

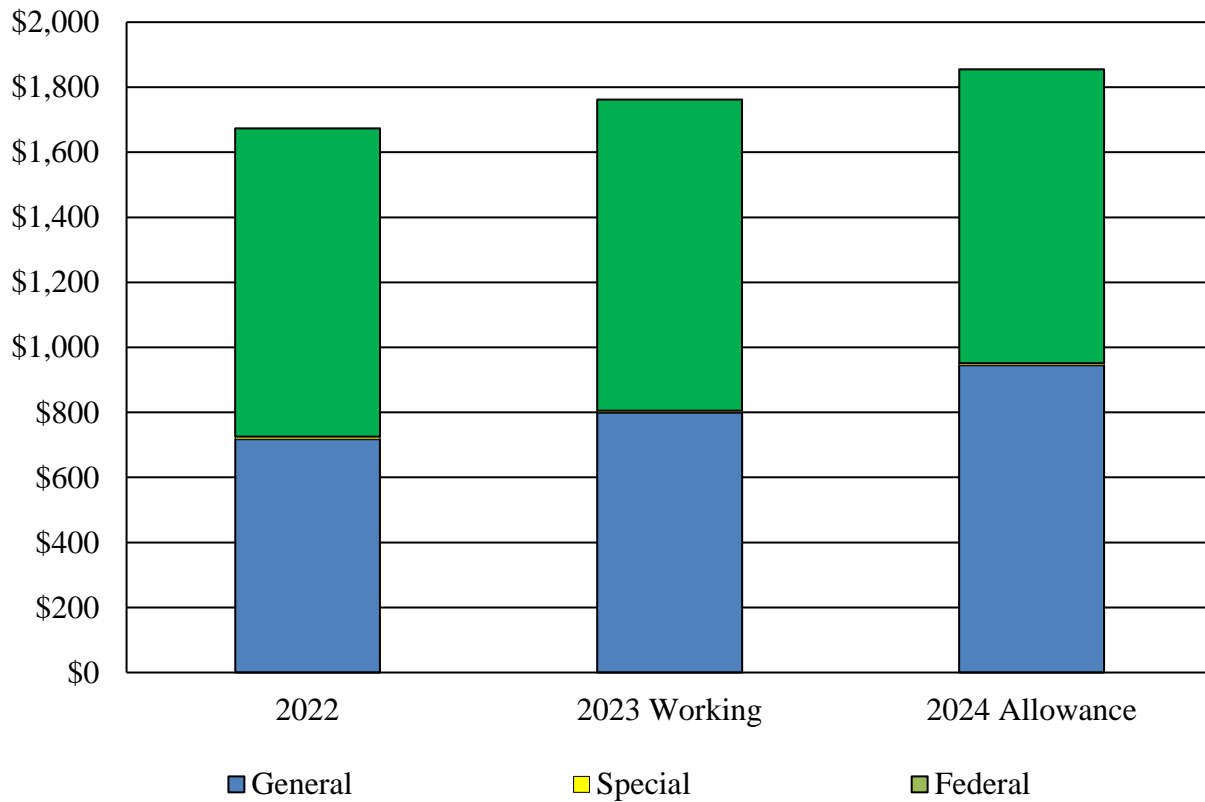
M00M
Developmental Disabilities Administration
Maryland Department of Health

Executive Summary

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

Operating Budget Summary

Fiscal 2024 Budget Increases \$93.1 Million, or 5.3%, to \$1.86 Billion
(\$ in Millions)



Note: Numbers may not sum due to rounding. 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: Morgan T. Smith

Morgan.Smith@mlis.state.md.us

M00M – MDH – Developmental Disabilities Administration

- The fiscal 2024 appropriation grows by \$93.1 million over the adjusted fiscal 2023 working appropriation. Fiscal 2024 is the first time in recent years where general funds outpace federal funds due to the phase-out of the enhanced federal Medicaid match due to the Consolidated Appropriations Act of 2023, which is available only at a reduced level through December 2022 as well a reduction of the availability of funds related enhanced match for Home- and Community-based Services (HCBS) authorized in the American Rescue Plan Act of 2021 (ARPA) in the fourth quarter of fiscal 2024. The fiscal 2024 allowance shows a return to a prepandemic fund split of 51% general funds and 49% federal funds. As a comparison, the fiscal 2022 fund split was 43% general funds and 57% federal funds.
- Of the deficiencies allocated in the fiscal 2024 budget for fiscal 2023, three are related to enhanced federal matches totaling \$146.8 million. Of which \$99.8 million in federal funds replaces an equivalent amount in general funds to reflect savings from a full year of enhanced match for the Community Services program that was not anticipated at the time of budget enactment. Two of these relate to the enhanced match on HCBS from the ARPA, including \$42 million for a one-time quarterly rate increase for Community Services providers and \$5 million for competitive grants for providers transitioning to the Long Term Services and Supports (LTSS) system.
- The remaining two proposed deficiency appropriations provide \$200,000 in general funds for post-secondary education grants and \$22.8 million to fund a projected shortfall in Community Services due to increased spending in Residential and Self-Directed Services programs.

Key Observations

- ***Individuals Served by All DDA Waivers Increases:*** In fiscal 2022, DDA had 17,186 individuals receiving community services enrolled in DDA waivers, which was an increase of 3% from 16,716 in fiscal 2021. However, because the total number of individuals served in community services, excluding those receiving case management services, increased significantly from 17,112 in fiscal 2021 to 19,506 in fiscal 2022, the percentage of individuals served in all DDA waivers declined from 98% in fiscal 2021 to 88% in fiscal 2022.
- ***LTSS Transition Continues:*** Language in the fiscal 2023 budget restricted funds pending quarterly updates on the transition of providers and utilization of the LTSS system. As of September 1, 2022, 70 providers and 5,969 participants had transitioned. When compared to the total active providers by size, there is a higher portion of large providers that have transitioned (51%) whereas only 17% and 23% of small and medium sized providers have transitioned, respectively.

M00M – MDH – Developmental Disabilities Administration

- ***Four Repeat Audit Findings:*** A fiscal compliance audit released by the Office of Legislative Audit (OLA) in October 2022 for DDA included eight total findings, four of which were repeated from the preceding audit released in 2019. As a result of the audit, OLA found DDA’s accountability and compliance level was unsatisfactory.

Operating Budget Recommended Actions

1. Add language restricting funds in the Community Services program pending a report on the Long Term Services and Supports timeline and forecast.
2. Add language restricting funding pending a report on Long Term Services and Supports transition and utilization.
3. Add language restricting funds pending resolution of repeat audit findings.
4. Add language requesting a report on the decline of developmentally disabled individuals enrolled in all Developmental Disabilities Administration waivers.
5. Add language restricting funds in the Community Services Program to that purpose only.

Updates

- ***Status of the Federal Disallowance:*** MDH continues to navigate the appeals process with the Centers for Medicare and Medicaid Services (CMS) after receiving a formal disallowance letter in June 2018 regarding \$34.2 million in federal funds overbilled for residential habilitation add-on services.

M00M
Developmental Disabilities Administration
Maryland Department of Health

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 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. DDA provides direct services to developmentally disabled individuals in two State Residential Centers (SRC) and a Secure Evaluation and Therapeutic Treatment unit, which shares a campus with one of the SRCs. Previously, these SRCs were included within this analysis but, beginning with fiscal 2023, are contained within the budget analysis for MDH Administration – M00A01. Most DDA-funded services are provided through a coordinated community-based service delivery system.

DDA’s key goals include:

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

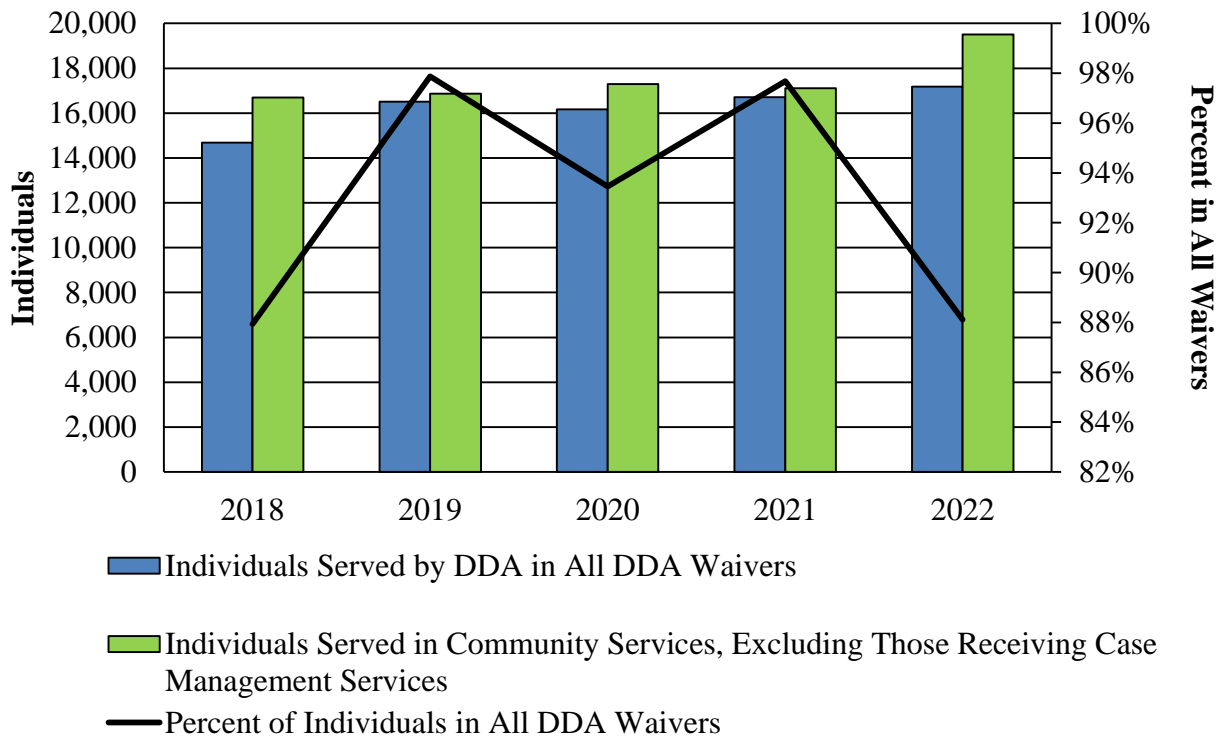
Performance Analysis: Managing for Results

1. Individuals Served by DDA Across All DDA Waivers Increases

One of DDA’s primary goals is to increase the number of eligible individuals receiving community-based services and enrolled in an HCBS waiver by 0.3 percentage points over the prior fiscal year. Enrolling eligible individuals into an HCBS allows for claiming federal funds for services provided. **Exhibit 1** illustrates the growth in individuals served by DDA across all waivers by count and percentage. In fiscal 2022, DDA had 17,186 individuals receiving community services enrolled in DDA waivers, which was an increase of 3% from 16,716 individuals in fiscal 2021. However, because the total number of individuals served in community services,

excluding those receiving case management services, increased significantly from 17,112 individuals in fiscal 2021 to 19,506 individuals in fiscal 2022, the percentage of individuals served in all DDA waivers declined from 98% in fiscal 2021 to 88% in fiscal 2022. This is the lowest level of individuals served in all DDA waivers since fiscal 2018 when the percentage served was also 88%. **MDH should comment on the reasons for the slippage in the share of participants qualifying for the waivers and efforts to increase the percentage of individuals served in all DDA waivers.**

**Exhibit 1
Individuals Served by DDA Across all DDA Waivers
Fiscal 2018-2022**



DDA: Developmental Disabilities Administration

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

Waiver Slots and Costs Per Individual

DDA offers three waiver programs under Medicaid: Community Pathways; Community Supports; and Family Supports.

M00M – MDH – Developmental Disabilities Administration

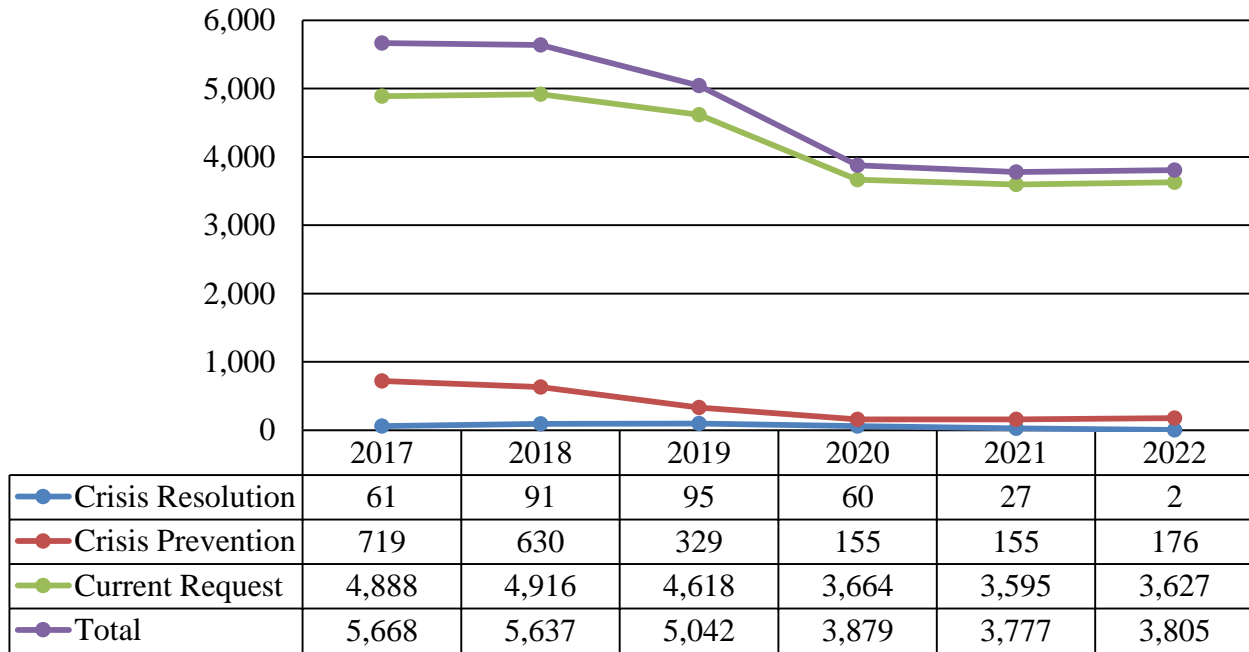
- The Community Pathways waiver supports children and adults in receiving meaningful day, support, and residential services based on their assessed need. This is the most utilized waiver with 15,197 individuals, or 88.4%, served in fiscal 2022.
- The Community Supports waiver provides similar services to children and adults but does not include residential services. In fiscal 2022, 9.5% of developmentally disabled individuals, or 1,640, were served through the Community Supports waiver.
- The Family Supports waiver supports children under the age of 21, providing support services to developmentally disabled children and their families. This is the least used waiver at 2%, or 349 developmentally disabled individuals, in fiscal 2022. The services can include environmental modifications, assistive technology, and transportation, among others.

MDH should provide an update on the current number of filled and available slots as well as current efforts to fill remaining slots.

2. Community Services Waiting List Placements

DDA tracks the community services waiting list of over 3,800 individuals who meet the statutory requirements of having a developmental disability, as shown in **Exhibit 2**. These individuals are broken into priority categories based on need from highest need, or crisis resolution (individuals at risk of harm or homelessness without services), to lowest need, or current request (no risk of harm or homelessness). Additionally, all developmentally disabled individuals on the waiting list for DDA-funded services may receive case management from coordinators of community services.

Exhibit 2
Point-in-time Community Services Waiting List Counts
Fiscal 2017-2022



Note: The Developmental Disabilities Administration also tracks individuals on the community services waiting list who do not meet the statutory requirement for having a developmental disability. These individuals are grouped into a supports-only category and are not included in the count.

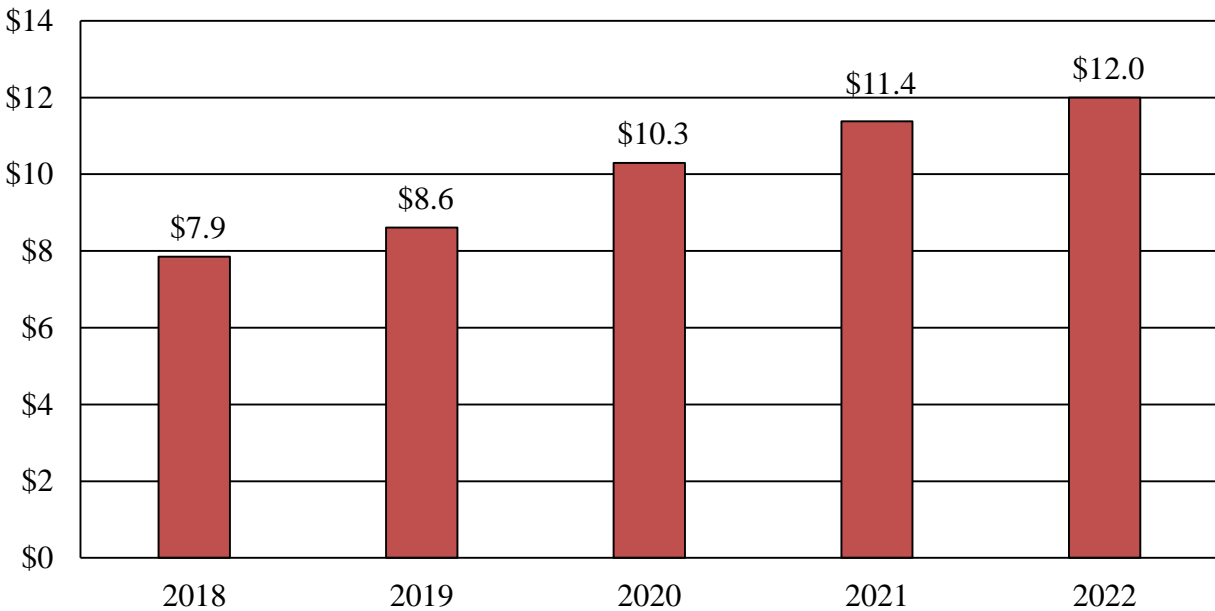
Source: Maryland Department of Health

In recent fiscal years, the number of individuals on the waiting list had been decreasing. However, in fiscal 2022, DDA reports the waiting list increased by 0.7%, to 3,805 individuals from the recent low of 3,777 individuals in fiscal 2021. Previously, DDA reported that the expansion of funding has 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 Autism Waiver. As shown in Exhibit 2, the number of individuals on the waitlist categorized as crisis resolution declined to 2 from 27 the year prior, but this decrease was more than offset by growth in the crisis prevention and current request categories of 21 and 32, respectively. As of June 30, 2022, there were 6,046 developmentally disabled individuals on the waiting list between developmentally disabled-eligible and supports only, which is an increase of 23 individuals from the year prior. **DDA should comment on the status of efforts to reduce the waitlist.**

3. Waiting List Equity Fund 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. Statute dictates how the WLEF funds may be used, preventing the funds from being used to supplant funds for emergency placements or transitioning youth as well as restricting them to the first year of an individual’s placement in the community. After the initial year, the individual becomes part of the base budget. **Exhibit 3** highlights the growth in the WLEF balance over the last five fiscal years primarily due to low spending from the fund. Between fiscal 2021 and 2022, the WLEF balance grew by \$617,529, the smallest growth the fund has experience in recent years. Prior to fiscal 2022, the next smallest growth was \$758,671 between fiscal 2018 and 2019.

Exhibit 3
Waiting List Equity Fund Balance
Fiscal 2018-2022
(\$ in Millions)



Source: Maryland Department of Health; Department of Legislative Services

Fiscal 2023

Proposed Deficiency

HCBS Enhanced Match

The ARPA increased the Federal Medical Assistance Percentage for qualifying Medicaid HCBS spending by 10 percentage points from April 1, 2021, through March 31, 2022. The value of 10% enhanced match must be reinvested in HCBS by March 31, 2024. The reinvested funds are eligible for a federal match, meaning that no general funds are required to support the spending enhancements.

Language in the fiscal 2022 Budget Bill required DDA to spend at least 75% of federal funds attained by the department from the Enhanced Federal Medical Assistance Percentage (eFMAP) authorized in the ARPA for a one-time rate increase paid to Medicaid home-and community-based providers. The language also limited the use of the remaining 25% to certain purposes, including a one-time rate increase for self-directed services, grants to providers for the development of resources and infrastructure to enhance independence and inclusive opportunities, and administrative expenses. Administrative expenses were limited to 5% of the funds, and the use of these administrative expenses is limited to expediting new placements and improving the processing of person-centered plans. The language also restricted funds pending a report on the federal funds attained and the use of these funds.

As reported by MDH in response to this language, for DDA, the 75% required to be used for a temporary rate increase translated to a 5.5% increase, which was retroactive to April 1, 2021, and will continue through March 2024. MDH reported a total cost of the rate increase over multiple years of \$221 million. MDH reported that it planned to provide a temporary emergency 10% rate increase for DDA providers effective for one quarter of fiscal 2022 in addition to rate increases already required by State legislation. Most recently, MDH indicated that the fiscal 2024 budget plan continues to fund the 5.5% rate increase beyond March 31, 2024, when all ARPA support for HCBS must be reinvested. As a result, the fiscal 2024 allowance includes \$24.3 million in funding to return the spending for that increase to the typical fund split for the agency, of which \$11.7 million is general funds and the remainder is federal funds.

Previously, \$85 million was added by budget amendment in fiscal 2022 for DDA for reinvestments. Supplemental Budget No. 1 to the fiscal 2023 budget provided \$85 million in federal funds for fiscal 2023 to support enhancements, expansion, or strengthening of HCBS. The fiscal 2024 budget includes a proposed deficiency appropriation for fiscal 2023 reflecting funding for a one-time 10% quarterly rate increase for DDA community services targeted case management providers totaling \$42 million, which is supported with this funding.

Finally, DDA had initially planned to set aside \$10 million of these funds for competitive grants that would be created with federal fund savings. In the CMS ruling on MDH's spending plan from September 2021, CMS asked for additional information on DDA's grants to enhance HCBS as grants for capital investment or ongoing Internet connectivity were not permissible uses

M00M – MDH – Developmental Disabilities Administration

of funds and would not result in federal financial participation. DDA subsequently reported in its most recent spending plan that it was amending the amount originally set aside for competitive grants from \$10 million to \$5 million. The fiscal 2024 budget includes a proposed deficiency appropriation of \$5 million of these funds for the purpose of assisting providers who are transitioning to the LTSS system in obtaining equipment and information technology (IT) software. **MDH should comment on why using the ARPA funds for competitive grants related to IT infrastructure is a permissible use of funds, including whether other uses that would have resulted in federal financial participation were considered.**

eFMAP

The Families First Coronavirus Response Act of 2020 provided an eFMAP of 6.2% on qualifying expenses during the nationally declared health emergency during the COVID-19 pandemic. The Consolidated Appropriations Act of 2023 phases out this enhanced match each quarter, beginning April 1, 2023, until the match fully expires on December 31, 2023. At the time of the enactment of the fiscal 2023 budget, the national public health emergency was expected to end prior to the start of the fiscal year, and the eFMAP was not reflected in the budget. The fiscal 2024 allowance includes \$99.8 million in federal funds and reduces an equivalent amount of general funds that reflect the anticipated savings from a full year of enhanced federal match for Community Services. The fiscal 2024 allowance includes \$17.7 million of federal funds for the remaining portion of the eFMAP before the full phase-out. The decrease in available eFMAP increases general fund spending by \$82.1 million and reduces an equivalent amount of federal funds in fiscal 2024.

Other Proposed Deficiency Appropriations

The fiscal 2024 budget includes two additional proposed deficiencies for DDA for fiscal 2023, totaling \$23.0 million:

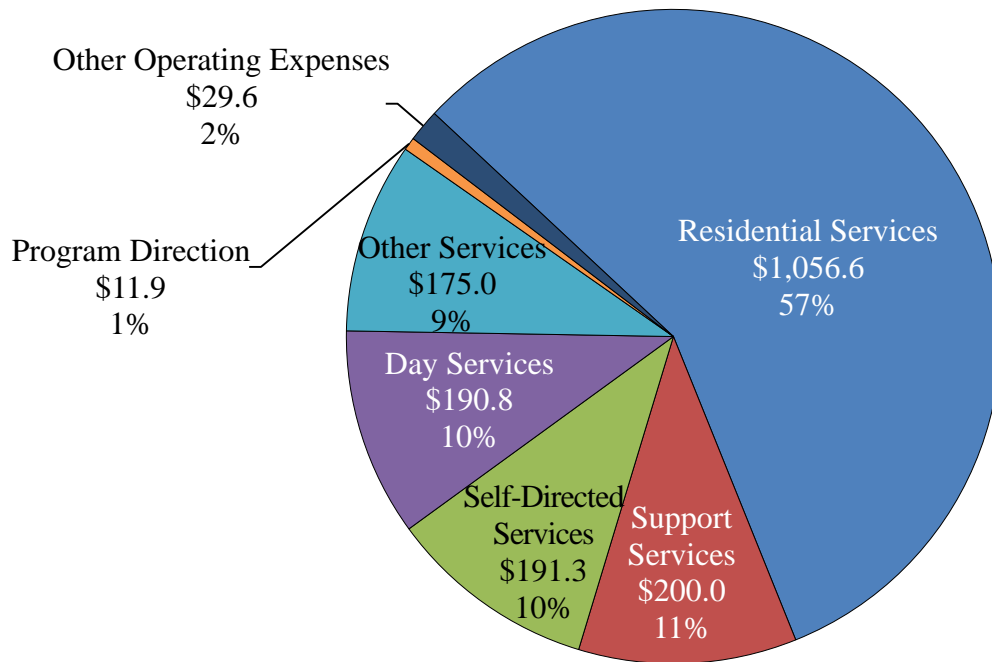
- \$200,000 in general funds to fund post-secondary education grants to the developmentally disabled community, which continues in fiscal 2024; and
- \$22.8 million in general funds to fund the projected shortfall in the Community Services program from increased spending in Residential Services and Self-Directed Services, primarily from additional providers transitioning to LTSS.

Fiscal 2024 Overview of Agency Spending

The fiscal 2024 allowance of DDA totals \$1.86 billion. **Exhibit 4** shows that, in fiscal 2024, the majority of DDA's budget is dedicated to provider payments within the Community Services programs at 99%, with the remaining 1% being used for program direction. Within the 99%, residential services make up the largest portion at \$1.1 billion (57%). DDA estimates the average annual cost per residential services client at \$153,146 in fiscal 2023 as

compared to \$141,802 in fiscal 2022. For comparison, Day Programs serve more clients annually (8,201 in fiscal 2022) as compared to residential services (6,759), but the average annual cost per individual is much lower at \$26,896. The fiscal 2024 allowance also accounts for increased spending for Self-Directed Services as a result of Chapter 736 of 2022, with an initial increase budgeted at \$15.8 million in general funds. Overall, self-directed services account for 10% of the budget (\$191.3 million). Other operating expenses cover the regional offices, which oversee the services provided, with funding allocated at \$29.6 million in fiscal 2024.

Exhibit 4
Overview of Agency Spending
Fiscal 2024 Allowance
(\$ in Thousands)



Note: Numbers may not sum due to rounding. The fiscal 2024 salary enhancements are budgeted in the Statewide Account within the Department of Budget and Management and are not reflected in this chart.

Source: Governor’s Fiscal 2024 Budget Books; Department of Legislative Services

Proposed Budget Change

Exhibit 5 outlines DDA’s fiscal 2024 allowance, which increases by \$93.1 million between the fiscal 2023 working appropriation and the fiscal 20234 allowance after accounting for proposed deficiency appropriations, including this agency’s share of the statewide deficiency

M00M – MDH – Developmental Disabilities Administration

appropriation to support the 4.5% cost-of-living adjustment (COLA) provided in November 2022. Most of this change is within the Community Services program, which includes \$117.5 million to cover the expansion of waiver services, new placements, and the mandated 4% provider rate increase (\$66 million). It also includes \$20.8 million for an increase for day and residential service providers for their transition to LTSS (\$19.8 million) and a day and employment transportation increase (\$978,419).

Exhibit 5
Proposed Budget
MDH – Developmental Disabilities Administration
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Total
Fiscal 2022 Actual	\$718,046	\$7,480	\$947,969	\$1,673,494
Fiscal 2023 Working Appropriation	798,860	6,450	956,775	1,762,086
Fiscal 2024 Allowance	<u>944,988</u>	<u>6,450</u>	<u>903,740</u>	<u>1,855,178</u>
Fiscal 2023-2024 Amount Change	\$146,128	\$0	-\$53,035	\$93,093
Fiscal 2023-2024 Percent Change	18.3%		-5.5%	5.3%

Where It Goes:	Change
Personnel Expenses	
Employee and retiree health insurance	\$442
New positions	302
Annualization of November 2022 4.5% cost-of-living adjustment.....	208
Employee retirement and Social Security contributions	28
Other fringe benefits	40
Regular earnings	-192
Other compensation	-63
Turnover adjustments (from 8.08% to 10.12%)	-291
Community Services	
Mandated provider rate increase.....	66,046
Community Services growth expansion	51,414
LTSS rate increases to support the transition of new providers	19,839
Day and employment transportation increase.....	978
Inclusive Housing Grant	250
End of one-time quarterly rate increase.....	-42,019
Other Changes	
Technical support services to aid in LTSS transition	235
Contractual employee salaries and fringe benefits	90

M00M – MDH – Developmental Disabilities Administration

Where It Goes:	<u>Change</u>
Reduced need for replacement office equipment	-75
Medical care support for DDA consumers, routine, and continuous services.....	-292
Removal of one-time information technology competitive grant allocation for LTSS providers transitioning	-5,000
Other	1,153
Total	\$93,093

DDA: Developmental Disabilities Administration
 LTSS: Long-Term Services and Supports
 MDH: Maryland Department of Health

Note: Numbers may not sum due to rounding. 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.

Personnel Data

	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 23-24</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	176.50	174.00	179.00	5.00
Contractual FTEs	<u>33.22</u>	<u>22.12</u>	<u>36.21</u>	<u>14.09</u>
Total Personnel	209.72	196.12	215.21	19.09

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	17.68	10.16%
Positions and Percentage Vacant as of 12/31/22	18.00	10.34%
Vacancies Above Turnover	0.32	

- The fiscal 2024 allowance adds 5 regular positions for DDA. This represents position realignment made from the MDH’s existing position complement. Of the 5 positions, 4 positions were for the regional offices, 2 positions were provided to State and federal relations, and there was a decrease of 1 position in program operations.
- The fiscal 2024 allowance includes a net increase of 14.09 contractual full-time equivalents compared to the fiscal 2023 working appropriation. Of these positions, 6 are administrator, assistant, and coordinator positions to support the regional offices; 1 fiscal accounts technician to assist in ongoing fiscal operations; 1 computer network specialist to provide network it support; 0.5 for a program manager to assist Executive Direction; and 2 for Coordinated Special Programs to review, approve, and monitor person-centered plans.

Issues

1. Report on Community Services Utilization Data Collection and Spending Forecasts

Language in the fiscal 2023 Budget Bill (Chapter 484 of 2022) withheld \$1.0 million of general funds of administrative funding in DDA pending submission of quarterly reports. Funds restricted until the submission of each report were released in increments of \$250,000 pending approval of the chairs of the budget committees. The first report was submitted on July 13, 2022, and funds restricted were released on August 25, 2022. The second report, which was submitted November 1, 2022, was found to provide insufficient information, and therefore, funds were continued to be withheld until the submission of future reports. The third report was due January 1, 2023, and, as of the writing of this analysis, has not yet been submitted. The reports are to include:

- a timeline for forecasting general fund spending in the Community Services program based on actual utilization and reimbursement billed through the LTSS system following the transition to a fee-for-service (FFS) model;
- if available, MDH spending forecasts by year;
- a timeline for finalizing rates and the fiscal impact analysis of new rates;
- upon finalization, the finalized rates and the fiscal impact analysis of the new rates;
- the number of individuals receiving DDA-funded services and providers transitioned to the LTSS system, including the timing of the transition including those transitioned in fiscal 2023 to date;
- a cost analysis of the rates paid to providers that were transitioned to the LTSS system as part of the LTSS pilot program and how DDA's reimbursements compare to estimated payments that would have been made under the prospective payment model; and
- an updated timeline for transition of individuals and providers to the LTSS system.

Status of Transition

DDA is moving from a prospective payment model to a FFS reimbursement model. This transition includes moving service authorization and billing functionalities from the legacy Provider Consumer Information System 2 (PCIS2) to the State's existing LTSS IT system utilized by other Medicaid programs. During this change, DDA will also be implementing new community services and provider rates.

M00M – MDH – Developmental Disabilities Administration

The provider rates were finalized April 2022. DDA subsequently explained that rates were updated on July 1, 2022, to reflect the 4% mandated provider rate increase and the 4% increase included in Supplemental Budget No. 3 to the fiscal 2023 budget. These rates were further adjusted on August 1, 2022, to update the shared living rates. The most recent adjustment was made November 1, 2022, when the targeted case management rates were updated to reflect the temporary 10% increase using the ARPA savings, discussed in the Proposed Deficiency section of the analysis.

MDH continues to transition individuals and providers to the new LTSS system for billing. The first pilot group launched in late 2019. As of September 1, 2022, 70 providers and 5,969 participants, nearly one-third of total DDA participants, are fully transitioned into the LTSS module, as shown in **Exhibit 6**. **As DDA has not yet provided a timeline for additional transitions, MDH should comment on the updated timeline to transition individuals and providers to the new LTSS system, the share of providers and participants who have and will need to be transitioned, and the projected date for completion.**

Exhibit 6
Providers and Participants Transitioned to LTSS
Fiscal 2021-2022

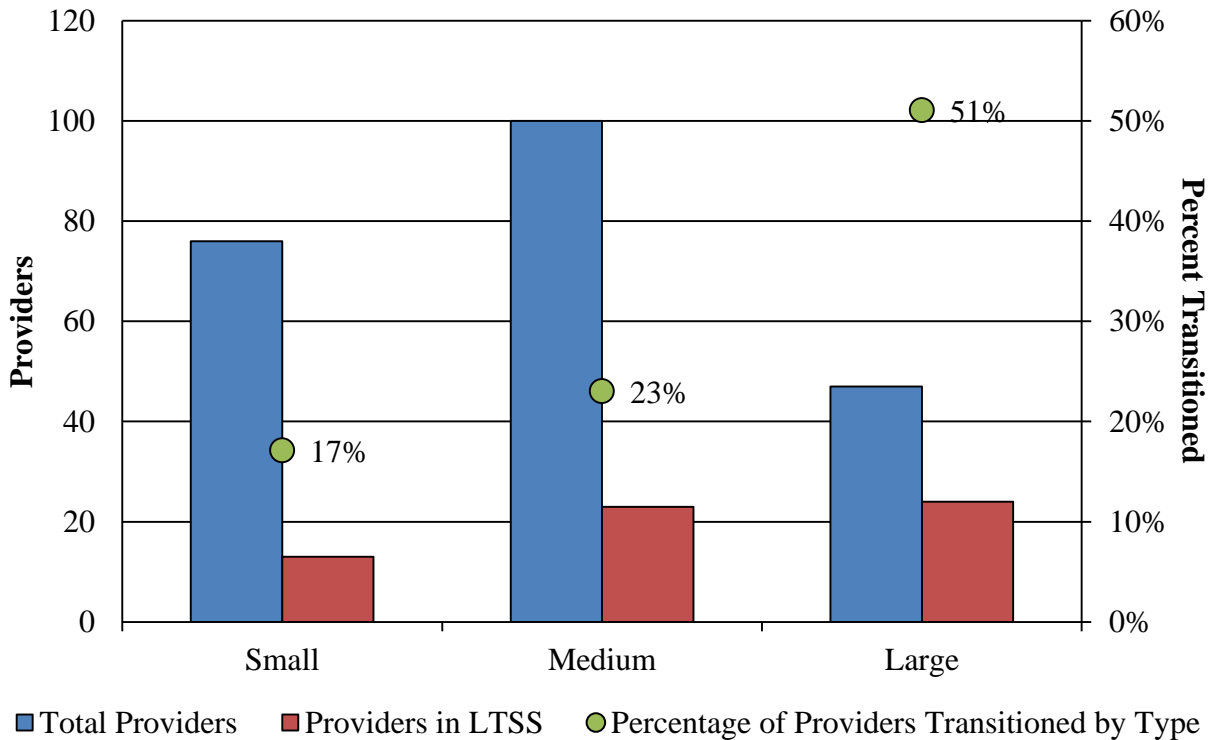
	<u>Transition Dates</u>	<u>Providers</u>	<u>Participants</u>
Initial Pilot	December 9, 2021	10	35
Early Adopter	July 1, 2021 October 1, 2021	5	1,006
Pilot 2A	April 1, 2022 May 1, 2022 June 1, 2022	21	2,871
Pilot 2B	July 1, 2022 August 1, 2022 September 1, 2022	34	2,057
Total		70	5,969

LTSS: Long Term Services and Supports

Source: Developmental Disabilities Administration

Subsequent to the submission of the report, DDA shared provider population data on those who have transitioned to LTSS. **Exhibit 7** shows that of the providers (Early Adopter Group, 2A, and 2B), 24 providers, or 40%, are large providers with \$10 million or more in annual claims; 23 providers, or 38%, being medium-sized providers with \$2 to 10 million in annual claims; and the remaining 13 providers, or 22%, being small-sized providers with less than \$2 million in annual claims. When compared to the total active providers by size, there is a higher portion of large providers that have transitioned to LTSS (51% of all large providers have transitioned to LTSS). Only 17% of small and 23% of medium providers have transitioned to LTSS.

Exhibit 7
Providers Transitioned to LTSS by Size
Fiscal 2021-2023



LTSS: Long Term Services and Supports

Source: Developmental Disabilities Administration

Fiscal Impact Analysis

The Hilltop Institute completed a fiscal impact analysis to examine the difference in payment to providers from the prospective payment model to the FFS model. The analysis was

completed after receiving data from 84 DDA providers through the Fiscal Impact Analysis Tool. The data provided through the Fiscal Impact Analysis Tool was voluntary, self-reported, and unaudited. For this reason, Hilltop noted in the report that the providers who participated were not necessarily a random selection nor were they representative of all providers.

As compared to the previous payment model where providers were paid by the day (PCIS2), the new LTSS*Maryland* payment model where providers are paid per hour providing services showed an increase in the average reimbursement to providers by \$1.41 million. This is an average increase of 18.2%, according to the data submitted by providers. It is important to note that Meaningful Day providers are an outlier to this data and report an average decrease of \$90,000 per year.

A cost analysis of the rates paid to providers that were transitioned to the LTSS*Maryland* system compared to those that would have been made under the prospective payment model was also included in the report. The analysis is based on 588 consumers (five agencies) that were part of the Early Adopter Group who had claims in both PCIS2 and LTSS*Maryland*. The PCIS2 data was trended forward to account for the COLAs and the 5.5% ARPA rate increase to represent what consumers would receive for services billed in PCIS2 in the present. **Exhibit 8** shows that, broadly, the revenue for this small sample of providers was 32% higher than what they would have received in PCIS2. **DDA should comment on the generalizability of the data to the larger provider population and the expected impact on State expenditures as a result of the FFS payment model, including whether the fiscal 2024 budget contains adequate funding to support providers who have transitioned or will transition to LTSS.**

Exhibit 8
Cost Analysis of Rates Paid to Providers
Calendar 2020-2022
(\$ in Millions)

<u>Category</u>	<u>PCIS2</u>		<u>LTSS<i>Maryland</i></u>		<u>Revenue Difference</u>
	<u>Revenue</u>	<u>% of Total</u>	<u>Revenue</u>	<u>% of Total</u>	
Community Living Group Homes	\$6.25	68%	\$7.91	65%	27%
Meaningful Day	1.67	18%	2.45	20%	47%
Support Services	1.23	13%	1.74	14%	41%
Total	\$9.15	100%	\$12.10	100%	32%

LTSS: Long-Term Services and Supports
 PCIS2: Provider Consumer Information System 2

Source: Developmental Disabilities Administration; The Hilltop Institute

In previous reports, MDH provided a description of the utilization and spending data that is available through the LTSS system as it relates to the ways in which LTSS provides the electronic exchange of data for DDA users. It is unclear if providers, case managers, and other individuals participating in the coordinated community supports arena can utilize the ability to exchange data. **MDH should comment on whether all individuals who collect billing data can utilize the data exchange features currently and, if not, when those features will become available for use.**

2. Four Repeat Findings Found in October 2022 Audit

On October 26, 2022, OLA released the fiscal compliance audit for DDA. OLA found that DDA lacked adequate procedures to ensure that services were rendered to consumers and that provider payments were billed properly. DDA did not ensure that monitoring visits and plans were being provided by coordination of community services (CCS) agencies as required quarterly and annually, respectively. In addition, the report detailed findings related to improper procurement of two vendors and required collections of unclaimed funds that were not sent to the Comptroller of Maryland, as required. Risks associated with DDA's information systems were also found but were redacted in accordance with State law. Four of the eight findings from the report were repeated from the preceding audit dated July 8, 2019. Due to the severity of and percentage of repeated findings, OLA rated this audit unsatisfactory.

OLA offered several recommendations to assist DDA in resolving the identified findings, including that DDA:

- establish a process to ensure CCS agencies provide all crucial services to consumers in accordance with State regulations;
- establish a comprehensive review process to ensure that CCS agency billings are proper;
- conduct audits of providers to ensure payments to providers were consistent with actual services delivered and in accordance with the consumers' approved plans;
- take appropriate steps to verify the propriety of COVID-19 isolation payments and pursue recovery of payments made to consumers without evidence of a positive COVID-19 test;
- use available output resources to ensure all critical adjustments in PCIS2 are subject to selection for independent review;
- ensure contracts are executed that include all relevant contract provisions, monitor vendor activity and compliance, and take appropriate corrective action to recover unspent funds and obtain available federal reimbursement for outstanding claims; and

M00M – MDH – Developmental Disabilities Administration

- forward funds totaling approximately \$1.3 million pertaining to unclaimed funds to the Comptroller of Maryland.

MDH found that the findings were factually accurate and agreed with the recommendations posed by OLA. Largely, the department stated that they would take corrective action to recoup funds, validate information where necessary, and outline challenges that they had been working on ahead of the release of the audit. As of the time of the audit, DDA had been working on recovering unspent funds and obtaining federal reimbursements.

The Department of Legislative Services (DLS) recommends adding language restricting funds pending the resolution of repeat audit findings, consistent with the request of the Joint Audit and Evaluation Committee when an audit contains four or more repeat findings.

Operating Budget Recommended Actions

1. Add the following language:

Further provided that no funds in the Community Services program may be expended for the purpose of transitioning additional providers into the Long Term Services and Supports (LTSS) system until the Maryland Department of Health (MDH) submits a report to the budget committees detailing the number of providers and participants to be transitioned in fiscal 2024 and the estimated increase in payments to the providers if any forecast as a result of the transition to LTSS. MDH shall certify in the report that adequate funds are included in the fiscal 2024 budget to cover the expected increase in provider payments from the transition planned during the fiscal year. This report should include transition dates and expected costs by service type. The report shall be submitted by July 1, 2023.

Explanation: The budget committees continue to be concerned about the costs associated with the transition to LTSS and the timeline for transition. This language restricts funds in the Community Services program for the purpose of transitioning new providers into the LTSS system until a report has been submitted detailing the providers and participants to be transitioned in fiscal 2024 and the estimated increase in payments to providers.

Information Request	Author	Due Date
Report on the transition and cost of providers and participants transitioned to the Long Term Services and Supports system	MDH	July 1, 2023

2. 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 (MDH) submits a report each quarter to the budget committees regarding the ongoing transition to a fee-for-service (FFS) reimbursement system and spending forecasts for the Developmental Disabilities Administration (DDA) Community Services program transitions. The report shall include:

- (1) a timeline for forecasting general fund spending in the Community Services program based on actual utilization and reimbursement billed through the Long Term Services and Supports (LTSS) system following the transition to an FFS model, including a discussion of how the spending will be forecast during the transition period;
- (2) utilization by service type, including the number of claims and claims spending in LTSS to support the general fund forecasting;

M00M – MDH – Developmental Disabilities Administration

- (3) if available, MDH spending forecasts by year;
- (4) the number of individuals receiving DDA-funded services and providers transitioned to the LTSS system, including the timing of the transition including those transitioned in fiscal 2024 to date;
- (5) a cost analysis of the rates paid to providers that were transitioned to the LTSS system as part of the LTSS pilot program and how DDA’s reimbursements compare to estimated payments that would have been made under the prospective payment model;
- (6) a breakdown of providers transitioned to LTSS by size of provider; and
- (7) an updated timeline for transition of individuals and providers to the LTSS system.

The reports shall be submitted quarterly, \$250,000 may be available to be released following the submission of each report, and the budget committees shall have 45 days from the date of the receipt of each report to review and comment. Funds restricted pending receipt of these reports 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 an FFS reimbursement model, and transitioning to Medicaid’s existing 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 funds budgeted for administration until MDH submits quarterly reports to the budget committees on the transition to the system 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	July 1, 2023 October 1, 2023 January 1, 2024 April 1, 2024

- 3. Add the following language to the general fund appropriation:

, provided that since the Developmental Disabilities Administration (DDA) has had four or more repeat audit findings in the most recent fiscal compliance audit issued by the Office of Legislative Audits (OLA), \$100,000 of this agency’s administrative appropriation may not be expended unless:

M00M – MDH – Developmental Disabilities Administration

- (1) DDA has taken corrective action with respect to all repeat audit findings on or before November 1, 2022; and
- (2) a report is submitted to the budget committees by OLA listing each repeat audit finding along with a determination that each repeat finding was corrected. The budget committees shall have 45 days from the receipt of the report to review and comment to allow for funds to be released prior to the end of fiscal 2024.

Explanation: The Joint Audit and Evaluation Committee has requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each agency is to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency, and a determination by OLA that each finding was corrected. OLA shall submit a report to the budget committees on the status of repeat findings.

Information Request	Author	Due Date
Status of corrective actions related to the most recent fiscal compliance audit	OLA	45 days before the release of funds

- 4. Add the following language to the general fund appropriation:

, provided that \$100,000 of this appropriation made for the purpose of administrative expenses may not be expended until the Maryland Department of Health (MDH) submits a report to the budget committees regarding (1) the reasons for the fiscal 2022 decline in the percent of people served by Developmental Disabilities Administration’s (DDA) community services programs who were enrolled in a DDA Medicaid waiver program and (2) efforts to increase the percent of individuals served through DDA waivers. The report shall be submitted by July 1, 2023, and the budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending receipt of these reports 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: In fiscal 2022, the share of individuals served by DDA in community services programs who were enrolled in a DDA waiver program dropped by 10 percentage points. When individuals are not served in waiver programs, federal fund reimbursements are not provided, and the State loses access to additional sources of funding. This language restricts funds budgeted for administration until MDH submits a report to the budget committees explaining the decline in community services participants being served in all DDA waivers.

M00M – MDH – Developmental Disabilities Administration

Information Request	Author	Due Date
Report on decline in community services participants being served in all DDA waivers	MDH	July 1, 2023

5. 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 previously reported increasing net general fund transfers out of the Developmental Disabilities Administration Community Services program, mainly to cover shortfalls elsewhere in the department. This annual language restricts funds appropriated to the Community Services program to that use only and prevents budgetary transfers.

Updates

1. Status of Federal 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 from July 1, 2010, to June 30, 2013, to individuals with developmental disabilities who were provided additional services beyond residential habilitation services, also known as add-on services, due to their high degree of need. During this same period, the department claimed \$329.0 million (\$178.7 million federal share) for all add-on waiver services.

After a review by OIG, it was determined that almost every claim represented in that federal share was not consistent with waiver criteria. The audit found that DDA claimed add-on services for beneficiaries who did not meet the waiver’s level-of-need requirement under the Community Pathways waiver program. It also noted that DDA did not consider the level-of-need of the beneficiary when approving the add-on services. DDA has subsequently amended its Community Pathways waiver to eliminate the requirement that individuals receive a level-of-need score of five on the Individual Indicator Rating Scale to claim add-on services.

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 services to meet three separate requirements. In the past, the department operated its program such that an individual who meets any of the three conditions is eligible for add-on services. OIG responded that the agency’s interpretation of its waiver 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 on June 26, 2018, which required 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 may be liable for the federal refund and accrued interest if the appeal is rejected. As of the writing of this analysis, there has not been additional action or correspondence regarding HHS’s final determination as it relates to the August 2018 RFR.

Appendix 1
2022 Joint Chairmen’s Report Responses from Agency

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

- ***Report on Community Services Utilization Data Collection and Spending Forecasts:*** As of the writing of this analysis, two of the quarterly reports had been submitted, with one report late. Funds restricted for the first quarterly report were released on August 25, 2022, and funds for the second report have been continued to be withheld due to insufficient information. Further discussion of these quarterly reports can be found in Issue 1 of this analysis.
- ***Quarterly Community Services Data by Month:*** As of the writing of this analysis, two of the four quarterly reports have been submitted. Each of the two reports includes the total number of claims and claims spending in the fiscal 2023 quarter in which the report falls. The most recent report showed that in the second quarter, 7,056 DDA participants were receiving personal supports as part of electronic visit verification billing and there were 3,874, or 20.1%, of developmentally disabled participants fully transitioned to LTSSMaryland (excluding personal supports).
- ***Report on Demographic Data of Individuals Served through the DDA Community Services Program:*** The report provides counts of participants and percentages of participants, separated by county and by fiscal year, and largely by race and ethnicity for those enrolled in the three DDA waiver programs; in traditional and self-directed groups; for those on the waiting list by priority group; for transitioning youth who entered service; and those accessing low-intensity support services funds. The report also included data on primary language of applicants and caregivers as noted on DDA applications.

**Appendix 2
Audit Findings**

Audit Period for Last Audit:	May 1, 2018 – May 31, 2021
Issue Date:	October 2022
Number of Findings:	8
Number of Repeat Findings:	4
% of Repeat Findings:	50%
Rating: (if applicable)	unsatisfactory

Finding 1: DDA did not ensure that CCS agencies properly completed annual consumer service plans and conducted quarterly face-to-face monitoring visits.

Finding 2: DDA did not have an adequate process to ensure the amounts invoiced by CCS agencies properly reflected consumer services provided and did not take appropriate action when a significant number of improper or unsupported payments were identified.

Finding 3: DDA did not conduct required audits of providers to ensure payments were for services actually delivered and included in the consumers’ approved plans.

Finding 4: DDA did not verify the propriety of \$6.1 million in enhanced payments for consumers who were isolated due to COVID-19.

Finding 5: DDA did not use available output reports to verify the propriety of critical adjustments that were processed in PCIS2.

Finding 6: Fiscal management services contracts procured in 2006 were not comprehensive, properly approved, and adequately monitored. As a result, DDA did not recover unspent funds totaling \$3.2 million and did not obtain federal reimbursements totaling \$8.8 million.

Finding 7: DDA did not forward approximately \$1.3 million in unclaimed refunds to the Comptroller of Maryland, as required.

Finding 8: Redacted cybersecurity-related finding

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

Appendix 3
Object/Fund Difference Report
MDH – Developmental Disabilities Administration

<u>Object/Fund</u>	<u>FY 22</u> <u>Actual</u>	<u>FY 23</u> <u>Working</u> <u>Appropriation</u>	<u>FY 24</u> <u>Allowance</u>	<u>FY 23 - FY 24</u> <u>Amount Change</u>	<u>Percent</u> <u>Change</u>
Positions					
01 Regular	176.50	174.00	179.00	5.00	2.9%
02 Contractual	33.22	22.12	36.21	14.09	63.7%
Total Positions	209.72	196.12	215.21	19.09	9.7%
Objects					
01 Salaries and Wages	\$ 17,095,313	\$ 18,047,299	\$ 18,938,414	\$ 891,115	4.9%
02 Technical and Special Fees	1,597,455	992,652	1,109,796	117,144	11.8%
03 Communication	171,722	210,157	194,404	-15,753	-7.5%
04 Travel	15,986	47,393	27,475	-19,918	-42.0%
06 Fuel and Utilities	43,749	40,921	46,853	5,932	14.5%
07 Motor Vehicles	3,617	1,773	2,643	870	49.1%
08 Contractual Services	1,652,178,926	1,669,676,883	1,831,927,208	162,250,325	9.7%
09 Supplies and Materials	61,296	122,110	69,557	-52,553	-43.0%
10 Equipment – Replacement	3,942	75,000	0	-75,000	-100.0%
11 Equipment – Additional	2,419	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	1,747,127	1,725,000	2,175,000	450,000	26.1%
13 Fixed Charges	572,928	689,466	686,806	-2,660	-0.4%
Total Objects	\$ 1,673,494,480	\$ 1,691,628,654	\$ 1,855,178,156	\$ 163,549,502	9.7%
Funds					
01 General Fund	\$ 718,046,290	\$ 875,420,446	\$ 944,987,924	\$ 69,567,478	7.9%
03 Special Fund	7,479,609	6,450,203	6,450,203	0	0%
05 Federal Fund	947,968,581	809,758,005	903,740,029	93,982,024	11.6%
Total Funds	\$ 1,673,494,480	\$ 1,691,628,654	\$ 1,855,178,156	\$ 163,549,502	9.7%

Note: The fiscal 2023 appropriation does not include deficiencies. The fiscal 2024 allowance does not include salary adjustments budgeted within DBM.

**Appendix 4
Fiscal Summary
MDH – Developmental Disabilities Administration**

<u>Program/Unit</u>	<u>FY 22 Actual</u>	<u>FY 23 Wrk Approp</u>	<u>FY 24 Allowance</u>	<u>Change</u>	<u>FY 23 - FY 24 % Change</u>
01 Program Direction	\$ 10,616,529	\$ 11,429,197	\$ 11,867,567	\$ 438,370	3.8%
02 Community Services	1,662,877,951	1,680,199,457	1,843,310,589	163,111,132	9.7%
Total Expenditures	\$ 1,673,494,480	\$ 1,691,628,654	\$ 1,855,178,156	\$ 163,549,502	9.7%
General Fund	\$ 718,046,290	\$ 875,420,446	\$ 944,987,924	\$ 69,567,478	7.9%
Special Fund	7,479,609	6,450,203	6,450,203	0	0%
Federal Fund	947,968,581	809,758,005	903,740,029	93,982,024	11.6%
Total Appropriations	\$ 1,673,494,480	\$ 1,691,628,654	\$ 1,855,178,156	\$ 163,549,502	9.7%

Note: The fiscal 2023 appropriation does not include deficiencies. The fiscal 2024 allowance does not include salary adjustments budgeted within the DBM.