

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1020

(Delegate K. Young, *et al.*)

Health and Government Operations

Finance

Developmental Disabilities Administration - Self-Directed Services (Self-Direction Act of 2022)

This bill requires the Developmental Disabilities Administration (DDA), in consultation with stakeholders, to establish and provide training materials to coordinators of community services (CCSs) specifically on the self-directed services model of receiving services. As part of developing a “person-centered plan of service,” a CCS must educate the recipient on all models of service available to the recipient, as specified. By January 1, 2023, DDA must submit to the Centers for Medicare and Medicaid Services (CMS) an amendment to the Community Pathways Waiver that includes overnight supports requirements. DDA must submit specified reports beginning January 1, 2023. The Maryland Department of Health (MDH) must collect specified data and submit specified reports on the expansion of self-directed services to the General Assembly by January 1, 2023, and October 1, 2024. To the extent authorized, DDA must leverage federal funding to pay for the services established under the bill.

Fiscal Summary

State Effect: DDA expenditures increase by \$763,200 (50% general funds, 50% federal funds) in FY 2023 for personnel and one-time training costs; federal fund revenues increase accordingly. Out-years shown below reflect personnel costs only. DDA expenditures increase by an additional indeterminate but likely significant amount beginning in FY 2023 to provide additional waiver services under the bill (not quantified below).

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
FF Revenue	\$381,600	\$72,300	\$74,300	\$76,300	\$78,400
GF Expenditure	\$381,600	\$72,300	\$74,300	\$76,300	\$78,400
FF Expenditure	\$381,600	\$72,300	\$74,300	\$76,300	\$78,400
Net Effect	(\$-)	(\$-)	(\$-)	(\$-)	(\$-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Any impact is indeterminate and limited to the 10 local health departments that provide case management and the 2 local jurisdictions that provide DDA-funded services.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Individual-directed and family-directed goods and services” means services, equipment, activities, or supplies for individuals who self-direct services that (1) relate to a need or goal identified in the person-centered plan of service; (2) maintain or increase independence; (3) promote opportunities for community living and inclusion; and (4) are not available under another waiver service(s) provided under the State plan. “Individual-directed and family-directed goods and services” includes all goods or services authorized by regulations adopted or guidance issued by CMS.

“Person-centered plan of service” means that a plan for services and supports (1) is developed with a focus on the individual having control over the services and supports; (2) ensures that the individual is the primary contributor to the plan and may receive support from other persons selected by the individual developing the plan; (3) identifies and addresses, to the extent practicable, the individual’s preferences and interests related to achieving the individual’s desired lifestyle as well as the supports required to do so, as specified; and (4) aligns services and supports to ensure that the individual has access to the full benefits of community living in a manner that emphasizes the individual’s quality of life, well-being, and informed choice.

“Self-directed services” means waiver program services (1) for which participants or their representatives have decision-making authority over and take direct responsibility for management of the services with the assistance of available supports chosen by the participant or the participant’s representative and (2) that are provided in a manner that furthers the right of individuals and their representatives, as applicable, to make choices about and direct all aspects of their lives, including by choosing and controlling the delivery of waiver services, who provides the services, and how services are provided, and recognizes that all individuals have the capacity to make choices and may be supported in making choices.

“Support broker” means a person who works at the direction of and for the benefit of an individual who uses self-directed services, including by assisting the individual or another individual chosen by the individual with specified tasks.

While developing a person-centered plan of service for a recipient, a CCS must educate the recipient on all models of service available to the recipient, as specified, (1) when the individual begins receiving services from a CCS and (2) at least once each year that the individual is receiving services from a CCS. A CCS must report to DDA that the coordinator provided information on self-directed services, traditional services, and provider-managed services to an individual in accordance with the bill.

The State may not require a recipient to demonstrate competency before DDA authorizes the recipient to receive self-directed services.

DDA must provide a recipient who receives self-directed services with:

- individual-directed and family-directed goods and services in an amount based on the recipient's needs and included in their person-centered plan as calculated on an annual basis and within the limits of the approved annual budget generated by the Long Term Services and Support System (LTSS);
- access to the recipient's plan of service and budgets for the plan of services through LTSS;
- up to 30 hours of support broker services each month, as needed by the recipient and within the recipient's total approved annual budget;
- an option for a family member or legal guardian to provide services for the recipient, if (1) the recipient or an individual authorized to make care decisions on behalf of the recipient chooses the family member to provide the services and (2) the recipient also hires a support broker;
- reimbursement paid on a per-mile basis to the owner of a specialized, modified, or accessible vehicle driven by an employee of the recipient and for the purpose of the recipient engaging in activities specified in the recipient's person-centered plan of service;
- a budget for self-directed services that provides the ability to use funds from the recipient's approved annual budget for the purpose of funding at least one position to assist the recipient in managing the recipient's home, staff, and other administrative duties, as specified;
- an option for a recipient who has a demonstrated need for overnight supports provided through personal support services carried out using the recipient's employer or budget authority to direct and choose the employee, vendor, or provider of the overnight supports;
- the choice of a vendor to provide fiscal management services, as specified;
- the option to employ a representative, support broker, or team of individuals to support the recipient in directing services; and
- training for a representative, support broker, or team of individuals on self-directed services.

DDA must provide up to 30 hours of support broker services each month to a recipient of waiver services as needed by the recipient and within the recipient's total approved annual budget. DDA must provide any support broker services that are authorized by regulations adopted or guidance issued by CMS and selected by the recipient.

DDA may not establish a limit on the dollar amount of individual-directed and family-directed goods and services provided to a recipient or the number of hours of personal support services provided to a recipient who receives self-directed services that are necessary for the health and safety of the recipient and are authorized by regulations adopted or guidance issued by CMS. However, a recipient may not receive services or supports in excess of the recipient's annual approved budget.

By January 1, 2023, and annually through January 1, 2026, DDA must report to the General Assembly on the progress in implementing the requirements of the bill and recommendations outlined in a specified study of the Self-Directed Advocacy Network of Maryland.

MDH must collect utilization data on recipients of self-directed services and determine the fiscal impact of expanding services as required under the bill. By January 1, 2023, MDH must provide a baseline report to the General Assembly on the utilization and cost of self-directed services. By October 1, 2024, MDH must report to the General Assembly on its findings and recommendations related to the expansion of self-directed services under the bill.

Current Law: Under the Code of Maryland Regulations ([COMAR 10.22.17.02](#)), a “support broker” is a person employed by eligible individuals and families that helps them to (1) decide what services and supports are best for them and (2) access and manage the chosen services and supports. MDH advises that support brokers cannot make decisions for the individual; they are only intended to serve in an advisory capacity. Currently, individuals can choose the level and extent of assistance, if any, they receive from their support brokers. However, most individuals choose to receive broker support services in some capacity.

Home- and Community-based Services Waiver

DDA provides direct services to intellectually and developmentally disabled individuals through the funding of a coordinated community-based service delivery system. The State receives federal matching funds for services provided through three Medicaid waivers: Community Pathways; Community Supports; and Family Supports.

Home- and community-based services waivers meet the needs of individuals who prefer to receive long-term care services and supports in their home or community, rather than in an

institutional setting. MDH submits completed waivers to CMS. If permitted by CMS, an individual must be determined to be medically eligible to receive services under the waiver if the individual requires (1) skilled nursing care or other related services; (2) rehabilitation services; or (3) health-related services above the level of room and board available only through nursing facilities.

Waiver services are covered under an approved waiver if the services (1) are needed and chosen by an eligible waiver participant as an alternative to admission to or continued stay in a nursing facility; (2) are part of a plan of service approved by the program; (3) assure the waiver participant's health and safety in the community; and (4) cost no more *per capita* to receive in the community than in a nursing facility. Waiver services include assisted living services, case management services, family training, dietitian and nutritionist services, medical day care services, and senior center plus services.

State Fiscal Effect:

Personnel Costs

MDH expenditures increase by \$123,327 (50% general funds, 50% federal funds) in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the cost of hiring two health policy analysts to apply for an amendment to the Community Pathways Waiver to include overnight supports, oversee the expanded waiver services, collect utilization data, and submit required reports. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$108,641
Operating Expenses	<u>14,686</u>
Total FY 2023 State Expenditures	\$123,327

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Required Training

The bill requires DDA, in consultation with stakeholders, to establish and provide training materials to CCSs and training for a representative, support broker, or team of individuals on self-directed services. Based on past trainings, DDA advises that the cost to develop and implement such training is approximately \$135,800. CCSs may bill for their training time, which may cost approximately \$504,117. Therefore, DDA expenditures increase by

an additional \$639,917 (50% general funds, 50% federal funds) in fiscal 2023 only for required training.

Individual-directed and Family-directed Goods and Services

MDH advises that there is currently a cap of \$7,500 per year for family goods and services. The bill removes this cap to allow DDA to provide individual-directed and family-directed goods and services (including all goods or services authorized by regulations adopted or guidance issued by CMS) in an amount based on the recipient's needs and included in the recipient's person-centered plan of service as calculated on an annual basis and within the limits of the individual's approved annual budget. MDH advises that the total cost of additional individual-directed and family-directed goods and services provided under the bill cannot be reliably estimated at this time, but expenditures likely increase by a significant amount.

Support Broker Services

Currently, an individual may be reimbursed for four hours of support broker services per month. Under the bill, an individual may receive up to 30 hours of support broker services per month. DDA advises that approximately 2,000 individuals are enrolled in self-directed services in the State. *For illustrative purposes only*, if 50% of eligible individuals use the full 30 hours of support broker services per month, expenditures increase by approximately \$23.4 million per year (50% general funds, 50% federal funds).

Vehicle Use Reimbursement

The bill requires reimbursement to be paid on a per-mile basis to the owner of a specialized, modified, or accessible vehicle driven by an employee of the recipient for the purpose of the recipient engaging in activities specified in the recipient's person-centered plan of service. To the extent that individuals are reimbursed for transportation, general fund expenditures increase by an indeterminate, but potentially significant, amount. *For illustrative purposes only*, if the 2,000 individuals currently receiving self-directed services are reimbursed for transportation at the rate of 56 cents a mile, for 20 miles per day, five days per week, expenditures increase by approximately \$5.8 million each year (50% general funds, 50% federal funds). The Department of Legislative Services advises that the extent to which individuals will require reimbursement for transportation cannot be reliably estimated at this time.

Additional Information

Prior Introductions: Similar legislation has been considered in recent legislative sessions. SB 441 of 2021 and SB 959 of 2020 each received a hearing in the Senate Finance Committee, but no further action was taken on either bill. Their cross files each received a hearing in the House Health and Government Operations Committee; HB 318 of 2021 was subsequently withdrawn, whereas no further action was taken on HB 1171 of 2020.

Designated Cross File: SB 868 (Senator Lee) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2022
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