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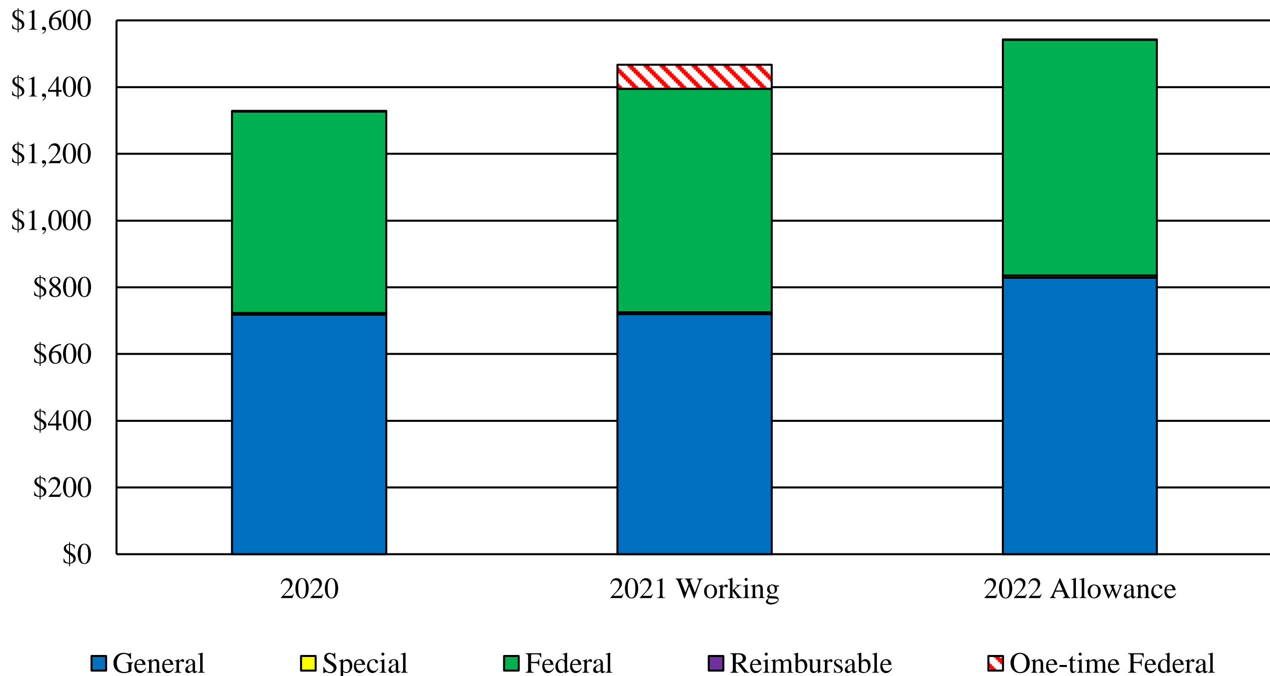
Developmental Disabilities Administration
Maryland Department of Health

Executive Summary

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

Operating Budget Summary

Fiscal 2022 Budget Increases by $75.3 Million, or 5.1%, to $1.5 Billion
($ in Millions)



Note: The fiscal 2021 appropriation includes deficiencies and general salary increases. The fiscal 2022 allowance includes annual salary reviews, State Law Enforcement Officers Labor Alliance salary increases, and annualization of general salary increases.

- The Community Services program drives total funding growth with $55.3 million budgeted for new placements and service expansion and $27.7 million budgeted to annualize an anticipated fiscal 2022 mandated 4% provider rate increase that was accelerated to January 1, 2021.

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Key Observations

- ***DDA Participants Experienced Increased COVID-19 Fatalities and Received Vaccination Priority:*** DDA has shared data on confirmed COVID-19 cases and deaths among individuals and staff in the DDA community, showing that DD individuals have experienced higher rates of death from COVID-19 compared to the statewide data reported. The State's vaccine priority groups were updated so that DD individuals and their staff are largely included in Phase 1. DDA has reported multiple efforts underway to improve access while vaccine supply is limited.

- ***Enhanced Federal Medicaid Match Provides Substantial Federal Aid:*** The Families First Coronavirus Relief Act authorized an enhanced match of 6.2% for eligible Medicaid claims throughout the nationally declared state of emergency resulting from the COVID-19 pandemic. Since this also applied to Medicaid waiver programs, DDA is estimated to receive substantial federal funding supporting the Community Services program from fiscal 2020 through 2022.

- ***DDA Providers Impacted by COVID-19 Pandemic Received Federal and State Support:*** The COVID-19 pandemic and the resulting social distancing measures caused significant changes to community-based service delivery as many day and supported employment programs closed, and other providers had to meet new public health and safety guidelines. Financial assistance and program flexibilities became available through a variety of federal and State programs.

- ***DDA Delays Systemwide Transition to New Rate and Service Structure, But Plans Pilot Program Expansion:*** DDA is implementing a systemwide transition to a new rate and service structure that includes launching new community services functionalities on the existing Long Term Services and Supports (LTSS) system used by various other Medicaid programs. This transition has been postponed for most DDA providers and service types. However, personal supports services were transitioned to LTSS through a phased approach in fiscal 2021, and DDA plans to expand its ongoing LTSS pilot program to nine more providers in fiscal 2022.

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 on data collection and spending forecasts following its transition to a new rate structure.	
2.	Adopt committee narrative recommending that the Developmental Disabilities Administration add a staff safety performance measure for its facilities and report assault data by facility.	

3.	Add language restricting funding for the Community Services program to that purpose.	
4.	Reduce general funds based on unanticipated enhanced federal matching funds continuing through the COVID-19 public health emergency.	$ 37,800,000
	Total Reductions	**$ 37,800,000**

Budget Reconciliation and Financing Act Recommended Actions

1. Authorize a planned reversion of $16.8 million in general funds from the Community Services program to reflect general fund savings from enhanced federal matching funds that were not claimed in fiscal 2020.

Updates

- ***Status of Federal Disallowance:*** 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 add-on services.

- ***Community-based Service Enrollment Increases:*** DDA again met its goal in fiscal 2020 that more individuals are served in community-based settings rather than receiving more restrictive care in institutional settings. Self-directed services showed the largest increase in enrollment in fiscal 2020.

- ***Population in DDA Facilities Rises Slightly:*** Average daily populations in DDA's two State residential centers remained the same or decreased. However, this was offset by a slight increase in residents at the Secure Evaluation and Therapeutic Treatment unit.

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 an individual attains the age of 22; and is likely to continue indefinitely, among other characteristics. 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 (DD) individuals in two State Residential Centers (SRC) and a Secure Evaluation and Therapeutic Treatment (SETT) unit, which shares a campus with one of the SRCs. Most DDA-funded services are provided through a coordinated community-based service delivery system.

DDA's key goals include:

- the empowerment of DD individuals and their families to choose services and supports that meet their needs;
- the integration of DD individuals 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.

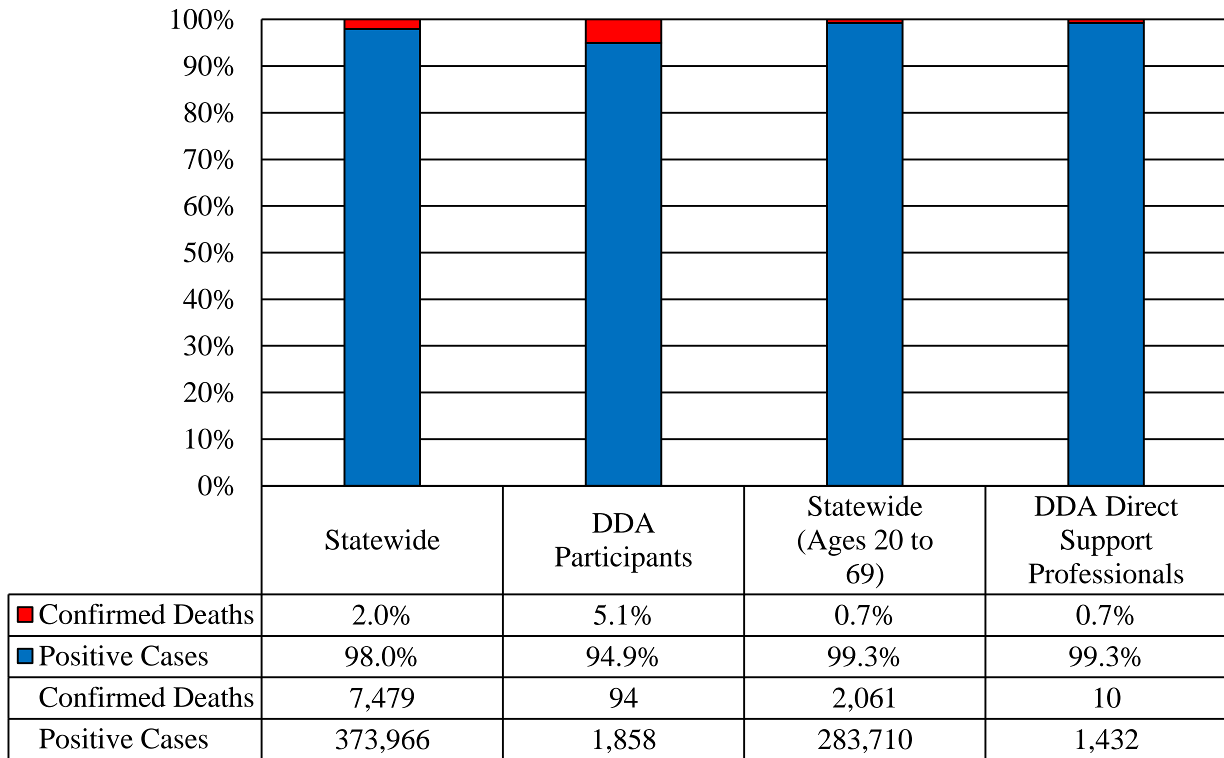
Performance Analysis: Managing for Results

1. DDA Participants Show Increased COVID-19 Fatality and Receive Vaccination Priority

In a series of biweekly webinars, the Deputy Secretary for DDA has reported on the number of positive COVID-19 cases and deaths among DDA participants and direct support professionals (DSP). **Exhibit 1** compares the percentage of confirmed deaths from COVID-19 out of total positive cases among the statewide population and the DDA community. As of February 18, 2021, the cumulative COVID-19 deaths across these groups show that DDA participants experienced significantly higher fatality rates at 5.1% (94 participants) than the reported statewide fatality rate of 2.0% (7,479 Maryland residents). The U.S. Centers for Disease Control and Prevention indicated that DD individuals are not

naturally at higher risk for becoming infected with or having severe illness from COVID-19, but some DD individuals may have difficulties accessing information and practicing preventive measures, and those with serious underlying medical conditions may be at risk of a serious illness. DSPs showed a fatality rate of 0.7% (10 staff members), which was equivalent to the statewide population of working-age adults, estimated at ages 20 to 69 years old.

Exhibit 1
Statewide and DDA COVID-19 Cases and Deaths
As of February 18, 2021



	Statewide	DDA Participants	Statewide (Ages 20 to 69)	DDA Direct Support Professionals
Confirmed Deaths	2.0%	5.1%	0.7%	0.7%
Positive Cases	98.0%	94.9%	99.3%	99.3%
Confirmed Deaths	7,479	94	2,061	10
Positive Cases	373,966	1,858	283,710	1,432

DDA: Developmental Disabilities Administration

Source: Maryland Department of Health; Department of Legislative Services

Vaccination Efforts Supporting the DDA Community

On January 5, 2021, the Governor announced updated COVID-19 vaccine priority groups that made DD individuals and certain DSPs eligible for vaccines as part of Phase 1B. Some DSPs and other staff serving DD individuals were already prioritized in Phase 1A as licensed healthcare workers. The announcement further expanded Phase 1B to residents and staff of group homes for DDA participants. According to a memo published by the Maryland Developmental Disabilities Council, all other direct support professionals became eligible for vaccines in Phase 1C.

Although DDA did not have a count of vaccinations among DDA participants or staff during a February 19, 2021 webinar, the Deputy Secretary described the following activities that would track and support vaccination efforts in the DDA community:

- MDH provided guidance that all local health departments (LHD) should select one DDA-funded provider or congregate living facility for DD individuals or people with behavioral health disabilities each week to vaccinate. This guidance also instructed LHDs to coordinate with the Maryland Department of Aging and the Maryland Department of Disabilities on this specific vaccine distribution.

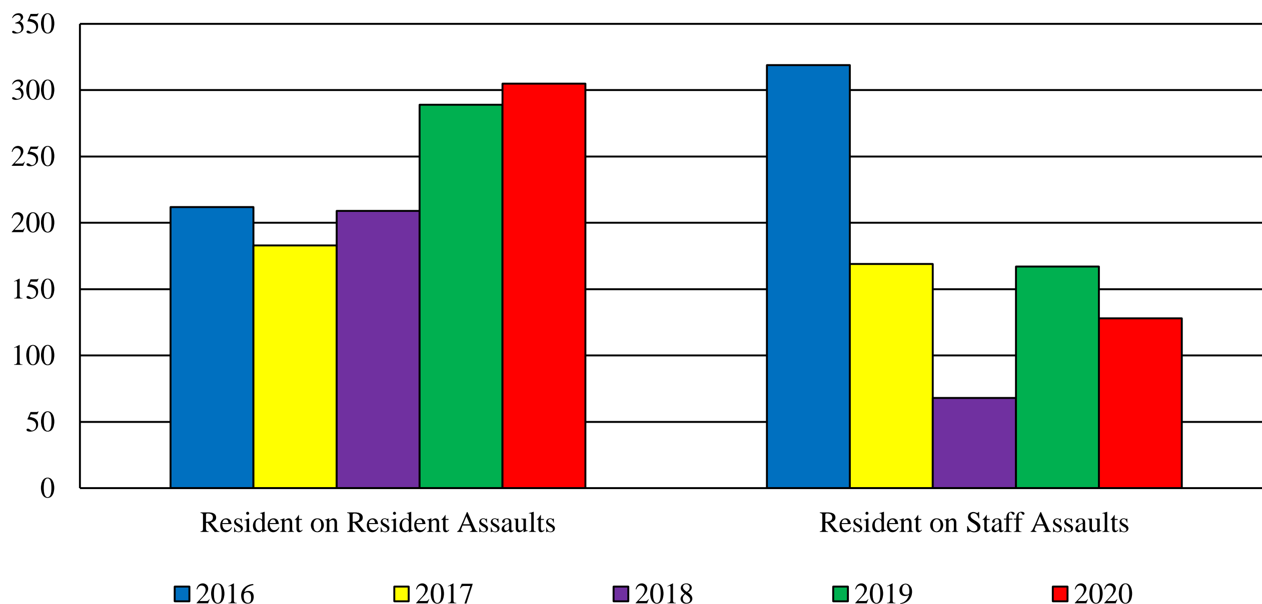
- Beginning Monday, February 22, 2021, DDA would email weekly surveys to providers asking for the counts of vaccinations administered to DD individuals that they serve and staff members. This survey would also request the number of any family members of the DD individuals who received vaccinations. DDA is implementing a tracking system to better monitor which providers still need access to vaccines while supply is limited.

- Finally, a pilot administered by the Arc of Prince George's County in partnership with Giant pharmacies will begin on February 24, 2021, to host vaccination clinics specifically prioritizing DD individuals, DDA provider staff, certain caregivers, and other eligible individuals as supply allows.

2. Resident-on-resident Assaults at State Facilities Remain Elevated

Across the three State DDA facilities, resident-on-resident assaults increased for the third consecutive year, and resident-on-staff assaults declined slightly in fiscal 2020, as shown in **Exhibit 2**. Assaults at the Potomac Center continued to represent the majority of total assaults, accounting for 266 resident-on-resident assaults in fiscal 2020. DDA partially attributed the COVID-19 pandemic for assaults remaining high as individuals were not able to attend off-site programming, and the residents' vocational programs were held in the Potomac Center cottages. These cottages were also relicensed at higher occupancy rates due to the SETT unit filling two cottages at the Potomac Center campus, which changed the facility's environment with more individuals sharing bedrooms. The Holly Center also reported that resident-on-resident assaults increased from 26 in fiscal 2019 to 41 in fiscal 2020, which was linked to two residents who later received adjustments to their behavioral support plans.

Exhibit 2
Assault on Residents and Staff at State DDA Facilities
Fiscal 2016-2020



DDA: Developmental Disabilities Administration

Source: Governor's Fiscal 2022 Budget Books

When assaults on staff more than doubled in fiscal 2019 over the prior year, DDA attributed this increase to one court-involved individual who caused a large number of the total staff injuries at the Potomac Center and was later moved to the Clifton T. Perkins Hospital Center. In the 2020 budget hearing testimony, DDA described safety initiatives including enhanced staff training, reviews by administrative and clinical teams for all incident reports, and targeted advertising to fill vacant positions. MDH has also made systemwide facility changes such as weekly conference calls to discuss staffing levels and recruitment techniques, safety principles training at all facilities, and quarterly meetings with Maryland's workers' compensation carrier to improve staff safety. Most recently, resident-on-staff assaults at DDA facilities decreased by 23.4% in fiscal 2020.

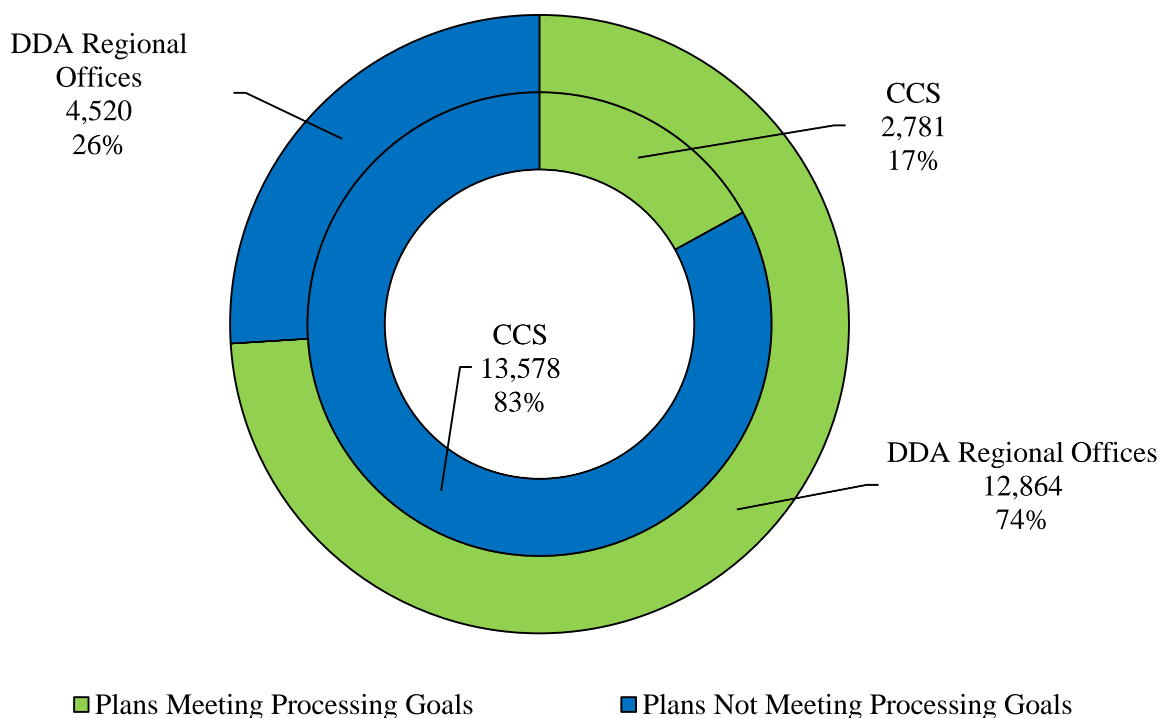
The fiscal 2022 Managing for Results (MFR) submission for MDH Administration included a new staff safety performance measure at State psychiatric hospitals, measured as the incidence rate of patient to staff assaults per 1,000 patient days. The Department of Legislative Services (DLS) recommends adopting narrative requesting that DDA provide the same measure in its fiscal 2023 MFR submission and that DDA begin reporting resident-on-resident and resident-on-staff assault data separately for the Holly Center, the Potomac Center, and the SETT unit.

3. DDA Anticipates Delays in Case Managers Processing 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, coordinators of community services (CCS), and regional DDA offices. These plans must be approved at least annually, and they can be updated more frequently if service needs change. Updated annual plans are especially important to DDA's transition to a new rate and service structure as individuals need authorized plans under the new service definitions and rates before providers can receive service authorization and reimbursement through the Long Term Services and Supports (LTSS) system.

The budget committees requested in the 2020 *Joint Chairmen's Report* (JCR) that DDA establish processing goals and measures related to person-centered planning in the fiscal 2022 MFR submission. **Exhibit 3** reflects DDA's goals that CCS providing case management will submit annual person-centered plans within 20 days of the due date, and DDA regional offices will review these submitted plans within 20 business days of receipt.

Exhibit 3
Person-centered Plan Processing Measures
Fiscal 2021 Estimated



CCS: coordinators of community services
DDA: Developmental Disabilities Administration

Note: CCS meet the processing goal if they submit annual person-centered plans within 20 days of the due date, and regional offices meet the processing goal if they review submitted plans within 20 business days. The number of plans reviewed by regional offices is larger than the plans submitted by CCS due to the timing of when this measure was taken.

Source: Governor's Fiscal 2022 Budget Books

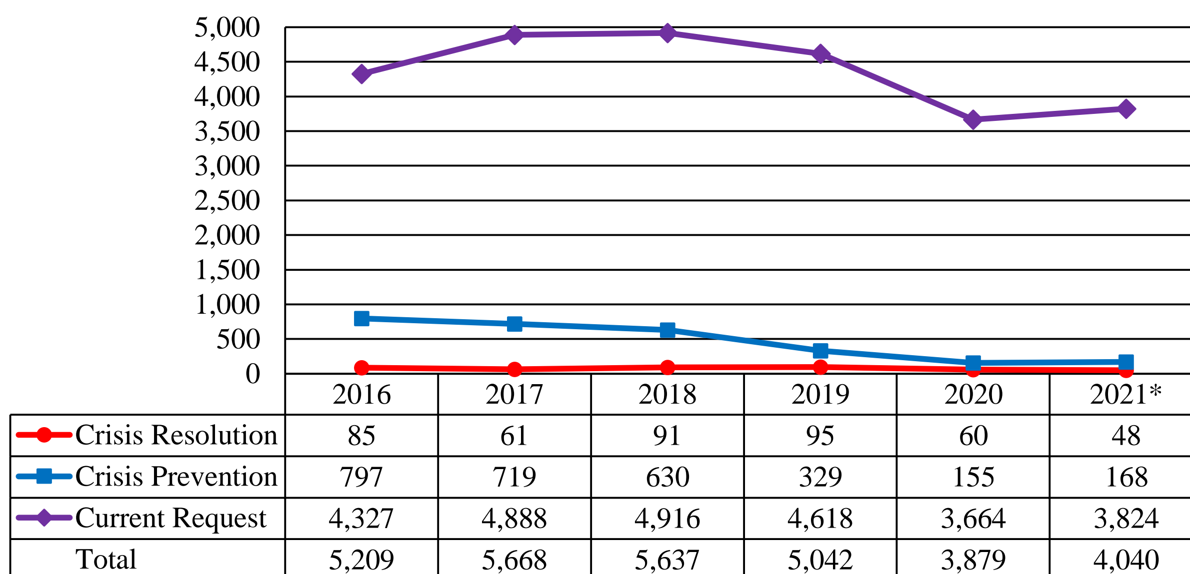
DDA anticipates that regional offices will review 74% of plans within 20 business days of receipt, whereas only an estimated 17% of plans will be submitted by CCS within the 20 day goal in fiscal 2021. Although CCS positions are contracted through coordination of community services agencies and are therefore not reflected in DDA's budget, DDA indicated that CCS positions generally experience high turnover and vacancies. This contributes to the estimate that only 2,781 out of 16,359 annual plans will meet the processing goal. Chapter 7 of 2021 includes a provision that DDA must conduct an analysis of CCS job responsibilities to identify capacity needed to implement the LTSS system before requiring providers to transition all of the individuals they serve to the LTSS system. The LTSS transition and other provisions of Chapter 7 are discussed in further detail in Issue 2.

DDA has published policy memos and webinars that discuss a streamlined person-centered plan development and authorization process that includes increasing efficiencies in submitting, reviewing, and approving plans. DDA should briefly explain why there were delays at the case management level under the former process and how the new process will specifically assist CCS in meeting the new processing goal. Additionally, DDA should provide an update on current backlogs in approving person-centered plans.

4. Community Services Waiting List Placements Accelerate in Fiscal 2020

As shown in **Exhibit 4**, DDA continues to track the community services waiting list of over 3,800 individuals who meet the statutory requirement of having a developmental disability. All DD individuals on the waiting list for DDA-funded services are able to receive case management from CCS. DD individuals on the waiting list are organized into priority categories based on need for services from the highest need, referred to as crisis resolution (individuals at risk for harm or homelessness without services), to lowest need, referred to as current request (individuals that have no current risk of harm or homelessness).

Exhibit 4
Point-in-time Community Services Waiting List Counts
Fiscal 2016-2021



	2016	2017	2018	2019	2020	2021*
Crisis Resolution	85	61	91	95	60	48
Crisis Prevention	797	719	630	329	155	168
Current Request	4,327	4,888	4,916	4,618	3,664	3,824
Total	5,209	5,668	5,637	5,042	3,879	4,040

*Fiscal 2021 shows the waiting list count on October 31, 2020, rather than the end of the fiscal year.

Note: The Developmental Disabilities Administration also tracks individuals on the community services waiting list who do not meet the statutory definition 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; Department of Legislative Services

There were 3,879 DD individuals on the waiting list as of June 30, 2020, showing a 23.1% reduction compared to the close of fiscal 2019. This decline was driven by increased crisis prevention and current request placements, partially resulting from the continued implementation of two Medicaid waiver programs that Centers for Medicare and Medicaid Services (CMS) approved in fiscal 2018. However, the most recent waiting list count as of October 31, 2020, showed the waiting list rising again with an increase of 161 DD individuals, primarily in the current request category. DDA reported that the expansion of funding provided in recent fiscal years has also allowed more new placements for individuals in the crisis resolution category and for transitioning youth aging out of the educational system, foster care, or the Maryland State Department of Education (MSDE) Autism waiver.

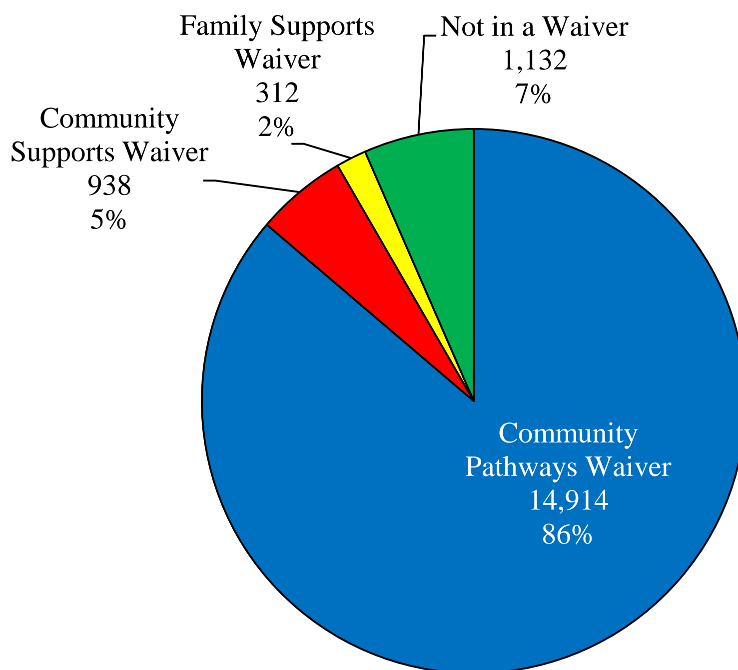
Transitioning youth qualify for a reserved category on the waiting list so that they are eligible to apply for DDA-funded services upon aging out (between the individual's twenty-first and twenty-second birthdays). DDA extended this timeframe for transitioning youth to apply for services due to the COVID-19 pandemic, which prevented some individuals and families from completing the application process. An Emergency Preparedness and Response Appendix (Appendix K) approved by CMS for the Autism waiver allowed transitioning youth to extend these waiver services administered by MSDE until the end of the nationally declared state of emergency. More information on Appendix K provisions for the three DDA waivers can be found in Issue 1.

Fiscal 2020

Enhanced Federal Medical Assistance Percentage in Effect for DDA Waiver Programs Beginning in Fiscal 2020

Approximately 93% of DD individuals receiving community services in fiscal 2020 were enrolled in one of the agency's three waiver programs under Medicaid, as shown in **Exhibit 5.** 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. Court-involved individuals and certain community services are not eligible for this match, so the fund split across the entire Community Services program remains lower than 50%.

Exhibit 5
Individuals Receiving Community Services by Waiver Program
Fiscal 2020



Note: Does not include individuals receiving targeted case management only.

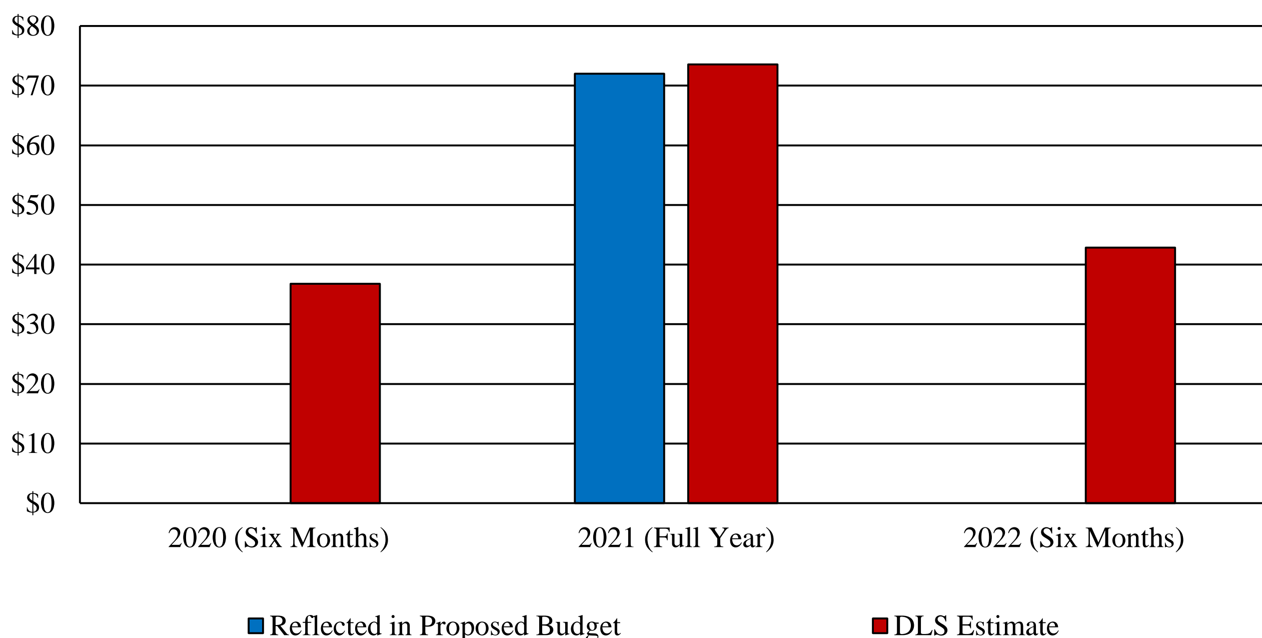
Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

The Families First Coronavirus Response Act provided an enhanced Federal Medical Assistance Percentage (FMAP) of 6.2 percentage points on qualifying expenses during a national health emergency declared by the U.S. Secretary of Health and Human Services. That declaration was made in March 2020 and applied to certain Medicaid claims, including eligible spending under DDA's three waiver programs, beginning January 1, 2020. In order to qualify for the enhanced match, State Medicaid programs are required to maintain eligibility requirements; not increase premiums beyond those in place as of January 1, 2020; cover services without cost-sharing for COVID-19 testing and treatment; and (with limited exceptions) not terminate Medicaid coverage for those on the program at the time of the public health emergency declaration, among other program changes.

During the fiscal 2020 closeout process, DDA did not recognize federal funds attributable to the enhanced FMAP or revert any general funds from the Community Services program. As shown in **Exhibit 6**, DLS estimates that DDA should have claimed approximately $36.8 million in federal funds and equivalent general fund savings based on reported actual federal fund expenditures. However, DDA was simultaneously implementing waiver program changes through Appendix K that caused new

expenses under the Community Services program. After accounting for Appendix K spending, this would still leave DDA with approximately $16.8 million in additional federal funds and equivalent general fund savings in fiscal 2020 that were not spent or reverted. **Therefore, DLS recommends adopting a Budget Reconciliation and Financing Act provision to recognize a planned reversion of $16.8 million in unspent general funds in fiscal 2021 that are available due to the enhanced federal matching funds earned on fiscal 2020 spending.**

Exhibit 6
Enhanced Federal Match for DDA Waiver Programs
Fiscal 2020-2022
($ in Millions)



DDA: Developmental Disabilities Administration
DLS: Department of Legislative Services

Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

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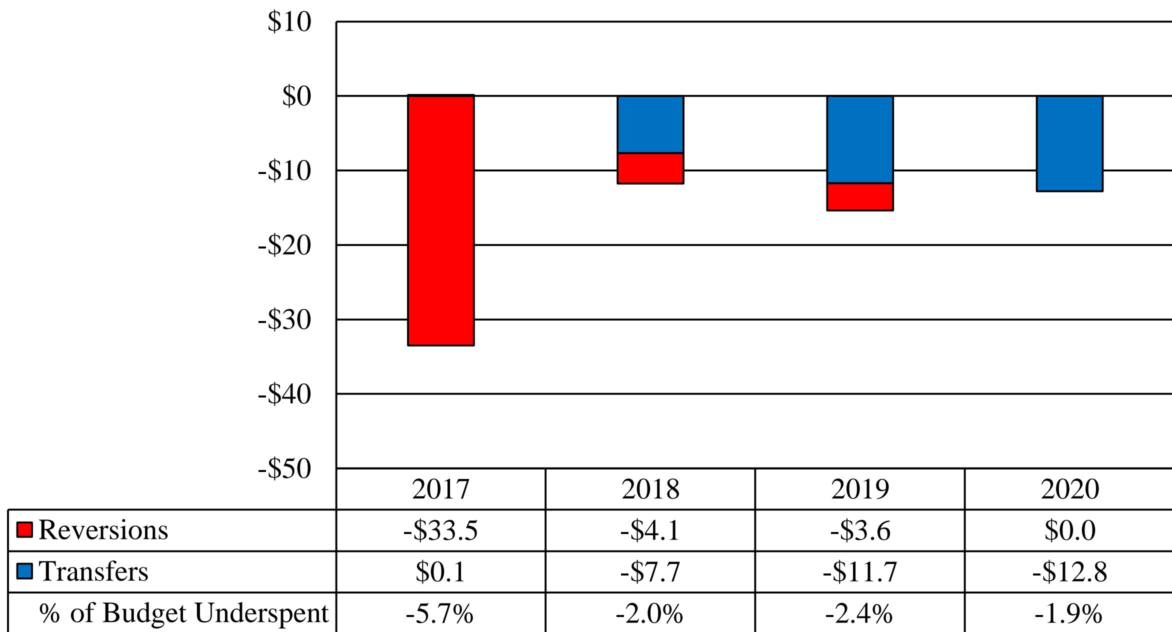
The COVID-19 public health emergency declaration has been extended multiple times, and President Joseph R. Biden, Jr. has expressed intent that the national emergency declaration apply through December 2021. Therefore, the enhanced match would continue through all of fiscal 2021 and the first six months of fiscal 2022, as shown in Exhibit 6. The enhanced FMAP was not anticipated when the fiscal 2021 budget was passed, so the Governor's proposed budget plan includes a deficiency adding $72 million in federal funds and reducing $72 million in general funds from the Community Services program to reflect this federal aid.

At the time the fiscal 2022 allowance was introduced, however, the enhanced FMAP extension to December 2021 was not announced, and there are no general fund savings accounted for in the budget. Appendix K expenses are also tied to the COVID-19 public health emergency declaration, so the general fund savings will still be offset by these costs. **DLS estimates a net increase of $37.8 million in federal fund attainment due to the enhanced FMAP in fiscal 2022 and recommends an equivalent reduction in general funds to account for these savings.**

Community Services Program Shows Increasing General Fund Transfers

Since fiscal 2017, DDA has underspent the general fund appropriation for the Community Services program by over $10 million annually. **Exhibit 7** reflects the extent of this underspending, ranging from 1.9% to 5.7% of the Community Services budget being underutilized and compares the net reductions from reversions compared to fund transfers. Fund transfers in fiscal 2020 increased by $1.1 million compared to fiscal 2019. This occurred even as DDA did not claim any additional federal funds from the enhanced FMAP, as described above.

Exhibit 7
General Fund Reversions and Transfers from Community Services
Fiscal 2017-2020
($ in Millions)



	2017	2018	2019	2020
Reversions	-$33.5	-$4.1	-$3.6	$0.0
Transfers	$0.1	-$7.7	-$11.7	-$12.8
% of Budget Underspent	-5.7%	-2.0%	-2.4%	-1.9%

Note: General fund reductions authorized in Budget Reconciliation and Financing Acts over the period are not pictured.

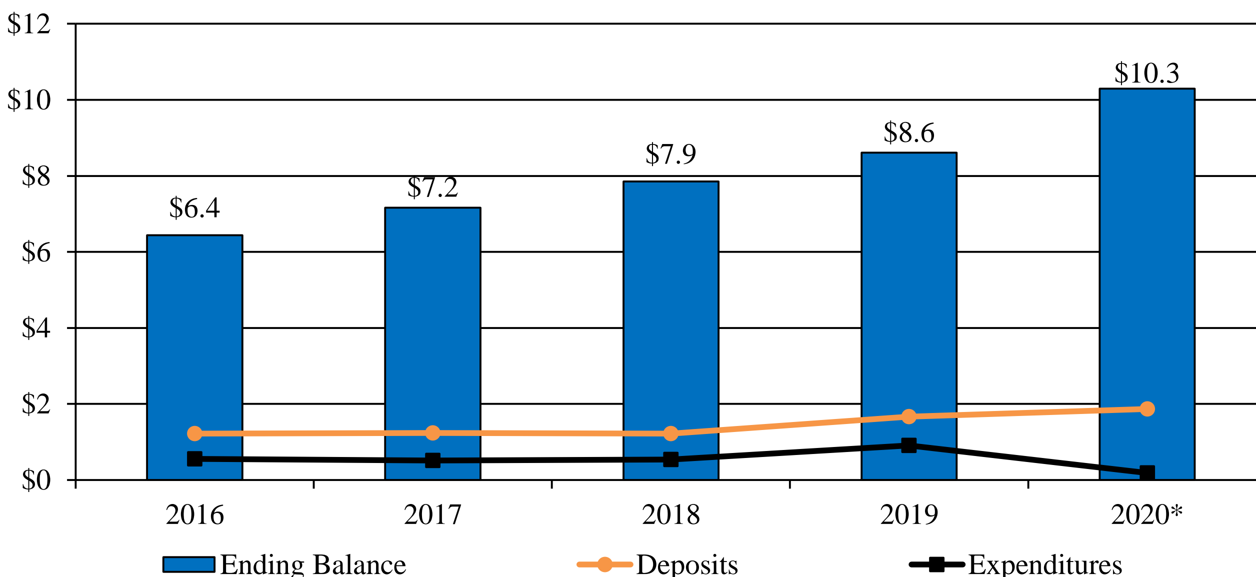
Source: Department of Budget and Management; Department of Legislative Services

This persistent underspending of general funds is partially due to higher than expected federal fund attainment through the waiver programs. In budget hearing testimony during the 2020 legislative session, DDA also attributed underspending in community services to the timing of when many transitioning youth initiated placements in the fiscal year and to individuals changing services to less expensive service types. The growing use of fund transfers out of the Community Services program is concerning as the funds are largely used to cover shortfalls elsewhere in the MDH budget, rather than the intended purpose of providing community-based services. **DLS recommends adding budget language restricting the appropriation for the Community Services program to that purpose.**

Waiting List Equity Fund Balance Continues to Grow

The Waiting List Equity Fund (WLEF) was established to ensure that funding associated with individuals served in an SRC follows them when they are transitioned to a community-based care setting. Any funds remaining must be used to provide community-based services to individuals on the waiting list. According to statute, WLEF funds may not be used to supplant funds for emergency placements or transitioning youth. Further, WLEF funding can only be used in the first year of an individual's placement in the community, after which the individual becomes part of the base budget. **Exhibit 8** shows how expenditures under the current statute have contributed to growing WLEF balances with deposits outpacing expenditures over the entire period. At the close of fiscal 2020, the WLEF balance surpassed $10 million after DDA reported only $182,360 in expenditures.

Exhibit 8
Waiting List Equity Fund Balance
Fiscal 2016-2020
($ in Millions)



* Does not include fiscal 2020 deposits that were reported after June 30, 2020.

Source: Maryland Department of Health; Comptroller of Maryland; Department of Legislative Services

In multiple JCRs, the budget committees have requested that DDA provide recommendations for amending statute to expand allowable WLEF uses. DDA's most recent response submitted in November 2019 provided an update on its collaboration with the Developmental Disabilities Council to amend statutes related to DDA generally and discussed allowing DDA to determine fund uses through regulation. Despite offering some recommendations, such as one-time costs not covered by DDA waiver programs or annualization of an individual's second year of community services, there have been no departmental bills introduced to implement any of these changes. Language in Chapter 19 of 2020 (the fiscal 2021 Budget Bill) restricted general funds from the Program Direction budget until DDA provided timelines for proposing amendments to the WLEF statute and for spending down the current fund balance. As of February 20, 2021, DDA had not submitted a response.

Fiscal 2021

Proposed Deficiency

The Governor's budget plan proposes a net increase of $41.7 million in total funds ($50.8 million in general funds reduced and $92.5 million in federal funds added) through four fiscal 2021 deficiencies, outlined in **Exhibit 9**.

Exhibit 9
Proposed Fiscal 2021 Deficiencies
($ in Millions)

Purpose of Deficiency	General Funds	Federal Funds	Total
Funding to accelerate the mandated provider rate increase from July 1, 2021, to January 1, 2021 (see Issue 1).	$14.6	$13.0	$27.7
Funding to reflect Emergency Preparedness and Response Appendix K waiver costs (see Issue 1).	10.0	10.0	20.0
Savings from FMS and QIO services contracts not being filled. Both contracts relate to findings in the July 2019 DDA audit conducted by the Office of Legislative Audits. DDA slightly revised each request for proposals (RFP), and the MDH Office of Procurement and Support Services was reviewing the RFPs as of February 20, 2021.	-3.4	-2.5	-5.9
Enhanced 6.2% Medicaid match for eligible services under DDA waiver programs (discussed above in the Fiscal 2020 Budget section).	-72.0	72.0	0.0
Total	**-$50.8**	**$92.5**	**$41.7**

DDA: Developmental Disabilities Administration
FMS: financial management services
MDH: Maryland Department of Health
QIO: quality improvement organization

Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

Cost Containment

On July 1, 2020, the Board of Public Works approved across-the-board reductions to Unemployment Insurance compensation contributions, including a reduction of $92,271 in total funds ($78,071 in general funds and $14,200 in federal funds) from DDA's budget.

Waiver Eligibility Group Changes

CMS initially approved DDA's Community Supports and Family Supports waiver programs with spending caps at $25,000 and $12,000 per individual, respectively. CMS approved an amendment on January 19, 2021, removing these spending caps, updating the number of enrolled individuals, and changing eligibility criteria so that each of DDA's three waivers target a specific group of DD individuals. DDA stated that individuals already enrolled in a waiver program can remain in their current program.

- The Family Supports waiver was established for youth under the age of 21 and their families to secure supplemental wraparound services in addition to services provided by MSDE. Participants from birth to age 21 are eligible for the Family Supports waiver and may remain in the program through the end of the school year in which the individual turns the age of 21.

- The Community Supports waiver funds nonresidential services in the community, and individuals aged 18 years old and older are eligible for this waiver program.

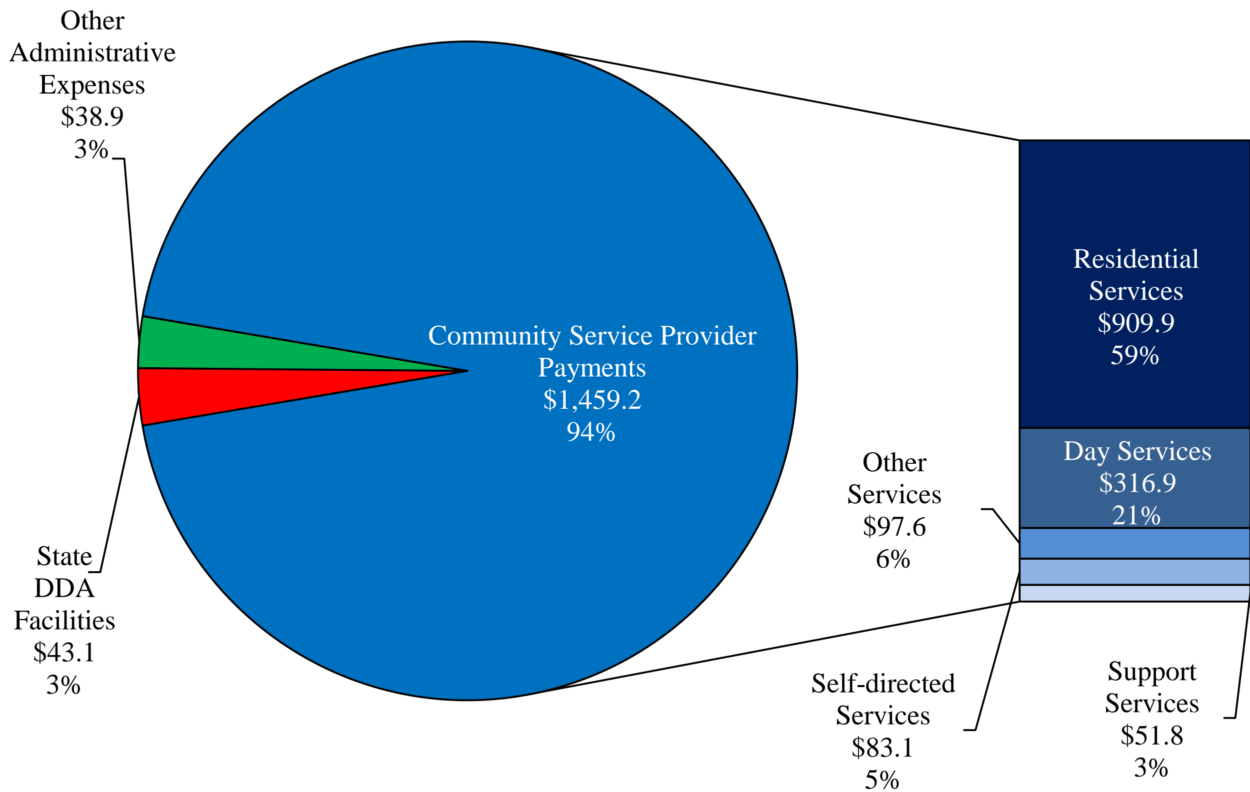
- The vast majority of DD individuals in the waiver programs are enrolled in the Community Pathways waiver, as the Family Supports and Community Supports waivers only began implementation in fiscal 2018. DD individuals aged 18 years old and older who have an assessed need for residential services are eligible for the Community Pathways waiver.

Fiscal 2022 Overview of Agency Spending

Exhibit 10 displays DDA's fiscal 2022 allowance by purpose. Almost all of DDA's budget ($1.46 billion, or 94%) supports provider payments for services in community-based settings. Under the Community Services program, residential services make up a majority of total DDA spending (59%). DDA reported in its fiscal 2022 MFR submission that the average annual cost of residential services is approximately $114,000 per client. Average annual costs per client for all other services range from $267 for summer programs to approximately $62,000 for self-directed services, which include multiple services types bundled under one category.

Exhibit 10
Overview of Agency Spending
Fiscal 2021 Allowance
($ in Millions)

Total Expenditures = $1.5 billion



DDA: Developmental Disabilities Administration

Note: Numbers may not sum to total due to rounding. Excludes statewide personnel funding centrally budgeted in the Department of Budget and Management that is attributable to DDA, totaling $982,392.

Source: Governor's Fiscal 2022 Budget Books; Department of Legislative Services

Proposed Budget Change

As shown in **Exhibit 11**, the fiscal 2022 allowance increases by $75.3 million compared to the fiscal 2021 working appropriation. The Community Services program drives this growth with increases of $55.3 million for new placements and service expansion and $27.7 million to annualize a mandated 4% provider rate increase that was accelerated to January 1, 2021.

Exhibit 11
Proposed Budget
MDH – Developmental Disabilities Administration
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2020 Actual	$718,686	$4,803	$603,249	$2,061	$1,328,799
Fiscal 2021 Working Appropriation	719,166	6,344	741,361	30	1,466,901
Fiscal 2022 Allowance	828,719	6,381	707,071	29	1,542,201
Fiscal 2021-22 Amount Change	$109,553	$37	-$34,290	$0	$75,299
Fiscal 2021-22 Percent Change	15.2%	0.6%	-4.6%	-1.0%	5.1%

Where It Goes:	Change
Personnel Expenses	
Other regular salary enhancements, primarily related to fiscal 2021 ASRs centrally budgeted in DBM for employees working at the State DDA facilities	$1,245
Employee and retiree health insurance	632
Net impact of 13.95 FTE positions transferred in to DDA from other divisions of MDH, especially the State Psychiatric hospitals	582
Net impact of a 2% general salary increase effective January 1, 2021, including annualization, SLEOLA salary increases, and ASRs in fiscal 2022	517
Retirement contributions	331
Social Security contributions	137
Other fringe benefit adjustments	-188
Workers' compensation premium assessment	-486
Turnover adjustments	-1,267
Program Direction	
Grant for the Maryland Special Olympics' annual event	224
Contract with Alvarez and Marsal for fiscal restructuring, implementation of the LTSS system and fee-for-service rate system transition	182

Where It Goes:	**Change**
Community Services	
Additional funding for new transitioning youth, emergency, and other waiting list placements and expansion of services	55,294
Annualization of 4% provider rate increase, effective January 1, 2021	27,681
Restoration of Financial Management Services and Quality Improvement Organization services contract that were reduced through fiscal 2021 negative deficiencies	5,400
Annual and emergency supports intensity scale assessments to determine the services an individual needs	2,179
Behavioral respite and mobile crisis contractual services	2,000
Training costs for the LTSS system transition	891
Contract for pretrial evaluations to determine individuals' competency to stand trial	528
Other	-887
Fiscal 2021 spending associated with the Emergency Preparedness and Response Appendix K to the DDA Waiver programs (see Issue 1)	-20,000
State Residential Centers and SETT Unit	
Technical and special fees to support 2.7 additional contractual FTEs and increased medical service support	434
Savings from receiving food services from a vendor for the SETT unit	-57
Fuel, utilities, and vehicle costs for the Potomac Center	-74
Total	**$75,299**

ASR: annual salary review
DBM: Department of Budget and Management
DDA: Developmental Disabilities Administration
FTE: full-time equivalent
LTSS: Long Term Services and Supports
MDH: Maryland Department of Health
SETT: Secure Evaluation and Therapeutic Treatment
SLEOLA: State Law Enforcement Officers Labor Alliance

Note: Numbers may not sum to total due to rounding. The fiscal 2021 appropriation includes deficiencies and general salary increases. The fiscal 2022 allowance includes annual salary reviews, State Law Enforcement Officers Labor Alliance salary increases, and annualization of general salary increases.

Salary Enhancements for DDA Facility Staff

In addition to annual salary review (ASR) adjustments budgeted in fiscal 2022, the Department of Budget and Management (DBM) approved ASR salary enhancements for employees of DDA facilities estimated at $1.6 million in fiscal 2021. This funding does not appear in the working appropriation as it is centrally budgeted under DBM and will be transferred through a budget amendment.

Fiscal 2022 salary expenses at the Potomac Center are also expected to grow as a result of Chapter 576 of 2020, which requires employees at any State facility with a forensic admission rate greater than 75% in the preceding fiscal year to be paid the same rate as similarly trained employees at the Clifton T. Perkins Hospital Center. MDH reported that the Potomac Center had greater than 75% forensic, or court-involved, admissions in fiscal 2020 and would therefore receive these adjustments. This personnel funding is also centrally budgeted in DBM. Further discussion of Chapter 576 and recent trends in State facility staffing can be found in the MDH Administration analysis.

Personnel Data

	FY 20 Actual	**FY 21 Working**	**FY 22 Allowance**	**FY 21-22 Change**
Regular Positions	642.00	626.55	640.50	13.95
Contractual FTEs	42.92	44.90	47.90	3.00
Total Personnel	**684.92**	**671.45**	**688.40**	**16.95**
Vacancy Data: Regular Positions				
Turnover and Necessary Vacancies, Excluding New Positions		75.26	11.75%	
Positions and Percentage Vacant as of 12/31/20		99.00	15.80%	
Vacancies Above Turnover		23.74		

- The fiscal 2022 allowance includes a net increase of 13.95 regular positions that were transferred from State psychiatric hospitals following the SETT unit's relocation from the Springfield Hospital in Sykesville to the Potomac Center campus. When the SETT unit relocated in January 2020, many Sykesville staff members transferred to other State facilities. The transferred PINs in fiscal 2022 allow the SETT unit to hire replacement staff.

- As shown in **Exhibit 12**, DDA reported substantial vacancy rates as of December 31, 2020, primarily in Program Direction and the SETT unit with 24.1% and 26.9% vacancy rates, respectively. Although DDA's vacancy rate has improved from 17.5% as of December 31, 2019, all programs still have high vacancy rates over 10%. Persistent vacancies in the three State DDA facilities are concerning as employees must work without a full staff while managing increased safety and health requirements during the pandemic. Additionally, vacancies in administrative programs mean that DDA is implementing an overhaul of the Community Services system (discussed in Issue 2) with diminished State and regional capacity.

Exhibit 12
Vacancy Rates by Program
As of December 31, 2020

	Vacancies as of December 31, 2020	Authorized Positions in Fiscal 2021	Vacancy Rate
Program Direction	13.0	54.0	24.1%
Community Services	12.5	120.5	10.4%
Holly Center	26.5	203.5	13.0%
SETT Unit	19.5	72.6	26.9%
Potomac Center	27.5	176.0	15.6%
Total	**99.0**	**626.6**	**15.8%**

SETT: Secure Evaluation and Therapeutic Treatment

Source: Department of Budget and Management; Maryland Department of Health

Issues

1. Federal and State Programs Offer Assistance to DDA Providers Impacted by COVID-19 Pandemic

The COVID-19 public health emergency significantly impacted how DD individuals access community-based services and how Maryland's 192 licensed providers could operate. On March 23, 2020, when Governor Lawrence J. Hogan, Jr. ordered nonessential businesses to close as part of a statewide stay-at-home order, staff of DDA providers serving DD individuals and their families under the three waivers were designated as essential. DSPs and caretakers working with DD individuals were also designated as essential employees. DDA was unable to provide monthly utilization data for waiver services throughout the pandemic but reported that day and supported employment services especially saw widespread closures. Examples of other pandemic impacts that contributed to significant changes in service delivery and financial losses for some providers included:

- closures and diminished attendance across activities and programs provided in person or in the community;
- increased operating costs to secure personal protective equipment (PPE) and cleaning supplies;
- greater staffing needed to provide services during times an individual would have typically been served in programs out in the community; and
- technology and devices needed to allow for telehealth services, among other program changes.

Federally Approved Programs and Assistance

Appendix K

On April 23, 2020, CMS approved Appendix K for DDA's Medicaid waiver programs to adapt service requirements and provide financial support to providers in response to the COVID-19 pandemic. The appendix provisions applied retroactively to March 13, 2020. CMS approved an amendment extending the appendix expiration date from March 12, 2021, to six months after the end of the nationally declared public health emergency. Based on the new Biden Administration's intent that the COVID-19 public health emergency will be declared until at least the end of calendar 2021, this means that Appendix K could be in effect for the entirety of fiscal 2022. Further, CMS approved an amendment to DDA's waiver programs on January 19, 2021, that allow some Appendix K provisions to extend beyond the pandemic, especially provisions around providers offering virtual or remote services in certain cases. **Exhibit 13** displays the major provisions included in Appendix K.

Exhibit 13
Major Appendix K Provisions and Fiscal 2020 and 2021 Spending
($ in Millions)

Appendix K Provisions	**2020 Actual**	**2021 YTD[1]**
Retainer payments ranging from 80% to 100% of rates for certain providers of residential services, day/employment services, and personal supports services when providers were unable to offer services due to the pandemic	$18.4	$2.6
Residential, day, and supports services providers were authorized to provide services in alternative locations (*i.e.*, acute care hospitals, in the individual's home, *etc.*) and were authorized to provide services remotely or through telehealth[2]		
Increased rate payments for direct support services provided to individuals who were exposed to or tested positive for COVID-19	3.5	2.2
Payments were available to residential service providers for shared day time service hours while day/employment services could not be provided or remote day services were provided		
Modifications to staffing qualifications and onboarding requirements to maintain and support the workforce and permission to exceed staffing ratios due to staffing shortages		
Exceptions to preauthorization requirements to provide flexibility and allow for individuals to receive additional services		
Total Cost	**$21.9**	**$4.8**

Appendix K: Emergency Preparedness and Response Appendix
YTD: year to date

[1]Fiscal 2021 spending through September 30, 2020. The Governor's allowance includes a proposed deficiency of $20 million ($10 million in general funds and $10 million in federal funds) in fiscal 2021 to cover Appendix K costs.
[2]The Centers for Medicare and Medicaid Services approved an amendment to the Developmental Disabilities Administration's three waiver programs on January 19, 2021, that extends some Appendix K provisions beyond the pandemic, such as certain providers being able to offer virtual services in some cases.

Note: Other Medicaid waiver programs also received approval for Appendix K flexibilities such as the extension of services for individuals aging out of the Autism waiver administered by the Maryland State Department of Education.

Source: Maryland Department of Health; Department of Legislative Services

The policies and limits on retainer payments have changed multiple times since Appendix K took effect. Most recently, CMS approved an amendment to the appendix on January 7, 2021, allowing for retainer days to be billed nonconsecutively and establishing requirements (referred to as guardrails) such as providers attesting that they will not lay off staff and that they did not receive funding from

unemployment benefits, the federal Paycheck Protection Program, or other sources. DDA indicates that this amendment in particular has caused administrative issues as the guidance throughout the pandemic had been that retainer days needed to be consecutive. Further, it is not clear to DDA how the guardrails requirement should be interpreted in some cases.

Provider Relief Fund

Health care providers suffering financial losses as a result of the impact of COVID-19 on service delivery could also receive significant support through the Provider Relief Fund, established through the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. Approximately $1.9 billion of the national Provider Relief Fund allocations was received and attested to by Maryland providers as of December 2020. Some licensed DDA providers received grants, although 78% of the funding was awarded to hospitals and nursing homes. The Provider Relief Fund is discussed in greater detail in the MDH Overview analysis.

State Programs and Assistance

Provider Rate Increase

In a December 17, 2020 press conference, the Governor announced that additional funds would be provided to DDA providers by accelerating the anticipated fiscal 2022 mandated 4% provider rate increase by six months to January 1, 2021. Chapters 10 and 11 of 2019 mandated that community service providers receive 4% rate increases annually from fiscal 2021 to 2026. The Governor's proposed budget plan includes a fiscal 2021 deficiency appropriation for this rate increase totaling $27.7 million in total funds ($14.6 million in general funds, $75,714 in special funds, and $13.0 million in federal funds).

It should be noted that the 4% provider rate will be paid out differently depending on whether the provider is billing through DDA's prospective or fee-for-service (FFS) payment models:

- Most provider payments are disbursed through DDA's prospective model, and the two-year cycle for quarterly payments is currently scheduled so that the 4% rate increase will not appear in payments until the first quarter of fiscal 2022. According to DDA, the first two quarterly payments in each fiscal year include advance payments based on estimated services rendered, whereas the third and fourth quarterly payments are based on services provided in the first two quarters as part of the reconciliation process.

- Providers billing through the LTSS system and FFS rate structure (discussed in Issue 2) are not paid on the same quarterly schedule and began receiving the 4% rate increase in January 2021. This includes the nine providers currently participating in the ongoing LTSS pilot program and most providers billing for personal supports and supported living services.

DDA has not announced plans to process any additional payments so that providers in the legacy rate structure receive the 4% rate before July 2021. This is concerning as these providers will not receive

the financial support any earlier than the effective date of the fiscal 2022 rate increase already planned. A large share of the $27.7 million proposed deficiency also appears unnecessary as the majority of this funding will actually be paid out in fiscal 2022.

Grants Funded through the Recovery Now Special Fund

Chapter 39 of 2021 (the RELIEF Act) authorized $5 million in special funds from the Recovery Now Fund to be used for grants for DDA community service providers. The Maryland Community Health Resource Commission will administer these grants in fiscal 2021 to support DDA providers' pandemic-related reopening, transformation, and revenue loss.

PPE Distributions

National and statewide PPE shortages and rising prices affected providers' ability to operate safely and meet public health guidelines. Early on in the pandemic, the Deputy Secretary of DDA acknowledged these shortages in weekly webinars. DDA coordinated with the MDH Office of Preparedness and Response and regional offices for at least six rounds of PPE distribution to providers as of December 2020.

Nonprofit Regional Initiative Grants

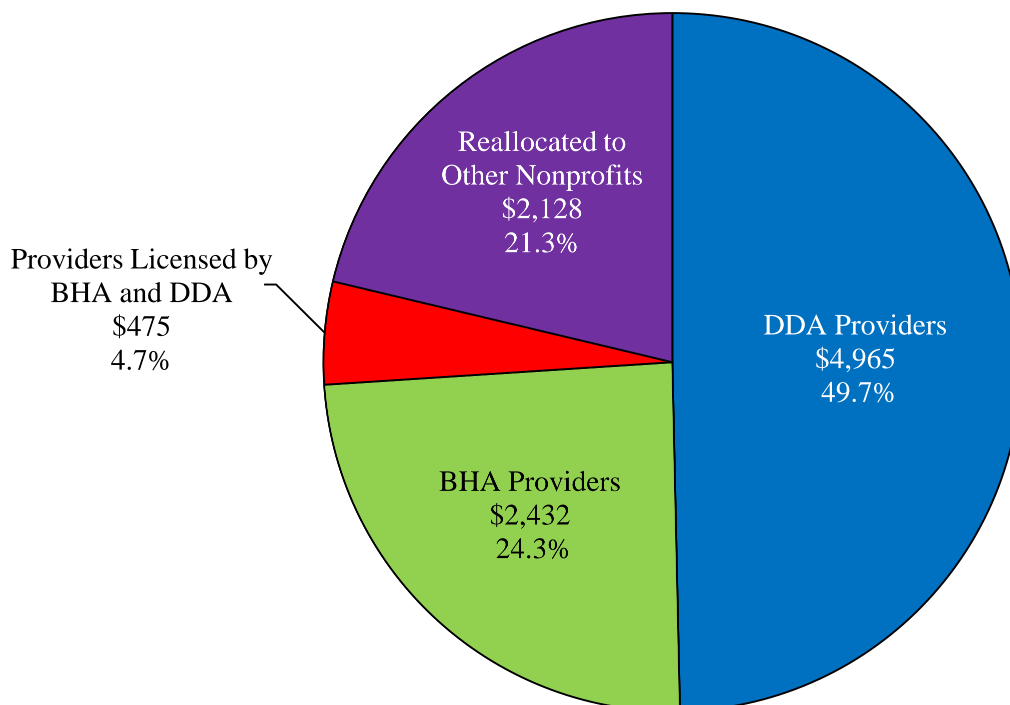
On June 30, 2020, the Governor announced that $10 million of the State's Coronavirus Relief Fund allocation, awarded through the CARES Act, would support a grant program for licensed MDH Behavioral Health Administration (BHA) and DDA providers. This funding was part of the Maryland Nonprofit Recovery Initiative administered by the Department of Housing and Community Development (DHCD).

The Notice of Funding Availability, published on July 10, 2020, specified that grants ranging from $5,000 to $75,000 would be provided for staffing, rent, utilities, PPE, or cleaning supplies. To qualify for aid, grantees were required to show that they had decreased revenue or increased expenses as a result of the COVID-19 pandemic between March 1, 2020, and December 30, 2020. Despite extending the due date for grant applications and increasing the original maximum grant award from $50,000 to $75,000, DHCD indicates that it received less than $10 million in funding requests from BHA and DDA providers.

As shown in **Exhibit 14**, only $7.9 million was disbursed to BHA or DDA providers, and $2.1 million was reallocated to other nonprofits applying to the Nonprofit Recovery Initiative. DHCD reported that 83 DDA providers received funding with an average of about $60,000 per grant.

Exhibit 14
Nonprofit Recovery Initiative Grants Awarded to BHA and DDA Providers
($ in Thousands)

Total Grant Allocation: $10 Million



BHA: Behavioral Health Administration
DDA: Developmental Disabilities Administration

Source: Department of Housing and Community Development

2. New Community Services Rate Structure and Transition to LTSS

As part of an overarching transformation plan, DDA is moving from a prospective payment model to a FFS reimbursement model while also implementing new community services and provider rates. For example, day and supported employment services will be broken out into more categories, and individuals will have more flexibility to select multiple types of services in one day as rates change from daily to hourly billing. DDA is simultaneously transitioning service authorization and billing functionalities from the legacy Provider Consumer Information System 2 (PCIS 2) to the State's existing LTSS information technology system used by various other Medicaid programs. **Exhibit 15** displays the timeline of notable events related to these transformation activities and to Electronic Visit Verification (EVV) requirements.

Exhibit 15
Transformation Plan Timeline
October 2014 to July 2021

Oct. 1, 2014	Chapter 648 of 2014 required that DDA conduct an independent and cost-driven rate-setting study to set rates for community services based on actual costs of providing services.
Dec. 13, 2016	The federal Twenty-first Century Cures Act was passed, which mandated that States implement Electronic Visit Verification (EVV) for all personal care supports provided through Medicaid programs before January 1, 2020. This was later extended to January 1, 2021.
Nov. 2017	DDA's selected vendor, JVGA, published a rate-setting study based on a trademarked approach that uses cost components, especially the wage for DSPs as the foundation, to make up one "brick" (one hour of services).
August 2018	Coordination of community services agencies transitioned to using the LTSS system for case management functions.
July 2019	DDA originally expected to launch the LTSS and rate structure transition at the start of fiscal 2020 but delayed the implementation date by one year to fiscal 2021.
Oct. 2019	DDA shared a set of new rates with community service providers that were still subject to change but were in place ahead of the LTSS pilot.
Dec. 1, 2019	An LTSS pilot launched for 9 providers and 35 participants out of DDA's community service system of 192 providers and over 17,000 individuals receiving community-based services.
June 15, 2020	The Deputy Secretary of DDA announced that the LTSS transition would be delayed, in part due to the COVID-19 pandemic. No new systemwide implementation date was announced at that time.
July 1, 2020	All providers began operating in both the legacy PCIS 2 (for service authorization and billing) and the LTSS systems (for person-centered plan development), except for pilot providers and individuals that only used LTSS.
October 1, 2020 to December 1, 2020	All personal supports services, except for individuals self-directing their services, were transitioned to the LTSS system to meet the federal EVV requirement before the January 1, 2021 due date. This impacted over 4,300 individuals receiving services. Supported living services also transitioned to LTSS over this period.
January 19, 2021	CMS approved DDA's third amendment to its Medicaid waivers, which approved the new rate structure (including geographic differential payments for five counties).
March 2021	Rates in the LTSS system will be updated with a geographic differential approved in Amendment 3 and will retroactively apply to reimbursements as of January 19, 2021.
July 1, 2021	The LTSS pilot will be expanded to nine providers (referred to as early adopters who will voluntarily join the pilot) and approximately 2,900 additional individuals.

CMS: Centers for Medicare and Medicaid Services
DDA: Developmental Disabilities Administration
DSP: direct support professionals
JVGA: Johnston, Villegas-Grubbs, and Associates, LLC
LTSS: Long Term Services and Supports
PCIS 2: Provider Consumer Information System 2

Note: Some activities have been ongoing over the periods shown such as DDA working with a technical workgroup of stakeholders to evaluate the new rates and training service providers to use LTSS for new functionalities.

Source: Maryland Department of Health; Department of Legislative Services

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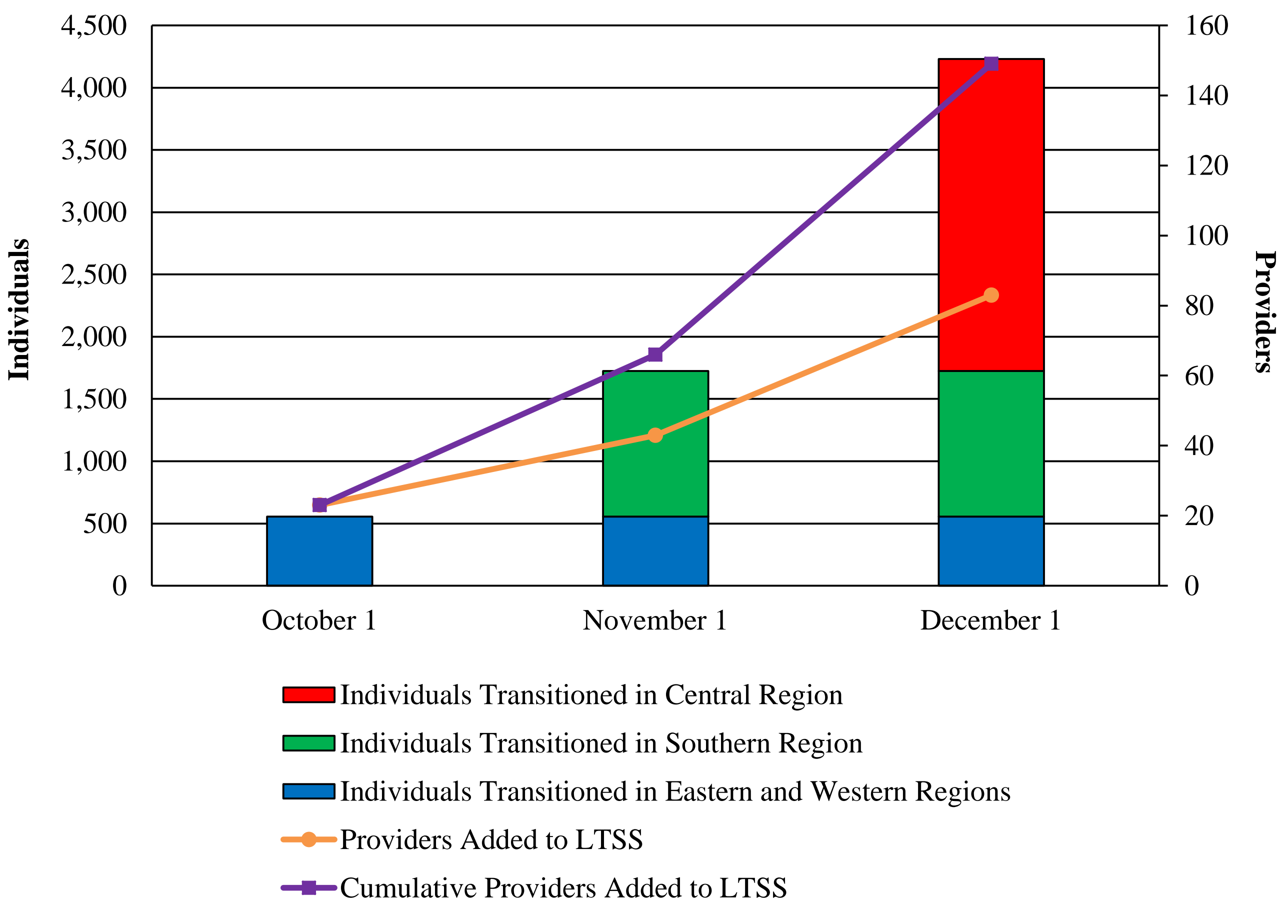
Electronic Visit Verification Requirements for Personal Supports

The LTSS transition is also tied to Maryland's compliance with the federal Twenty-first Century Cures Act, which required that State Medicaid programs implement EVV, a function that was not developed for the legacy PCIS 2 system. MDH used the In-home Supports Assurance System (ISAS) housed on LTSS to meet this requirement for other Medicaid programs. CMS originally required that EVV be in place by January 1, 2020, for all personal care services that require an in-home visit by a provider. However, MDH was granted a good-faith effort exception until January 1, 2021. If DDA or another Medicaid program did not meet the EVV requirement, the FMAP for all MDH programs providing personal care services would be reduced by 0.25%, with the penalty increasing each year after January 2021.

DDA transitioned individuals and providers to LTSS for the service authorization and billing functions for personal supports using a phased roll out. As shown in **Exhibit 16**, individuals and providers in the Eastern and Western regions transitioned first on October 1, 2020. This accounted for 555 individuals (13% of those transitioned) and 23 providers (15% of those transitioned). DDA then implemented the LTSS transition for the Southern region on November 1, 2020, which covered 28% of individuals and 29% of providers transitioning to LTSS through this plan. Finally, on December 1, 2020, DDA transitioned the Central region, accounting for the largest share of individuals (59%) and providers (56%) switching to LTSS.

Exhibit 16
Phased Implementation of the LTSS Transition for Personal Supports Services
Calendar 2020



LTSS: Long Term Services and Supports

Source: Maryland Department of Health; Department of Legislative Services

By the end of this phased implementation, DDA added a total of 4,230 individuals and 149 providers to the LTSS system. Additionally, DDA moved individuals and providers to LTSS for supported living services beginning at the end of calendar 2020 and into 2021. This process included disbursing advance payments to providers to bridge the periods between receiving prospective payments and FFS reimbursement. DDA reported that it had not received these bridge payments back yet as of February 23, 2021, but would collect the advances prior to the close of fiscal 2021.

It should be noted that individuals who self-direct their services were not included in this plan as their provider payments are disbursed through the Financial Management Services (FMS) vendors. The current FMS vendors did not have the capacity to meet the EVV requirements. Therefore, the new request for proposals that is currently being reviewed by MDH's Office of Procurement and Support Services will require a new FMS vendor to be able to meet the EVV requirement. According to DDA, the agency is not in full compliance with the EVV requirement because individuals in self-directed services are not under ISAS. However, DDA indicated that CMS is likely to apply the FMAP penalty only to the individuals in self-directed services who receive personal supports. **DDA should provide an estimate of the budgetary impact of not meeting the EVV requirement systemwide. Additionally, DDA should provide a timeline for when individuals in self-directed services will be compliant with the EVV requirement.**

Implementation Plan and LTSS Pilot Expansion

After delaying the systemwide transition planned for July 1, 2021, DDA had not announced (as of February 20, 2021) a new target implementation date or a timeline for when all other individuals and providers in the Community Services program would move to the FFS reimbursement model. Language in the fiscal 2021 Budget Bill restricted funds until DDA provided two reports with updates on the LTSS and rate structure transition. The budget committees approved an extension and allowed DDA to provide one combined report but, as of February 20, 2021, DDA had not submitted a response.

DDA had previously indicated that it still planned on a phased approach for onboarding more individuals and providers into the LTSS system and rate structure. Effective January 19, 2021, a third amendment to DDA's Medicaid waiver programs updated the proposed rate transition schedule to a phased approach and administered changes to the LTSS rates agreed upon during the rate-setting process such as applying a geographic differential for individuals residing in five counties (Calvert, Charles, Frederick, Montgomery, and Prince George's counties).

During the 2021 legislative session, the Maryland Senate and House of Delegates overrode the Governor's veto of legislation (SB 796 of 2020, now Chapter 7 of 2021) that outlined certain requirements that DDA must meet at least 90 days before requiring providers to transition to LTSS and the new rate system. These requirements include developing and distributing:

- an LTSS software system operations manual for DDA services for LTSS users;
- written policies and procedures for all developmental disability waiver services for providers and individuals served;
- a comprehensive guide that describes services available through DDA Community Pathways, Community Supports, and Family Supports waiver programs for individuals supported by provider services; and

- various information, such as a list of authorized providers for waiver services with their contact information and guidance on self-directed services options, for individuals determined to be eligible for DDA services.

Chapter 7 included other requirements before DDA can require providers to transition to the LTSS system, including ensuring that:

- individuals receiving services have current, approved person-centered plans in LTSS;

- that individuals receiving services have accurate and current service authorization;

- that rates for a provider are finalized, and a provider impact analysis is completed for each provider; and

- all known LTSS software system functionality errors are corrected systematically.

Another Chapter 7 provision mandates that DDA conduct an LTSS pilot program for at least six months. In conducting the pilot program, DDA must include the participation of each DDA licensed provider and allow each provider to select the number of individuals they serve that will be included in the pilot program. DDA provided updates on its ongoing efforts to expand the initial LTSS pilot, launched in December 2019, to include providers who volunteered to test the LTSS system as early adopters.

Nine providers are in the early adopters group, and DDA is preparing for 2,900 individuals to move under the new rate structure on July 1, 2021. Ahead of the implementation date, DDA published rates loaded into LTSS as of January 1, 2021, and revised rates showing the geographic differential that will be reflected in the LTSS system beginning on March 1, 2021. DDA indicated that the early adopters group are in the process of performing provider impact analyses and will offer feedback on the estimated budgetary impacts of the rates and new service structure. Although DDA did not select these providers and could not guarantee geographic representation, all four regions are represented in this group. This pilot group will cover a variety of service types, including:

- community living – group home;

- day habilitation;

- community development services;

- employment services; and

- personal supports (which were already transitioned to LTSS).

DDA should provide a long-term timeline and plan for how it will meet the provisions outlined in Chapter 7 and how it will transition all individuals and providers in the Community Services program to the LTSS system and FFS reimbursement model.

State Budgetary Impact

The Governor's fiscal 2022 budget plan is again based on DDA's prospective payment model, despite over 4,300 individuals and 149 providers billing through LTSS with over 2,000 more individuals transitioning to the new rates on July 1, 2021. In the budget submission, there are distinctions between funding for providers billing through LTSS and providers still using PCIS 2 in fiscal 2020 only.

It is concerning that the Community Services program does not have any funding allocated in fiscal 2022 for the new rate system, bridge payments, or other costs to implement the new FFS reimbursement model. The most recent systemwide budget impact analysis provided to DLS used the October 2019 iteration of the rates and projected that fiscal 2020 provider reimbursement rates would have increased by approximately $97.0 million in total funds under the new rates and utilization at that time. Further, the transition to the LTSS system and a FFS reimbursement model should improve DDA's data collection so that it can better analyze and forecast future spending needs based on actual monthly utilization across each service type.

DLS recommends adopting language that restricts $1.0 million in general funds budgeted for administration until DDA submits a report to the budget committees with a plan for submitting monthly utilization data by service, cost analyses of the services and providers that have already transitioned to LTSS, and forecasts for future spending needs based on the new rates as of March 1, 2021.

Operating Budget Recommended Actions

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

   , provided that $1,000,000 of this appropriation made for the purpose of administration may not be expended until the Maryland Department of Health submits a report to the budget committees regarding community service utilization data and spending forecasts that will be made available as the Developmental Disabilities Administration (DDA) Community Services program transitions to a fee-for-service (FFS) reimbursement system. The report should include:

   (1) a plan and timeline for providing data to the Department of Legislative Services on utilization by service type on a monthly basis for DDA-funded services billed through the Long Term Services and Supports (LTSS) system;

   (2) a plan and timeline for forecasting general fund spending in the Community Services program in fiscal 2023 and beyond based on actual utilization and reimbursements billed through the LTSS system following the transition to a FFS reimbursement model;

   (3) the number of individuals receiving DDA-funded services and providers that transitioned to the LTSS system before the start of fiscal 2022 and the number of individuals and providers transitioned to the LTSS system in fiscal 2022 year to date;

   (4) a cost analysis of the rates paid to providers that were transitioned to the LTSS system as part of the initial LTSS pilot program and how DDA's reimbursements compare to the estimated payments that would have been made under the prospective payment model; and

   (5) a description of the utilization and spending data that is available through the LTSS system and would assist DDA in forecasting its spending needs.

   The report shall be submitted by November 1, 2021, and the budget committees shall have 45 days from receipt of the report to review and comment. Funds restricted pending receipt of this report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

   Explanation: DDA is overhauling its Community Services system by implementing new service definitions, establishing new rates based on a FFS reimbursement model, and transitioning to Medicaid's exiting LTSS system for billing and service authorization. These changes should improve DDA's data collection and spending forecast abilities compared to the current prospective payment model. This language restricts funding budgeted for administration until the Maryland Department of Health (MDH) submits a report to the budget

committees on data collection and spending forecasts following the transition to a new rate structure.

Information Request	**Author**	**Due Date**
Report on community services utilization data collection and spending forecasts	MDH	November 1, 2021

2. Adopt the following narrative:

State Facility Performance Measures on Staff and Resident Safety: The Maryland Department of Health (MDH) introduced a new performance measure for State psychiatric hospitals that measures staff safety as the incidence rate of patient to staff assaults per 1,000 patient days. The budget committees request that MDH provide this measure for each of the Developmental Disabilities Administration facilities in its fiscal 2023 Managing for Results (MFR) submission. Further, the committees request that the fiscal 2023 MFR submission report existing measures of resident-on-resident and resident-on-staff assault data separately for the Holly Center, the Potomac Center, and the Secure Evaluation and Therapeutic Treatment unit.

Information Request	**Author**	**Due Date**
Performance measures related to State facility staff and resident safety	MDH	With the submission of the fiscal 2023 allowance

3. Add the following language:

All appropriations provided for program M00M01.02 Community Services are to be used only for the purposes herein appropriated, and there shall be no budgetary transfer to any other program or purpose.

Explanation: The Maryland Department of Health has reported increasing net general fund transfers out of the Developmental Disabilities Administration Community Services program, mainly to cover shortfalls elsewhere in the department. This language restricts funds appropriated for the Community Services program to that use only and prevents budgetary transfers.

	Amount Reduction	
4. Reduce general funds based on unanticipated enhanced federal matching funds continuing through the COVID-19 public health emergency.	$ 37,800,000	GF

Total General Fund Reductions	**$ 37,800,000**

Budget Reconciliation and Financing Act Recommended Actions

1. Authorize a planned reversion of $16.8 million in general funds from the Community Services program to reflect general fund savings from enhanced federal matching funds that were not claimed in fiscal 2020.

Updates

1. Status of Federal Audit Disallowance

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.

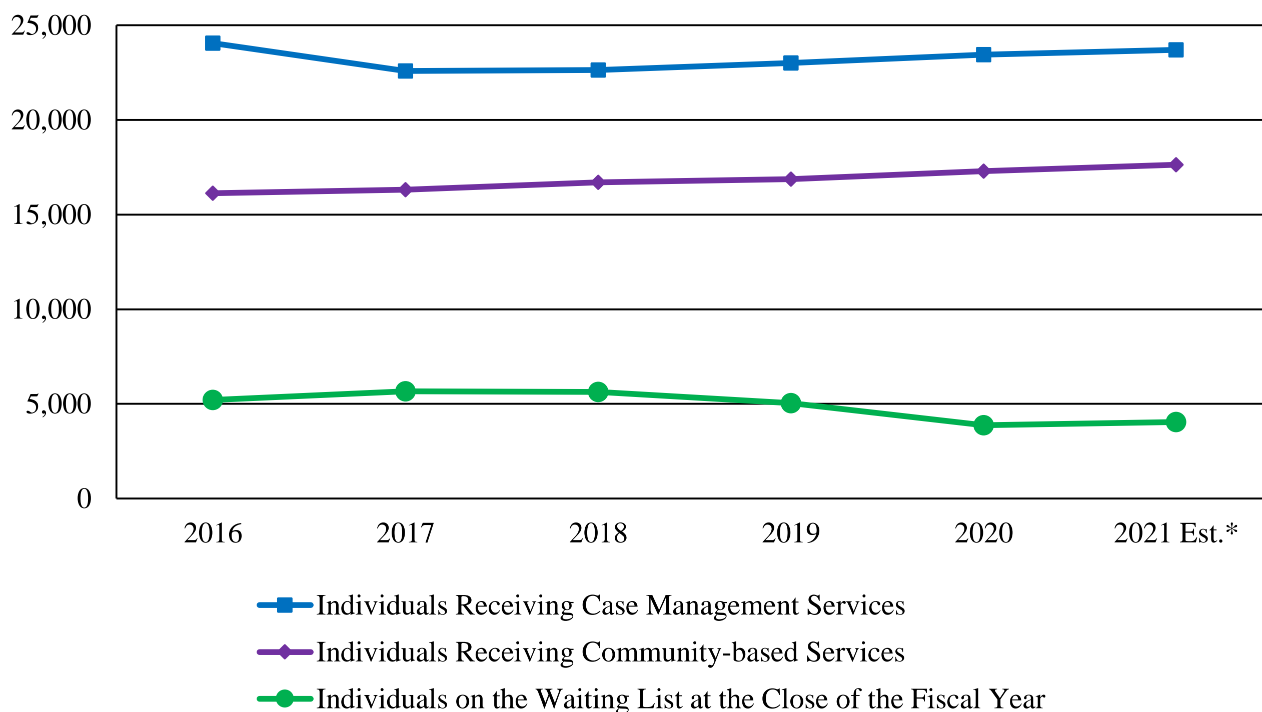
MDH did not concur with the OIG recommendations in a September 2015 response and disagreed with the interpretation that the Community Pathways waiver required individuals receiving the services to meet three separate requirements. The department has, in the past, interpreted the waiver and operated its 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 (RFR) 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 the Office of Legislative Audits' *Statewide Review of Budget Closeout Transactions for Fiscal Year 2020*, there has been no further action or correspondence regarding HHS' final determination in response to the August 2018 RFR.

2. More Individuals Served in Community-based Services

Exhibit 17 displays the unduplicated count of individuals receiving DDA-funded case management and community-based services in each fiscal year shown. One of DDA's performance goals is that the number of individuals receiving community-based services will increase annually. In fiscal 2020, DDA met this goal with increases of 433 more individuals receiving case management services (23,445 individuals total) and 428 more individuals receiving community-based services (17,296 individuals total). DDA expects to fund case management and place more individuals from the waiting list into community-based services in fiscal 2021.

Exhibit 17
Unduplicated Count of Individuals Receiving Community Services and Point-in-time Waiting List Count
Fiscal 2016-2021 Est.



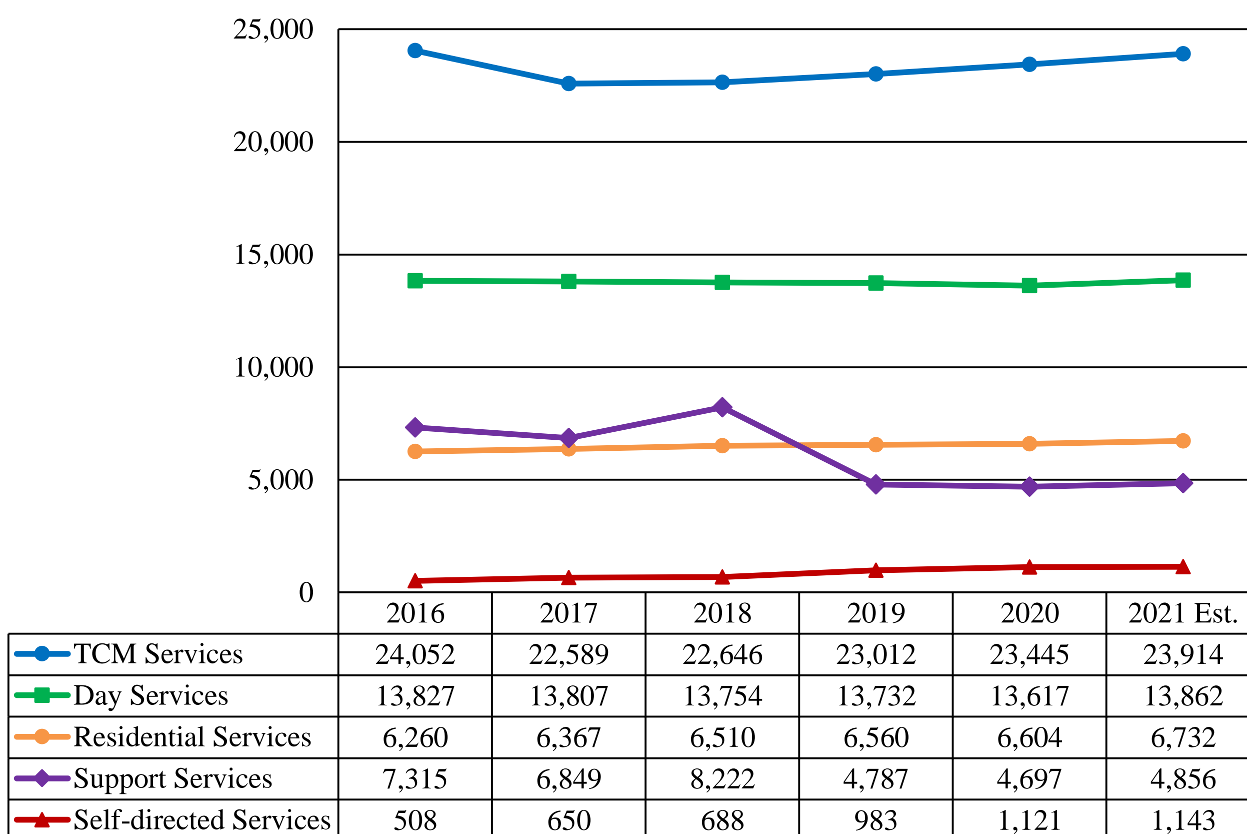
*Fiscal 2021 shows the waiting list count on October 31, 2020, rather than the end of the fiscal year.

Note: The Developmental Disabilities Administration also tracks individuals on the community services waiting list who do not meet the statutory definition 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; Department of Legislative Services

Within the Community Services program, DDA funds a variety of services broadly categorized as residential, day, and support services and targeted case management. **Exhibit 18** shows recent enrollment trends across these service types. Individuals eligible for DDA-funded services can also receive self-directed services. Individuals who choose to self-direct can receive the full range of DDA services and supports, but they select their services and manage their own budget from DDA. Self-directed services have more than doubled since 2016, expanding from 508 to 1,121 individuals choosing this option. In fiscal 2020, self-directed services showed the largest increase in enrollment.

Exhibit 18
Individuals Receiving Community Services by Type
Fiscal 2016-2021 Est.



	2016	2017	2018	2019	2020	2021 Est.
TCM Services	24,052	22,589	22,646	23,012	23,445	23,914
Day Services	13,827	13,807	13,754	13,732	13,617	13,862
Residential Services	6,260	6,367	6,510	6,560	6,604	6,732
Support Services	7,315	6,849	8,222	4,787	4,697	4,856
Self-directed Services	508	650	688	983	1,121	1,143

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 supported employment and summer programs. Support services include individual, family, and personal support services.

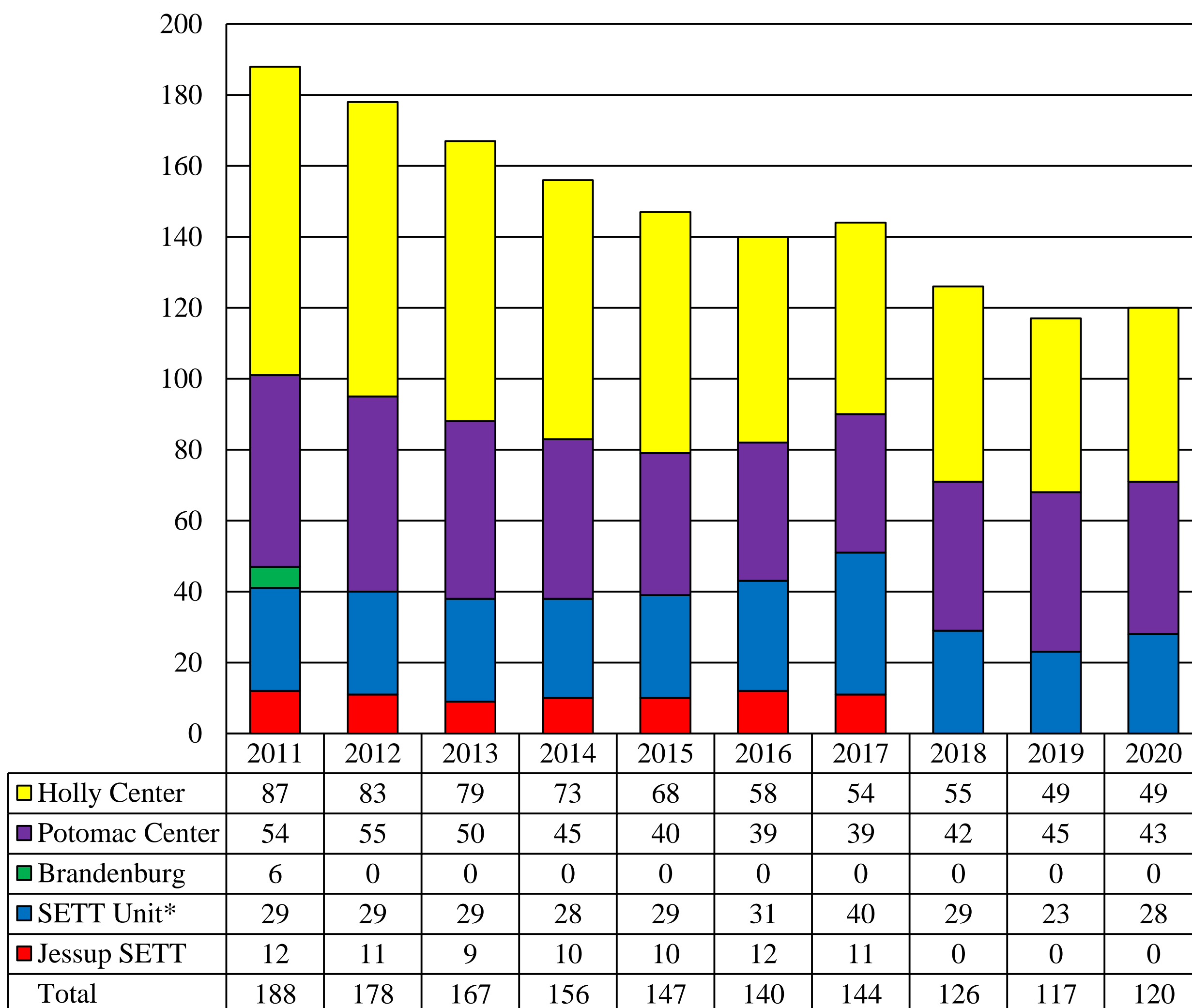
Source: Maryland Department of Health; Department of Legislative Services

3. Population in DDA Facilities Rises Slightly

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 DD.

Exhibit 19 shows the average daily population (ADP) of SRCs and SETT units between fiscal 2011 and 2020. ADP in the SETT program decreased in fiscal 2018 by 22 individuals following the consolidation of the two SETT units in fiscal 2017. The remaining SETT unit has since transferred from a Sykesville location to vacant cottages on the Potomac Center campus and showed a slight increase of five residents in fiscal 2020 compared to fiscal 2019. MDH indicated that the SETT unit and Potomac Center ADP are still reported separately as they represent two different facility classifications. The Potomac Center's ADP decreased slightly from 45 clients in fiscal 2019 to 43 clients in fiscal 2020, while the Holly Center's population did not change from the previous year. The ADP at the Holly Center has consistently decreased in most fiscal years shown. Both SRCs showed declining ADPs in at least 5 of the 10 years shown.

Exhibit 19
Average Daily Population of DDA Facilities
Fiscal 2011-2020



	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Holly Center	87	83	79	73	68	58	54	55	49	49
Potomac Center	54	55	50	45	40	39	39	42	45	43
Brandenburg	6	0	0	0	0	0	0	0	0	0
SETT Unit*	29	29	29	28	29	31	40	29	23	28
Jessup SETT	12	11	9	10	10	12	11	0	0	0
Total	188	178	167	156	147	140	144	126	117	120

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

*In January 2020, the SETT unit located at the Springfield hospital in Sykesville was relocated to the Potomac Center campus.

Source: Maryland Department of Health

Appendix 1
2020 *Joint Chairmen's Report* Responses from Agency

The 2020 *Joint Chairmen's Report* (JCR) requested that the Developmental Disabilities Administration (DDA) prepare three reports. Although the budget committees granted extensions ranging from December 1, 2020, to January 15, 2021, DDA had not submitted any of the reports as of February 20, 2021. This is mainly due to strains on the Maryland Department of Health's capacity during the COVID-19 public health emergency.

- ***Expanded Use of the Waiting List Equity Fund:*** This issue is discussed in further detail in the fiscal 2020 budget section of this analysis.

- ***Status Update on Long Term Services and Support (LTSS) and Rate Structure Transition:*** Discussion of DDA's implementation plan for the LTSS transition and new fee-for-service rate structure can be found in Issue 2.

- ***Transitioning Youth Placements:*** The budget committees requested that DDA provide information regarding transitioning youth who had not received approval for DDA adult services since exiting the State educational system and reasons for delays in approving and placing these individuals in services and a plan to ensure transitioning youth receive approval and placement in services in a timely manner in fiscal 2021.

Appendix 2
Object/Fund Difference Report
Maryland Department of Health − Developmental Disabilities Administration

Object/Fund	FY 20 Actual	FY 21 Working Appropriation	FY 22 Allowance	FY 21 - FY 22 Amount Change	Percent Change
Positions					
01 Regular	642.00	626.55	640.50	13.95	2.2%
02 Contractual	42.92	44.90	47.90	3.00	6.7%
Total Positions	**684.92**	**671.45**	**688.40**	**16.95**	**2.5%**
Objects					
01 Salaries and Wages	$ 49,279,823	$ 49,555,567	$ 50,592,322	$ 1,036,755	2.1%
02 Technical and Spec. Fees	3,194,599	2,429,728	2,872,274	442,546	18.2%
03 Communication	308,211	244,326	269,161	24,835	10.2%
04 Travel	69,034	118,888	82,481	-36,407	-30.6%
06 Fuel and Utilities	872,642	1,151,289	1,123,099	-28,190	-2.4%
07 Motor Vehicles	144,382	117,062	63,631	-53,431	-45.6%
08 Contractual Services	1,270,722,005	1,367,250,097	1,482,487,963	115,237,866	8.4%
09 Supplies and Materials	1,655,246	1,883,791	1,331,801	-551,990	-29.3%
10 Equipment – Replacement	221,386	118,442	72,368	-46,074	-38.9%
11 Equipment – Additional	119,711	94,742	82,359	-12,383	-13.1%
12 Grants, Subsidies, and Contributions	1,046,256	980,000	1,480,000	500,000	51.0%
13 Fixed Charges	663,900	750,945	760,687	9,742	1.3%
14 Land and Structures	501,993	0	0	0	0.0%
Total Objects	**$ 1,328,799,188**	**$ 1,424,694,877**	**$ 1,541,218,146**	**$ 116,523,269**	**8.2%**
Funds					
01 General Fund	$ 718,685,888	$ 769,596,868	$ 827,883,941	$ 58,287,073	7.6%
03 Special Fund	4,803,409	6,268,497	6,381,010	112,513	1.8%
05 Federal Fund	603,248,953	648,799,915	706,923,899	58,123,984	9.0%
09 Reimbursable Fund	2,060,938	29,597	29,296	-301	-1.0%
Total Funds	**$ 1,328,799,188**	**$ 1,424,694,877**	**$ 1,541,218,146**	**$ 116,523,269**	**8.2%**

Note: The fiscal 2021 appropriation does not include deficiencies and general salary increases. The fiscal 2022 allowance does not include annual salary reviews, State Law Enforcement Officers Labor Alliance salary increases, and annualization of general salary increases.

Appendix 3
Fiscal Summary
Maryland Department of Health – Developmental Disabilities Administration

Program/Unit	FY 20 Actual	FY 21 Wrk Approp	FY 22 Allowance	Change	FY 21 - FY 22 % Change
01 Developmental Disabilities Administration	$ 1,283,091,159	$ 1,382,386,705	$ 1,498,149,461	$ 115,762,756	8.4%
05 Holly Center	17,325,205	17,474,457	17,872,471	398,014	2.3%
06 Court Involved Service Delivery	7,886,907	7,059,293	6,884,392	-174,901	-2.5%
07 Potomac Center	19,560,025	16,869,691	17,601,028	731,337	4.3%
15 Unknown Title	935,892	904,731	710,794	-193,937	-21.4%
Total Expenditures	**$ 1,328,799,188**	**$ 1,424,694,877**	**$ 1,541,218,146**	**$ 116,523,269**	**8.2%**
General Fund	$ 718,685,888	$ 769,596,868	$ 827,883,941	$ 58,287,073	7.6%
Special Fund	4,803,409	6,268,497	6,381,010	112,513	1.8%
Federal Fund	603,248,953	648,799,915	706,923,899	58,123,984	9.0%
Total Appropriations	**$ 1,326,738,250**	**$ 1,424,665,280**	**$ 1,541,188,850**	**$ 116,523,570**	**8.2%**
Reimbursable Fund	$ 2,060,938	$ 29,597	$ 29,296	-$ 301	-1.0%
Total Funds	**$ 1,328,799,188**	**$ 1,424,694,877**	**$ 1,541,218,146**	**$ 116,523,269**	**8.2%**

Note: The fiscal 2021 appropriation does not include deficiencies and general salary increases. The fiscal 2022 allowance does not include annual salary reviews, State Law Enforcement Officers Labor Alliance salary increases, and annualization of general salary increases.