

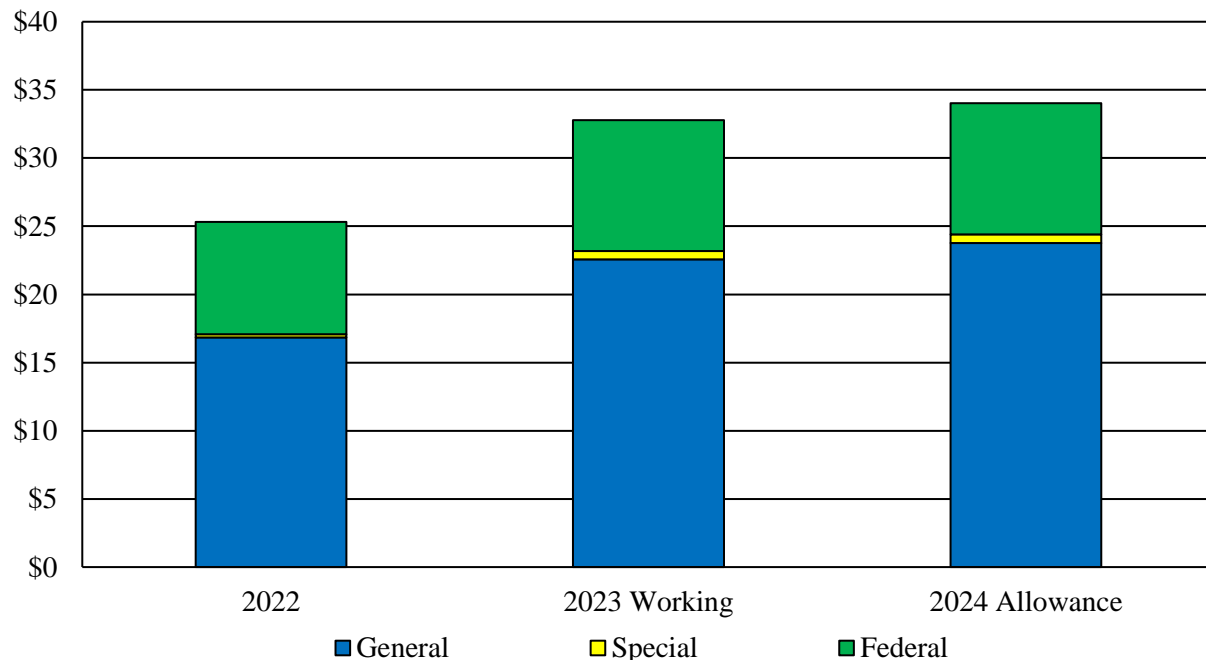
M00B0103
Office of Health Care Quality
Maryland Department of Health

Program Description

The Office of Health Care Quality (OHCQ) under the Maryland Department of Health (MDH) is 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. OHCQ licenses and certifies health care facilities and programs and conducts reviews of facilities participating in Medicare and Medicaid to determine compliance with State and federal regulations. The office is organized into five major units that have separate facility licensing and regulatory responsibility: the Developmental Disabilities Unit (DDU); the Federal Unit; the Assisted Living Unit (ALU); the Long Term Care Unit; and the Clinical and Forensic Laboratories Unit. Smaller regulatory units oversee hospice facilities and adult medical day care services.

Operating Budget Summary

Fiscal 2024 Budget Increases by \$1.2 Million, or 3.8%, to \$34.0 Million
(\$ in Millions)



Note: The fiscal 2023 working appropriation includes deficiency appropriations including this agency's share of a deficiency appropriation budgeted in the Statewide Account within the Department of Budget and Management (DBM). Fiscal 2024 salary enhancements are budgeted in the Statewide Account within DBM.

For further information contact: Anne P. Wagner

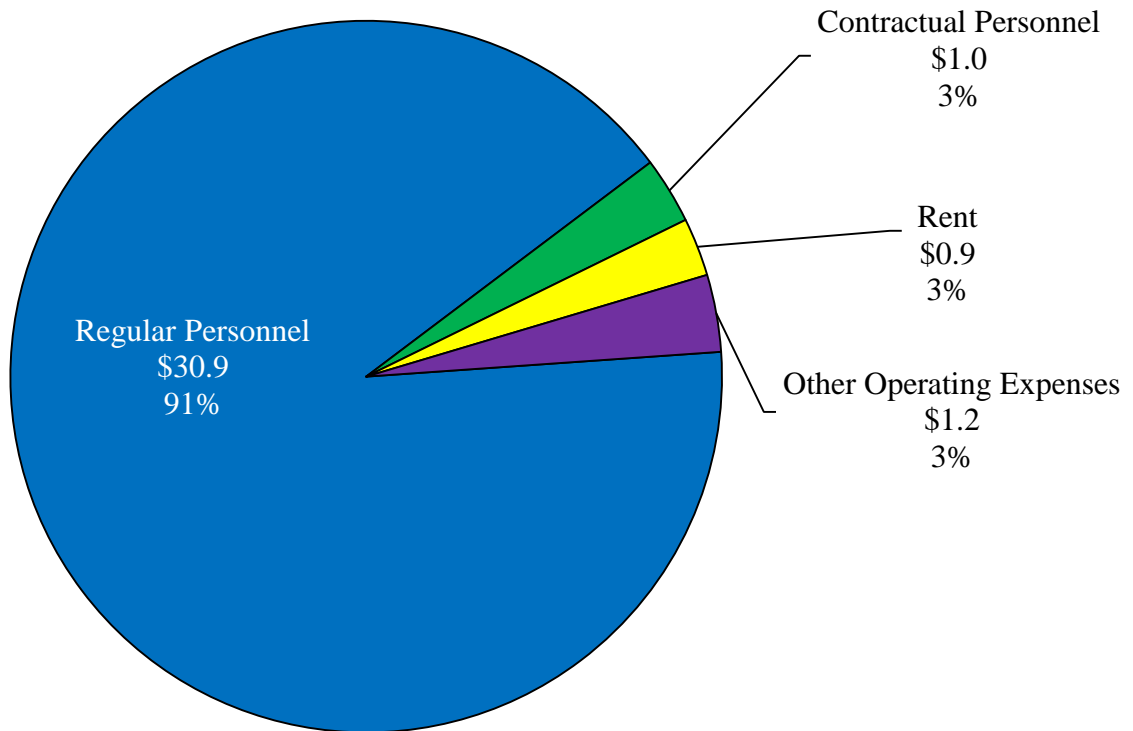
Anne.Wagner@mlis.state.md.us

- Personnel expenses account for almost all (99%) of the \$1.2 million increase in OHCQ’s fiscal 2024 allowance. The personnel increases are mainly driven by the addition of 10 new regular positions as part of a five-year staffing initiative mandated in Chapter 454 of 2018, the Maryland Nursing Home Resident Protection Act.
- Due to State and federal law requiring OHCQ to license, certify, and survey facilities participating in Medicare and Medicaid, the office’s annual budget is partially supported with federal funds from those programs. The fiscal 2024 allowance keeps the same approximate fund split as prior years, with 70% of the budget supported by general funds.

Fiscal 2024 Overview of Agency Spending

Exhibit 1 shows the OHCQ fiscal 2024 allowance by use of funding. Considering the office’s regulatory nature, salaries and fringe benefits for regular personnel account for the vast majority (91%) of agencywide spending. As shown in **Exhibit 2**, more than half of regular personnel costs support the Long Term Care Unit and DDU. Among the major monitoring units, the Long Term Care Unit makes up 28%, or \$8.5 million, of personnel costs. OHCQ also dedicates some resources to services that assist all monitoring units, including administrative expenses, information technology solutions, and quality performance measures.

Exhibit 1
Overview of Agency Spending
Fiscal 2024 Allowance
(\$ in Millions)

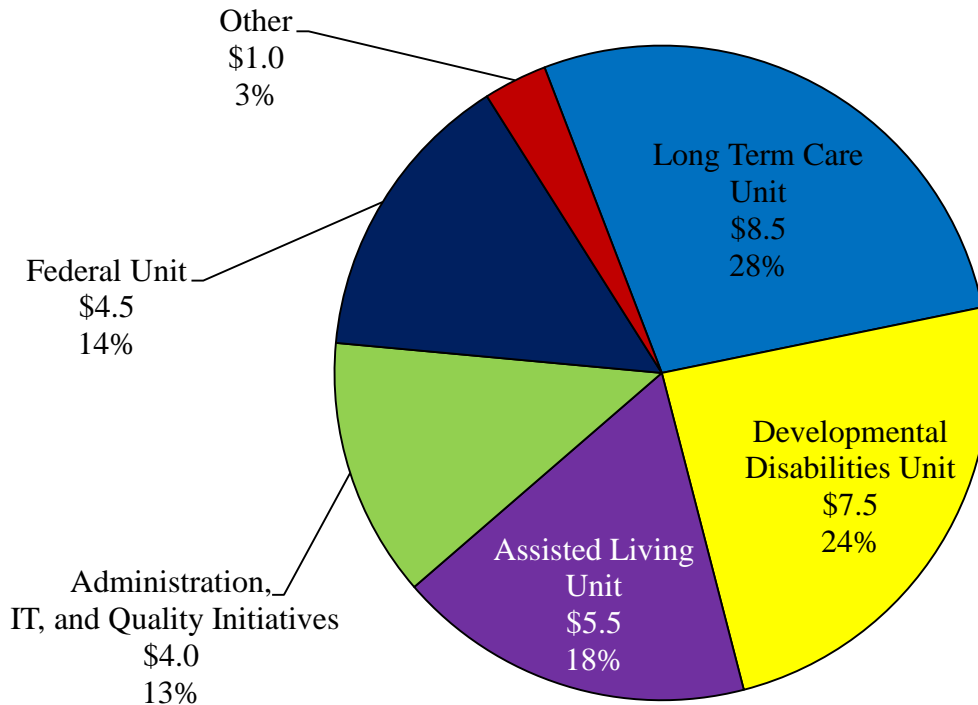


Total Expenditures: \$34.0 Million

Note: The fiscal 2024 allowance does not include salary enhancements that are budgeted in the Statewide Account within the Department of Budget and Management.

Source: Department of Budget and Management

Exhibit 2
Personnel Spending by Monitoring Unit
Fiscal 2024 Allowance
(\$ in Millions)



Total Personnel Expenditures: \$30.9 million

IT: information technology

Note: The fiscal 2024 allowance does not include salary enhancements that are budgeted in the Statewide Account within the Department of Budget and Management.

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

Proposed Budget Change

As shown in **Exhibit 3**, personnel adjustments account for \$1.23 million of the \$1.24 million increase in OHCQ's fiscal 2024 allowance compared to the fiscal 2023 working appropriation after accounting for this agency's share of a statewide deficiency appropriation for the 4.5% cost-of-living adjustment provided in November 2022. The single largest change driving overall budget growth is \$725,639 in salaries and fringe benefits for 10 new positions required by Chapter 454.

Exhibit 3
Proposed Budget
Maryland Department of Health – Office of Health Care Quality
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Total</u>
Fiscal 2022 Actual	\$16,848	\$231	\$8,240	\$25,319
Fiscal 2023 Working Appropriation	22,576	616	9,590	32,782
Fiscal 2024 Allowance	<u>23,771</u>	<u>620</u>	<u>9,634</u>	<u>34,025</u>
Fiscal 2023-2024 Amount Change	\$1,195	\$4	\$43	\$1,243
Fiscal 2023-2024 Percent Change	5.3%	0.7%	0.5%	3.8%
Where It Goes:				<u>Change</u>
Personnel Expenses				
Salaries and fringe benefits for 10 new positions, in accordance with Chapter 454 of 2018 (further discussed in Key Observation 2)				\$726
Employee and retiree health insurance				721
Annualization of 4.5% general salary increase that took effect November 1, 2022				320
Other fringe benefit adjustments				34
Retirement contributions				-20
Other salaries, decreasing primarily due to budgeting vacant positions at base				-554
Other Changes				
Contractual personnel expenses, including annualization of 4.5% general salary increase that took effect November 1, 2022				80
Routine travel costs.....				-59
Other administrative costs				-6
Total				\$1,243

Note: The fiscal 2023 working appropriation includes deficiency appropriations including this agency's share of a deficiency appropriation budgeted in the Statewide Account within the Department of Budget and Management (DBM). Fiscal 2024 salary enhancements are budgeted in the Statewide Account within DBM. Numbers may not sum to total due to rounding.

Personnel Data

	<u>FY 22</u> <u>Actual</u>	<u>FY 23</u> <u>Working</u>	<u>FY 24</u> <u>Allowance</u>	<u>FY 23-24</u> <u>Change</u>
Regular Positions	230.00	240.00	250.00	10.00
Contractual FTEs	<u>6.36</u>	<u>13.50</u>	<u>14.00</u>	<u>0.50</u>
Total Personnel	236.36	253.50	264.00	10.50

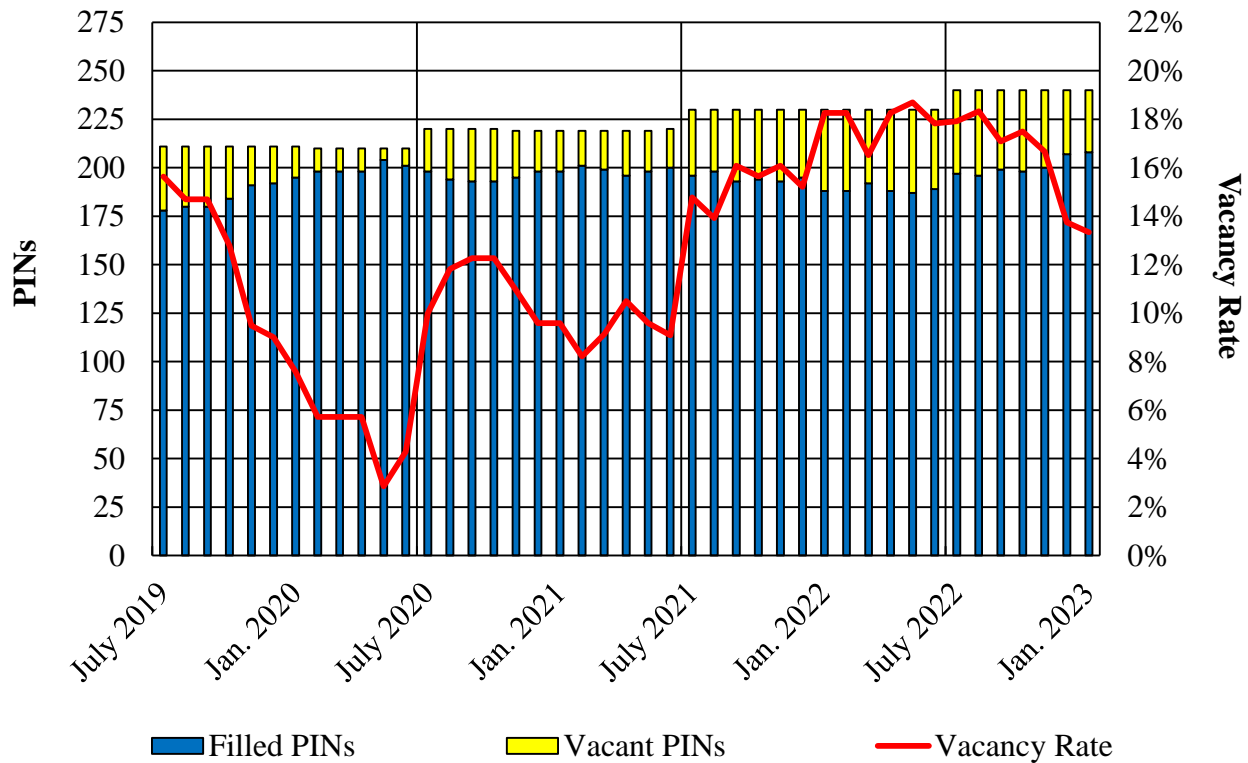
Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/22	32.00	13.33%
Vacancies Above Turnover	32.00	

Turnover Set at 0% for Second Year Despite Persistent Vacancies

As shown in **Exhibit 4**, OHCQ's staffing levels have fluctuated from a low of 178 filled positions in July 2019 to a high of 208 filled positions in January 2023. Despite the overall growth in filled positions, OHCQ consistently reported monthly vacancy rates of at least 10% since July 2021. This has occurred because the office's total authorized positions have increased by 10 new positions each year beginning in fiscal 2020 (further discussed in Key Observation 2). OHCQ's monthly vacancy rate grew substantially throughout fiscal 2022, peaking at 18.7% in May 2022. Most recently, the office's vacancy rate improved from 17.9% in July 2023 to 13.3% in January 2023, a net decrease of 11 vacant positions.

Exhibit 4
Monthly Filled and Vacant Positions
Fiscal 2020-2023 Year-to-date



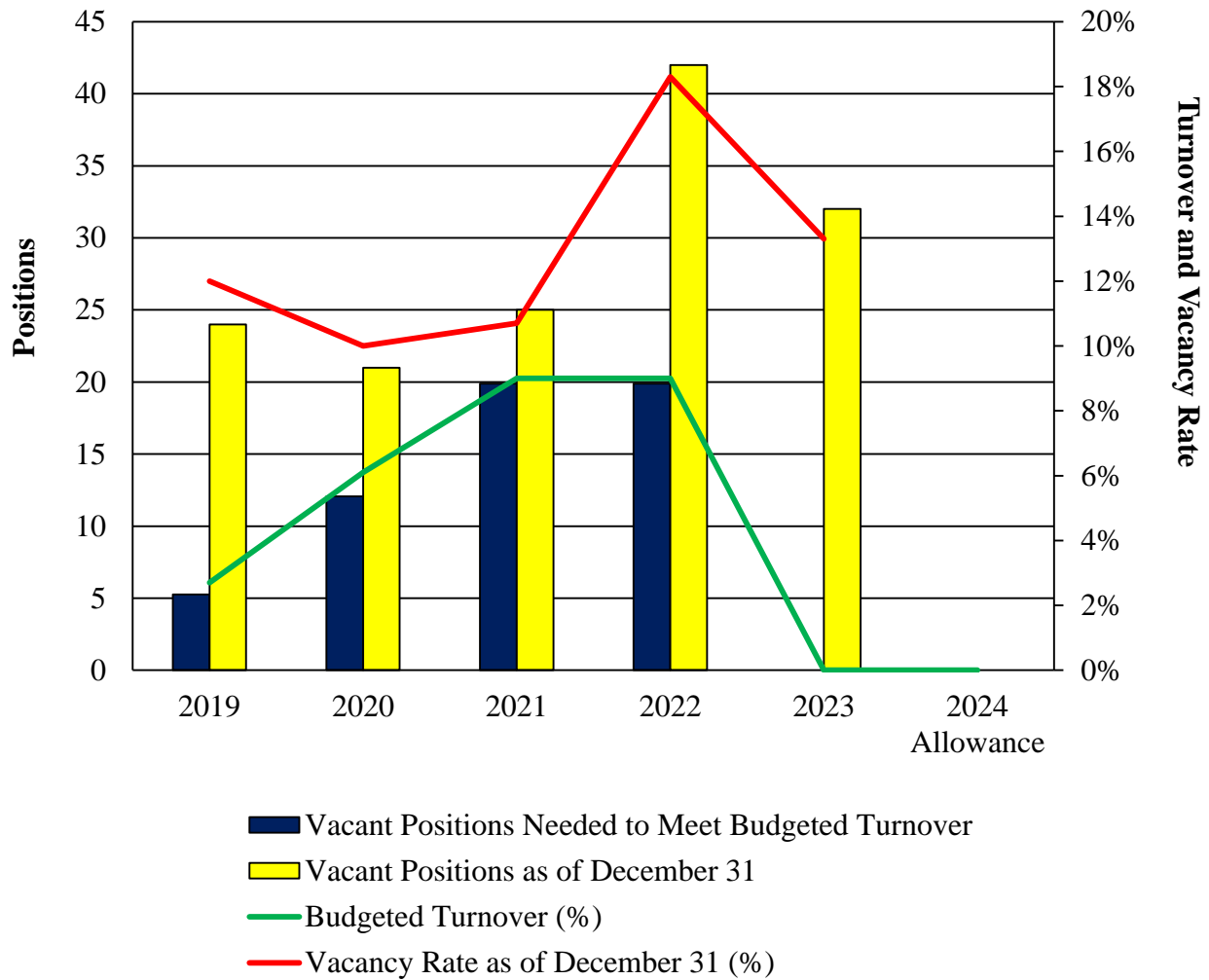
PIN: position identification number

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

The State budget anticipates some level of staff vacancy throughout the fiscal year by including a turnover expectancy for most agencies. Turnover expectancy is a negative adjustment in personnel expenditures to account for positions being vacant during a fiscal year and the time that it may take to fill them. Per the Department of Budget and Management's fiscal 2024 budget instructions, the statewide budgeted turnover rate is 6%. However, agencies with higher historical vacancies often have higher budgeted turnover.

Exhibit 5 shows OHCQ's persistently high vacancy rates corresponded with increases in the agency's budgeted turnover from 2.7% in fiscal 2019 to 9% in fiscal 2021 and 2022. In each fiscal year shown, OHCQ reported more vacant positions than the number of vacancies needed to meet budgeted turnover. As a result, OHCQ's budget included savings that would have otherwise been used for employee salaries and fringe benefits in those years.

**Exhibit 5
Budgeted Turnover
Fiscal 2019-2024**



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

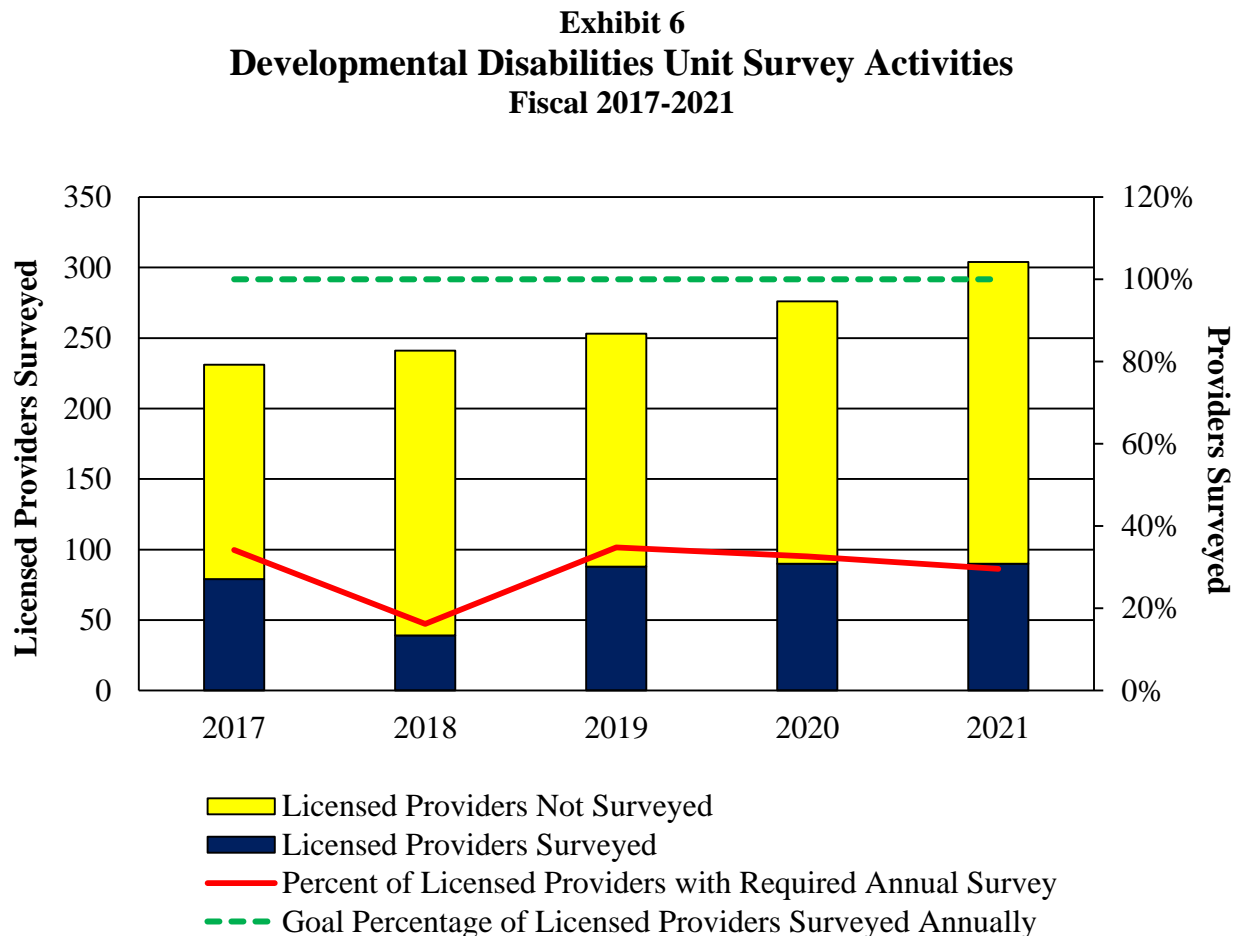
In fiscal 2023, OHCQ’s budgeted turnover was reduced from 9% to 0% to provide additional personnel support. Based on the 13.3% vacancy rate as of December 31, 2022, OHCQ is estimated to retain \$3.2 million in savings that would have been spent on employee salaries and fringe benefits. The fiscal 2024 allowance again sets the office’s turnover rate at 0% and would result in personnel savings totaling \$3.5 million if current vacancy rates continue.

OHCQ should discuss the planned use of fiscal 2023 savings from higher-than-budgeted turnover and other efforts underway to improve hiring and retention. Given OHCQ's recent history of vacancy rates above 10%, the current budgeted turnover rate of 0% is significantly out of step with the Department of Legislative Services' (DLS) expectation for this office. Therefore, DLS recommends increasing the budgeted turnover for existing positions to 7%.

Key Observations

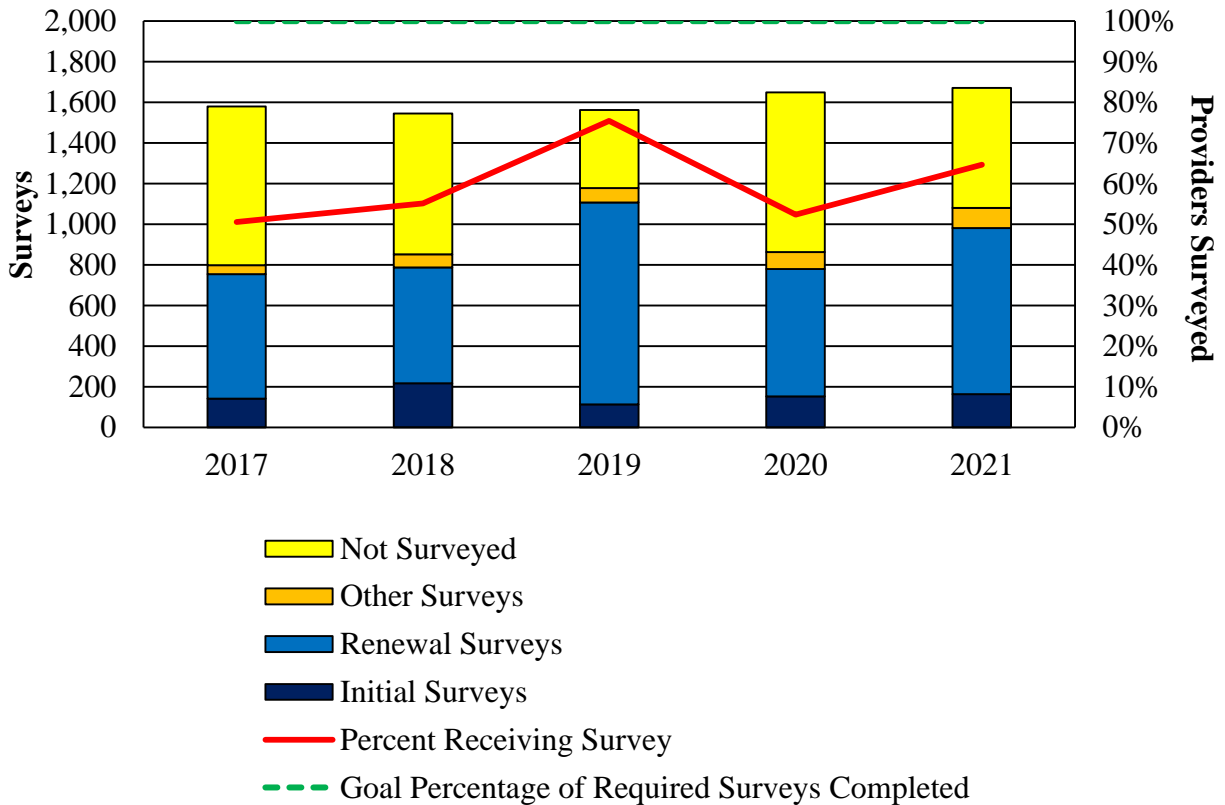
1. MDH Ransomware Attack Causes Operational and Reporting Challenges for OHCQ Survey Activities

OHCQ monitoring units have mandates for conducting surveys and initiating complaint investigations within certain timeframes. These mandates require DDU and ALU to conduct annual surveys of all licensed providers. **Exhibit 6** and **Exhibit 7** show that both units failed to survey all licensed providers each year over the five years displayed. As of January 28, 2023, OHCQ had not submitted its fiscal 2024 Managing for Results (MFR) performance measures, including fiscal 2022 actual data related to DDU and ALU's mandated goals.



Source: Office of Health Care Quality Fiscal 2021 Annual Report

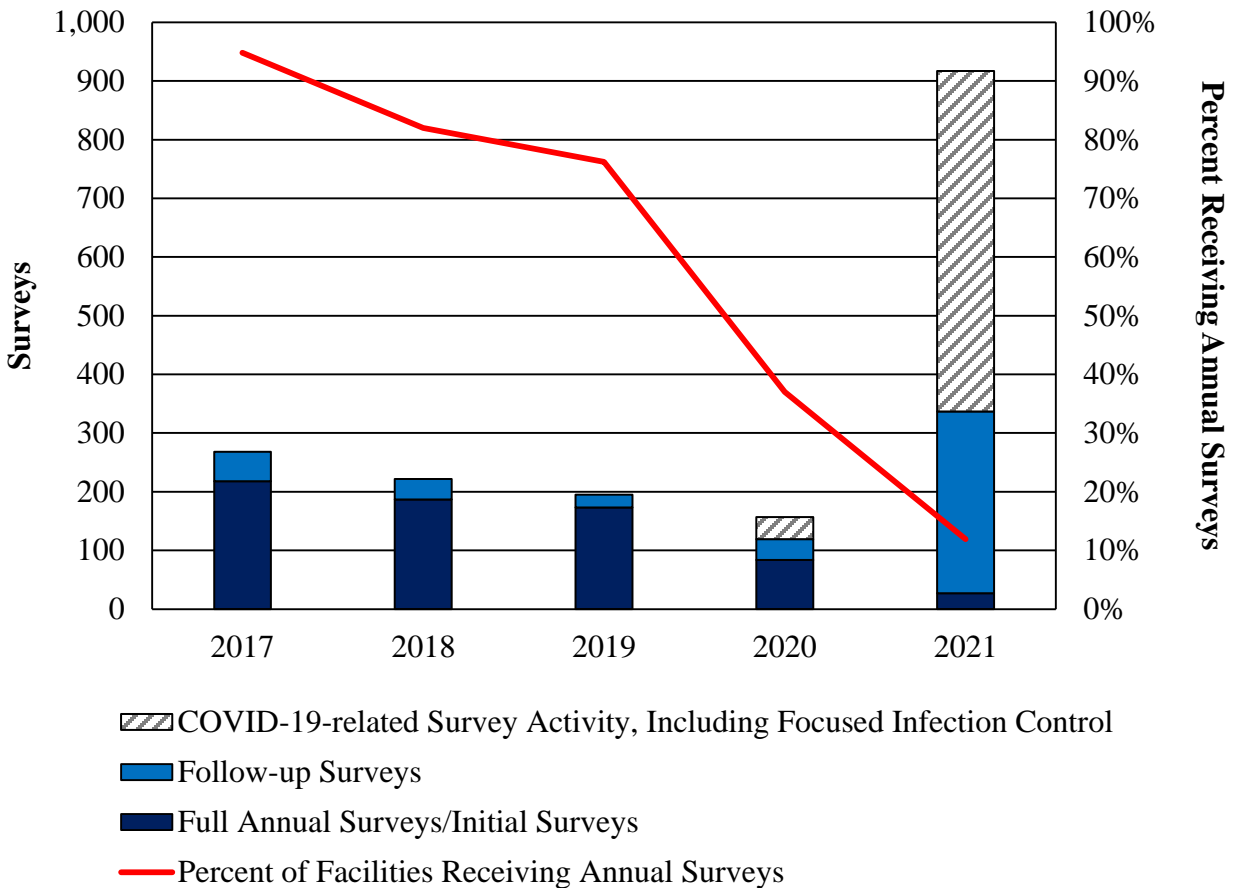
Exhibit 7
Assisted Living Unit Survey Activities
Fiscal 2017-2021



Source: Office of Health Care Quality Fiscal 2021 Annual Report

Exhibit 8 displays the Long Term Care Unit’s nursing home survey activities from fiscal 2017 to 2021. The unit’s number of reviews and survey types notably increased in fiscal 2021, as the COVID-19 pandemic led both State and federal governments to reprioritize existing mandates and establish new mandated surveys, such as Focused Infection Control surveys and surveys related to COVID-19 testing and reporting. OHCQ stopped conducting surveys related to COVID-19 testing and reporting and reviews of emergency plans in December 2021. As of January 27, 2023, nursing homes were still required to report daily COVID-19-related measures to MDH in accordance with an order authorized by the Secretary of Health. OHCQ could not provide actual data related to the Long Term Care Unit’s fiscal 2022 survey activities for review in the 2023 session. Additionally, the office has not submitted its fiscal 2022 annual report that provides detailed survey data for all monitoring units. Section 19-308 of the Health-General Article requires that MDH submit the report during each regular session of the General Assembly, though OHCQ provided the report before the start of session in recent years.

Exhibit 8
Long Term Care Unit Survey Activities
Fiscal 2017-2021



Source: Office of Health Care Quality Fiscal 2021 Annual Report

MDH indicated that OHCQ's MFR submission and annual report with fiscal 2022 actual survey data is significantly delayed due to lingering impacts of the ransomware attack that took place on December 4, 2021. Initially, the ransomware attack affected OHCQ surveyors by limiting their access to tablets and laptops that they used to take notes and ensure all necessary items were reviewed while conducting surveys. During the network security incident, OHCQ employees continued survey, certification, and licensure activities but did not have access to the database used to manage survey and certification activities. Surveyors used alternative methods, such as handwritten notes, to collect survey data.

OHCQ regained access to MDH servers on May 3, 2022. On January 27, 2023, OHCQ reported that employees were still in the process of reentering and verifying data collected during

the ransomware attack and had completed this process for 40 of 45 provider types. It is not clear whether OHCQ employees have been able to recover all survey information saved on devices used prior to and leading up to the ransomware attack. To the extent that any prior surveys cannot be tracked and entered in the office's database, surveyors would need to conduct a new survey, potentially causing higher workloads for the office.

As of January 27, 2023, OHCQ indicated that there were no federal reporting requirements that were delayed or not being met because of a lack of access to survey data. Despite this response, the office was unable to provide requested fiscal 2022 survey data that is typically published in its annual report and MFR submission. Furthermore, OHCQ could not offer any specific timeframe for when the data would become available.

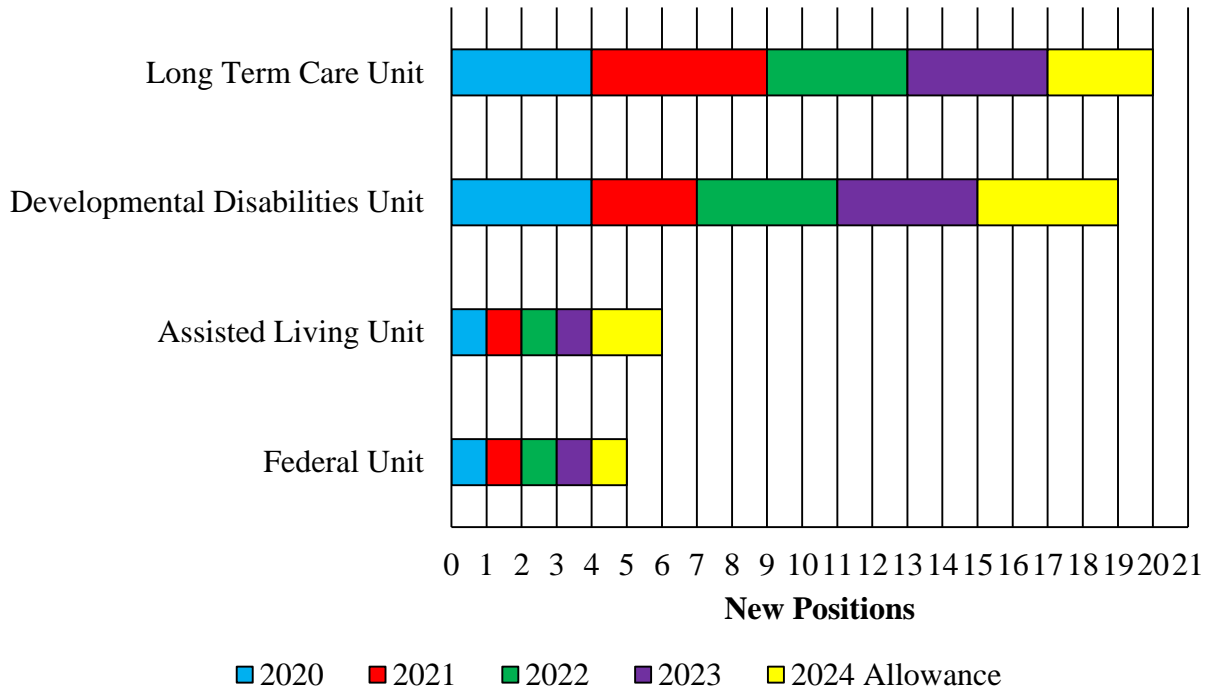
OHCQ should comment on whether actual fiscal 2022 survey data is fully reconcilable and when the office expects to provide the fiscal 2024 MFR submission and fiscal 2022 annual report. DLS also recommends adopting committee narrative requesting a status update and timeline for the reconciliation process as well as requesting the fiscal 2022 actual performance data.

2. OHCQ Receives Mandated Staffing Support in Fiscal 2024 Allowance to Assist in Meeting Agency Goals

Chapter 454 required the addition of 10 new positions annually from fiscal 2020 through 2024 and all prior year budgets during this period complied with statute. The fiscal 2024 allowance also provides 10 new positions under OHCQ. These positions are intended to assist the office in meeting mandated inspection goals. MDH reported that recruitment activities for the new positions will begin before July 1, 2023, to attempt to fill the positions as soon as the new fiscal year begins.

Exhibit 9 shows the distribution of the 50 new positions across monitoring units by the fiscal year in which they were added. The Long Term Care Unit and DDU received the largest personnel allocation from this effort, adding a total of 20 and 19 new positions over this period, respectively. Total positions added to each monitoring unit were evenly spread across the five fiscal years so that no units received more than five new positions to fill in any single fiscal year.

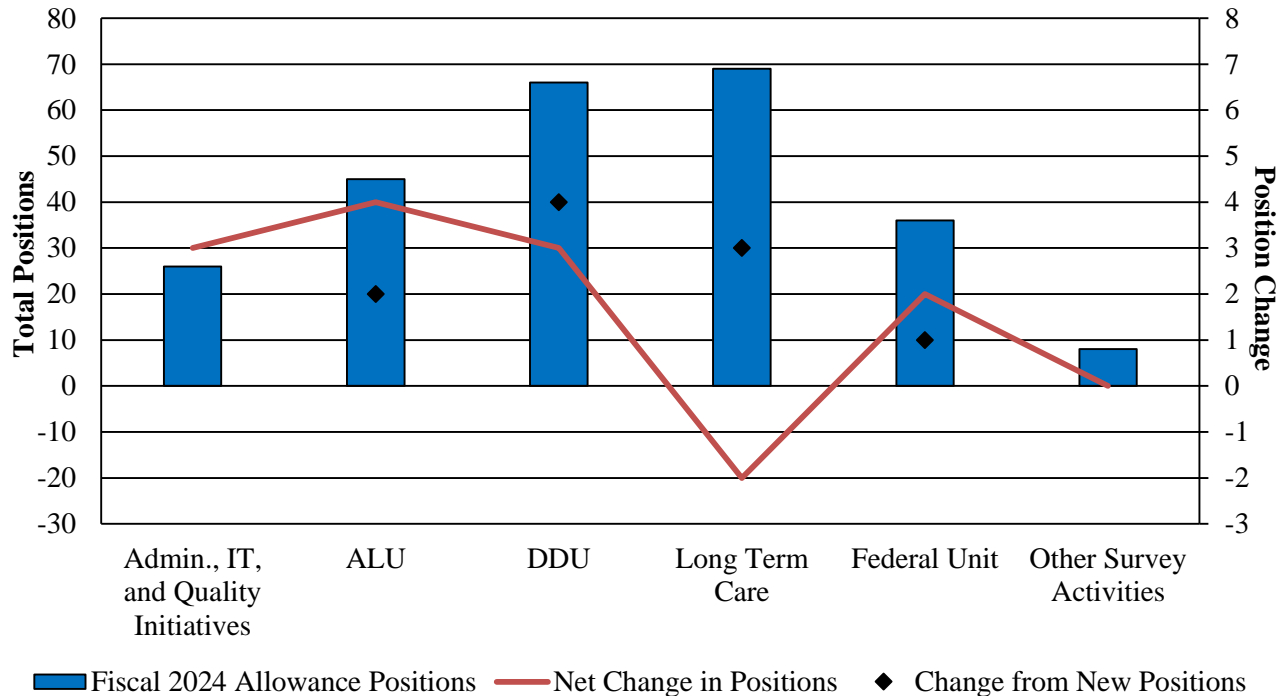
Exhibit 9
Distribution of 50 New Positions Required under Chapter 454 of 2018
Fiscal 2020-2024



Source: Department of Budget and Management

In addition to 10 new positions, the fiscal 2024 allowance slightly reallocates staffing resources by transferring positions among functional areas and monitoring units, as shown in **Exhibit 10**. Two of the monitoring units that have been prioritized in receiving new positions required by Chapter 454 (the Long Term Care Unit and DDU) report net change amounts that are less than the number of new positions added in fiscal 2024. Therefore, net transferred positions out of those units partially or fully offset the addition of new positions. For example, the Long Term Care Unit receives 3 new positions in the fiscal 2024 allowance but reports a total of 5 positions transferring out, causing a net decrease of 2 positions compared to the fiscal 2023 working appropriation.

Exhibit 10
Office of Health Care Quality Regular Position Distribution
Fiscal 2024 Allowance



ALU: Assisted Living Unit
 DDU: Developmental Disabilities Unit
 IT: information technology

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

OHCQ's annual reports historically provided updates on surveyor staffing deficits among monitoring units and the distribution of new positions added in each year of OHCQ's seven-year staffing plan from fiscal 2018 through 2024. Due to the delay in submitting the fiscal 2022 annual report, this information is not available as of the writing of this analysis. **OHCQ should explain why positions were transferred from the Long Term Care Unit and DDU in fiscal 2024 despite its consistent prioritization for new positions in the seven-year staffing plan. The office should also comment on:**

- **total staffing adequacy following the addition of 50 new positions from fiscal 2020 through the fiscal 2024 allowance;**
- **how OHCQ is assessing staffing needs to improve the office's performance on mandated inspection goals beyond fiscal 2024; and**
- **whether a new staffing study and plan is in progress.**

Operating Budget Recommended Actions

- | | <u>Amount</u> | |
|--|----------------------|----|
| | <u>Change</u> | |
| 1. Reduce general funds and federal funds to reflect an increase in the budgeted turnover rate for existing positions from 0% to 7%. | -\$ 1,229,405 | GF |
| | -\$ 530,325 | FF |
| 2. Adopt the following narrative: | | |

Survey Activities and Reporting Following Ransomware Attack: The December 4, 2021 ransomware attack on the Maryland Department of Health significantly impacted the Office of Health Care Quality (OHCQ) due to employees losing access to the database used to manage survey and certification activities until May 3, 2022. The committees are concerned that OHCQ is delayed in reporting fiscal 2022 actual survey activities through its annual Managing for Results (MFR) submission. Therefore, the committees request that OHCQ provide a status update and timeline for restoring office operations and meeting reporting requirements. This status update should include the fiscal 2022 actual survey data that is reported in OHCQ's annual MFR submission.

Information Request	Author	Due Date
Report on survey activities following ransomware attack	OHCQ	October 1, 2023
Total Net Change		-\$ 1,759,730
Total General Fund Net Change		-\$ 1,229,405
Total Federal Fund Net Change		-\$ 530,325

Appendix 1
2022 Joint Chairmen’s Report Responses from Agency

The 2022 *Joint Chairmen’s Report* (JCR) requested that MDH prepare two reports. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***Offering of Flu Vaccinations for Hospital Patients:*** The committees requested that OHCQ survey hospitals regarding influenza (flu) vaccination offerings to patients and provide recommendations to formalize U.S. Centers for Disease Control and Prevention (CDC) guidance for flu vaccination offering. OHCQ found that 32 Maryland hospitals of 36 respondents had written policies for flu vaccination offerings, and the response detailed findings about the written policies. Additionally, OHCQ reviewed CDC guidelines and provided recommendations from the Advisory Committee on Immunization Practices. Maryland is not 1 of 16 states that have statutory requirements for flu vaccination of hospital patients, but OHCQ recommended only that hospitals remain up-to-date with CDC guidance.
- ***Complaints by Patients with Alzheimer’s in Nursing Homes:*** OHCQ submitted a report on the process for investigating complaints filed against nursing homes. However, the office indicated that it does not track patients’ diagnoses and could not differentiate complaints from or on behalf of patients with Alzheimer’s. The response details OHCQ’s complaint follow up, including unannounced onsite investigations, administrative review, or referral to another agency. If OHCQ identifies noncompliance with regulations, the office issues a written report referred to as a Statement of Deficiencies, which can be found on the Medicare Nursing Home Compare website along with other OHCQ inspections. Nursing homes that receive a Statement of Deficiencies must submit a plan of correction to OHCQ for approval.

Appendix 2
Object/Fund Difference Report
MDH – Office of Health Care Quality

<u>Object/Fund</u>	<u>FY 22 Actual</u>	<u>FY 23 Working Appropriation</u>	<u>FY 24 Allowance</u>	<u>FY 23 - FY 24 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	230.00	240.00	250.00	10.00	4.2%
02 Contractual	6.36	13.50	14.00	0.50	3.7%
Total Positions	236.36	253.50	264.00	10.50	4.1%
Objects					
01 Salaries and Wages	\$ 22,613,990	\$ 29,037,711	\$ 30,905,153	\$ 1,867,442	6.4%
02 Technical and Special Fees	488,633	872,722	971,540	98,818	11.3%
03 Communication	247,201	246,748	267,433	20,685	8.4%
04 Travel	226,717	229,467	168,418	-61,049	-26.6%
06 Fuel and Utilities	0	1,873	1,873	0	0%
07 Motor Vehicles	137,359	101,838	123,380	21,542	21.2%
08 Contractual Services	189,387	63,908	66,214	2,306	3.6%
09 Supplies and Materials	32,610	76,534	41,052	-35,482	-46.4%
10 Equipment – Replacement	314,556	37,747	0	-37,747	-100.0%
11 Equipment – Additional	26,122	15,000	17,500	2,500	16.7%
12 Grants, Subsidies, and Contributions	125,610	506,388	506,388	0	0%
13 Fixed Charges	916,944	932,971	955,874	22,903	2.5%
Total Objects	\$ 25,319,129	\$ 32,122,907	\$ 34,024,825	\$ 1,901,918	5.9%
Funds					
01 General Fund	\$ 16,848,182	\$ 22,093,513	\$ 23,770,861	\$ 1,677,348	7.6%
03 Special Fund	230,990	613,573	620,245	6,672	1.1%
05 Federal Fund	8,239,957	9,415,821	9,633,719	217,898	2.3%
Total Funds	\$ 25,319,129	\$ 32,122,907	\$ 34,024,825	\$ 1,901,918	5.9%

Note: The fiscal 2023 appropriation does not include deficiencies. The fiscal 2024 allowance does not include salary adjustments budgeted within the Department of Budget and Management.