The Honorable Thomas V. Mike Miller, Jr. 
President of the Senate 
H-107 State House 
State Circle 
Annapolis, MD 21401-1991

The Honorable Michael E. Busch 
Speaker of the House 
H-101 State House 
State Circle 
Annapolis, MD 21401-1991

RE: Senate Bill 632, Chapter 511/2013 - State Brain Injury Trust Fund - Report

Dear President Miller, and Speaker Busch:

Pursuant to Senate Bill 632, Chapter 511 (2013) State Brain Injury Trust Fund (Fund), signed into law on May 16, 2013, the Department of Health and Mental Hygiene (DHMH) submits this report on the implementation of the State Brain Injury Trust Fund.

The Fund is meant to provide services to individuals with brain injuries that are medically documented, have incomes at or below 300% FPL, and have exhausted all other health, rehabilitation, and disability benefits. The expected implementation of the fund is one year after the establishment of a sustainable revenue source that is adequate to pay for the services and supports identified in the legislation.

A Trust Fund Advisory Council, consisting of a subset of Maryland Traumatic Brain Injury Advisory Board members, has been established. Additionally, the Department of Health and Mental Hygiene contracted with the National Association of State Head Injury Administrators to research Brain injury Trust Funds across the country. This advisory council will review the consultant report, which was due December 31, 2013, and assist the Department of Health and Mental Hygiene with researching existing State Trust Funds and establishing policies and procedures for Maryland’s Brain Injury Trust Fund following the establishment of a sustainable source of revenue. The amount of funds in the Brain Injury Trust Fund will dictate the amount and scope of the services that can be provided through the program.
According to the law, the Fund will cover case management and neuropsychological testing for those who meet eligibility criteria, which has also been established in the law. The Fund is intended to pay for services when another funding source is not available. Expansion of Medicaid through the Affordable Care Act as well as increased access to private health insurance through the Health Insurance Exchange may decrease the level of unmet need for neuropsychological testing. It is anticipated that case management will remain a priority for this population and therefore a service that will need to be covered through the Fund.

The law also states that the Fund may cover any of the following services: prevention, education and awareness programs, rehabilitation services, medical services, durable medical equipment, assistive technology assessment and equipment, services to assist in the return to driving, evaluation and training related to the brain injury, neurobehavioral health services, nursing home transition services, community reentry services, educational needs, housing and residential services, and transportation services. Covered services will be defined in policies and procedures based on expected amount of revenue available to the fund as well as the anticipated priorities for this population after full implementation of Health Insurance Exchange, Medicaid expansion, and Long Term Care Reform.

The program will be administered by the Maryland Mental Hygiene Administration, which has experience with both Medicaid and non-Medicaid reimbursable service utilization through both an administrative services organization that provides utilization review and claims payment as well as unique grant-based projects managed through local mental health authorities in most counties throughout Maryland.

Legislation may be required to establish a revenue source for the Brain Injury Trust Fund. Of the twenty-two states that have implemented Brain Injury Trust funds, each one has a sustainable revenue source. Most notably, revenue is generally obtained from fines associated with traffic related offenses, such as speeding, driving under the influence, driving while intoxicated, reckless and imprudent driving, and violations of child safety restraint laws. Florida includes boating while intoxicated. Other states impose a surcharge on motorcycle or motor vehicle license tag fees, vehicle registration fees and driver’s license reinstatement fees. Some states have enacted a combination of these fees and other surcharges to generate sufficient funding for the program.

Estimated revenue varies widely for established programs, from less than $1 million to $22 million. The average is between $1 million and $4 million annually. Trust funds are created to supplement state and federal funding streams such as Medicaid and to cover services that are not allowable under Medicaid or to cover Medicaid-allowable services to individuals who may not meet Medicaid eligibility, specifically those individuals who do not meet the institutional level of care requirement for Medicaid Home and Community Based Services.
I hope this information is helpful. If you have any questions, please feel free to contact Ms. Stefani O’Dea, Chief of Long Term Care, Mental Hygiene Administration at (410) 402-8476 or stefani.odea@maryland.gov.

Sincerely,

Joshua M. Sharfstein, M.D.
Secretary

Attachment

cc: Gayle Jordan-Randolph, M.D.
    Brian Hepburn, M.D.
    Daryl Plevy, J.D.
    Stefani O’Dea
    Allison Taylor, M.P.P, J.D.
    Sarah Albert, MLIS #9642
Maryland Trust Fund for Traumatic Brain Injury:

Recommendations and Next Steps

In keeping with SB 632 (Chapter 511) of the Acts of 2013, which created a trust fund program for individuals with traumatic brain injury, this report is to assist the Maryland Mental Hygiene Administration in making recommendations for implementation.

Prepared for
The Maryland Mental Hygiene Administration
The Howard County Mental Health Authority

by the
National Association of State Head Injury Administrators
Susan L. Vaughn, M.Ed., Director of Public Policy

12/2/2013
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Introduction
On May 16, 2013, Governor Martin O’Malley signed S.B. 632 (Chapter 511), creating the State Brain Injury Trust Fund, a special fund to be used to support services for Maryland’s residents with traumatic brain injuries (TBI). The Department of Health and Mental Hygiene (DHMH) is charged with administering the program. In keeping with the law, DHMH contracted with the National Association of State Head Injury Administrators to assist DHMH in making recommendations for implementation of the trust fund program, including recommendations for any subsequent legislation which may be needed to administer that program. The law does not provide a funding mechanism for generating revenue for the fund.

According to Maryland TBI incidence data reported in the Maryland Traumatic Brain Injury (TBI) Advisory Board’s 2012 Annual Report, between 2006 and 2010:

- There were 170,039 Emergency Department (ED) visits resulting from TBIs. This represents an overall 66% increase in TBI related ED visits over the five year period.
- Falls were the most common cause of TBI related ED visits (44%), followed by struck by/against (30%), and followed by motor vehicle crashes/traffic related incidents (15%).
- There were 33,501 hospital admissions resulting from a TBI. The highest rate of hospital admission was among individuals aged 15-55.
- Falls were the most common cause of TBI related hospitalization (43%), followed by motor vehicle crashes/traffic related incidents (31%), followed by struck by/against (11%).

The Annual Report also reported that approximately 8,830 Operation Iraqi Freedom (OIF)/Operation Enduring Freedom (OEF) Maryland Veterans have sustained a TBI during their service.

In 2012, the Advisory Board in collaboration with the Mental Hygiene Administration and the Brain Injury Association of Maryland conducted a web based needs and resources assessment. Sixty (60)% of individuals with brain injury and thirty-nine (39)% of family members surveyed were dissatisfied with services available to people with brain injury in the state. Concerns voiced include; lack of an awareness and understanding among the public and professionals, difficulty managing complex medical care without assistance, not enough providers, not enough access due to geographic location and/or funding for cognitive therapy, case management, behavioral health services, and neurobehavioral facilities, especially for young people.

It is because of these concerns that the legislators passed S.B. 632 to help address gaps in service delivery.
Executive Summary
Recognizing the need to support services to assist individuals with traumatic brain injury (TBI) to return to home, school, work and community after their injury, Maryland lawmakers enacted legislation establishing the State Brain Injury Trust Fund, a special fund to be used to support services for Maryland’s residents TBI. The law does not provide a funding mechanism for generating revenue for the fund. The DHMH, which is responsible for administering the fund, requested a report on how other states generate funding and administer trust fund programs in order to help formulate a plan for implementation. This report highlights, in particular, those states with trust fund programs that may also administer a Brain Injury Medicaid Home and Community-based Services (HCBS) Waiver program, similar to Maryland, or use a combination of Medicaid and other state general revenue funded programs to coordinate and maximize services and resources to support individuals with TBI.

Just as no two individuals with brain injury are alike, no two states are alike in how they construct their service delivery for individuals with brain injury. Similarly, states’ Medicaid programs vary considerably with regard to eligibility and benefits offered. What states have in common is that they try to piece together services from various sources of funding in order to address both Medicaid eligible and non-Medicaid eligible individuals, as well as the range of services needed – paid and non-paid supports – to assist individuals to recover from their brain injury and to live as independently as possible. In many respects state TBI trust fund programs reflect the culture and administration of the state agency in which they are housed in terms of mission, service terminology, and how funds are distributed.

What are trust fund programs for brain injury? TBI trust fund programs are created generally from fines associated with traffic offenses, criminal offenses or fees added to driver’s license or car registration, which are then deposited into a state account to use for purposes stated in the legislation creating the trust fund. The methods for generating revenue differ among the states. Florida added boating while intoxicated to its list of offenses to generate funding for the program. Funds in the account are generally allowed to accrue over fiscal years so that the fund can accumulate sufficient amount of money to continue programs over fiscal years. The amount generated ranges from $1 million to $22 million. The average is between $1 million and $4 million annually. One state, other than Maryland, currently does not have a funding mechanism and relies on a $1 voluntary donation through motor vehicle registration, and generates less than $30,000.

The states which offer a robust service package for individuals with brain injury and their families generally use a combination of state and federal funds to provide the array of rehabilitation and community services and supports needed, including Medicaid, state general revenue, and funding derived from trust fund programs. TBI trust fund programs generally offer flexibility for states to fill in service gaps, including supports and assistance to non-Medicaid eligible residents. States may also use funds to provide services that are not covered by their Medicaid State Plan or through the Medicaid HCBS waiver programs, such as cognitive
rehabilitation, rental deposits and other housing assistance. States may use the trust fund revenue as match for federal grants; to match Vocational Rehabilitation (VR) federal dollars to develop TBI VR services; and as state match for Medicaid State Plan services for administrative case management. States also use funds for prevention, research, public education, information and referral services (I&R), training and to support the work of the advisory board/council. States may offer case management or service coordination services to assist individuals in service planning, which may be provided by way of a contract with another entity or by state employees hired for that specific purpose.

Some states target their trust fund program to cover services specifically for adults, while other states include individuals with TBI of all ages. Some states serve both individuals with TBI and those with spinal cord injuries and may divide the funds accordingly.

Over the past few years, Maryland has begun to develop a brain injury service delivery system and accompanying infrastructure consisting of an advisory board; a designated state lead agency; a Home and Community-Based Services (HCBS) Medicaid Waiver for Adults with Brain Injury; long-term services and supports initiatives to include brain injury; and capacity for training providers on brain injury and person centered planning. The HCBS waiver serves approximately 75 Maryland residents to support individuals with brain injury to live in the community in lieu of nursing home level of care. Individuals with brain injury who are not Medicaid eligible or who may need assistance not covered by the waiver program have few resources available to them.

The DHMH also receives grant funding from the Centers for Disease Control and Prevention (CDC) to build and support injury prevention efforts. Vital statistics data, hospital and emergency department discharge data and death records are used to assess the extent of TBI in the state, as well to shape and evaluate the impact of injury and violence prevention initiatives.

Summary and Recommendations
With support from the advisory board, the legislature passed the trust fund bill in 2013 to generate funding to support an array of programs and services not available to individuals with TBI and their families. In order for the Maryland Brain Injury Trust Fund program to be successful, further legislation needs to be enacted to provide a funding mechanism to generate revenue for the trust fund. Once that occurs and DHMH can estimate the amount of funds available, DHMH, along with input from the advisory board and others, will need to determine priorities for funding, including eligibility requirements and services to be provided. Provider qualifications and payment mechanism will need to be established. Services should be coordinated with other state and federal programs and resources, such as Medicaid, Vocational Rehabilitation, and Centers for Independent Living programs. Maryland has already established person centered planning as a way to determine long-term and short-term goals, identified resources, and intended outcomes to support individuals with brain injury to live as independently as possible. This process should be incorporated into the program, along with an application process, so that services are maximized and coordinated across systems.
Overview and History of State Trust Fund Programs

Beginning with the brain injury advocacy movement, parents, families and individuals with TBI have looked for public assistance to help pay/fund post-acute rehabilitation, and other assistance not otherwise provided by insurance or other governmental programs. In many states policy makers directed advocates to look for funding to support these additional state services outside of existing state revenue used to fund governmental programs. In 1985, Pennsylvania’s lawmakers passed the first legislation, known as a TBI trust fund, to generate funding through a surcharge on all traffic violation fines and other measures to pay for rehabilitative services for individuals with TBI. The county clerks collect these fees which are sent to the state treasurer for deposit in an earmarked fund. Through the appropriations process, the amount collected is available to the state health department to pay for medical rehabilitation.

Over the years, 22 states, including Maryland, have enacted similar legislation to generate revenue earmarked for TBI programs and services. Most states have targeted fines associated with traffic offenses to be set aside for TBI programs, since traffic crashes have been a primary cause of TBI, particularly with regard to severe TBI. Some states have also found other ways to generate funding, such as boating while intoxicated and additional fees assessed to driver’s license. These funds, then, are placed in a separate state account and are generally allowed to accumulate funds over fiscal years in order to have sufficient level to pay for programs and services. In other words, the funds are not returned to the state treasurer at the end of the fiscal year so that they have to start over when the new fiscal year starts. The amount generated varies widely, as well as the purpose of the fund, and how it is administered.

Overall, trust fund legislation establishes a definition for TBI and/or acquired brain injury (ABI); almost all create a funding mechanism; specify use of funds, and creates an advisory board/council to help plan and oversee the program. This report provides a snapshot of how states are administering trust fund programs, and where they may interface/coordinate with other state/federal programs, such as Medicaid.

Funding Mechanism

Most notably, revenue is generally obtained from fines associated with traffic related offenses, such as speeding, DUI/DWI, reckless and imprudent driving, and violations of child safety restraint laws. Florida includes boating while intoxicated. Other states impose a surcharge on motorcycle or motor vehicle license tag fees, vehicle registration fees and driver’s license reinstatement fees. Some states have enacted a combination of these fees and other surcharges to generate sufficient funding for the program. According to the Health Resources and Services Administration (HRSA) TBI Technical Assistance Center (TAC) 2012 update on trust fund programs, estimated revenue varies widely for established programs, from less than $1 million to $22 million. The average is between $1 million and $4 million annually.

Montana enacted legislation establishing an account in the state special revenue fund to allow for donations and grants to fund the advisory council and to provide grants for public information and prevention education regarding TBI. No funding mechanism, such as fees or
fines, was included. The 2012 HRSA TBI TAC report indicates that the fund has accumulated $29,000.

Administration/Administrative Costs
Trust funds may be administered by health, human services, aging, health, vocational rehabilitation agencies. Often, other TBI services are located in the same agency – but not necessarily. In Minnesota, the trust fund program is administered by the Department of Health which contracts with the Brain Injury Alliance of Minnesota for resource facilitation, while the Minnesota Department of Human Services administers the Brain Injury HCBS Medicaid Waiver, which provides funding for home and community-based services for children and adults who have an acquired or traumatic brain injury.

Almost all states use a portion for costs associated with administering the program and at least three (3) states use trust funding for administrative support for the advisory board/council (AZ, LA; WA). One state law specifically designates funding for the department to employ care coordinators (AL). Other states may pay for service coordination or resource facilitation from the fund. Almost all states have designated a percentage that may be used for administrative purposes. However, recently, due to declining revenues from the trust fund, Alabama has shifted its central office administrative costs to the state agency in which the program is housed.

Role of Advisory Boards/Councils
Most state laws created an advisory board or council along with the legislation establishing a trust fund. In general, the laws establish criteria for serving on the advisory body (composition) and the purpose. These bodies generally function as an advisory body, overseeing the use of the funds, while the administering agency has responsibility for distributing the funds and administering services. The advisory council/board may serve as the body responsible for statewide planning and generally will fulfill the federal TBI State Grant Program requirement of having an advisory board. An advisory board/council may assist the administering agency with setting priorities, often determined through public forums, and formal needs and resource assessments. These advisory bodies may serve as a repository of information and resources; sponsor conferences and training; and promote interagency agreements and policy coordination among state programs.

In some states, such as Arizona, Maryland, Missouri, and New Mexico an advisory council/board was established before the trust fund program was created to plan for service delivery. In was in these states that the advisory body recommended that trust fund legislation be enacted to fill in the service delivery gaps.

In Alabama the Impaired Drivers Trust Fund Advisory Board provides fiscal management of trust fund revenue. The advisory board also sets policy which must then be approved at a public hearing and entered into the Alabama code. An attorney from the Alabama Department of Rehabilitation Services handles this function.
The Georgia Trust Fund Commission administers the trust fund’s grant program, and oversees the distribution of grant funds. The Kentucky Traumatic Brain Injury Trust Fund Board was also created for the purpose of administering the trust fund and to:

- Promulgate administrative regulations;
- Establish a confidential registry for traumatic brain and spinal cord injuries;
- Investigate the needs of people with brain injuries and identify gaps in services;
- Assist in the development of services for people with brain injuries; and
- Monitor and evaluate services provided by the Trust Fund.

Eligibility
Most state laws define TBI, restrict usage to residents of the state, and specify that the fund is “last resort” so that other funds must be pursued first. Some programs are created for adults only, while other state laws do not impose an age limit. While state laws define a TBI, state adminstering agencies, then further define the eligibility process for determining that a TBI has occurred, and may also require documents to determine financial eligibility if that is also a requirement. States may require hospital or medical records that document the occurrence of a TBI or treatment at the time the TBI reportedly occurred. Should these documents not be available, a state may have other measures for determining the TBI, such as an emergency medical services (EMS) report, a report of recording domestic violence or military service records which document the injury. The Massachusetts program contracts with a neuropsychology consultant to help determine a TBI who will then, conduct a comprehensive diagnostic review of all documents received, review the completion of a functional status assessment form, and/or conduct a neuropsychological assessment and an in person interview with the applicant to determine TBI-related disabilities. Many states conduct an in-home visit to assess the functional abilities and TBI-related disabilities associated with the person applying for services.

In general, states look for documentation that the person has incurred a TBI, which results in a significant impairment of behavioral, cognitive, and/or physical functioning resulting primarily from an externally caused TBI; and may require demonstration that the person will benefit from the services provided, including the ability and intent to participate in community based services.

Depending on revenues states may prioritize services provided. New Jersey just changed its eligibility from an acquired brain injury (ABI) to TBI due to insufficient funding to cover the expanded population.

How Funds Are Used
Trust fund programs vary widely across the country in terms of use of funds. States may use funds as match for federal grants; and as match for federal programs, such as VR and Medicaid. Funds may support surveillance/TBI registry, prevention, research, public education and awareness, education and training, as well as administrative support to the advisory council/board. States may also provide an array of services such as: acute care (TX/FL);
inpatient, outpatient and post-acute rehabilitation; transitional living; therapies, pre-vocational services; supported employment; in-home modifications; durable medical equipment; respite and community services for individuals who are not eligible for Medicaid waiver programs or State Plan benefits. Programs may pay for I&R, resource facilitation, case management/service coordination/care coordination. Texas’ trust fund is limited to inpatient and comprehensive rehabilitation, outpatient and post-acute rehabilitation, if showing progress. Similarly, Pennsylvania is limited to medical rehabilitation and attendant care, as well as transitional case management.

Some states have used trust fund money to match federal grants, such as the Federal HRSA TBI State Grant Program, or to match Medicaid services. One state, California, used funds at one time for state match for vocational rehabilitation services to provide such services specifically to individuals with brain injury seeking employment.

Distribution of Funds
States vary on how funds are distributed. States may award grants through a competitive process to agencies, while others may purchase services through vendors/service providers/professionals through a RFP process, provider agreements, and/or other contracting mechanisms. A few states have sole source contracts with their state brain injury foundation/association for Information & Referral, enrollment, and resource facilitation services. In Missouri, the state can sole source to county health departments and state universities, so the department contracts for service coordination through those entities. The service coordinators have access to the state data systems and report to the central office program director.

The Colorado trust fund contracts with Denver Options Inc. of Colorado to provide statewide care coordination through two programs: Colorado Connections and Operation TBI Freedom. Colorado Connections offers care coordination to adults with TBI, while Operation TBI Freedom provides comprehensive services to active duty and military veterans with TBI. Care coordinators provide such services as crisis stabilization, self-advocacy, education and community reintegration for people with TBI. The coordinators connect people to individualized services, funding and resources.

The Colorado TBI Trust Fund Program has awarded Education Grants to provide support to community-based projects that provide education about TBI to individuals with TBI, family members, educators, professionals, law enforcement personnel, and other stakeholders throughout Colorado. The TBI Trust Fund Education Grants Program is designed to strengthen community systems that support individuals with TBI and their families.

The Georgia Brain and Spinal Injury Trust Fund Commission allows individuals to apply on-line. Possible assistance includes: home modification or vehicle modification (up to $15,000 for each); personal support and physical therapy ($10,000); computer ($750); counseling, vocational counseling, durable medical equipment ($5,000) or dental services ($1,000). The lifetime cap is $15,000.
Kentucky established the Benefit Management Program (BMP) in April 2001 to govern the operation of the TBI Fund. The state statute established the responsibilities of the BMP and the procedures for obtaining benefits from the Trust Fund. Subsequently, the Benefit Management Program is required to do the following:

- Establish a toll-free number;
- Engage in public information activities;
- Provide case management services to eligible applicants and recipients;
- Accept applications for benefits from the Trust Fund and distribute benefits to recipients based upon an approved service plan; and
- Establish a Service Plan Review Committee for the purpose of reviewing service plans for approval.

Provider Qualifications
States generally specify provider qualifications and a process for enrollment or contracting, whether sole source or competitive bid process. The Missouri provider manual requires the provider to be an active member of the planning team while involved with an individual, and as such is expected to collaborate with the entire team. The program emphasizes that collaboration across programs and services is a key component of the person-centered service delivery model, and requires effective and timely communication between all agencies and participants involved.

A Selective Look at States Administering Trust Fund Programs and Medicaid
Nine states currently administer both trust fund and brain injury Medicaid HCBS waiver programs. While brain injury HCBS waiver programs tend to provide similar services across the country, they differ with regard to level of care, age groups and number served.

Colorado
Colorado implemented a Brain Injury HCBS Medicaid Waiver program in 1995 to establish an array of services and supports for individuals 16 and older, who are Medicaid eligible. The state later enacted legislation establishing a trust fund in 2002, and subsequent legislation over the years has added additional fines to increase revenue for the fund. The law requires that a minimum of 55% of funds will be dedicated to services, a minimum of 25% will be dedicated to research and a minimum of 5% for education related to brain injury.

Initially, the TBI Program, through a sole source contract, contracted with the Brain Injury Alliance of Colorado to conduct intake and eligibility as well as outreach for the program, but the state was moving towards a competitive bid process for such services. The trust fund program is established for individuals with TBI of all ages. The TBI Program has an Interagency Agreement with the Colorado Department of Education (CDE) to oversee the children’s program to build systems capacity to support the needs of children with brain injury, including both health and education systems. Additionally, the TBI Program contracts with Regional Brain Injury Liaisons for the children’s program. The TBI Program also has a partnership with local health departments and agencies to provide care coordination support through their Health
Care Program for Children with Special Needs (HCP) as well as with school district brain injury teams where they exists to provide support to families navigating the school systems.

The TBI Program contracts with Denver Options Inc. of Colorado to provide adult services. This contract is awarded through a state bid system, competitive contract every five years per state procurement rules. Denver Options Inc. has secured this bid the past two competitive cycles. Denver Options provides or coordinates all adult services which includes; resource navigation and individual care coordination, purchased services support and, classes and workshops geared toward individuals with brain injury and their family members.

The Trust Fund, through research and education grants, provides sponsorships and participant scholarships to two conferences that the Brain Injury Alliance facilitates, contracts with BIAC for intake, eligibility, and outreach, and supports a full time Program Director who works across all state agencies and brain injury systems.

Massachusetts
Massachusetts is one of the first states to develop a statewide program for people with TBI, which is fitting since the founder of the National Head Injury Foundation (now known as the Brain Injury Association of America) is from Massachusetts. The program, known as the Statewide Head Injury Program (SHIP), was started with state appropriations in 1985 to the Massachusetts Rehabilitation Commission (MRC), which continues to receive state funding today through the appropriations process. The program has not been established in state law.

SHIP developed a network of community-based services and supports that assists individuals in maintaining or increasing their level of independence at home, work and in their communities. These supports include service coordination, regional service centers, community residential support services, recreation programs, and substance abuse treatment.

In 1991, lawmakers enacted legislation creating the Massachusetts Treatment Head Injury Trust Fund. The Trust Fund was created to provide the SHIP with additional revenues. The Trust Fund is funded by several sources, including a surcharge of $100 on any fines assessed against a defendant convicted by a court of the Commonwealth for operating a motor vehicle while under the influence (OUI) of drugs or alcohol. In 2003, the assessment for OUI was increased to $250 and a speeding surcharge was set at $50 with both charges to be divided equally between the Trust Fund and the state’s General Fund.

A class action lawsuit was filed against the MRC in 2007 by the Brain Injury Association of Massachusetts and others, claiming that individuals with acquired brain injury (ABI), including TBI, are unnecessarily institutionalized because they are denied equal access to community and residential service programs, such as the programs offered by SHIP. The complaint asserted that those with ABI are unnecessarily institutionalized in nursing or rehabilitative facilities rather than being allowed to live in and receive services in residential settings of their own choice.
Massachusetts, then, proceeded to develop two Medicaid waiver programs, one of which, called the ABI waiver, redirects spending of Medicaid funds from institutional settings to residential and community living arrangements and supports. The second program, called the Community First Demonstration Project (CFDP) program is a Medicaid program designed to prevent or delay admission to or facilitate discharge from nursing facilities for adults with disabilities including those with ABI. The CFDP also includes an education and outreach program for persons with ABI who are in nursing or rehabilitative facilities.

Missouri
Missouri services for adults with TBI began with state general revenue appropriate to fund community services; to fund the Missouri Head Injury Advisory Council; and to fund brain injury services at the Missouri Rehabilitation Center which was originally the State Chest Hospital. The State Adult Brain Injury program, through a cooperative agreement with the state Medicaid program, later was able to receive federal reimbursement for state brain injury program services that were similar to the Medicaid State Plan services for participants who were Medicaid eligible. Additional revenue was generated through passage of legislation creating a trust fund program in 2002.

In 1985, legislators appropriated state general revenue to the Missouri Department of Health and Senior Services to provide community services and to the Missouri Office of Administration to provide support to the Missouri Head Injury Advisory Council. A few years later, state general revenue was appropriated to hire two service coordinators, and eventually, through appropriations, positions were expanded to 11 who are located throughout the state. These positions are all now contract staff who report to the state head injury program director. They serve as the entry point into the system and are responsible for facilitating person centered planning and assisting with the delivery of paid and unpaid services and supports.

Through a cooperative agreement with the state Medicaid agency, the program is able to be reimbursed for administrative case management services for individuals served through the Adult Brain Injury Program who are Medicaid eligible. The health department, through the state program provides the state match and, over time, was able to expand service coordination capacity due to the federal match. Until most optional Medicaid services were repealed for adults, the program also billed the state Medicaid agency for other similar State Plan services (comprehensive day rehabilitation, adult day services and non-emergency transportation).

The cooperative agreement today engages the health department’s adult head injury program to conduct outreach to refer program participants to the family services agency for Medicaid eligibility determination and for service coordination to specifically:

- Establish a health care home, referral to Medicaid covered services, making appointments to primary care and appropriate Medicaid services.
- Developing a head injury service plan to identify the kind, amount, intensity, duration, of services needed to return to functional independence.
• Identifying and linking clients with individual care givers and providers for evaluations and treatment as identified in the service plan.

The State Adult Brain Injury program also provides rehabilitation services, which includes counseling, vocational training, employment supports and home and community-based support training. Providers include brain injury agencies, intellectual/developmental disabilities community programs, vocational rehab community programs, and community mental health centers.

In 2002, the Missouri General Assembly enacted legislation creating the head injury trust fund to pay for services and supports not otherwise available to individuals served by the State Adult Brain Injury program. It was to be administered by the Missouri Head Injury Advisory Council to supplement the health department program, not supplant it, as well as to have funds for council administration should state funds supporting the council operations be eliminated. However, the next administration transferred the council and the trust fund program to the health department and cut state funds and staff associated with the council as well as the state funds for the Adult Brain Injury program. The trust fund then became the primary source of funding, although the legislature has since appropriated state funding to restore some of the funds previously cut – but not for the operations of the council.

New Jersey
The New Jersey Division of Disability Services, located in the Department of Human Services, administers the brain injury HCBS Medicaid waiver and trust fund programs, as well as other disability waiver programs. The trust fund, known as the "Traumatic Brain Injury Fund", derives its source of revenue from motor vehicle registration fees. The purpose of the fund is to provide financial support to New Jersey residents who have survived a TBI to obtain post-acute and rehabilitative services and supports they need to live within the community. The trust fund provides direct supports and also contracts with the Brain Injury Alliance (BIA) of New Jersey to provide outreach, support and education on brain injuries. In 2011, the trust fund program served approximately 1,200 eligible recipients. The annual cap is $3,000, with a lifetime cap of $100,000. Average awards for the year were approximately $1,200. Services provided must be based on the approval of an individualized Support Plan, designed with the assistance of a contracted case manager and approved by the Fund Review Committee.

The Fund Review Committee includes the Director of the Division of Disability Services, the Director of the Brain Injury Alliance of New Jersey, a family member of a brain injury survivor, a brain injury survivor, a professional working in the brain injury field and two members of the New Jersey Advisory Council on Traumatic Brain Injury. Each application is reviewed on an individual basis, but each Committee member reviews cases against the standards and measures which have been adopted.

The TBI HCBS Medicaid waiver program can serve up to 350 people between the ages of 21 and 64 who have survived a TBI after the age of 21. People in the program receive full Medicaid benefits plus additional services, including: case management, a structured day program,
respite care, and night supervision. Those served are currently in nursing facilities or who are in the community and at risk for placement in nursing facilities and who meet the established criteria. The population served is primarily ambulatory young adults with cognitive, behavioral and physical deficits which require supervised and supportive care. Most individuals involved have either completed, or would no longer benefit from, a course of intensive rehabilitation.

**New York**

While New York does not have a trust fund program, the state legislature appropriates general revenue to the New York State Department of Health (NYSDOH) for purposes of providing housing supports to those who are beneficiaries of the 1915(c) Home and Community-Based Services Medicaid TBI waiver. The NYSDOH created a HCBS Waiver program in 1995 primarily to provide services and supports to individuals who were being served primarily out of state. The HCBS services are provided to individuals who are 18 years and older.

To assist individuals to live successfully in the community, the legislature created the TBI Housing Program to address housing related barriers to community based long term care until alternative funding arrangements become available through Housing and Urban Development (HUD) Housing Choice Vouchers, other housing finance programs, or the participant’s personal resources. The Program does not enter into mortgage agreements with banks or financial organizations on behalf of a TBI waiver participant, and does not support “rent to own” agreements. The TBI Housing Program is a service of last resort and offered only after all other personal, federal, and State resources are exhausted.

HCBS waiver participants may receive rental subsidies; one time payments; and assistance with utility costs to help them maintain accessible affordable housing within fair market rates. The Regional Resource Development Center (RRDC), created by the state program, is responsible for determining which waiver applicants are eligible for housing funds based on the housing and financial needs of an applicant.

**In Summary**

A trust fund program, first of all, is created through revenue generated from fees and/or fines which are then earmarked for specific purposes. These fees and fines are generally associated with driving, whether it be fine assessed to traffic offenses or fees assessed to driver’s license. The advantage to this type of program is that it has its own funding source and is not competing with other programs relying on state general revenue. On the downside, some state brain injury programs are restricted to only the amount generated. Should the revenue decline, then the program either has to reduce spending or seek additional sources of revenue. Some states have enacted subsequent legislation to increase revenue. A few have used the funds to leverage federal grants or other federal programs, such as Medicaid to maximize the program resources.

The programs usually have flexibility in prioritizing and funding areas of unmet needs in the state, whether its prevention, public education and awareness, research or services. Services may be targeted to individuals who are not eligible for Medicaid HCBS waiver programs or for State Plan services and/or for assistance that is not covered by Medicaid, such as rent and
utility deposits, for Medicaid beneficiaries with TBI. Generally, the state advisory board or council assists with identifying priorities and may assist in overseeing the trust fund expenditures.

Observations:

- Some states passed trust fund legislation before states were successful in obtaining TBI Medicaid waiver programs, while other states first implemented waiver programs – regardless, states saw the value in both funding streams.
- States vary in the purposes for the funding source. Trust fund programs may also support registry, prevention, research, public education, councils, as well as services for those who are not Medicaid eligible or for services not covered by Medicaid.
- States may cover all age groups or may target only adult services with regard to the trust fund program.
- State Brain Injury Medicaid waiver programs generally serve smaller numbers of people than trust fund programs. (Brain Injury Medicaid waiver programs are significantly smaller waiver programs in terms of expenditures and numbers served than waiver programs designed for other populations.)
- State trust fund programs are generally limited in terms of being able to pay for direct care for individuals with significant behavioral issues or other acute behavioral or medical needs due to the limited funding.
- States may use the funds to leverage other resources, such as match for federal grants, Medicaid and Vocational Rehabilitation.

Recommendations and Next Steps

Policymakers, including lawmakers and the executive branch, will need to determine the amount of funding needed to address the gaps in service delivery, and therefore, determine through what mechanism the funds could be generated. Last year’s legislation had initially called for the assessment of a motor vehicle registration fee which would have been collected and deposited into the fund. The funding provision was removed from the legislation that passed.

Once the funding amount is determined, then the department, along with input from the advisory board and others, will need to determine priorities for funding, including eligibility requirements and services to be provided. Provider qualifications and payment mechanism will need to be established. Services should be coordinated with other state and federal programs and resources, such as Medicaid, Vocational Rehabilitation, and Centers for Independent Living programs. Maryland has already established person centered planning as a way to determine long-term and short-term goals, identified resources, and intended outcomes to support individuals with brain injury to live as independently as possible. This process should be incorporated into the program, along with an application process, so that services are maximized and coordinated across systems.
References


- Cooperative Agreement between the Missouri Department of Social Services, Division of Medicaid Services and the Department of Health and Senior Services, Division of Maternal, Child, and Family Health, Bureau of Special Health Care Needs, Head Injury Program, effective July 2001.

Denver Options Inc. website: http://www.gatrustfund.org/.


- Massachussets 107 CMR 12.00: Statewide Head Injury Program REGULATORY AUTHORITY.


- New Jersey Traumatic Brain Injury (TBI) Fund, Department of Human Services, Division of Disability Services, Annual Report to the Governor and the Legislature of the State of New Jersey, 2011.

- New York State Department of Health TRAUMATIC BRAIN INJURY PROGRAM HOUSING PROGRAM GUIDELINES, April 2013.
APPENDIX

Chart of State TBI Trust Fund Programs

Overview of TBI Services in Maryland

SB 632 (Chapter 511) 2013
<table>
<thead>
<tr>
<th>State</th>
<th>Trust Fund</th>
<th>Revenue Source</th>
<th>Purpose</th>
<th>Other Funds</th>
<th>Medicaid</th>
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<tbody>
<tr>
<td>Alabama</td>
<td>Alabama Driver’s Trust fund</td>
<td>$100 for each DUI conviction</td>
<td>Public information, prevention education, and research coordinated by the Alabama Head Injury Foundation. Post-acute medical care, rehabilitation therapies, medication, attendant care, home accessibility modification, and equipment necessary for activities of daily living. Priorities include: Resource Coordination An Interactive Community Based Model (ICBM) - five care coordinators An Independent Living Program and attendant care client services Extended Support in Supported Employment -</td>
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<td>The AL Head Injury Foundation is specified in law as receiving funds.</td>
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<tr>
<td>Arizona</td>
<td>Arizona Spinal and Head Injuries Trust Fund</td>
<td>13% penalty assessment on every fine, penalty, and forfeiture related to criminal offenses and traffic, fish, and game law violations. Trust Fund receives 22% of amount collected.</td>
<td>Funds used to provide client services; information; prevention programs; education programs; support &amp; rehab, including rehabilitation, transitional living and equipment necessary for activities of daily living. Funds covers costs incurred by the advisory council and administrative costs incurred by the Department of Economic Security to administer the program.</td>
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<tr>
<td>California</td>
<td>California TBI Fund</td>
<td>Assessments on vehicle code, criminal and civil infractions are deposited in the State Penalty Fund. .66% of these revenues are provided to the Trust Fund.</td>
<td>Community re-Integration, supportive living, Vocational supports, information and referral, and public and professional Education.</td>
<td>Used trust fund to match VR for vocational rehab services for TBI.</td>
<td></td>
<td>The trust fund established TBISCA sites to provide services locally. Legislation passed in 2000 to lift the cap on the TBI Fund.</td>
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<tr>
<td>Colorado</td>
<td>Colorado TBI Trust Fund</td>
<td>$15 assessment on speeding convictions; $20 assessment on DUI convictions; $15 assessment on motorcycle helmet violations.</td>
<td>Range of services may include case management; community residential services; structured day program services; psychological and mental health services for the individual and the individual's family; prevocational services; supported employment; companion services; respite care; occupational therapy; speech and language therapy; cognitive rehabilitation; physical rehabilitation; and One-time home modifications. Covered services shall not include institutionalization, hospitalization, or medications.</td>
<td></td>
<td>Colorado Persons with Brain Injury HCBS Waiver (1995)</td>
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<tr>
<td>Connecticut</td>
<td>Connecticut TBI Trust Fund</td>
<td>$5 assessment for each speeding, DUI, and reckless driving infraction.</td>
<td>Funding is to be allocated to the Connecticut Department of Social Services in order to provide grants to the BIA-CT. The DSS contracts with BIA-CT for specific services. These services are part of a broader contract between DSS and BIA-CT.</td>
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<td>ABI HCBS Waiver (1999)</td>
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<tr>
<td>Florida</td>
<td>Florida Brain and Spinal Injury Rehabilitation Trust Fund</td>
<td>$60 (of $135) surcharges on fines for DUI and BUI; fines for moving violations; specialty motorcycle tag fees; and $1 (of $2) surcharges on temporary license tags.</td>
<td>Acute care, inpatient and outpatient rehabilitation, transitional living services, adaptive equipment, home modifications, peer mentoring, transportation, housing, and other services necessary for community reintegration. Case management is the primary service available to assist clients and their families.</td>
<td>Brain and Spinal Injury HCBS Waiver (1999)</td>
<td>The state contracts with BIA of FL for TBI information, resources and linkages. The Trust Fund Program coordinates with other programs and attempts to fully utilize all other available resources whenever possible. Long-term community supports are funded through the Medicaid waiver with a portion of the trust fund used to match it.</td>
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<tr>
<td>Georgia</td>
<td>Georgia Brain and Spinal Injury Trust Fund</td>
<td>10% surcharge on fines for DUI or drug convictions</td>
<td>Provides care and rehabilitative services and goods. Funds are used for the actual and necessary operating expenses that the commission incurs in performing its duties.</td>
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<td>The Georgia Brain and Spinal Injury Commission administers the Trust Fund Program and the Central Registry. Individuals apply for services and the Commission approves.</td>
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<tr>
<td>Hawaii</td>
<td>Hawaii Neurotrauma Special Trust Fund</td>
<td>$10 surcharge for violation of child safety restraint; $10 surcharge on seat belt violation; $10 surcharge for speeding; $25 for DUI; $100 surcharge for accidents causing bodily injury; $250 for substantial bodily injury; $500 for accidents causing deaths.</td>
<td>Fund projects dedicated to prevention, education and research. (Stroke, traumatic brain injury or spinal cord injury)</td>
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<td>Kentucky</td>
<td>Kentucky Spinal Cord and Head Injury Trust</td>
<td>5.5% of each court cost to be deposited in Trust fund – not to exceed $2,750,000; 8% of DUI service fees ($375) after first $50.</td>
<td>Registry/surveillance, case management and support services. The Benefit Management Program (BMP) to provide toll free number; public information; case management; take application and review service plans.</td>
<td>Administers two HCBS Waiver programs: • KY Acquired Brain Injury (1999) • ABI Long-term Care (2007)</td>
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<tr>
<td>Louisiana</td>
<td>Louisiana Traumatic Head and Spinal Cord Injury Trust Fund</td>
<td>$5 surcharge on fines for speeding or reckless operation; $25 surcharge on fine for first offense DUI, $50–2nd offense, $100–3rd offense, $250–4th offense.</td>
<td>Services include: • Evaluations • Post-acute medical care rehabilitation • Therapies • Medication • Attendant care • Equipment necessary for activities of daily living</td>
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Annual cap of $15,000 and a lifetime cap of $50,000. Costs associated with case management are not included in the $15,000 annual cap. Contracts with the BIA of LA for statewide information resource center. The resource center has an annual $50,000 spending limit.
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<tr>
<td>Maryland</td>
<td>Maryland TBI Trust Fund Enacted 2012</td>
<td>No source</td>
<td></td>
<td></td>
<td>TBI HCBS Waiver, 2003</td>
<td>SHIP has a network of community-based services and supports that assists individuals in maintaining or increasing their level of independence at home, work and in their communities. These supports include service coordination, regional service centers, community residential support services, recreation programs, and substance abuse treatment.</td>
</tr>
<tr>
<td>Minnesota</td>
<td>TBI Trust Fund Enacted 1991.</td>
<td>$50 surcharge from each DUI conviction</td>
<td>The Minnesota Department of Health uses 17 % to operate the TBI registry, to analyze data, and to support some community-based prevention initiatives. 83% of the funding is used to support Resource Facilitation through a contract with the Minnesota Brain Injury Alliance.</td>
<td>TBI HCBS Waiver 1992, operated by the Department of Human Services. Services both children and adults eligible.</td>
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<td>The HCBS Medicaid waiver and the trust fund are operated by 2 separate agencies.</td>
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<tr>
<td>Missouri</td>
<td>Head Injury Trust Fund</td>
<td>$2 surcharge on court costs related to violations of county ordinances, criminal or traffic laws</td>
<td>Funds shall be used for purposes of transition and integration of medical, social and educational services, or outreach activities and short-term supports that enable individuals with TBI to live in the community.</td>
<td>Established Adult Brain Injury (ABI) Program in 1985 from state general revenue. The department (ABI) draws down federal match for services similar to Medicaid State Plan services.</td>
<td>Service coordination, rehabilitative services which include counseling, vocational training, employment supports and home- and community-based support training.</td>
<td>Missouri uses state general revenue and trust fund revenue for services, including service coordination, and receives reimbursement from Medicaid for services offered in the TBI program that are the same as Medicaid State Plan, if the recipient is Medicaid eligible (i.e. administrative case management).</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Spinal Cord Injury/TBI Trust Fund</td>
<td>$25 surcharge for violation of DUI law; $6 from all moving vehicle violations</td>
<td>May be used by the department to fund the Advisory Council and provide grants for public information, prevention.</td>
<td></td>
<td>Mississippi TBI/Spinal Cord Injury HCBS Waiver (2001).</td>
<td></td>
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<tr>
<td>Montana</td>
<td>TBI Trust Fund</td>
<td>$1 voluntary donation through motor vehicle registration</td>
<td>Funds may be used by the legislature appropriated $100,000 for resource facilitation, developed through a federal HRSA TBI State Grant, and carried out by the BIAMT.</td>
<td>Serves a small number of individuals with a TBI in HCBS waiver who would have been served in out-of-state rehab facilities, inpatient rehabilitation, or remained inappropriately placed in nursing homes, group homes, or other institutions.</td>
<td></td>
<td>As of 2012, volunteer donations have generated $29,000 for the trust fund.</td>
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<tr>
<td>New Jersey</td>
<td>TBI Fund</td>
<td>$.50 surcharge on vehicle registration fees</td>
<td>Less than 10 percent is spent on administration. Provides assistance and supports; and awareness and education. The most requested services: cognitive therapy, followed by case management, physical therapy, assistive technology, and home modifications.</td>
<td>ABI Waiver (1993)</td>
<td></td>
<td>New Jersey is combining HCBS waiver programs, which has not yet been approved. Under the trust fund, was covering all ABI, has narrowed to TBI due to demand and not enough money.</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Trust Fund Traumatic Brain Injury Program</td>
<td>$5 surcharge on all moving vehicle violations</td>
<td>Services include service coordination, like skills coaching, and crisis interim services— respite, transportation, and in-home modifications.</td>
<td></td>
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<td>Individuals who are Medicaid eligible are served under the New Mexico Mi Via Self-Directed Waiver program.</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Catastrophic Medical and Rehabilitation Fund</td>
<td>25% of amount collected in surcharges on traffic violation fines ($10 each) and fees in lieu of jail time ($25 each)</td>
<td>The trust fund can pay for medical rehabilitation services and attendant care. Services are assessment, rehabilitation and transitional case management. Consumers can obtain assistance from the Brain Injury Association of Pennsylvania (BIAPA) in applying to the Trust Fund Program.</td>
<td></td>
<td>COMMERCARE Waiver (2002)</td>
<td>The Trust Fund was created as part of the Emergency Services Act of 1985.</td>
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<td>Tennessee</td>
<td>TBI Trust Fund</td>
<td>Variable surcharges on 6 traffic violations: speeding, reckless driving, DUI, revoked license, drag racing, accidents resulting in death</td>
<td>To fund the registry, the TBI coordinator position and additional staff requirements and other expenditures and grants. Funds provide supported living, therapeutic recreation, camp, service coordination, and services under Project BRAIN. Service coordinators are in 8 locations covering 95 counties.</td>
<td></td>
<td></td>
<td>The TBI trust fund legislation also established the TBI registry.</td>
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<td>Texas</td>
<td>TBI/SCI Trust Fund</td>
<td>$133 surcharge on felony convictions; $83 on Class A &amp; B misdemeanors, $40 on convictions punishable by fines only (9.8218% of all fines collected)</td>
<td>The trust fund will pay for: 1) up to 90 days at an inpatient, comprehensive medical rehabilitation program, 2) up to 120 hours of outpatient therapy, and 3) up to 6 months of post-acute rehabilitation services - residential or non-residential – services, if the consumer is making progress and all other resources have been utilized. Additional services may be purchased while the consumer is receiving one of these three core services, including transportation, medication, assistive technology, personal attendant services, psychological services, orthotics and prosthetics. There are no annual or lifetime caps on spending from the program.</td>
<td></td>
<td></td>
<td>The Texas Department of Assistive Rehabilitative Services administers the Comprehensive Rehabilitation Services program, which is funded from the trust fund. The Office of Acquired Brain Injury and the Brain Injury Advisory Council, the lead TBI agency, is located under the Texas Health and Human Services Commission. Texas legislation requires cognitive and brain injury rehabilitation as part of health care insurance benefits.</td>
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<tr>
<td>Virginia</td>
<td>Commonwealth Neurotrauma Initiative Trust Fund</td>
<td>Trust Fund receives $25 of the Driver’s license reinstatement fee ($30) on individuals whose license has been revoked or suspended</td>
<td>47.5% of the revenue is used to support applied research on the mechanisms and treatment of neurotrauma, 47.5% to support community-based rehabilitation projects, and 5% is set aside for program administration. Also, a provision in 2004 legislation gives the Commissioner of the Department of Rehabilitative Services the authority to reallocate up to $500,000 each year in unexpended balances to fund research grants.</td>
<td>The Virginia Department of Aging and Rehabilitative Services (DARS) receives state general revenue, as well as administers the trust fund program funds, to offer an array of service coordination and community services statewide. DARS also staffs the advisory council.</td>
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<tr>
<td>Washington</td>
<td>Washington TBI Account</td>
<td>TBI Account receives $2 of each penalty fee imposed for violation of traffic laws</td>
<td>Supports the activities in the statewide TBI comprehensive plan, a public awareness campaign and services, information and referral services; and for costs for department staff that provide support for the council.</td>
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Overview of TBI Services in Maryland
The DHMH has been designated as Maryland’s lead agency for Traumatic Brain Injury (TBI). As the lead agency, DHMH directs the state’s plans, initiatives, and services for individuals with TBI and their families. Examples of such initiatives include the Maryland Traumatic Brain Injury Advisory Board, Maryland’s Waiver for Adults with Traumatic Brain Injury, and the Brain Injury Resource Coordination and Training program.

The Traumatic Brain Injury Advisory Board, which was authorized in October 2005 (Chapter 306, Acts of 2005; Chapter 236, Acts of 2008), is responsible for assessing the needs of citizens with TBI; identify gaps in services; and facilitate collaboration among organizations and state government agencies that provides services to these individuals. The Board consists of individuals with brain injury and family members, experts in the field of brain injury, professionals who work with individuals with brain injuries, representatives from state agencies, advocacy organizations, and caregivers of individuals with brain injuries. Among its duties, the Board submits an Annual Report to the Governor and state legislature with recommendations for improving service delivery.

The Mental Hygiene Administration within DHMH has administered the Home and Community-Based Services (HCBS) Waiver for Adults with Traumatic Brain Injury since 2003. The HCBS waiver offers day habilitation services, individual support services, medical day care, residential habilitation, and supported employment for individuals with brain injury age 22 to 64. The HCBS waiver program serves approximately 75 individuals. Studies conducted by Hilltop Institute at University of Maryland Baltimore Campus (UMBC) in 2008 and 2012 have indicated that 3000 of the Medicaid beneficiaries with history of TBI and/or anoxia reside in Maryland’s nursing facilities, which is 13% of the nursing facility population.

As the result of a federal Health Resources and Services Administration (HRSA) TBI State Grant, DHMH created the Brain Injury Resource Coordination and Training Program in 2003 to assist individuals with acquired brain injuries who are interested in transitioning out of institutions or at risk of institutionalization to access the services and supports that they need. Brain Injury Resource Coordinators also provide enhanced transitional case management to Money Follows the Person (MFP) participants who are enrolling in the HCBS Waiver for Adults with TBI. The coordination services are provided through a contract with the Brain Injury Association of Maryland.

The DHMH is addressing community supports for individuals with TBI in nursing facilities through a number of other long-term services and supports (LTSS) initiatives. The state is implementing a “no wrong door” policy into the LTSS system through the Aging and Disability Resource Center(s) (ADRC), and is contracting with the Brain Injury Association of Maryland to provide application assistance as the primary brain injury information and referral source within the Maryland access point. A DHMH staff person has been assigned as the statewide trainer on TBI and person centered planning. She has also provided training to the ADRC network.
In addition to the Needs and Resources Assessment and the TBI State Action Plan, funds from the HRSA TBI State Grant also allowed the state to:

- Develop a directory of resources for people with TBI, families, and professionals.
- Create training modules for self-advocacy for individuals with TBI and their families.
- Develop training modules for state agency personnel and community human service agencies.

The DHMH also administers the Division of Injury Prevention under the Center for Injury and Sexual Assault Prevention. The Injury Center receives grant funding from the Centers for Disease Control and Prevention (CDC). The five-year (2011-2016) award is intended to build and support injury prevention efforts at the state level and works together with the Partnership for a Safer Maryland as well as other partners, to develop and strengthen injury and violence prevention programs in the state. Vital statistics data, hospital and emergency department discharge data and death records are used to assess injury risks, shape intervention development, and evaluate the impact of injury and violence prevention initiatives.

On May 19, 2011, Governor Martin O’Malley signed Maryland House Bill (HB) 858/Chapter 549 and Senate Bill (SB) 771/Chapter 548 Education - Public Schools and Youth Sports Programs – Concussions into law. The legislation mandated the implementation of concussion-awareness programs throughout the state and requiring student athletes who demonstrate signs of a concussion to be removed from practice or play. Maryland was the 18th state to enact similar legislation designed to afford protections to students who are suspected of incurring a concussion during practice or play. The legislation called for the Maryland State Department of Education to implement concussion awareness programs for coaches, school personnel, student athletes and parents/guardians. Under the law, students and their parents/guardians are to sign a concussion information sheet before participating in any sport. This applies to sports events played on public school and Parks & Recreation lands.
Chapter 511

(Senate Bill 632)

AN ACT concerning

State Brain Injury Trust Fund

FOR the purpose of establishing the State Brain Injury Trust Fund as a special fund to be used to support certain services for certain individuals with brain injuries; requiring the Secretary of Health and Mental Hygiene or the Secretary’s designee to administer the Fund; requiring the Secretary or the Secretary’s designee to report to the Governor and the General Assembly on or before a certain date each year; establishing eligibility for individuals to receive assistance from the Fund; requiring that certain investment earnings be credited to the Fund; altering the amount of a certain motor vehicle registration fee surcharge; requiring that a certain amount of the motor vehicle registration fee surcharge be paid into the Fund; defining certain terms; requiring the Department of Health and Mental Hygiene to report to the General Assembly on or before a certain date on certain issues related to the implementation of this Act; authorizing the Department to contract with a certain entity for a certain purpose; declaring the intent of the General Assembly regarding implementation of administration of the Fund; and generally relating to the establishment of the State Brain Injury Trust Fund.

BY adding to

Article – Health – General
Section 13–21A–01 through 13–21A–03 to be under the new subtitle “Subtitle 21A. State Brain Injury Trust Fund”
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)69. and 70.
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

Ch. 511 2013 LAWS OF MARYLAND

BY adding to
   Article – State Finance and Procurement
   Section 6–226(a)(2)(ii)71.
   Annotated Code of Maryland
   (2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
   Article – Transportation
   Section 13–954
   Annotated Code of Maryland
   (2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

   Article – Health – General

   SUBTITLE 21A. STATE BRAIN INJURY TRUST FUND.

13–21A–01.

   (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
   INDICATED.

   (B) “SECRETARY” MEANS THE SECRETARY OF HEALTH AND MENTAL
   HYGIENE.

   (C) “FUND” MEANS THE STATE BRAIN INJURY TRUST FUND.

   (D) “TRAUMATIC BRAIN INJURY” HAS THE MEANING ESTABLISHED IN
   THE POLICIES AND PROCEDURES ADOPTED BY THE STATE TRAUMATIC BRAIN
   INJURY ADVISORY BOARD UNDER § 13–2105 OF THIS TITLE.

13–21A–02.

   (A) THERE IS A STATE BRAIN INJURY TRUST FUND.

   (B) (1) THE PURPOSE OF THE FUND IS TO ASSIST IN THE PROVISION
   OF THE FOLLOWING SERVICES TO ELIGIBLE INDIVIDUALS WHO HAVE
   SUSTAINED BRAIN INJURIES:
(II) INDIVIDUAL CASE MANAGEMENT SERVICES; AND

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(II) NEUROPSYCHOLOGICAL EVALUATION.

(2) THE FUND MAY BE USED TO SUPPORT:

(I) PREVENTION, EDUCATION, AND AWARENESS PROGRAMS;

(II) REHABILITATION SERVICES;

(III) MEDICAL SERVICES;

(IV) DURABLE MEDICAL EQUIPMENT;

(V) ASSISTIVE TECHNOLOGY ASSESSMENT AND EQUIPMENT;

(VI) SERVICES TO ASSIST IN THE RETURN TO DRIVING;

(VII) EVALUATION AND TRAINING RELATED TO THE BRAIN INJURY;

(VIII) NEUROBEHAVIORAL HEALTH SERVICES;

(IX) NURSING HOME TRANSITION SERVICES;

(X) COMMUNITY REENTRY SERVICES;

(XI) EDUCATIONAL NEEDS;

(XII) HOUSING AND RESIDENTIAL SERVICES; AND

(XIII) TRANSPORTATION SERVICES.

(C) THE SECRETARY OR THE SECRETARY’S DESIGNEE SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.
THE FUND CONSISTS OF:

(1) MOTOR VEHICLE REGISTRATION SURCHARGES PAID INTO THE FUND IN ACCORDANCE WITH § 13–954(B)(2) OF THE TRANSPORTATION ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

THE FUND MAY BE USED ONLY TO PROVIDE FUNDING FOR THE PURPOSE DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

MONEY EXPENDED FROM THE FUND TO SUPPORT SERVICES TO INDIVIDUALS WITH BRAIN INJURIES IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR THOSE SERVICES.

ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE SECRETARY OR THE SECRETARY’S DESIGNEE SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER OF INDIVIDUALS SERVED AND THE SERVICES PROVIDED IN THE PRECEDING FISCAL YEAR USING THE FUND.

13–21A–03.

TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN INDIVIDUAL SHALL:

(1) BE A UNITED STATES CITIZEN AND A RESIDENT OF THE STATE AT THE TIME OF THE BRAIN INJURY;

(2) HAVE A BRAIN INJURY THAT HAS BEEN DOCUMENTED IN THE
MEDICAL RECORDS OF THE INDIVIDUAL;

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(3) HAVE INCOME AT OR BELOW 300% OF THE FEDERAL POVERTY LEVEL; AND

(4) HAVE EXHAUSTED ALL OTHER HEALTH, REHABILITATION, AND DISABILITY BENEFIT FUNDING SOURCES THAT COVER THE SERVICES PROVIDED BY THE FUND.

(B) AN INDIVIDUAL MAY NOT RECEIVE SERVICES FROM THE FUND COSTING MORE THAN:

(1) THE ANNUAL AMOUNT ESTABLISHED BY POLICIES AND PROCEDURES ADOPTED BY THE SECRETARY OR THE SECRETARY’S DESIGNEE; AND

(2) THE LIFETIME OF THE INDIVIDUAL AMOUNT ESTABLISHED BY POLICIES AND PROCEDURES ADOPTED BY THE SECRETARY OR THE SECRETARY’S DESIGNEE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

69. the Maryland Legal Services Corporation Fund; [and]

70. Mortgage Loan Servicing Practices Settlement Fund;

AND

71. STATE BRAIN INJURY TRUST FUND.

Article – Transportation

42–954.
In this section, “motor vehicle” means a:

(1) Class A (passenger) vehicle;

(2) Class B (for hire) vehicle;

(3) Class C (funeral and ambulance) vehicle;

(4) Class D (motorcycle) vehicle;

(5) Class E (truck) vehicle;

(6) Class F (tractor) vehicle;

(7) Class H (school) vehicle;

(8) Class J (vanpool) vehicle;

(9) Class M (multipurpose) vehicle;

(10) Class P (passenger bus) vehicle;

(11) Class Q (limousine) vehicle;

(12) Class R (low-speed) vehicle; or

(13) Vehicle within any other class designated by the Administrator.

(b) (1) In addition to the registration fee otherwise required by this title, the owner of any motor vehicle registered under this title shall pay a surcharge of [[$13.50]$15.50 per year for each motor vehicle registered:

(2) $2.50 of the surcharge collected under paragraph (1) of this subsection shall be paid into the Maryland Trauma Physician Services Fund established under § 19–130 of the Health-General Article.

(3) $2.00 of the surcharge collected under paragraph (1) of this subsection shall be paid into the State Brain Injury Trust Fund established under § 13–21A–02 of the Health-General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2014, the Department of Health and Mental Hygiene shall report to the General
Assembly, in accordance with § 2–1246 of the State Government Article, on:

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(1) the expected date of implementation of Section 1 of this Act;

(2) the status of adoption of any rules or procedures relating to the administration of the Fund established under Section 1 of this Act; and

(3) any recommendations for legislation needed to allow for more efficient administration of the Fund established under Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene may contract with an outside entity to develop the rules and procedures relating to the administration of the Fund established under Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that implementation of administration of the Fund begin on or after July 1, 2014.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.