

The Developmental Disabilities Administration: Moving Forward

October 2013

I. Background

Marylanders with developmental disabilities seek and deserve respect, employment, and independence. The Developmental Disabilities Administration (DDA), with a budget of nearly \$1 billion in total funds, finances services that allow these individuals and their families to reach their potential.

Each month, almost 8,000 Marylanders are able to live in community-supported living arrangements or be served by community residential providers outside of long-term care facilities; 4,800 receive assistance with employment; and 7,200 are able to receive support services by day. Over the last seven years, Maryland's financial commitment to the DDA has grown by over one-third, and the number of individuals and families served is at an all-time high.

The Department's commitment to Marylanders with disabilities includes rooting out and addressing challenges within the DDA. Over the last several years, we have uncovered significant administrative and financial weaknesses in the agency. In response, we are making fundamental changes.

In June, Chief of Staff, Patrick Dooley, was appointed as the new acting director of DDA. The Department also executed a contract with Alvarez & Marsal Public Sector Services, LLC (A&M), a national firm that specializes in turnaround and interim management services, to address operational challenges facing DDA.

This report reflects the initial assessment from the new leadership team of the challenges facing DDA, reviews the interim steps taken thus far, and sets out the path forward over the next 12 months.

II. Challenges Facing DDA

DDA has longstanding and historic challenges as noted in previous reports by the Department of Legislative Services' Office of Policy Analysis and Office of Legislative Audits, the federal Department of Health and Human Services (DHHS) Office of the Inspector General, and stakeholders who depend on the services that DDA provides.

The following 17 challenges confronting DDA can be broken down into the following categories: fiscal; operational; compliance; quality/service provision; and communication/stakeholder engagement.

A. Fiscal

1. **Prospective Payment System.** As defined in Health-General Article § 7-306.1, DDA's payment is prospective in nature; payments are issued to providers one calendar quarter in advance. Consequently, there is always a possibility that payment will differ from actual expenses, this discrepancy must be reconciled at the end of each fiscal year. This underlying weakness in DDA's payment system further complicates the fiscal, operational, and compliance challenges currently confronting the agency. The Department of Legislative Services has noted that, "a major component of DDA's recent budgeting inaccuracies is inherent to the prospective payment process. This problem will continue to affect the agency until a new payment system is adopted."
2. **Rate Structure.** DDA's current rate structure is historical in nature, re-evaluated annually only for the application of a cost of living increase. No other adjustments have been made to DDA rates based on the cost of services. This has led to numerous workarounds, including a substantial increase in "Add-On" services, to ensure that providers have the financial resources needed to provide services. Furthermore, DDA's rate system only covers four major services, leading to variation in the cost of similar contract-based services and supplemental services across the state. Without a broad rate system with a strong basis, the potential exists for non-equitable distribution of DDA's limited financial resources.
3. **Federal Fund Attainment.** DDA has made significant progress in maximizing federal claims for waiver-eligible services, yet federal fund attainment remains constrained by participants losing waiver eligibility and decisions made to provide individuals with services that are not eligible for a federal match.
4. **Budget Forecasting and Monitoring.** The lack of clear and consistent processes to support financial forecasting and monitoring limits DDA's ability to accurately budget and project expenditures, resulting in both under-spending in prior fiscal years and, more recently, overspending of the budget. Furthermore, this lack of clear and consistent processes has failed to provide DDA with the insight needed to understand the financial impact of programmatic decisions.

5. **Controls.** Weaknesses in DDA's overall fiscal management structure and a failure to have stable, standardized, and well-documented processes has led to the inconsistent application of policies and uncertainty regarding the validity of fiscal data.
6. **Reconciliations.** Historically, DDA has had limited control of the reconciliation processes, and reconciliations for rate-based services have stretched out for many years, creating complications for providers and DDA.

B. Operational

7. **Process Weaknesses.** An assessment of current financial processes has revealed inefficiencies, inconsistencies, duplicative steps and other weaknesses in several areas. Based upon this assessment, immediate action has already been undertaken in areas including the processing of service funding plans. Additionally, efforts have been identified to improve timeliness, controls, transparency and reporting of financial management activities.
8. **Lack of clear guidance for the implementation of policy.** In the past, DDA largely relied on institutional knowledge to guide the agency. DDA suffers from a lack of clear written guidance on many critical issues, from fiscal processes to the operation of programs.
9. **Inadequately Consistent Application of Policy.** DDA's four regional offices are largely responsible for implementing DDA's policies on a day-to-day basis. These offices act as the front line of customer service for DDA and are typically an individual's or family's main point of contact in obtaining services. While this is a critical function, it traditionally has led to an inconsistent application of policies across the four regions.
10. **Administrative Structure.** DDA's organizational design fails to meet the challenges of the service delivery system. The structure requires reorientation to effectively oversee programs and address regulatory requirements.

C. Compliance

11. **Contribution to Care / Room & Board.** On September 13, 2013, the Office of Inspector General at DHHS released an audit report on DDA's Community Services Program. As documented in this audit report, DDA was incorrectly

applying federal requirements for Contribution to Care / Room & Board, which led to the over-claiming of federal funds. As a result of this error, DHHS found that the state claimed at least \$20.6 million in unallowable costs and, consequently, recommended that (1) the state refund \$20.6 million to the federal government and (2) claim only actual expenditures for allowable costs.

12. **Lack of State regulations to support waiver operations.** The review of current management processes has yielded gaps in documented governance frameworks, including regulations, policies, and procedures. These gaps diminish the state's ability to operate DDA's Medicaid waiver effectively.
13. **Licensing.** The current licensure process for providers splits responsibilities between the Department's Office of Health Care Quality and DDA without clear accountability for either organization regarding the licensing process and the oversight of providers.

D. Quality / Service Provision

14. **Gaps in oversight of service delivery.** DDA's oversight of the services rendered by providers to an individual is inconsistent, narrow, and lacks a comprehensive approach. For instance, some services are audited while others are not, and certain providers are audited repeatedly while others are not audited. A comprehensive, risk-based approach to ensure that the services listed in an Individual's Plan are provided appropriately is needed.
15. **Fiscal recovery of prior performance audits.** DDA's approach to provider audits has been for the contractor conducting the audits to share its findings directly with the provider, but this was often not communicated through the regional offices and DDA headquarters. In cases when findings were communicated, DDA did not have an effective policy for withholding funds from those providers and adjusting future payments accordingly.

E. Communication / Stakeholder Engagement

16. **Lack of Waiver Advisory Committee.** Unlike the other Home and Community Based Services Waivers (HCBS Waivers) operated by the Department, DDA never established a Waiver Advisory Committee to advise DDA on the operations of the New Directions and Community Pathways Waivers. These Advisory Committees are traditionally comprised of

individuals receiving services through the waivers and other interested individuals, and provide a regular forum for discussion of the challenges to effectively operating HCBS Waivers.

17. **Regular stakeholder engagement.** DDA has not always engaged the stakeholder community on a regular and meaningful basis. In addition to the Waiver Advisory Committee for the HCBS Waivers, regular input from stakeholders on key DDA policies and procedures is critical to informing DDA's operations.

II. Interim Actions

DDA's new leadership has taken steps to address these fundamental challenges within DDA. While this will be a long process, progress is already being made. The steps taken to date can be similarly categorized as the challenges that DDA faces:

A. Fiscal

- **DDA has improved efforts to maximize federal funds.** Federal fund reimbursement for waiver-eligible services to individuals under DDA's two Medicaid waivers has enabled DDA to provide additional services to Maryland residents. In order to maximize this reimbursement, we have strengthened collaboration between DDA and the Maryland Medicaid program and have instituted processes to ensure that all eligible claims are submitted, reduce the number of rejected federal claims, and resolve rejected claims so that they can be resubmitted. (Challenge A-3)
- **DDA has improved processes for the Fiscal 2013 closeout.** Recognizing the weaknesses in budget forecasting and prior year-end closeouts, DDA undertook a rigorous process to support the fiscal 2013 fiscal closeout. This focused on the careful analysis of year-end accruals and the documentation of all closing activities. While providing a sound close to the fiscal year, this effort has also laid the groundwork for consistent closing processes in the future. (Challenge A-5).
- **DDA has revised its budget projection methodology.** Applying lessons learned from the fiscal 2013 closeout and the analysis of data within DDA's Provider Consumer Information System 2 (PCIS2), the DDA has pursued an enhanced budget projection methodology that we are continuing to refine throughout the development of the fiscal 2015 budget and first quarter

projections for fiscal 2014. A refined budget projection methodology will give the DDA increased confidence in expenditures and will help to provide valuable information for programmatic decisions. (Challenge A-4).

- **DDA has improved the reconciliation process.** Beginning in September 2013, DDA fiscal staff and the Division of Cost Accounting and Reconciliation (DCAR) staff initiated biweekly meetings to prioritize the audits to enable more timely completion and to troubleshoot issues with individual reconciliations to facilitate DCAR's review. This process has enabled DCAR to address the backlog of reconciliations pending from previous fiscal years. (Challenge A-6).

B. Operational

- **DDA has streamlined the service funding plan approval process.** A Service Funding Plan serves as the official agreement between the DDA and a provider to serve an individual. Effective September 1, 2013, DDA implemented a streamlined Service Funding Plan approval process. This streamlined process significantly shortens the time it takes to approve Service Funding Plans, improving overall service to DDA consumers. Moreover, streamlining the process improves efficiency, consistency, transparency, and fiscal stability system-wide. DDA worked collaboratively on this process design with providers, and this represents a model of collaboration that can be used on other key process changes. (Challenge B-7).
- **DDA has clarified eligibility determination letters.** We are taking additional steps to improve the current DDA eligibility process, including a review of key policies related to eligibility to ensure DDA procedures are clear, transparent and fair. DDA also recently began using revised eligibility determination letters that present the information in a clearer format. These letters were revised based in part upon input from the Maryland Disability Law Center. (Challenge B-8).
- **DDA has standardized approval criteria for emergency requests for service changes.** Recognizing that emergency situations exist when a Request for Service Change must be approved as quickly as possible, the DDA clarified the approval criteria for emergency Request for Service Changes and implemented a new form to streamline approval by the Executive Director. This, coupled with the new service funding process,

should allow for a much faster approval and award of service funding plans for emergency needs. (Challenge B-9).

- **DDA has executed a contract for state-wide Behavioral Support Services (BSS).** DDA executed a new procurement for a state-wide vendor to provide BSS services. By pursuing a state-wide vendor, we will be able to provide more consistent services, offer a single point of contact for any issues with the service, implement statewide best practices quickly, provide more accurate and complete data analysis, and track/trend data across the state. While the new contract started on October 1, 2013, DDA is working closely with the vendor to operationalize new processes. (Challenge B-9).
- **DDA is filling key internal vacancies.** DDA has been working aggressively to identify priority vacancies, request freeze exemptions, and fill much needed vacancies. DDA has also hired a clinical director to coordinate with the nurses in the regional offices on the approval and oversight of services. (Challenge B-10).

C. Compliance

- **DDA has updated the contribution to care calculation, form and guidelines.** To address the HHS audit finding, edits were placed in both PCIS2 and the Maryland Medicaid Information System to remove both the contribution to care and room and board from federal claims. However, to fully align with federal regulations, DDA recognized a need to implement a new contribution to care policy and a revised contribution to care form. We will be providing additional guidance regarding contribution to care in the near future. (Challenge C-11).

D. Quality / Service Delivery

- **Enhanced Utilization Review capabilities.** DDA is required to monitor the provision of all funded services in order to comply with state and federal guidelines. Using an independent contractor, utilization reviews of Service Funding Plans are conducted to ensure that providers are delivering the services included in an Individual's Plan. DDA has awarded a new contract for the utilization review. DDA is working closely with the new vendor and the provider community to set expectations and clearly document the process for these reviews. (Challenges D-14, 15).

E. Communications / Stakeholder Engagement

- **DDA is now engaged with multiple stakeholders.** DDA's leadership team has been holding regular meetings with a variety of groups, including: the Developmental Disabilities Coalition, Maryland Disability Law Center, Maryland Association of Community Services, ARC of Maryland, and Maryland Developmental Disabilities Council. In addition, the team has traveled across the state to meet with specific groups that represent individuals, families, and providers. These regular meetings will continue and will provide a helpful forum for feedback and communication with the stakeholder community. (Challenges E-16, 17).

III. The Next 12 Months

DDA will continue to work with the leadership of the Department and the stakeholder community to make progress on a range of issues that impact the lives of the individuals that DDA serves. These changes will not happen overnight and difficult decisions will have to be made. Over the next twelve months, DDA plans to focus on the following areas:

A. Fiscal

- **DDA will make recommendations on the future of PCIS2.** While the DDA's focus has been on stabilizing operations and implementing key process changes, DDA's consultants remain committed to providing a recommendation on the future of PCIS2. *Projected Timeline: DDA will provide additional information on the recommendation by December 1 per the Joint Chairmen's Report of 2013.* (Challenge A-1).
- **DDA will develop a new approach to rate setting.** The service delivery rate structure for DDA's providers reflects a flat-rate methodology implemented in fiscal 2001. The current structure reimburses providers for administrative costs based on the average cost for all providers. A comprehensive review of the basis of rates and actual costs is planned to assess operational costs – both administrative and direct service costs. *Projected timeline: DDA will design this review and initiate a competitive procurement to engage external support by March 2014.* (Challenge A-2).

- **DDA will improve waiver utilization.** Given the need to maximize federal reimbursement, DDA will pursue of a strategy focused on improving waiver utilization. This strategy will include a review of state-only services being provided to individuals on the waiver as well as an enhanced focus on keeping people on the waiver and eligible for federal reimbursement. *Projected timeline: The strategy will be initiated this fall. (Challenge A-3).*
- **DDA will increase federal reimbursement claims for service contracts.** DDA will finalize and implement a new approach for the development for federal reimbursement rates and will make changes to existing invoicing processes in order to ensure that all eligible claims are submitted in a timely fashion. *Projected timeline: These changes will go into effect before the end of this calendar year. (Challenge A-3).*

B. Operational

- **DDA will improve the Request for Service Change process.** DDA has implemented new processes associated with service funding plans in support of changes to an individual's services. The process guiding the development and approval of service funding plans required changes to improve responsiveness and timeliness, alignment with service approval procedures, and support internal fiscal predictability. The DDA worked collaboratively on process design with providers with the objective of improving coordination and collaboration. *Projected Timeline: Additional standardization for approvals and denials for changes will be introduced in the spring of 2014. (Challenge B-7).*
- **DDA will issue a clarified policy on discharges.** DDA's current regulations provide for a discharge of services for an individual but do not address emergency circumstances that may call for a temporary suspension of services to protect the health and safety of individuals. The DDA, in collaboration with the Maryland Disability Law Center and Maryland Association of Community Services, has developed a policy to allow for suspensions of services under certain circumstances. *Projected Timeline: This policy will go into effect during fall 2013. (Challenge B-9).*

- **DDA will create a new organizational structure.** DDA's internal organization needs to better position itself to meet the challenges that it faces. A complete review of the structure and functions needs to occur to better align DDA's resources to operate a program with consistency and integrity. *Projected Timeline: Recommendations will be developed by spring 2014.* (Challenge B-10).

C. Compliance

- **DDA will revise existing regulations.** In concert with the changes highlighted above, the DDA is reviewing current regulations to ensure they are clear, consistent and as streamlined as possible. DDA will seek consultation and collaboration with various stakeholders as specific changes are contemplated. *Projected Timeline: These reforms will be reviewed and implemented on an ongoing basis.* (Challenge C-12).
- **DDA will renew the DDA waiver.** DDA has submitted an application to the federal government to merge the current New Directions and Community Pathways Waivers. DDA expects this application to be finalized with the federal government and the waiver approved for an additional five year period. *Projected Timeline: Subject to Centers for Medicare and Medicaid's approval.* (Challenge C-12).

D. Quality / Service Delivery

- **DDA will improve the utilization review process.** DDA is developing a revised process for utilization reviews and recoveries and has committed to sharing the revised process with the provider community prior to implementation. *Projected Timeline: The revised process is expected to be finalized in fall 2013.* (Challenges D-14, 15).

E. Communications / Stakeholder Engagement

- **DDA will establish a Waiver Advisory Committee.** The Department is in the process of forming a DDA Waiver Advisory Committee. Given pending renewal of DDA's HCBS Waiver, timely engagement is going to be critical to review impacts on services and funding approaches. *Projected Timeline: Members of the Advisory Committee will be appointed in fall 2013.* (Challenge E-16).

- **DDA will continue to actively engage the stakeholder community.** DDA leadership will continue to meet with the stakeholder community regularly and has also agreed to participate in a town hall meeting being held on November 13th with individuals and families. DDA remains committed to meeting with individuals and groups that have an interest in improving DDA and reforming the system. *Projected Timeline: Meetings with stakeholders will be ongoing.* (Challenge E-17).

Conclusion

In this moment of change, the Department remains steadfast in its commitment to expanding access to services for individuals and their families in Maryland. Our goal is no less than transformation of DDA itself. In order to achieve this vision, we will continue to evaluate DDA's policies and procedures. When additional problems arise within the agency, we will address these problems using an inclusive process that allows for stakeholder input so that we can best serve individuals and families in Maryland.

Thank you for supporting individuals with developmental disabilities. We will continue to provide you with updates regarding DDA as we move forward in transformation efforts.