STATE OF MARYLAND

# DHMH

Maryland Department of Health and Mental Hygiene

*Larry Hogan, Governor – Boyd K. Rutherford, Lt. Governor – Dennis R. Schrader, Secretary*

March 3, 2017

The Honorable Larry Hogan
Governor
100 State Circle
Annapolis, MD 21401-1925

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

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

**Re: SB 620/HB 946 (Chapters 426 and 427 of the Acts of 2004) and Health – General §15-135(g) – Report on Home- and Community-Based Long-Term Care Services**

Dear Governor Hogan, President Miller and Speaker Busch:

Enclosed please find a report pursuant to Health – General §15-135(g) and SB 620/HB 946 – *Money Follows the Individual Accountability Act*, which passed during the 2004 legislative session of the General Assembly. The report addresses the Department of Health and Mental Hygiene's efforts to promote home- and community-based services and to help nursing facility residents transition to the community.

Thank you for your consideration of this information. If you have questions or need more information on the subjects included in this report, please contact Christi Megna, Assistant Director of Governmental Affairs at (410) 767-6480.

Sincerely,

Dennis R. Schrader
Secretary

Enclosure

cc: Rona E. Kramer, Secretary of Aging
Carol A. Beatty, Secretary of Disabilities
Shannon McMahon
Mark Leeds
Christi Megna
Sarah Albert, MSAR #8421

**Money Follows the Individual Accountability Act Report**
**January 2017**

**Health-General Article §15-135** requires the Department of Health and Mental Hygiene (DHMH) to report to the Governor and the General Assembly on:

(1) DHMH's efforts to promote home and community-based services;
(2) The number of nursing facility residents referred by nursing facility staff or identified on the Minimum Data Set assessments as expressing a preference to return to the community;
(3) The number of nursing facility residents who transitioned from nursing facilities to home and community-based waiver services;
(4) Any obstacles DHMH encountered in assisting nursing facility residents to make the transition from a nursing facility to a community-based residence; and
(5) DHMH's recommendations for removing the obstacles.

This report is intended to satisfy these reporting requirements.

## BACKGROUND

The Medicaid Program has offered home and community-based services as an alternative to nursing facility placement for many years. Service options began to increase dramatically in 2001 with the implementation of two home and community-based waiver programs designed to provide community-based services to older adults and individuals with physical disabilities, the Waiver for Older Adults (WOD) and the Living at Home Waiver (LAH), respectively. Medicaid's home and community-based services waivers are limited by enrollment caps and budget allocations. Therefore, a central Registry was created to collect contact information on individuals interested in receiving waiver services.[1]

In January of 2014, LAH and the WOA were combined to create the Home and Community-Based Options Waiver. Information on new potential applicants is now entered on a single Registry for the combined waiver.

As the Living at Home waiver approached its enrollment cap in November 2002, DHMH announced a new "money follows the individual" policy. Under this policy, an individual who has been a nursing home resident, paid for by Medicaid, for at least 30 consecutive days, can apply for waiver services, even if those waivers are closed to community applicants. The policy is now codified in the Annotated Code of Maryland, Health-General Article §15–137.

[1] Since the Living at Home Waiver and Waiver for Older Adults began, they have been inundated with applications-most of them from individuals who live in the community, but some from individuals who live in nursing facilities. As a result, the Living at Home Waiver in December 2002 and the Waiver for Older Adults in May 2003 closed to applicants from the community. Since that time, enrollment of applicants from the community has been limited. When the Living at Home and Waiver for Older Adults closed to community applications, DHMH created a Waiver Services Registry for each of the two waivers.

The range of community options continues to expand as the Medicaid Program implements provisions of the Affordable Care Act including Community First Choice, the Balancing Incentive Program, and the extension of the Money Follows the Person Demonstration. During 2014 and 2015, numerous changes occurred across the home and community-based service system in order to streamline existing programs, expand services to eligible individuals, and to maximize available federal funding opportunities.

## EFFORTS TO PROMOTE HOME AND COMMUNITY-BASED SERVICES

The past three years have seen a number of changes to the existing community-based long term services and supports system. The most significant changes were related to the merging of the Living at Home Waiver and the Waiver for Older Adults in order to create the new Home and Community-Based Options Waiver, and the creation of the new Community First Choice program.

*Community First Choice*

The Community First Choice program was established under the Affordable Care Act and offered by the Centers for Medicare and Medicaid Services (CMS) to provide states an additional 6% in Federal Financial Participation on the program's services. In order to maximize this enhanced federal match, the State consolidated similar services from three existing programs (services previously covered through the Living at Home and Waiver for Older Adults, as well as services covered through the State Plan personal care option for individuals needing a nursing facility level of care) and now offers them through Community First Choice. This included removing Community First Choice services from other programs to prevent duplication. These changes allow a more seamless experience for applicants and participants who may move between programs; standardization of rates, provider qualifications, and regulations across programs; and offer more service opportunities for participants. These changes were finalized on October 1, 2015, when all participants were transitioned into the new service structure.

*The Balancing Incentive Program*

The Balancing Incentive Program (BIP), offered by CMS and created by the Affordable Care Act, provides financial incentives to States to increase community-based services as an alternative to institutional services. States that spend less than 50 percent of their long-term care dollars on community-based long-term services and supports receive a two percent increase in their Federal Medical Assistance Percentages. In order to receive this enhanced Federal Medical Assistance Percentages, states must achieve a balance by spending at least 50 percent of their long-term services and supports budget on home and community-based supports, and implement three structural changes: (1) a No Wrong Door/Single Entry Point System; (2) a conflict-free case management systems; and (3) a core standardized assessment.

As of April 1, 2012, Maryland became the second Balancing Incentive Program state to be approved to begin collecting enhanced Federal Medical Assistance Percentages. In the first 18 months of the Balancing Incentive Program participation, key deliverables Maryland submitted include:

- achievement of the community-based supports spending benchmark, implementation of a core standardized assessment across the Living at Home Waiver, Waiver for Older Adults, and Personal Care programs; and
- statewide coverage by the Maryland Access Point sites, Maryland's name for the No Wrong Door/Single Entry Point System.

The Balancing Incentive Program's 2014 BIP accomplishments are primarily related to enhancements to the LTSSMaryland Tracking System and the Maryland Access Point system. LTSSMaryland is the web-based eligibility coordination system for a number of home and community-based programs; it also contains the In-home Supports Assurance System which is a telephonic timekeeping system for personal assistance providers. Maintaining eligibility and program information in a single system makes it possible to review participation and service utilization across multiple programs. New features that were added to the system in 2014 include Community First Choice, dynamic plans of service that change based on program type, the Brain Injury Waiver module, the Level One Screen, and the addition of the Waiver Services Registry.

The Balancing Incentive Program's 2015 accomplishments included gaining federal approval of an extension for Balancing Incentive Program spending authority and the associated budgets through September 30, 2017 (the program was anticipated to end September 30, 2015). An additional $106 million in federal funds has been generated by participation in the Balancing Incentive Program. Also during 2015, the remaining standardized assessment tools were selected and an agreement for use of the behavioral health assessment was finalized.

The Balancing Incentive Program's 2016 accomplishments include the implementation of standardized assessment tools for Brain Injury (Mayo-Portland Adaptability Inventory and Agitated Behavior Scale), Behavioral Health (DLA-20 and DLA-20 for children), and Developmental Disabilities (SIS and HRST). This includes training providers and integrating the tools into the IT systems. A new initiative The Hospital to Home Grant (H2H) was implemented using Balancing Incentive Program funds. The purpose of this grant is to assist local Maryland Access Point sites in improving relationships with area hospitals and using innovation to improve hospital discharges.

In January of 2016, Balancing Incentive Program funding supported implementation of the Level One Screen of Individuals on the Waiver Registry. Individuals are being screened using the Level One Screen in order to prioritize based on risk of institutionalization so that when funding is available for waiver slots, priority will be given to those individuals that are most at risk of institutionalization.

*Maryland Access Point*

Initially funded and supported through a federal Aging and Disability Resource Center initiative of the Administration on Community Living and CMS, the Maryland Access Point (MAP) program serves as a trusted local resource that provides information about

and access to long term services and supports.[2] MAP sites can be accessed in person or via phone and additional information can be accessed through the Maryland Access Point website. The new statewide toll-free number for the Maryland Access Point program went live in June of 2014.[3]

The Maryland Access Point program operates and maintains a statewide public web-based resource directory that provides an extensive database with a user-friendly search capability, consumer needs assessment and personal folder secure data sharing among agencies, and e-form capability, among other functions.

In 2014 staff from the Department of Aging and Medicaid worked with the provider union in preparation for a new searchable personal assistance provider registry is hosted and maintained on the Maryland Access Point website. The provider registry is accessible to the general public, free of charge, and can be used by individuals searching for public and private-pay personal assistance providers. In February of 2015, the website was re-launched with these improvements and a new vendor.

In addition to the statewide website, twenty local Maryland Access Point sites are providing statewide coverage for all Maryland residents. The Maryland Access Point expansion has been supported financially and programmatically from the Money Follows the Person Demonstration and the Balancing Incentive Program. Standards of operation and partnership development have been established and the Maryland Access Point sites operate as conduits for new federal initiatives, the purpose of which is to create consistent standards across the State and develop programs that divert people from inappropriate and default transition to nursing homes.

In 2012, Maryland Department of Aging received a $2.3 million three-year grant, from 2012 through 2015, to enhance options counseling statewide, to integrate the Maryland Access Point initiative with the Balancing Incentive Program and other Affordable Care Act programs, and to develop a strategy for sustainability.

DHMH worked with the Department of Aging to develop a plan for federal Medicaid reimbursement on the State and local dollars that support those administrative activities for Medicaid-eligible individuals. As more individuals seek long term services and supports, the federal match will be an important source of revenue to maintain and grow the MAP program to adequately meet the needs of Marylanders seeking assistance. The request to leverage State and local dollars in order to collect the federal match was submitted early in 2015 and approved. This new revenue will strengthen the MAP network and provide a sustainable funding source. DHMH continued to support the MAP sites in their training related to the requirements to draw down federal matching funds. In April 2016, the Federal match was implemented.

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[2] In 2013, the Maryland Access Point (MAP) program was codified under Human Services Article §§ 10-1001 through 10-1004 of the Annotated Code of Maryland.

[3] 1-844-MAP-LINK is the centralized number that allows individuals to call from anywhere and be routed to their local Maryland Access Point site or receive a warm hand off to the site of their choosing.

A strong partnership between the Maryland Department of Aging and DHMH has allowed for continued progress on the initiatives of the grant. One of MAP's strengths is to educate individuals on both publicly and privately funded services, make referrals to available programs, develop action plans for immediate needs, and to help people plan for future needs. The Level One Screen is a tool the MAP sites started using in 2014 to assist in these options counseling sessions. The Level One Screen can be accessed in person or over the phone, and is designed to be used to help determine service needs, prioritize individuals based on risk of institutionalization, and make referral recommendations. In 2015 the MAPs began to administer the Screen to new callers that express an interest in waiver services. A separate process (using a contractor) will take place to contact all individuals on the combined Home and Community-Based Options Waiver Registry and administer the Screen in order to prioritize based on risk and target limited funding of waiver slots to those individuals that would be most likely to enter a nursing facility in the absence of services. As of January 1, 2016, the MAP sites are fully responsible for adding individuals to the registry. This provides the opportunity for people seeking services to receive options counseling and other referrals in one call.

The MAP sites provide valuable services, such as options counseling and the Level One Screen, to individuals that are Medicaid eligible.

*Money Follows the Person*

In 2008, CMS awarded Maryland the Money Follows the Person (MFP) Demonstration grant to improve the transition process and increase the number of transitions from institutions, such as nursing facilities, to home and community-based services. The goal of the MFP Demonstration is to offer additional resources to individuals in institutions by increasing outreach efforts and decreasing barriers to transition. The first MFP participant moved to a community residence on March 18, 2008. Since then, 2,658 individuals have transitioned to the community from institutions, including 2,291 individuals from nursing facilities, 291 individuals from State Residential Centers (with 108 from Rosewood) and 76 individuals from chronic hospitals as of December 15, 2016.

Several efforts for nursing facility residents have been implemented, including peer outreach and support, options counseling, and housing assistance. Nursing facility residents can receive assistance to complete waiver applications, navigate community resources, identify affordable and accessible housing options, apply for housing subsidies, and move from the facility to a community residence. Since July 1, 2009, DHMH and its representatives have conducted face-to-face outreach visits with 41,398 institutional residents, provided options counseling 20,153 times, and assisted nursing facility residents with 5,991 applications for home and community-based waiver services.

*Housing*

As the housing needs have evolved, so has MFP's response to the issue. MFP initially hired and trained 5 housing specialists in 2011 to provide direct housing assistance to

MFP applicants[4] that were eligible to apply for 112 vouchers that were reserved for nursing facility residents. All of the vouchers were awarded and a waitlist has been created which is utilized to fill the vouchers as there is turnover. MFP continues providing direct housing assistance, but has also broadened the focus to housing policy in order to work with partner agencies and develop a strategy to expand available housing stock over several years.

In 2013, Maryland was awarded $10.9 million from the US Department of Housing and Urban Development for the Section 811 Project Rental Assistance Demonstration Program (PRA Demo). The funds will be used to operate 150 units for non-elderly adults with disabilities with income at or below 30 percent area median income who are Medicaid recipients throughout the Baltimore/Washington Metropolitan Statistical Area (MSA). Applicants of the program must be eligible for Medicaid-funded community services and individuals transitioning from institutions through the MFP program will be given priority for the units. Since the award, the Maryland Partnership for Affordable Housing (MPAH), consisting of representatives from the Maryland Departments of Disabilities, Health and Mental Hygiene, and Housing and Community Development, as well as several non-profits and Centers for Independent Living, has developed trainings and program guidelines, as well as a web-based registry for interested individuals. Tenants are now residing in the first and second set of PRA Demo units as of July 2016.

In March of 2015, Maryland was awarded an additional $9.8 million in funding through a second round of the PRA Demo. The second round of funds will be used to operate an additional 150 units for non-elderly adults with disabilities with income at or below 30 percent area median income who are Medicaid recipients throughout the State of Maryland. This award demonstrates the strength of the housing partnership and the need for continued work in this area.

MFP housing staff invested a significant amount of time providing training during the fall of 2014. The MFP housing trainings were targeted to supports planners and focused on direct housing assistance, including the documentation needed for housing, assessments that can be used to identify housing, how to prepare for an individual's transition, and how to support the individual to be a good tenant once they have moved to the community. The MFP housing training was provided to Supports Planning Agencies within the Baltimore/Washington MSA in order to ensure housing assistance would be available to individuals applying for the initial round of PRA Demo units. MPAH also held statewide trainings during the months of September and October for Supports Planning Agencies. The trainings provided supports planners with information related to the PRA Demo eligibility requirements, use of the MPAH web-based referral and registry system, and strategies for assisting people to transition to permanent supportive housing.

In March of 2016, a new round of the MFP Bridge Subsidy program was implemented. The MFP Bridge Subsidy program provides rental assistance until the individual is able

[4] Living at Home Waiver applicants received housing assistance through the existing case management provider, MFP specialists worked primarily with applicants to the Waiver for Older Adults and applicants to state plan services.

to move onto a permanent housing subsidy issued through the local public housing authority. MFP Bridge Subsidy provided a total of $2 million in statewide housing subsidies for approximately 89 MFP-eligible individuals transitioning from nursing facilities or State Residential Centers back to the community through the use of home and community-based waivers.

In 2015, Maryland's MFP sustainability plan was submitted and accepted by CMS. This plan will require increased state funding and support in the future for projects that are currently funded by MFP that have demonstrated their value by saving institutional costs, reducing homelessness, and improving the quality of life and services for older adults and people with disabilities.

## THE NUMBER OF INDIVIDUALS REFERRED BY NURSING FACILITIES OR IDENTIFIED BY THE MINIMUM DATA SET

The Minimum Data Set (MDS) is a federal assessment for all nursing facility residents, regardless of payer. MDS assessments, conducted at admission and annually, ask whether the resident has expressed a preference to return to the community. A resident is defined as any person staying within the nursing facility, regardless of their expected duration of stay or if they maintain another official residence elsewhere.

CMS implemented a new version of the MDS assessment on October 1, 2010. As part of the revised assessment, there was a new requirement for states to create a Local Contact Agency (LCA) responsible for responding to requests for information about community living. The MFP demonstration was designated as the LCA for Maryland, responding to MDS referrals by providing options counseling to all interested nursing facility residents, regardless of Medicaid eligibility or payment source. In November 2013, a daily MDS electronic feed was implemented into the LTSSMaryland tracking system to automate the referral process. The MFP demonstration received 6,033 MDS referrals including 4,235 for individuals who are not eligible for Medicaid from January 1, 2016 to December 19, 2016.

## THE NUMBER OF INDIVIDUALS WHO HAVE TRANSITIONED FROM NURSING FACILITIES TO HOME AND COMMUNITY-BASED WAIVER SERVICES

Since the Living at Home Waiver closed to community applicants in December 2002 through January 5, 2014, 1,013 individuals have transitioned from nursing facilities to the community through the waiver.

The Waiver for Older Adults closed to community applicants in May 2003. From Fiscal Year 2003 through January 5, 2014, 3,265 individuals transitioned into the waiver directly from a nursing facility, or had been in the nursing facility (paid by Medicaid) within the previous three months prior to enrolling in the waiver.

Since the inception of the Home and Community-Based Options Waiver on January 6, 2014, through December 19, 2016, there have been 1,219 individuals in a nursing facility within the previous three months that transitioned into the waiver.

## OBSTACLES CONFRONTED IN ASSISTING NURSING FACILITY RESIDENTS TRANSITION FROM A NURSING FACILITY TO A COMMUNITY-BASED RESIDENCE

The primary obstacle for individuals that wish to transition from a nursing facility to a community-based residence continues to be the lack of affordable, accessible housing. Housing affordability for individuals on public benefits is difficult everywhere, but Maryland is one of the least affordable in the country. Traditional "extremely low-income" programs that target individuals at 30 percent of area median income are still not affordable for the population of Medicaid beneficiaries that receive Supplemental Security Income (SSI). In order to make truly affordable housing for SSI recipients in Maryland, rents must be subsidized down to 13 percent of area median income. It is necessary to provide outreach and education to developers and housing financers so that they understand that even the extremely low-income housing programs are still out of reach for a significant number of individuals that rely on Medicaid-funded home and community-based services.

The new Home and Community-Based Services Settings Final Rule, established by CMS, has the potential to exacerbate the housing problem by creating new standards for group homes and other congregate settings that are sometimes chosen by those who cannot access independent housing. This final rule creates requirements for settings that are eligible for reimbursement by Medicaid. These programs include Maryland's Community First Choice program and the waiver programs including Home and Community-Based Options, Community Pathways, Medical Day Care, Autism, Model, and Brain Injury waivers. Under this final rule, CMS no longer defines community settings by location, geography, or physical characteristics, but now defines them by the nature and quality of individuals' experiences and a more outcome-oriented definition. Many current providers will need support to meet this standard or may not continue to participate with Medicaid. This will create increased demand for independent housing and require additional state investments.

## RECOMMENDATIONS FOR REMOVING THE OBSTACLES CONFRONTED IN ASSISTING NURSING FACILITY RESIDENTS TRANSITION FROM A NURSING FACILITY TO A COMMUNITY-BASED RESIDENCE

MFP funding supports dedicated housing staff through the end of the demonstration, but in order to maintain the progress that has been achieved in the housing arena, DHMH needs staff committed to expanding existing relationships and developing new ones in the area of housing. Medicaid, the State Housing Finance Agency, developers, public housing authorities, and advocates must work together to find solutions that will allow individuals to have safe, affordable, and accessible housing, and to meet the challenges of the new federal rules on Home and Community-Based Services Settings. Overall, it is necessary to conduct outreach to builders and developers so they understand the demand for affordable, accessible housing, as well as provide education to landlords and property

managers so they understand the supports and services that are available to individuals that receive home and community-based services. Without a sufficient supply of safe, accessible, affordable housing, low-income individuals that could be served in the community will remain in nursing facilities.