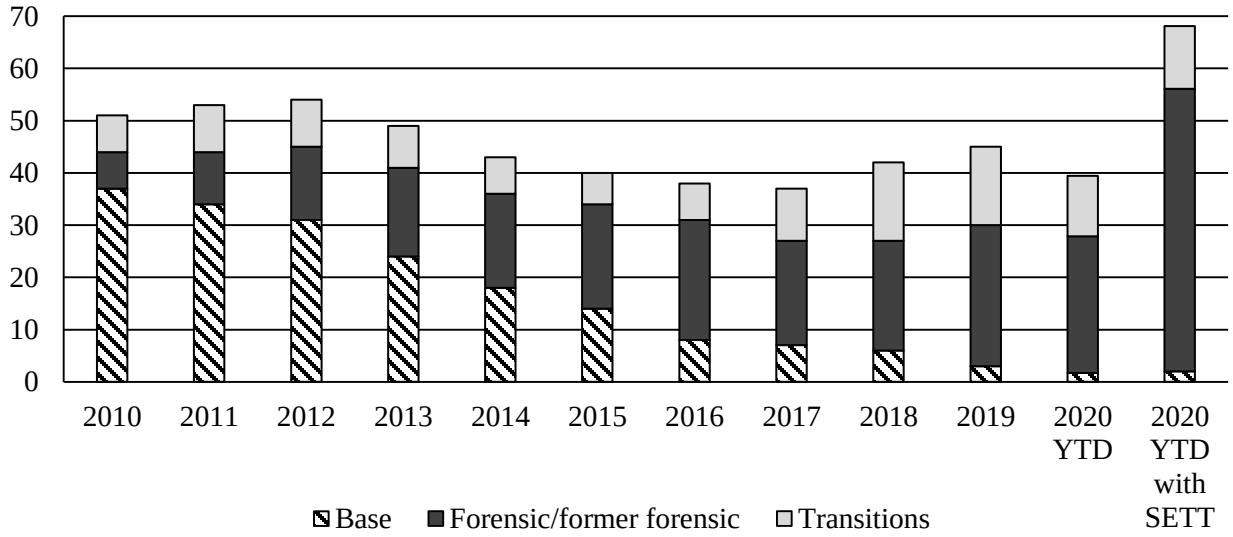
2. SETT Unit for Court-involved Individuals Relocates to Potomac Center

On January 22, 2020, DDA relocated the SETT program from the Springfield hospital in Sykesville to the Potomac Center SRC in Hagerstown. A total of 28 individuals in the program were moved. This followed a leadership change that merged both programs under one chief executive officer. Although the Potomac Center and SETT unit are now housed at the same facility, the Potomac Center is still considered an intermediate care facility, and the SETT unit continues as a residential forensic program.

Potomac Center Population Mix

Exhibit 12 shows the population mix at the Potomac Center since fiscal 2010. DDA defines the base population as individuals with profound disabilities who have resided at the center for most of their lives and prefer to remain there. The transitions programs serves individuals who have not previously resided in a State facility but are in need of facility-based services until community-based services are identified.

Exhibit 12
Potomac Center Population Trends
Fiscal 2010-2020 YTD



SETT: Secure Evaluation and Therapeutic Treatment
YTD: year to date

Source: Maryland Department of Health

As more individuals are served in community-based settings, the remaining SRC population is made up of a higher percentage of individuals that have involvement with the criminal justice system (court ordered or court involved) and more complex conditions. DDA defines the court-involved population as individuals with multiple disabilities who are transferring from the SETT unit, a jail setting, or a psychiatric hospital level of care to transition back to the community. Court-involved individuals can also be transferred from a community provider in certain circumstances. The Potomac Center has also been used as a step down from the SETT unit and behavioral health facilities, as well as an overflow center for the SETT unit when it is over capacity. The SETT unit serves 100% court-involved individuals, so the year-to-date fiscal 2020 proportion of court-involved individuals served at the Potomac Center location increases from 66.3% to 79.5% when including the transferred SETT program.

Staffing and Safety Concerns

Of the staff at the Sykesville SETT location, 10 staff members transferred to Hagerstown, and 21 staff members transferred to other State-run facilities. MDH indicated that 49 new staff members were hired to support the SETT program in Hagerstown. As shown in **Exhibit 13**, the relocation has not substantially impacted the vacancy rate for either program with vacancy rates remaining extremely high, with the 30.1% vacancy rate at the SETT unit particularly concerning given the nature of the population.

Exhibit 13
SETT Unit and Potomac Center Vacancy Trends Before and After Relocation

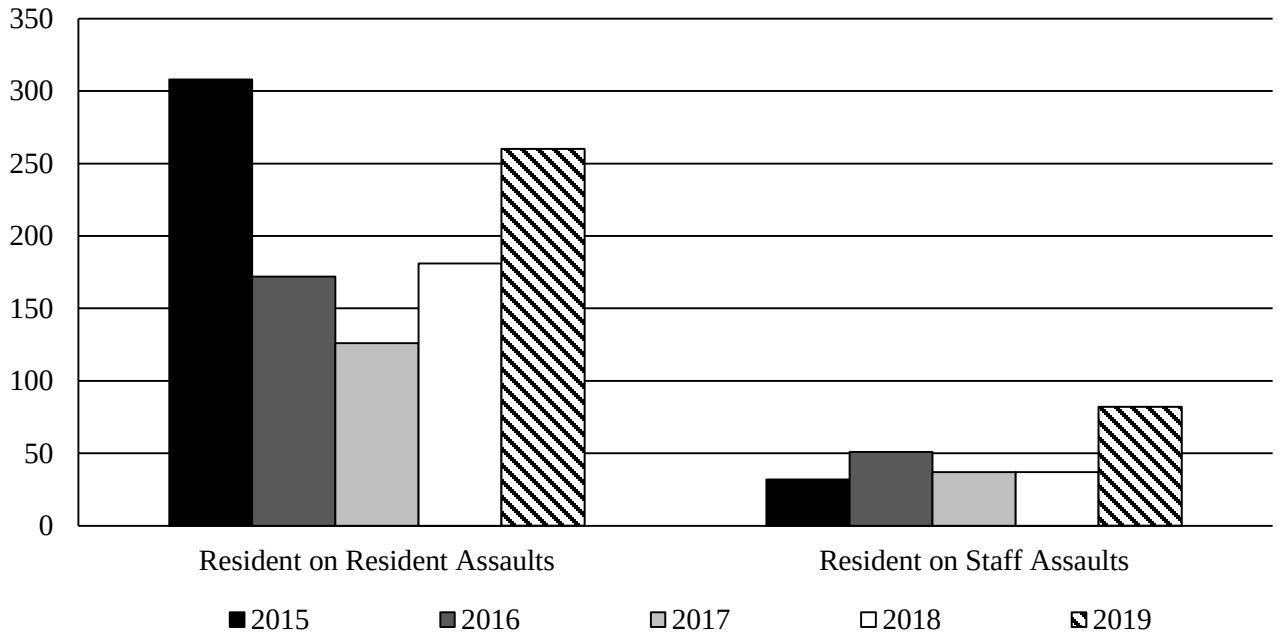
		December 31, 2019		January 31, 2020	
	Fiscal 2020 Authorized Positions	Vacant Positions	Vacancy Rate	Vacant Positions	Vacancy Rate
SETT Unit	89.8	28.1	31.3%	27.1	30.1%
Potomac Center	200.0	43.0	21.5%	42.0	21.0%

SETT: Secure Evaluation and Therapeutic Treatment

Source: Maryland Department of Health; Department of Legislative Services

The persistently high vacancy rates are cause for concern as the number of resident-on-resident and resident-on-staff assaults increased significantly in fiscal 2019, as shown in **Exhibit 14**. DDA mainly attributes the 121.6% increase in resident-on-staff assaults to one court-involved individual who caused a significant number of the total staff injuries. The resident has been moved to the Clifton T. Perkins Hospital Center. DDA reports that the clinical practices at the Potomac Center have changed in September 2019 in response. **DDA should explain how the clinical practices have changed and how this will prevent future resident assaults and maintain staff safety. The agency should also discuss how psychiatric and DDA bed capacity has impacted how court-involved individuals who are dually diagnosed are assigned to the State-run facilities.**

Exhibit 14
Assault Rates on Residents and Staff in the Potomac Center
Fiscal 2015-2019



Note: Resident on resident assaults count incidences of any resident making contact with another. Resident on staff assaults count incidences where off-site medical attention is needed.

Source: Maryland Department of Health

It should be noted that Potomac Center employees staged a protest in late October 2017 over unsafe working conditions. The Potomac Center increased its position count by 60 full-time equivalents for a bed expansion in fiscal 2017, and DDA reported in a response to the 2018 JCR that the positions have been filled. However, recent vacancy rates at the Potomac Center have increased to over 20%. Through the Annual Salary Review, the fiscal 2021 allowance includes salary increases for some of the positions in State-run facilities that have been difficult to fill, including direct care, social worker, licensed practical nurse, and other positions. Further discussion of staffing concerns and vacancies in State-run facilities can be found in the MDH Overview and the MDH Administration analyses.

DDA should discuss the reason for relocating the SETT unit and the extent to which State employees at the Potomac Center will be working with individuals in both the SETT unit and Potomac Center cottages. The agency should provide an update on its efforts to fill both programs' vacancies.

Renovations and Safety Measures

In preparation for the transfer, MDH completed many renovations and safety improvements to two vacant cottages at the Potomac Center location. The initial estimated cost of these renovations did not meet the threshold to be considered a capital project, so MDH is funding these projects with $665,970 in savings in the fiscal 2020 operating budget from vacant positions. The projects included:

- replacing sprinkler heads with institutional grade sprinkler heads, which are tamper and ligature resistant;
- upgrading patient bathrooms with institutional lavatories and durable material finishes;
- remodeling patient bedrooms for installation of institutional grade patient bedroom furniture;
- hardening exterior doors accessible to patients through material reinforcement or replacing them with detention grade doors and hardware;
- installing a comprehensive video management security system to monitor ingress and egress from the cottages and for patient safety in common areas;
- securing the paved area between the two residential cottages with fencing and vehicular gates creating a secured vehicular entry for the transfer of patients from vehicles into patient buildings; and
- installing exterior video security systems.

MDH has four projects that are not yet completed:

- reinforcing and protecting all exterior windows (estimated completion is February 2020);
- installing electronic access control systems including magnetic door locks and card reader access controls (estimated completion is February 2020);
- developing a site lighting plan that will replace and increase existing site lighting fixtures; and
- installing approximately 3,000 linear feet of fencing around the perimeter of the facility, including vehicular and pedestrian gates and security grade doors with electronic access control.

MDH should comment on when all of these facility enhancements will be completed.

Operating Budget Recommended Actions

1. Add the following language to the general fund appropriation:

, provided that $500,000 of this appropriation may not be expended until the department submits a report to the budget committees including recommendations for expanded uses of the Waiting List Equity Fund, an estimate for the number of individuals on the waiting list for community services that would be served under the expanded uses, a timeline for when the agency plans to propose amendments to the statute establishing the fund, and a timeline for spending down the current balance in the fund. The report shall be submitted by October 1, 2020, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if a report is not submitted.

Explanation: At the close of fiscal 2019, the Waiting List Equity Fund (WLEF) had a balance of over $8.0 million. The committees are concerned that the growing fund balance can be used more effectively to provide services for more individuals on the waiting list for community services. The Maryland Department of Health (MDH) has indicated that it worked with stakeholders to develop specific recommendations for changes in the allowable use of the WLEF and planned to propose a change in the statutory and regulatory authority of the fund. However, the department has not provided concrete recommendations or any analysis for the number of individuals who would be served.

Information Request	**Author**	**Due Date**
Report on WLEF uses	MDH	October 1, 2020

2. Add the following language to the general fund appropriation:

Further provided that $1,000,000 of this appropriation may not be expended until the department submits two reports to the budget committees providing updates on the agency's implementation of the new functionalities on the Long Term Services and Supports (LTSS) system and community service provider rate structure. The first report shall be submitted by June 1, 2020, and should include descriptions of the finalized rates, any phase-in decisions, any bridge funding availability, a provider impact analysis based on the final rates, a State budgetary impact based on the final rates, the findings of the LTSS pilot, the corrections applied to the LTSS system as a result of the pilot, and the timeline for meeting the federal electronic-visit verification requirement. The second report shall be submitted by October 1, 2020, and should provide updates on the final operationalized rates; the number of providers, individuals, and service types transitioned to the LTSS system; the number of providers, individuals, and service types that have not transitioned and a timeline for when they will switch systems; the initial impact of new rates on providers; the initial impact of new rates on community services spending; agency spending on bridge funding and the process the agency will use to recoup any overpayments; any defects or issues with the billing and

reimbursement functionality of LTSS; any defects or issues with the service authorization functionality of LTSS and service authorization process overall; and the progress in meeting the electronic-visit verification requirement. The budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of both reports may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if both reports are not submitted.

Explanation: The Maryland Department of Health (MDH) is simultaneously transitioning community service program under the Developmental Disabilities Administration to new functionality on the State's LTSS system, a fee-for-service reimbursement model with new rates, and new community-based services. The department plans to begin implementation in July 2020 but has not announced a comprehensive implementation plan that outlines the final rates, how these rates will be applied, and how a phased-in approach may take place, among other considerations.

Information Request	**Author**	**Due Date**
New rate and LTSS transition report	MDH	June 1, 2020 October 1, 2020

3. Amend the following language to the general fund appropriation:

, provided that $13,253,768 of this appropriation shall be reduced contingent upon the enactment of legislation ~~reducing~~ deferring the amount of the annual funding increase to community service providers.

Explanation: The Budget Reconciliation and Financing Act (BRFA) of 2020 reduces the mandated 4% provider rate increase for community service providers to 2%. This language would leave the proposed reduction but make it contingent on an amendment to the BRFA deferring the 4% rate increase until January 1, 2021.

	Amount Reduction	
4. Reduce the general fund appropriation for the Quality Improvement Organization services contract in anticipation of an enhanced federal fund match.	$ 461,354	GF

5. Amend the following language to the special fund appropriation:

, provided that $70,130 of this appropriation shall be reduced contingent upon the enactment of legislation ~~reducing~~ deferring the amount of the annual funding increase to community service providers.

Explanation: The Budget Reconciliation and Financing Act (BRFA) of 2020 reduces the mandated 4% provider rate increase for community service providers to 2%. This language would leave the proposed reduction but make it contingent on an amendment to the BRFA deferring the 4% rate increase until January 1, 2021.

6. Amend the following language to the federal fund appropriation:

, provided that $11,825,575 of this appropriation shall be reduced contingent upon the enactment of legislation ~~reducing~~ deferring the amount of the annual funding increase to community service providers.

Explanation: The Budget Reconciliation and Financing Act (BRFA) of 2020 reduces the mandated 4% provider rate increase for community service providers to 2%. This language would leave the proposed reduction but make it contingent on an amendment to the BRFA deferring the 4% rate increase until January 1, 2021.

7. Adopt the following narrative:

Person-centered Planning Performance Measures: The Maryland Department of Health (MDH) is integrating the service authorization and person-centered planning process on the agency's integrated care management system, known as Long Term Services and Supports (LTSS). These plans must be authorized at least once every 12 months, and more often if changes in an individuals' services are necessary. Due to the workflow and multiple approvals needed at different stages to authorize a person-centered plan, it is possible that delays and backlogs in this process could cause issues in individuals receiving approval for services. The budget committees request that MDH include goals, objectives, and performance measures related to the processing and timing of person-centered plans in its fiscal 2022 Managing for Results submission.

Information Request	**Author**	**Due Date**
Performance measures related to person-centered planning	MDH	With the submission of the fiscal 2022 allowance

Total General Fund Reductions **$ 461,354**

Budget Reconciliation and Financing Act Recommended Actions

1. Amend the Budget Reconciliation and Financing Act of 2020 to defer the mandated 4% provider rate increase to January 1, 2021, rather than reducing the community service provider rate increase to 2% in fiscal 2021.

2. Add a provision to the Budget Reconciliation and Financing Act of 2020 to reduce $4.1 million in general funds in fiscal 2020 due to anticipated federal fund attainment through the Medicaid waiver programs.

Updates

1. Fiscal 2019 Office of Legislative Audits Review of Budget Closeout Transactions

In an audit report released in June 2015, the Office of the Inspector General (OIG) at the U.S. Department of Health and Human Services (HHS) documented an overbilling of federal funds, resulting in a recommendation that the State refund $34.2 million to the federal government. This $34.2 million represents the federal share of services provided over a three-year period (July 1, 2010, to June 30, 2013) to individuals with developmental disabilities who were provided additional services beyond residential habilitation services (add-on services) because of their high degree of need. During this same time period, the department claimed $329.0 million ($178.7 million federal share) for all add-on waiver services.

OIG reviewed $34.2 million of the federal share and concluded that virtually every claim that it reviewed was not consistent with waiver criteria. The audit alleged that DDA claimed add-on services for beneficiaries who did not meet the waiver's level-of-need requirement for those services under its Community Pathways Waiver program. According to the audit, the waiver allowed add-on services for beneficiaries who met three requirements, including a level-of-need of five on the State agency's Individual Indicator Rating Scale. However, DDA did not consider the beneficiary's level-of-need score when approving add-on services. DDA has since amended its Community Pathways Waiver to eliminate the requirement that individuals receive a level-of-need score of five on the rating scale.

MDH did not concur with the OIG recommendations in a September 2015 response and disagreed with the interpretation that the Community Pathways Waiver required individuals receiving the services to meet three separate requirements. The department has, in the past, interpreted the waiver and operated its program such that an individual who meets any one of the three conditions is eligible for add-on services. The department believes that it is entitled to deference for its interpretation of its waiver language. OIG responded that the agency's interpretation of its waiver (that only one of the three requirements be met) would have been unallowable because it would not have required evidence that there was a need for add-on services or that additional payment was necessary to cover the cost of those services.

MDH received a formal disallowance letter from HHS, dated June 26, 2018, requiring the refund of $34.2 million. On August 23, 2018, MDH issued a Request for Reconsideration letter to HHS to begin the appeals process. During the appeals process, MDH was given the choice to return the funds or retain them and pay any interest that accrues in that time. MDH chose to retain the funds and could be liable for the federal refund of $34.2 million and any accrued interest. According to OLA's *Statewide Review of Budget Closeout Transactions for Fiscal Year 2019*, there has been no further action or correspondence regarding HHS' final determination in response to the August 2018 Request for Reconsideration.

Appendix 1
2019 *Joint Chairmen's Report* Responses from Agency

The 2019 *Joint Chairmen's Report* (JCR) requested that the Developmental Disabilities Administration (DDA) prepare eight reports. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Expanded Use of the Waiting List Equity Fund:*** Language in the fiscal 2020 Budget Bill withheld general funds until DDA submitted recommendations for expanded uses of the Waiting List Equity Fund (WLEF). Further discussion of the WLEF can be found in the fiscal 2019 discussion of this analysis.

- ***Report on Montgomery County's Proposed Plan to Secure Federal Fund Match:*** The fiscal 2020 Budget Bill also included language withholding general funds pending the receipt of a report on the Office of the Attorney General's review of a proposed plan for DDA to pass through matching Medicaid federal funds to Montgomery County. DDA indicated that it would need to complete the implementation of the new rates for its Medicaid waiver services, among other activities, before it could fully consider the proposal. Considering the announcement that full operation of the new rate structure would be delayed, the budget committees chose not to release the withheld funds until DDA outlined actions it could take to consider the plan before the new rates take effect.

- ***Community Services Performance Measures Report:*** DDA submitted a JCR response with descriptions of each of the community services funded by the agency's Medicaid waiver programs before and after the waiver was renewed. The response also identifies new services that will be offered when DDA transitions to its new rate structure. After the new services go into effect, DDA will review its performance measures to ensure that they align with the new services.

- ***Reducing the Waiting List for Community Services:*** In a January 2020 response, DDA indicated that its budget in recent years has been sufficient to serve transitioning youth and individuals in the highest priority category from the community services waiting list. Based on fiscal 2019 new placement data and the average estimated cost of an individual in each service type, DDA estimated that it would cost $171.8 million in additional funding to provide a full year of service to all individuals on the waiting list (approximately 4,200 individuals).

- ***Early Outreach for Community Services:*** In consultation with the Maryland State Department of Education, DDA was tasked with discussing the methods currently used to inform families of school-age children about DDA-funded community services. According to the response, there is a State Agency Transition Collaborative of Maryland that is comprised of State agencies providing support, implementing services, and/or collaborating to provide effective transition services to youth with disabilities. Other outreach activities include distributing transition planning guides to students receiving special education services and their families, inviting

DDA staff to Individual Education Plan (IEP) meetings, and hosting transition events to provide information about the DDA application process, among other strategies.

- ***Job Coaching Opportunities for Individuals with Developmental Disabilities:*** According to a September 2019 response, DDA funded 124 supported employment and employment discovery and customization providers to serve 3,820 individuals in fiscal 2018, totaling $56.0 million in expenditures. Supported employment in its current form, including ongoing job coaching, will be phased out and replaced with more stratified employment service options as the new rate and service structure takes effect.

- ***Report on the Rate-setting Process:*** In a response submitted on January 21, 2020, DDA outlined how it contracted with two separate vendors and worked with a technical workgroup of stakeholders to develop new rates, verify the cost assumptions, and ensure that the rates reflect the requirements of providing community services. See Issue 1 for additional discussion.

- ***Services for Transitioning Youth:*** The 2019 JCR requested that DDA work with the Department of Rehabilitation Services (DORS) and the Department of Human Services (DHS) to outline each agency's process for preparing youth aging out of DORS or DHS programs for their potential transition to DDA-funded adult services. DORS and DHS coordinate their services with a child's goals established in an IEP, among other efforts to prepare children for when they age out of services. DDA may provide case management services to youth who have developmental disabilities (as defined by statute) and facilitate the development of a person-centered plan as part of its transition coordination.

Appendix 2
Audit Findings

Audit Period for Last Audit:	April 13, 2015 – April 30, 2018
Issue Date:	July 2019
Number of Findings:	11
Number of Repeat Findings:	4
% of Repeat Findings:	36.4%
Rating: (if applicable)	Unsatisfactory

Finding 1: The Developmental Disabilities Administration (DDA) did not ensure level-of-need scores used to determine consumers' service budgets were assigned in accordance with DDA's established criteria and were properly recorded in its Provider Consumer Information System 2 (PCIS 2). The Office of Legislative Audits (OLA) found that certain scores could not be supported.

Finding 2: DDA did not identify recurring overpayments made over several years totaling at least $1.7 million that were later self-reported by a provider. In addition, DDA did not subsequently determine the full extent of the overpayments to this provider and whether similar overpayments were made to other providers.

Finding 3: **DDA did not conduct audits of providers to ensure payments were consistent with actual services delivered and in accordance with the consumers' approved individual plans.** Effective January 1, 2020, DDA has a contract with a Quality Improvement Organization that should correct this finding by requiring the vendor to conduct utilization reviews.

Finding 4: Fiscal management services contracts were not comprehensive and properly approved, and DDA did not monitor the related vendors to ensure that the required services were provided and the propriety of payments. All related federal reimbursements were not obtained, including federal funds totaling $4.9 million.

Finding 5: DDA did not adequately justify a $2.7 million sole source contract awarded to an incumbent vendor to continue assisting in the financial restructuring of DDA operations and could not support a significant increase in the contract rates for one vendor employee.

Finding 6: DDA did not have an adequate process to ensure that amounts invoiced by Coordination of Community Services agencies properly reflected consumer services provided.

Finding 7: **DDA had not taken sufficient action to identify and return improper contribution to care collections identified during OLA's preceding audit.**

Finding 8: **DDA did not recover certain federal funds timely, resulting in lost interest income of approximately $126,000. These delays were due, in part, to untimely Medicaid eligibility redeterminations.**

Finding 9: **DDA did not verify the accuracy and completeness of critical adjustments that were processed in PCIS 2, resulting in errors such as overpayments going undetected, and did not adequately restrict user access in the system.**

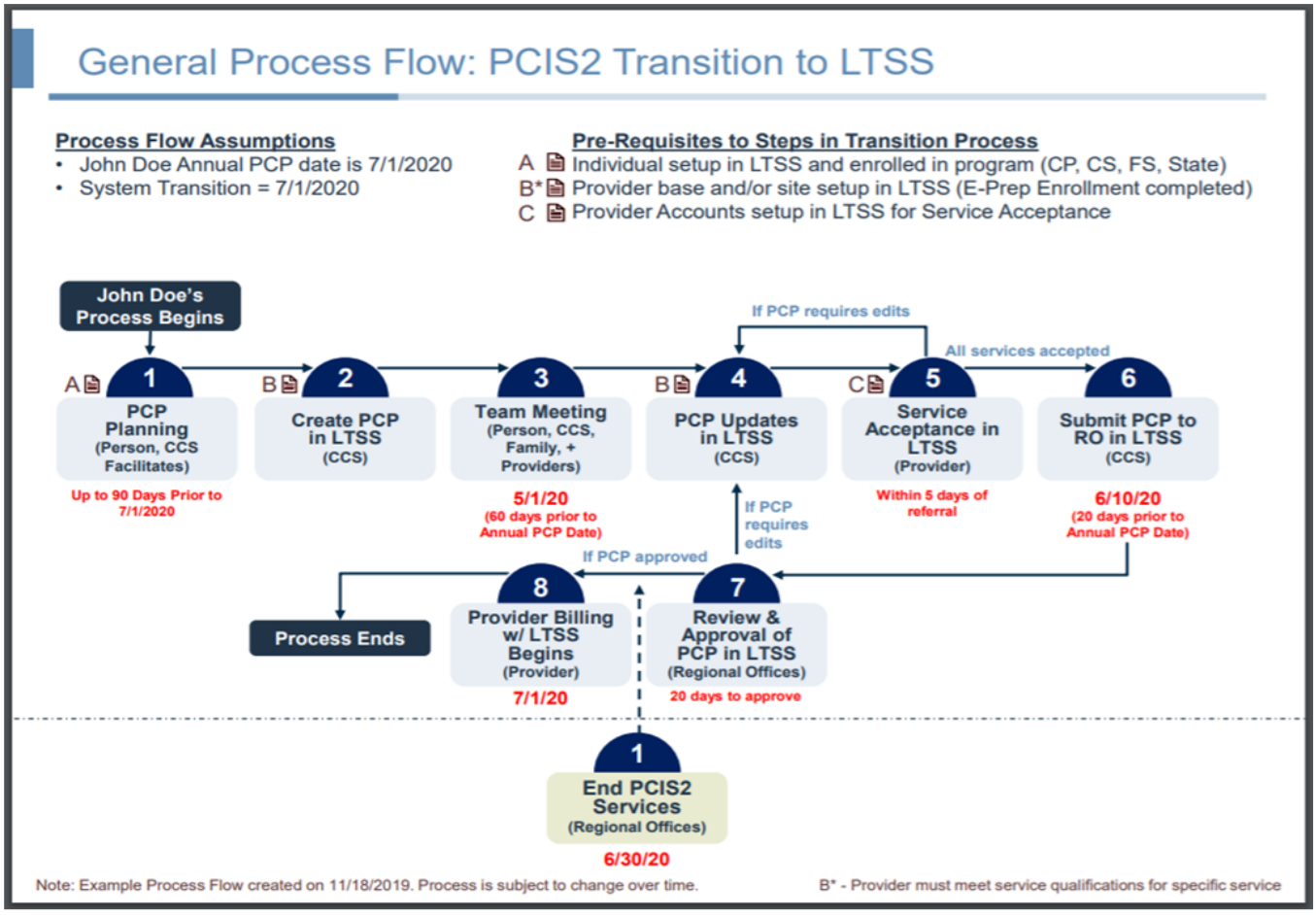
Finding 10: The PCIS 2 database and its supporting server were running on outdated software versions.

Finding 11: PCIS 2 database and application backups were not stored offsite, and DDA did not have a complete information technology disaster recovery plan for recovering computer operations.

*Bold denotes item repeated in full or part from preceding audit report.

Note: Although the Department of Legislative Services would typically recommend budget language withholding funds until the department takes corrective action with respect to all repeat audit findings and OLA submits a report with a determination that each repeat finding was corrected, OLA will be conducting a six month follow-up review of DDA due to its unsatisfactory rating and will examine all of the repeat findings through that process.

Appendix 3
Example Workflow for a Person-centered Plan to be Approved and Processed



Source: Maryland Department of Health

Appendix 4
Community Service Structure under the Current and New Systems

Existing Service	Updated/New Services
Residential Habilitation (Group Home and Assisted Living Unit)	Community Living – Group Home
	Community Living – Enhanced Support
Community Exploration	Trial Experience (Group Home and Enhanced Support)
Residential Retainer Fee	Retainer Fee
Shared Living	Shared Living
Personal Supports	Personal Supports
	Supported Living
Supported Employment	Employment Services – Job Development
	Employment Services – Follow Along Supports
	Employment Services – Ongoing Job Supports
	Employment Services – Coworker Employment Supports
	Employment Services – Customized Self-Employment
	Career Exploration – Facility Based Employment
	Career Exploration – Large Group
	Career Exploration – Small Group
Employment Discovery and Customization	Employment Services – Discovery
Community Learning Services	Community Development Services
Day Habilitation	Day Habilitation
Assistive Technology and Adaptive Equipment	Assistive Technology and Services
Behavioral Assessment	BSS – Behavioral Assessment
Behavioral Support Services	BSS – Behavioral Plan
Behavioral Consultation	BSS – Behavioral Consultation
Temporary Augmentation of Staff	BSS – Brief Support Implementation
Behavioral Respite	Behavioral Respite
Behavioral Mobile Crisis Intervention	Behavioral Mobile Crisis Intervention
Environmental Assessment	Environmental Assessment
Environmental Modification	Environmental Modification
Live-in Caregiver Rent	Live-in Caregiver Supports

Existing Service	**Updated/New Services**
Transition Services	Transition Services
Transportation Transportation – Self-Direction	Transportation
Vehicle Modification	Vehicle Modification
Respite	Respite Care Services – Day Respite Care Services – Hour Respite Care Services – Camp
New Services	Nursing – Nurse Consultation Nursing – Nurse Health Case Management Nursing – Nurse Case Management and Delegation Family and Peer Mentoring Supports Family Caregiver Training and Empowerment Participant Education, Training, and Advocacy Remote Support Services Housing Support Services
Family and Individual Support Services	Personal Supports Community Development Services Family and Peer Mentoring Supports Family Caregiver Training and Empowerment Participant Education, Training, and Advocacy Housing Support Services
Individual Directed Goods and Services	Individual and Family Directed Goods and Services Individual and Family Directed Goods and Services – Staff Advertising and Recruiting
Support Brokerage	Support Broker

BSS: Behavioral Support Services

Source: Maryland Department of Health

Appendix 5
Object/Fund Difference Report
MDH –Developmental Disabilities Administration

Object/Fund	FY 19 Actual	FY 20 Working Appropriation	FY 21 Allowance	FY 20 - FY 21 Amount Change	Percent Change
Positions					
01 Regular	645.95	650.75	644.55	-6.20	-1.0%
02 Contractual	30.56	44.64	44.90	0.26	0.6%
Total Positions	**676.51**	**695.39**	**689.45**	**-5.94**	**-0.9%**
Objects					
01 Salaries and Wages	$ 49,380,051	$ 49,872,386	$ 51,103,753	$ 1,231,367	2.5%
02 Technical and Spec. Fees	2,021,440	2,287,305	2,435,426	148,121	6.5%
03 Communication	247,430	275,435	244,326	-31,109	-11.3%
04 Travel	95,227	63,958	118,888	54,930	85.9%
06 Fuel and Utilities	1,084,815	1,494,774	1,151,289	-343,485	-23.0%
07 Motor Vehicles	78,113	80,726	117,062	36,336	45.0%
08 Contractual Services	1,173,700,265	1,295,204,997	1,367,711,451	72,506,454	5.6%
09 Supplies and Materials	1,473,032	1,829,448	1,883,791	54,343	3.0%
10 Equipment – Replacement	657,829	278,710	118,442	-160,268	-57.5%
11 Equipment – Additional	206,694	26,096	94,742	68,646	263.1%
12 Grants, Subsidies, and Contributions	1,225,985	980,000	980,000	0	0%
13 Fixed Charges	716,390	636,932	750,945	114,013	17.9%
14 Land and Structures	819,781	0	0	0	0.0%
Total Objects	**$ 1,231,707,052**	**$ 1,353,030,767**	**$ 1,426,710,115**	**$ 73,679,348**	**5.4%**
Funds					
01 General Fund	$ 664,037,152	$ 733,577,754	$ 771,687,191	$ 38,109,437	5.2%
03 Special Fund	5,135,491	6,093,775	6,268,497	174,722	2.9%
05 Federal Fund	562,504,812	613,329,641	648,724,830	35,395,189	5.8%
09 Reimbursable Fund	29,597	29,597	29,597	0	0%
Total Funds	**$ 1,231,707,052**	**$ 1,353,030,767**	**$ 1,426,710,115**	**$ 73,679,348**	**5.4%**

MDH: Maryland Department of Health

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.

Appendix 6
Fiscal Summary
MDH – Developmental Disabilities Administration

Program/Unit	FY 19 Actual	FY 20 Wrk Approp	FY 21 Allowance	Change	FY 20 - FY 21 % Change
01 Developmental Disabilities Administration	$ 1,186,017,900	$ 1,309,582,130	$ 1,382,569,113	$ 72,986,983	5.6%
05 Holly Center	17,316,457	17,031,133	17,497,015	465,882	2.7%
06 Court Involved Service Delivery	8,753,389	8,030,193	8,033,872	3,679	0%
07 Potomac Center	18,797,064	17,465,113	17,705,206	240,093	1.4%
15 Facility Maintenance	822,242	922,198	904,909	-17,289	-1.9%
Total Expenditures	**$ 1,231,707,052**	**$ 1,353,030,767**	**$ 1,426,710,115**	**$ 73,679,348**	**5.4%**
General Fund	$ 664,037,152	$ 733,577,754	$ 771,687,191	$ 38,109,437	5.2%
Special Fund	5,135,491	6,093,775	6,268,497	174,722	2.9%
Federal Fund	562,504,812	613,329,641	648,724,830	35,395,189	5.8%
Total Appropriations	**$ 1,231,677,455**	**$ 1,353,001,170**	**$ 1,426,680,518**	**$ 73,679,348**	**5.4%**
Reimbursable Fund	$ 29,597	$ 29,597	$ 29,597	$ 0	0%
Total Funds	**$ 1,231,707,052**	**$ 1,353,030,767**	**$ 1,426,710,115**	**$ 73,679,348**	**5.4%**

MDH: Maryland Department of Health

Note: The fiscal 2020 appropriation does not include deficiencies, planned reversions, or general salary increases. The fiscal 2021 allowance does not include contingent reductions or general salary increases.