

**SB599\_MoCo\_Frey\_FAV.pdf**

Uploaded by: Leslie Frey

Position: FAV



# Montgomery County

## Office of Intergovernmental Relations

---

**ROCKVILLE: 240-777-6550**

**ANNAPOLIS: 240-777-8270**

---

**SB 599**

**DATE: February 20, 2024**

**SPONSOR: Senator Kramer**

**ASSIGNED TO: Finance**

**CONTACT PERSON: Leslie Frey**

**(leslie.frey@montgomerycountymd.gov)**

**POSITION: FAVORABLE**

---

### **Developmental Disabilities - Community Providers - Federal Participation for Local Funds**

Senate Bill 599 ensures that the Developmental Disabilities Administration (DDA) will secure federal funding that would go directly to community providers of services to people with developmental disabilities. Specifically, the bill requires DDA to develop a process to receive federal funds for the appropriation of county or municipal general funds to community providers. The bill requires DDA to establish or modify DDA resources, rates, practices, or software systems, and to coordinate with the Centers for Medicare and Medicaid Services (CMS) to secure the federal funds. DDA must allocate the federal funds received under the bill to the community providers to which county or municipal funds have been appropriated. Senate Bill 599 requires DDA to submit a report to the General Assembly on December 1, 2024, and every six months thereafter that describes the actions taken to secure the federal funds; deadlines and resources required by DDA to secure the funds; and progress made towards securing the federal funds.

The provision of community services to people with developmental disabilities is the primary responsibility of DDA. However, the higher cost doing business in certain areas of the State has prompted some counties to provide county general funds as financial incentives to encourage providers to serve clients with developmental disabilities. This allocation of county general funds is appropriated to community providers in the counties providing the incentive and it helps maintain competitive wages for frontline workers that Medicaid reimbursement rates alone cannot support. From FY94 until FY99, DDA facilitated securing federal funding due to the county general funds that were used as supplemental incentives. However, since FY00 counties have continued to provide their general funds to community providers without the State securing available federal funds to support this considerable effort, despite ongoing requests, workgroups, and outreach to DDA to re-instate the process for securing federal funds.

Montgomery County has been providing County general funds to community providers since 1974 and has only received cooperation from DDA to secure available federal funds for this financial commitment for five years from FY94 until FY99. The passage of Senate Bill 599 would ensure that DDA secures tens of millions of dollars in annual federal funding to directly support providers of community services. Every year that passes without DDA taking action this federal funding is left on the table.

We respectfully urge the committee to issue a favorable report on Senate Bill 499 to require DDA to do its part to secure federal funding to ensure the sustainability of the provision community services to Marylanders with developmental disabilities.

**SB0599-FIN\_MACo\_SUP.pdf**

Uploaded by: Sarah Sample

Position: FAV



## **Senate Bill 599**

*Developmental Disabilities – Community Providers –  
Federal Participation for Local Funds*

MACo Position: **SUPPORT**

To: Finance Committee

Date: February 20, 2024

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS** SB 599. This bill makes county governments eligible for supplemental funds via federal participation for local appropriations to community providers fulfilling service needs to developmentally disabled residents.

Developmental disability care and services in communities are primarily covered through a state and federal funding partnership. These are indispensable resources for community members that rely on these services. In some instances though, the county governments fund these services with allocations from the local general fund. As the funding has primarily been the responsibility of the state and federal government for disability services, when a county steps in to cover a gap or fulfill a need, they currently are not able to couple those costs with eligible federal funds. Counties appreciate the recognition of these local investments and the ability this bill provides to recover costs that are eligible for reimbursement when the state is funding them.

This bill will ensure federal funding is available to supplement the investments being made by county governments in this area. Accordingly, MACo urges a **FAVORABLE** report for SB 599.

**11 - SB 599 - FIN - MDH- LOO (1).pdf**

Uploaded by: Jason Caplan

Position: UNF



## DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 20, 2024

The Honorable Pamela Beidle  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, Maryland 21401

### **RE: Senate Bill 599 - Developmental Disabilities - Community Providers - Federal Participation for Local Funds - Letter of Opposition**

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of opposition for Senate Bill (SB) 599 - Developmental Disabilities - Community Providers - Federal Participation for Local Funds.

SB 599 would require the Department to develop a means to receive Federal Financial Participation (FFP) for county and municipality funds designated to supplement the rates paid by the Department's Medicaid waiver programs for individuals with intellectual and developmental disabilities.

The Department is committed to ensuring that our Medicaid waiver programs remain strong and equitable in order to ensure the best outcomes for Marylanders. We are deeply concerned that SB 599 would have detrimental impacts on these programs that are operated by our Developmental Disabilities Administration (DDA). There are three primary areas of risk related to SB 599: (1) impact on rate-setting, (2) impact on waiver cost neutrality and health equity outcomes, and (3) impact on Department systems and operations.

#### **Impact on Rate-Setting and Health Equity**

DDA operates three Medicaid waiver programs for individuals with intellectual and developmental disabilities: Community Pathways, Community Supports, and Family Supports. Under the present rate-setting system, the Department sets a single statewide rate for each waiver service, and then provides an enhanced differential rate for participants in counties with a high cost of living. This differentiated rate is available in Frederick, Montgomery, Prince George's, Calvert, and Charles Counties. The present rate-setting system uses nationally-recognized best practices to ensure that rates are set at a competitive and well-calibrated level of reimbursement, in line with Centers for Medicare & Medicaid Services (CMS) requirements and with actuarial analysis. Existing practices in Maryland are aligned with national standards and with the common practices of neighboring states.

Under SB 599, Maryland’s waiver programs would no longer have two rate tables. The theoretical maximum number of rate tables under SB 599 could be as many as 360, depending on implementation. This prospect is raised by the possibility that each county and municipality in Maryland (23 counties and 157 municipalities) could set a distinct rate for its providers. If the Department were to retain its present geographic differential rate (which is based on participant address, not provider address), the Department would need to differentiate rates for every combination of provider jurisdiction and participant jurisdiction, leading to a maximum of 360 total sets of rates. Such a system would compromise the integrity of the existing rate-setting process, which is informed by input from stakeholders and is designed to ensure that fair and efficient rates are available throughout the State.

The rate-setting mechanism envisioned by SB 599 also exacerbates existing health equity issues, as rates could vary widely across small geographic distinctions, particularly within underrepresented communities. Counties and cities with larger budgets and larger populations would have greater capacity to supplement their local rates, attracting more providers to their jurisdictions. This could result in the highest-quality services being available only to those waiver participants with the wherewithal to live or move into a jurisdiction with favorable rates. In addition, provider capacity in underrepresented communities would continue to diminish or deteriorate under this system. The financial risks and new expenditures associated with this proposal, including system development, new types of fiscal operations, auditing and actuarial services, and other associated costs, would also affect the State’s ability to enroll new waiver participants and reduce its waiver program waiting lists, including for individuals in crisis situations.

### **Impact on Cost-Neutrality**

All Medicaid waiver programs must be “cost-neutral,” a standard which CMS employs to determine if services provided under the waiver cost an amount equal to or less than the cost of institutional services, such as those provided by the Department’s Holly Center and Potomac Center (42 CFR 441.303(f)(1)). At present, the State is able to manage cost-neutrality for its waivers through the rate-setting process.

Under SB 599, the State would lose control over the final rates paid to providers, as counties and municipalities would be allowed to “supplement” these rates to any extent they chose. This loss of oversight raises the possibility that a county or municipality could set its rates to a level which would violate the cost-neutrality maximum. In such an event, CMS could decertify the waiver program and halt FFP, leaving the State responsible for the entire cost of waiver services, exceeding \$2 billion per year.

### **Impact on MDH Systems and Operations**

Developing system capabilities to support the mechanisms envisioned by SB 599 would be difficult. First, Department software systems such as the Maryland Long Term Services and Support System (LTSS*Maryland*) billing application would require at least \$1M in additional one-time funding to prepare to support hundreds of new rate tables and novel provider-address-based rate calculations. Second, the Medicaid Administration and the DDA would require at least \$5M in new staffing costs over the first 5 years of the program. Third, the DDA would be

required to establish a significant accounts receivable operation, to invoice each county and municipality for their portion of the general funds expenditure applied to the final rate. The Department estimates that the volume of funds passing through this operation could exceed \$100M per year. In the event that a county or municipality could not pay their expected portion of the rate, or was delayed in providing payment, the State would absorb this cost into its General Funds. The State also projects new recurring costs of approximately \$155,000 per year for expanded auditing and actuarial services needed to support these new fiscal operations.

The Department remains committed to building equitable, efficient, and responsive health programs for all Marylanders. We are focused on creating rate systems which equitably support participants, direct support professionals, and provider agencies throughout the state.

For these reasons, the Department respectfully recommends that the committee vote unfavorably on SB 599.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs, at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,



Laura Herrera Scott, M.D., M.P.H.  
Secretary



**SB0599\_TheArc and MACS-LOI.pdf**

Uploaded by: Ande Kolp

Position: INFO

SENATE FINANCE COMMITTEE  
**SB 599: Developmental Disabilities – Community Providers –  
Federal Participation for Local Funds**  
February 20, 2024

**Position: Letter of Information**

The Arc Maryland and MACS are statewide organizations that work to protect and advance the rights and quality of life of people with developmental disabilities.

HB509 would require the Maryland Department of Health to “develop and implement a process” to receive federal financial participation (FMAP) for the payment of county or municipal general funds appropriated to community providers. As part of this prescribed process, the Department would be tasked with establishing or modifying department resources, rates, practices or software systems, coordinating with federal CMS, and allocating the federal funds (FMAP) to the community providers to which the county or municipality general funds were appropriated.

The goal of this legislation, to draw down additional federal matching funds to maximize funds provided by a subset of counties, is laudable. **However, due to the complexity of funding and rate-setting for DDA-licensed providers, we believe further study is warranted to examine the impacts these proposed changes would have on home and community based DDA providers, the workforce, and thousands of people with intellectual and developmental disabilities who receive services in Maryland.**

**Issues that may warrant further study:**

**Regional Rate Differentials:** The rate-setting changes that would be required if MDH were to move forward with this process would likely impact providers in other jurisdictions. In Maryland Developmental Disabilities Services, there are currently two regions with different rates based on geographic costs of living:

For each jurisdiction that participates in an intergovernmental transfer of funds, the jurisdiction must have its own set of rates. This process would make substantial changes to the rate-setting process that has been underway since legislation passed in 2014 to mandate a new rate system for DDA community services. This would then require a rebasing of the rates for the remaining counties, most likely lowering/changing the rates that have already been set in many counties. This will impact the financial stability of providers and services for people with disabilities in those jurisdictions, as they have based the services they provide on the existing rate structure.

CMS approvals are needed for new federal rate matches: It is our understanding that CMS must approve a new rate structure and the creation of the new rate regions. We believe we must research the possibility that CMS could decline justification of the higher rates proposed for match in a certain region.

**Loss of flexibility:** Currently, in the counties where local funding is contributed to developmental disability services, those funds may be used with flexibility and where needed to enhance quality, recruit and train caregivers, offset housing expenses for people, offset higher facility costs in certain areas of the state, provide unfunded transportation, and meet other service-related needs. A change in how county funds are allocated would impact the flexibility in how they are used. Medicaid funding cannot be used for housing, certain transportation, and other operating expenses providers have used their county supplements to cover to date.

In addition, provider payments from the DDA are based on utilization. Operating expenses continue, even if an individual is absent from services for a day, however providers cannot be paid on days/ times a person is absent. The county supplemental funding has been used by providers to bridge the gap between what they can recover from the state for billable services, and what is needed overall for ongoing program quality and stability: sustainment of staff, buildings, utilities, and other operating necessities.

A loss of these critical flexibilities could destabilize community providers and impact services and supports for people with IDD.

**Rates in General:** The Developmental Disabilities Administration has been in the process of completing a rate study for the DDA Waiver Services for the past 10 years, and it is nearing completion. The changes proposed by this legislation would require a comprehensive review of the entire rate-setting process statewide. This could delay rate-changes that are critically necessary to stabilize and strengthen community supports.

We understand the goal is to leverage local dollars to enhance federal matching fund participation. However, we believe a study to examine the potential impacts of proposed changes on people with developmental disabilities would be prudent to ensure there are no unintended consequences.

For more information, please contact:

Ande Kolp, Executive Director, The Arc Maryland [akolp@thearcmd.org](mailto:akolp@thearcmd.org)

Laura Howell, Chief Executive Officer, Maryland Association of Community Services, [lhowell@macsonline.org](mailto:lhowell@macsonline.org)