

**M00B0103**  
**Office of Health Care Quality**  
**Maryland Department of Health**

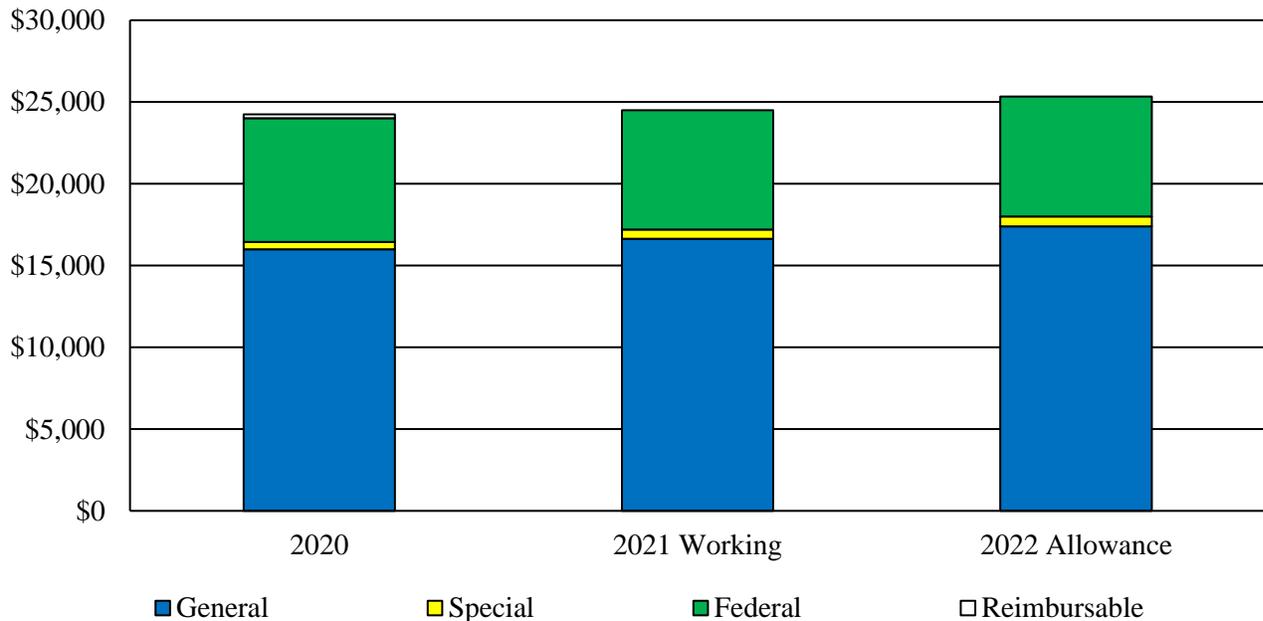
**Program Description**

The Office of Health Care Quality (OHCQ) is the agency within the Maryland Department of Health (MDH) mandated by State and federal law to determine compliance with the quality of care and life standards for a variety of health care services and programs. Facilities and services are reviewed on a regular basis for compliance with the State regulations as well as compliance with federal regulations in those facilities participating in Medicare and Medicaid. OHCQ is organized into five major units that have separate facility licensing and regulatory responsibility: Developmental Disabilities Unit (DDU); Ambulatory Care Unit; Assisted Living Unit (ALU); Long Term Care Unit; and Hospital Unit. Smaller regulatory units oversee laboratories, hospice facilities, and adult medical day care.

***Operating Budget Summary***

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**Fiscal 2022 Budget Increases \$840,600, or 3.4%, to \$25.3 Million**  
(\$ in Thousands)



Note: The fiscal 2021 appropriation includes deficiencies, planned reversions, and general salary increases. The fiscal 2022 allowance includes contingent reductions, annual salary reviews, and annualization of fiscal 2021 general salary increases.

- The increase in expenditures for OCHQ is driven by 10 new employees provided to further improve OCHQ’s surveying of health care providers in the State.

## **Fiscal 2020**

OHCQ received reimbursable funds from the Office of Preparedness and Response supported by the federal Coronavirus Aid, Relief, and Economic Security Act to assist their efforts in response to COVID-19 in fiscal 2020. These funds totaled \$226,560: \$117,822 of which went to regular employee compensation; another \$85,659 to contractual employee compensation; and the remaining \$23,079 for supplies.

## **Fiscal 2021**

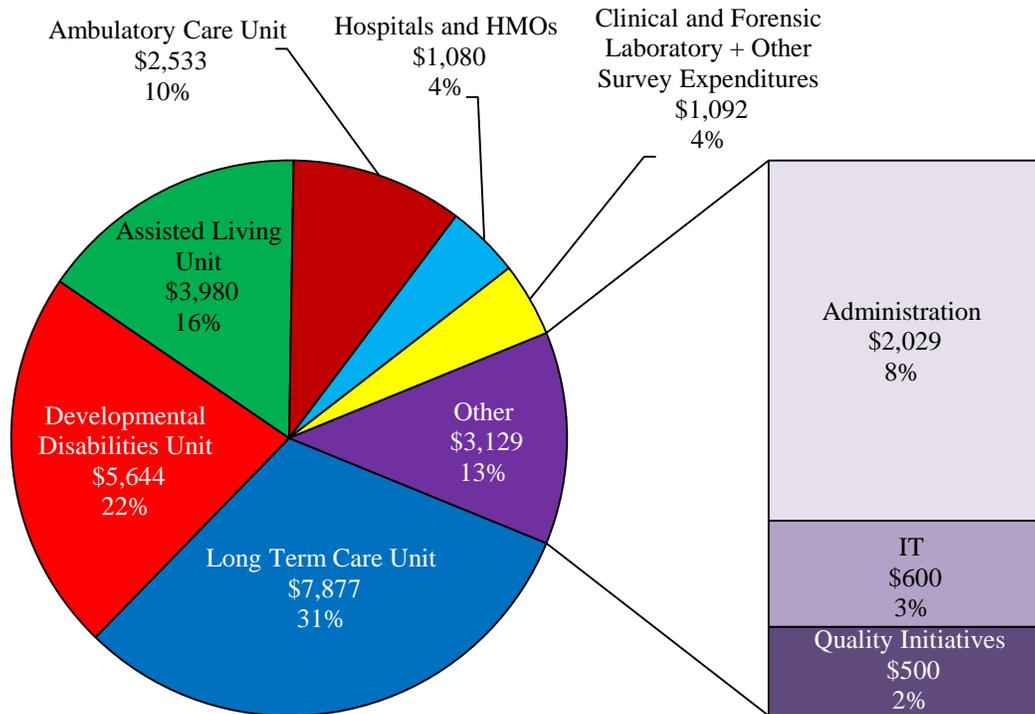
### **July 1, 2020 Board of Public Works Reductions**

At the July 1, 2020 meeting of the Board of Public Works (BPW), the Governor proposed, and BPW approved, a reduction in unemployment insurance across State government. In OHCQ, this resulted in a total fund reduction of \$43,413. Operating costs for supplies, vehicle repair, and postage were also reduced by \$23,316.

## **Fiscal 2022 Overview of Agency Spending**

OHCQ’s fiscal 2021 proposed budget is \$25.3 million. OHCQ is organized into five major units that provide oversight of different health care facilities throughout the State. Additional, smaller regulatory units oversee laboratories, hospice facilities, and adult medical day care. **Exhibit 1** shows how the expenditures are distributed throughout the different units. Additionally, OHCQ dedicates some resources to services that assist all of the different monitoring units, including administrative expenses, information technology solutions, and quality performance measures, also itemized in Exhibit 1.

**Exhibit 1  
Overview of Agency Spending  
Fiscal 2022 Allowance  
(\$ in Thousands)**



HMO: health maintenance organization  
IT: information technology

Note: Annual Salary Review and annualization of general salary increase distributed proportionately by overall personnel expenditures.

Source: Governor’s Budget Books

Considering the regulatory nature of OHCQ, the overwhelming amount of spending in each unit as well as agencywide is personnel-related expenditures. In fiscal 2022, regular employees’ salaries and fringe benefits account for all but \$2.6 million of the agency’s total expenditures, or 90% of total expenses.

**Proposed Budget Change**

The most substantive changes to the OHCQ budget are personnel related; OHCQ gained a net of 9 new positions again this year in hopes to improve its rate of inspecting health care facilities. This increase in personnel expenditures was offset by a \$670,435 reduction in payment to the Montgomery County Health Department to conduct nursing home surveys by local health department

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staff. OHCQ reports that this was the last outstanding outside contract for nursing home surveys and, as the agency has continued to increase staff, it has been able to bring all survey functions internally. As shown in **Exhibit 2**, these two large changes explain the change in the budget between fiscal 2021 and 2022.

**Exhibit 2**  
**Proposed Budget**  
**MDH – Office of Health Care Quality**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimb. Fund</b>	<b>Total</b>
Fiscal 2020 Actual	\$15,987	\$447	\$7,584	\$227	\$24,244
Fiscal 2021 Working Appropriation	16,629	577	7,289	0	24,495
Fiscal 2022 Allowance	<u>17,399</u>	<u>599</u>	<u>7,337</u>	<u>0</u>	<u>25,335</u>
Fiscal 2021-2022 Amount Change	\$770	\$22	\$48	\$0	\$841
Fiscal 2021-2022 Percent Change	4.6%	3.8%	0.7%		3.4%

<b>Where It Goes:</b>	<b>Change</b>
<b>Personnel Expenses</b>	
Compensation and fringe benefits for 10 new employees as mandated by Chapter 454 of 2018, discussed further below.....	\$693
Employee and retiree health insurance .....	301
Other increases in regular employee compensation, offset by removal of physician program specialist.....	217
Annualization of fiscal 2021 general salary increase.....	171
Social Security contributions .....	17
Annual salary review for fiscal services employees .....	14
Other fringe benefit adjustments.....	1
Turnover adjustments.....	-22
<b>Other Changes</b>	
Net increase in contractual employee compensation and fringe benefits driven by compensation increase in the Laboratory and Long Term Care Units.....	43
Other operating expenditures .....	21
Decrease in reimbursements paid directly to the Montgomery County Health Department for certification surveys of nursing homes conducted by local health department personnel, partially offset by an increase in operations by the Long Term Care Unit.....	-614
<b>Total</b>	<b>\$841</b>

MDH: Maryland Department of Health

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

***Personnel Data***

	<b><u>FY 20</u></b> <b><u>Actual</u></b>	<b><u>FY 21</u></b> <b><u>Working</u></b>	<b><u>FY 22</u></b> <b><u>Allowance</u></b>	<b><u>FY 21-22</u></b> <b><u>Change</u></b>
Regular Positions	210.00	221.00	230.00	9.00
Contractual FTEs	<u>8.21</u>	<u>12.50</u>	<u>12.50</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>218.21</b>	<b>233.50</b>	<b>242.50</b>	<b>9.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	19.80	9.00%
Positions and Percentage Vacant as of 12/31/20	25.00	10.7%
Vacancies Above Turnover	5.2	1.7%

**New Positions**

The fiscal 2022 allowance authorizes 10 new positions to investigate health facilities in an attempt to meet mandated inspection goals. Chapter 454 of 2018, the Maryland Nursing Home Resident Protection Act, mandated the addition of personnel to OHCQ through fiscal 2024, at which time 50 new positions will have been authorized. The fiscal 2022 budget complies with the statute, as did the fiscal 2020 and 2021 budgets. **Exhibit 3** shows how the new positions have been allocated within OHCQ from fiscal 2020 to 2022.

**Exhibit 3**  
**OHCQ: Allocation of New Positions**  
**Fiscal 2020-2022**

<b><u>Unit</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>Cumulative</u></b>
Ambulatory Care Unit	1	1	1	3
Assisted Living Unit	1	1	1	3
Developmental Disabilities Unit	4	3	4	11
Long Term Care Unit	4	5	4	13
Total	10	10	10	30

OHCQ: Office of Health Care Quality

Source: Governor’s Proposed Budget

This increase is slightly offset by the loss of a physician program specialist in the Quality Measure Unit for OHCQ. Additionally, OCHQ moved employees within the program and units, adding 1 additional position to both the Ambulatory Care Unit and DDU at the expense of the Quality Initiatives and Hospitals and Health Maintenance Organization Unit.

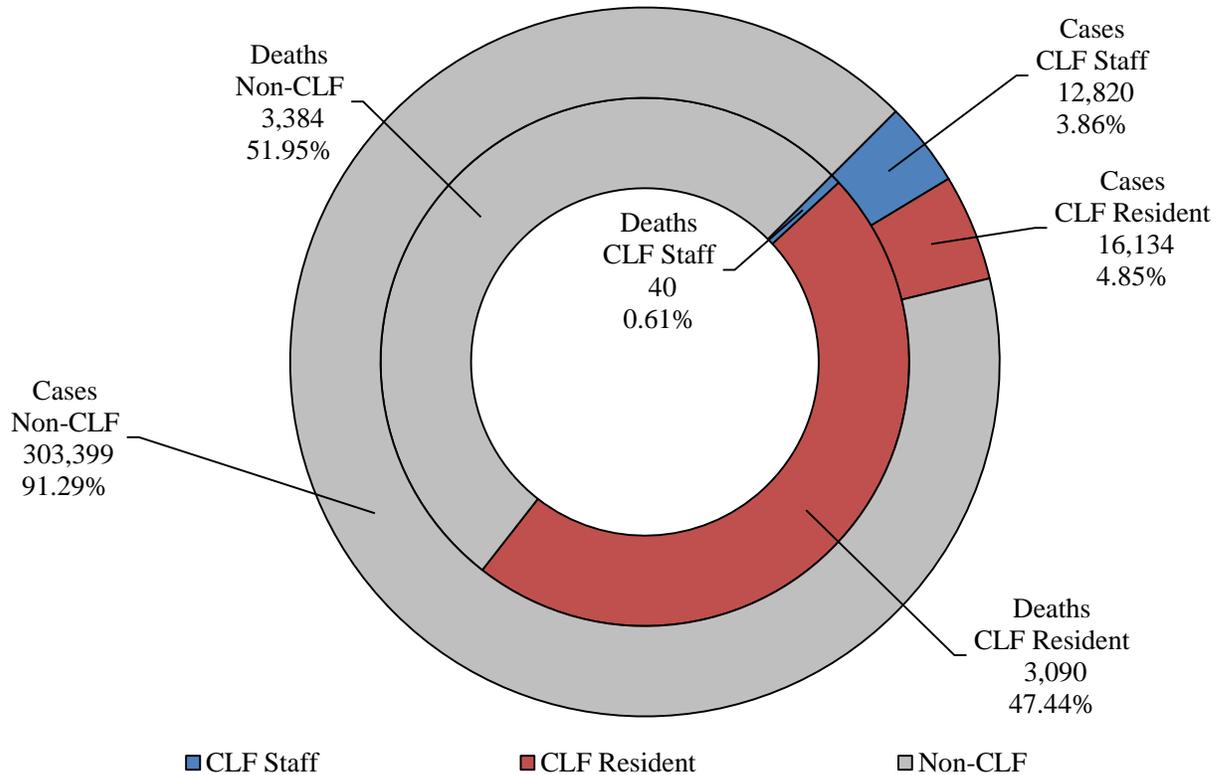
## ***Key Observations***

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### **1. COVID-19 in State’s Nursing Homes and Assisted Living Facilities and the Impact on OCHQ’s Surveys**

There are 227 nursing homes with over 22,000 residents and approximately 1,600 assisted living facilities with approximately 25,000 residents in Maryland, all of which are regulated by OHCQ. Nursing homes and assisted living facilities have been a major source of COVID-19 cases and deaths. The combination of elderly patients with underlying health conditions and a congregate living environment exacerbated the impact of the novel coronavirus, especially before heightened safety protocols were implemented. Analysis from the Kaiser Family Foundation, updated and accessed on January 5, 2021, estimates that 38% of all COVID-19 deaths nationwide occurred in long-term care facilities. In Maryland, this rate is higher than the national average. According to MDH, as of January 20, 2021, nearly half of all of COVID-19 deaths in Maryland occurred in nursing homes, assisted living facilities, and group homes (collectively congregate living facilities (CLF)). While this figure includes both staff and residents, residents account for the overwhelming majority of fatalities in CLFs. Due to the population at these facilities, the case fatality rate in CLFs is much higher than the general population. **Exhibit 4** shows the share of cases and fatalities between CLF residents, staff, and the general population.

**Exhibit 4**  
**Share of COVID-19 Cases and Deaths in CLFs**



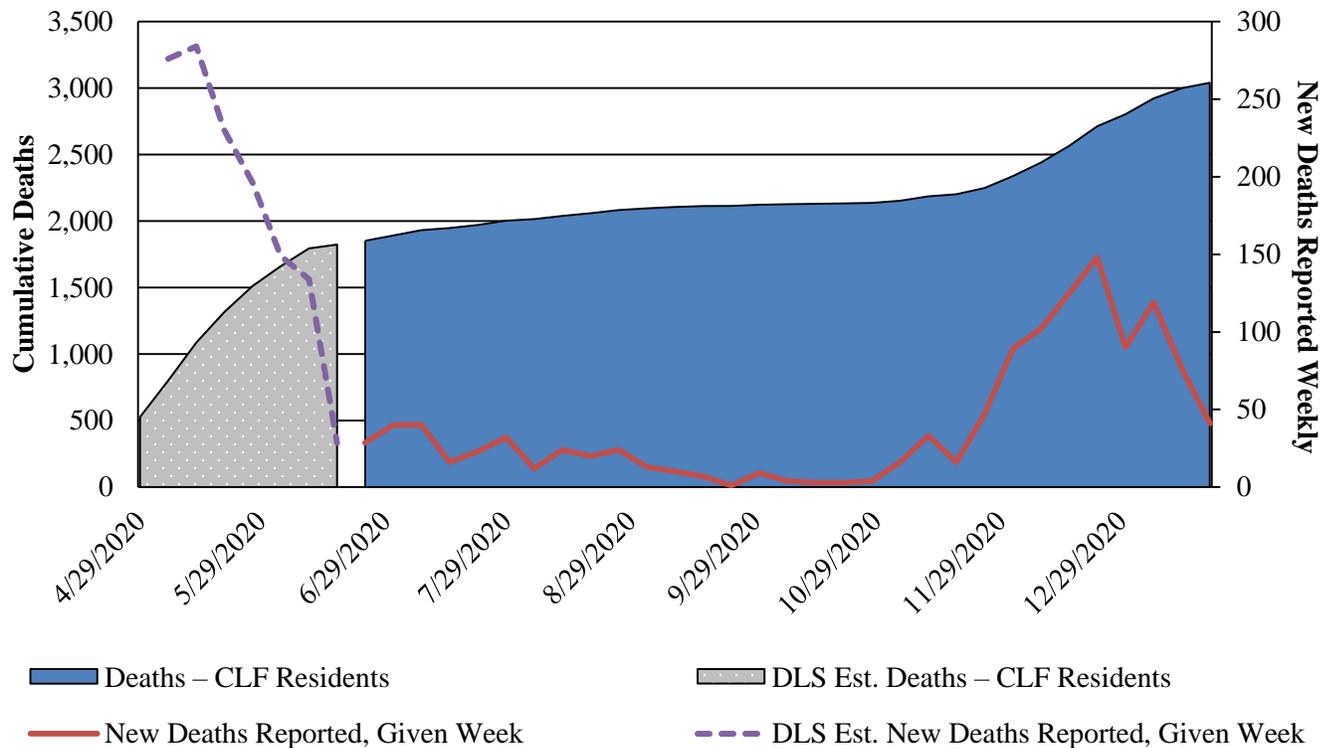
CLF: congregate living facility

Source: Maryland Department of Health

As shown, although between both residents and staff, CLFs account for under 10% of cases, the death toll is over 30 percentage points greater. In an effort to mitigate COVID-19 in nursing homes MDH issued guidelines in April 2020 that included (1) monitoring staff and residents for symptoms; (2) providing personal protective equipment for all personnel when they interact with residents who tested positive for COVID-19 or exhibited symptoms; (3) isolating residents confirmed or suspected positive; (4) reporting confirmed cases to the local health department; (5) prohibiting visitors; and (6) reinforcing sick leave policies for staff. MDH revised this guidance eight times from April 2020 to October 2020. On November 20, 2020, Governor Lawrence J. Hogan, Jr. issued an emergency order requiring mandatory twice-weekly testing for all staff at Maryland nursing homes and weekly testing of residents. Indoor visitation at Maryland nursing homes was also limited to compassionate care visits only, and visitors must have proof of a negative coronavirus test with 72 hours of their visit. The Governor issued separate orders pertaining to assisted living facilities on June 26, 2020, which was most recently revised on October 1, 2020, that required facemasks for residents, staff, and visitors and outlined testing guidelines for facilities based on size.

Exhibit 5 shows the cumulative total of CLF fatalities in the State over the course of the pandemic.

**Exhibit 5**  
**CLF Resident Deaths**  
**April 29, 2020, to Present**



CLF: congregate living facility  
 DLS: Department of Legislative Services

Note: Values prior to June 24, 2020 represent a DLS reconstruction of CLF deaths based on available data. Reliable cumulative values were not reported by the Maryland Department of Health until June, 24, 2020.

Source: Maryland Department of Health

Due to data limitations, MDH’s reporting on cumulative COVID-19 deaths in nursing homes and other CLFs does not start until June 24, 2020, at which point the department reports 1,852 fatalities – over half of the current cumulative values. In efforts to fully capture the impact of COVID-19 on CLFs during the course of the pandemic, the Department of Legislative Services (DLS) used available data from MDH on cases and deaths in discrete facilities to estimate the growth in the number of fatalities from April 29, 2020, to June 24, 2020.

On March 4, 2020, during the early stages of the pandemic, the Centers for Medicare and Medicaid Services (CMS) reprioritized nursing home survey activities to focus on infection control. While these surveys, were designed by CMS in response to COVID-19, they are not exclusively focused on limiting the spread of COVID-19. OHCQ's Long Term Care Unit conducted 38 of these surveys from March to the end of fiscal 2020. A few weeks later, on March 16, 2020, MDH issued an order limiting surveys to only the most serious allegations of harm. During this time, OHCQ focused on investigating complaints that could be conducted offsite, generally more administrative in nature.

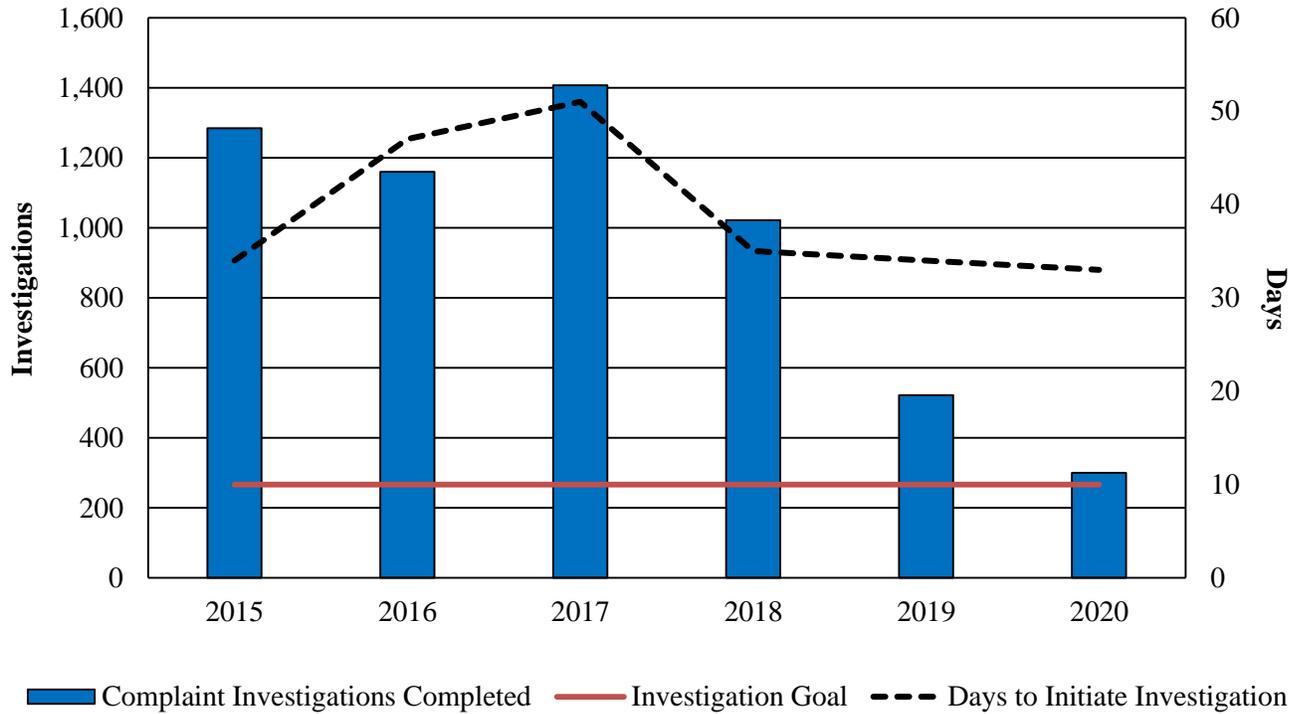
However, this order hindered the agency's ability to complete regular mandated annual surveys of various provider type. The sections below discuss the progress OHCQ has made in completion of these mandated surveys and consider the trajectory of the Long Term Care Unit, ALU, and DDU in meeting their statutory mandates.

### **Long Term Care Unit and Nursing Home Investigations**

Federal and State regulations require the investigation of complaints and incidents that allege actual harm. The OHCQ Long Term Care Unit is responsible for these investigations as well as monitoring, licensing, and certification of all nursing homes in the State. The current State and federal regulations require that these investigations be initiated within 10 days. **Exhibit 6** shows the number of these types of investigations and the average number of days to initiate the investigation.

In fiscal 2020, OHCQ succeeded in reducing the days to initiate an investigation for the third consecutive year. However, as shown, the days to initiate investigations is still well above the State and federal standards, with an average of 33 days to initiate in fiscal 2020. As mentioned, staff responsible for these investigations were required to conduct focused inspection control surveys, putting further strain on the unit in meeting other investigation goals. As shown, complaint investigations also fell in total in fiscal 2020, which is due in large part to the restriction of which complaints were able to be investigated fully due to COVID-19 restrictions.

**Exhibit 6  
Nursing Home Investigations  
Fiscal 2015-2020**

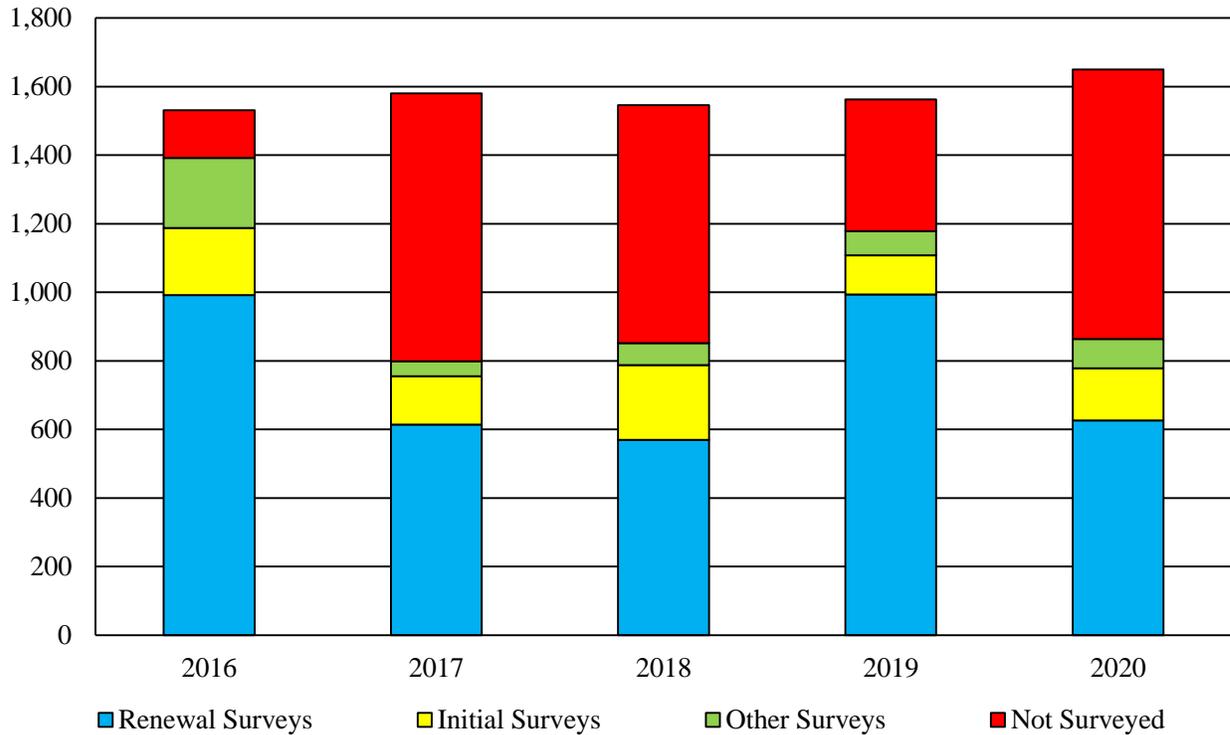


Source: Governor’s Budget Books

**Assisted Living Facilities Surveyed**

In fiscal 2020, ALU regressed in conducting annual surveys, with 792 surveys conducted. As shown in **Exhibit 7**, the number of providers receiving surveys was much lower in fiscal 2020.

**Exhibit 7  
Surveys of Assisted Living Programs  
Fiscal 2016-2020**



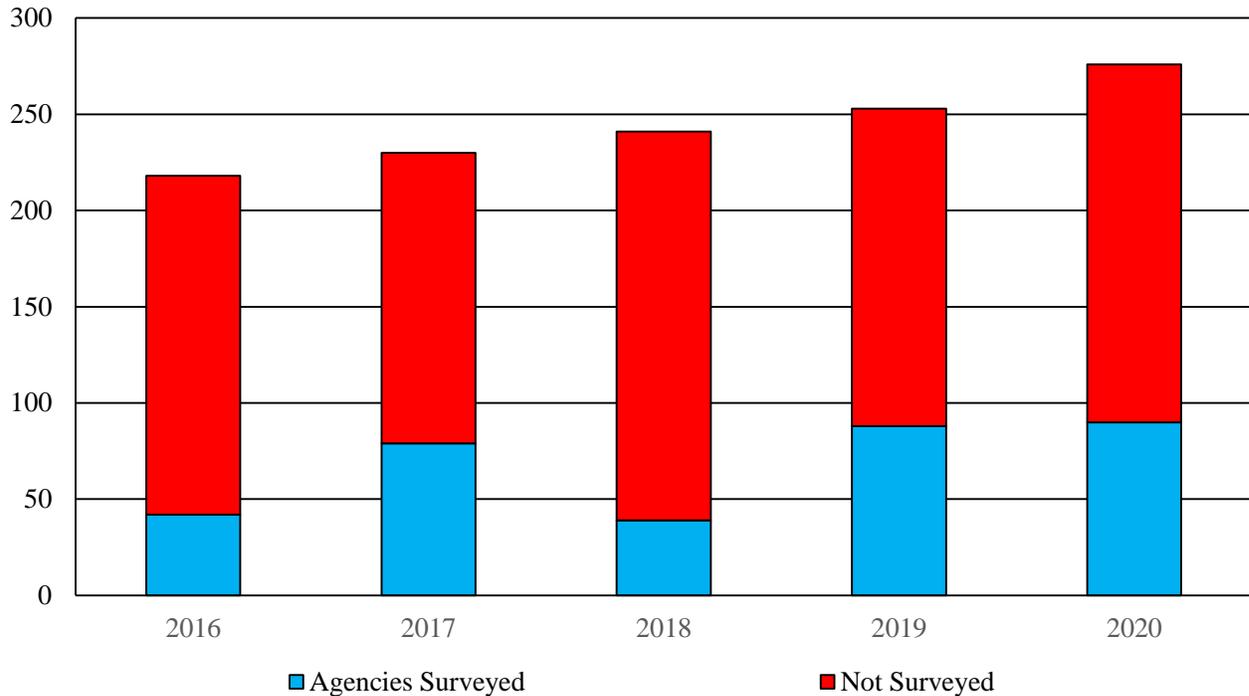
Source: Office of Health Care Quality Annual Reports, Fiscal 2018-2020

While ultimately OCHQ’s share of facilities surveys regressed in fiscal 2020, the surveys shown above were all completed within 36 weeks rather than the full 52-week period. When holding the number of initial and other surveys constant while estimating the number of additional renewal surveys that may have been completed in a full year, ALU’s fiscal 2020 performance would nearly meet the levels achieved in fiscal 2019 (1,179 surveys in fiscal 2019 to an estimated 1,142 in fiscal 2020). However, even considering the trajectory of ALU’s surveys for a full year, it would still ultimately fall 30 percentage points below the requirement of all providers receiving mandatory surveys.

**Developmental Disabilities Programs Surveyed**

OHCQ DDU evaluates, monitors, and recommends licensure for all community residential, day habilitation, vocational, and support services provided for individuals receiving funding through the Developmental Disabilities Administration. As shown in **Exhibit 8**, this unit surveyed the same exact number of providers in fiscal 2019 as fiscal 2020, even though this progress was made in a shorter period of time, given the survey restrictions.

**Exhibit 8**  
**Developmental Disabilities Provider Surveys**  
**Fiscal 2016-2020**



Source: Office of Health Care Quality Annual Reports, Fiscal 2018-2020

Given that OCHQ was able to meet the fiscal 2019 level of surveys in 36 weeks, DLS would expect DDU to have made significant progress in annual surveys, although still under half of all developmental disabilities providers in the State.

The inability of ALU and DDU to meet inspection goals was also remarked on by the Office of Legislative Audits (OLA) in its audit submitted on January 22, 2021, as shown in **Appendix 1**. OLA acknowledged staffing shortages contributing to the inspection shortfall and also noted that this finding in particular repeats with regularity, dating back to audit reports from 2004.

## ***Operating Budget Recommended Actions***

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1. Concur with Governor's allowance.

**Appendix 1  
Audit Findings  
Health Regulatory Services**

Audit Period for Last Audit:	Sept. 28, 2015 – Sept. 24, 2019
Issue Date:	January 22, 2021
Number of Findings:	1
Number of Repeat Findings:	1
% of Repeat Findings:	100%
Rating: (if applicable)	

**Finding 2:** **The Office of Health Care Quality (OHQC) did not conduct required annual inspections of all assisted living facilities and developmental disabilities service providers in the State. OHQC did not complete all required annual surveys in any of the fiscal years annualized, from 2016 to 2019.**

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

Note: Audit includes a review of health occupation boards and OHCQ. Only the finding related to OHCQ is included here, and the finding number as found in the audit is retained.

**Appendix 2**  
**Object/Fund Difference Report**  
**Maryland Department of Health – Office of Health Care Quality**

<u>Object/Fund</u>	<u>FY 20 Actual</u>	<u>FY 21 Working Appropriation</u>	<u>FY 22 Allowance</u>	<u>FY 21 - FY 22 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	210.00	221.00	230.00	9.00	4.1%
02 Contractual	8.21	12.50	12.50	0.00	0%
<b>Total Positions</b>	<b>208.21</b>	<b>233.50</b>	<b>242.50</b>	<b>9.00</b>	<b>3.9%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 20,629,732	\$ 20,727,757	\$ 21,933,155	\$ 1,205,398	5.8%
02 Technical and Special Fees	574,555	748,649	791,468	42,819	5.7%
03 Communication	202,804	184,362	258,099	73,737	40.0%
04 Travel	281,548	212,116	256,566	44,450	21.0%
07 Motor Vehicles	140,385	234,620	137,433	-97,187	-41.4%
08 Contractual Services	912,244	745,488	76,611	-668,877	-89.7%
09 Supplies and Materials	109,262	26,449	60,598	34,149	129.1%
10 Equipment – Replacement	18,044	7,000	6,000	-1,000	-14.3%
11 Equipment – Additional	72,766	17,500	15,000	-2,500	-14.3%
12 Grants, Subsidies, and Contributions	371,588	506,388	506,388	0	0%
13 Fixed Charges	931,438	869,582	894,305	24,723	2.8%
<b>Total Objects</b>	<b>\$ 24,244,366</b>	<b>\$ 24,279,911</b>	<b>\$ 24,935,623</b>	<b>\$ 655,712</b>	<b>2.7%</b>
<b>Funds</b>					
01 General Fund	\$ 15,987,460	\$ 16,466,574	\$ 17,107,333	\$ 640,759	3.9%
03 Special Fund	446,657	576,167	597,300	21,133	3.7%
05 Federal Fund	7,583,689	7,237,170	7,230,990	-6,180	-0.1%
09 Reimbursable Fund	226,560	0	0	0	0.0%
<b>Total Funds</b>	<b>\$ 24,244,366</b>	<b>\$ 24,279,911</b>	<b>\$ 24,935,623</b>	<b>\$ 655,712</b>	<b>2.7%</b>

Note: The fiscal 2021 appropriation does not include deficiencies, targeted reversions, general salary increases, or across-the-board reductions. The fiscal 2022 allowance does not include contingent reductions, annual salary reviews, or annualized general salary increases.