

Progress of Implementing the Requirements of the Self-Direction Act of 2022

2022 Report

Recommendations of the Self-Directed Advocacy
Network of Maryland's "Recommendations to Summer
Study Workgroup HB 318 of 2021"

House Bill 1020/Chapter 736 of the Acts of 2022

Maryland Department of Health

February 2023

Introduction

Effective October 1, 2022, Health - General Articles, §7-408, §7-409, and §7-410 of the Annotated Code of Maryland were amended by House Bill 1020 (2022) to expand self-directed services (SDS) under the Maryland Department of Health (MDH) Developmental Disabilities Administration (DDA).

MDH presents the following report in response to Section 3 of House Bill 1020 (2022), on the “progress in implementing the requirements established under Section 1 of [House Bill 1020 (2022)] and the recommendations outlined in the Self-Directed Advocacy Network of Maryland’s ‘Recommendations to Summary [sic] Study Workgroup House Bill 318 of 2021.’”

In House Bill 1020 (2022), MDH identifies 15 requirements, and progress on these requirements is described below. In the Recommendations to Summer Study Workgroup HR318 of 2021, available in the Appendix of the Workgroup to Review and Recommend Policies for the Maryland Self-Direction Program,¹ MDH identifies 9 recommendations, and progress on these recommendations is described below.

House Bill 1020 (2022) - Requirements - Progress on Implementation

The following items were areas of major amendment or clarification to the Annotated Code of Maryland contained in HB1020. DDA completed implementation of most of the following items shortly after the passage of HB1020, and current progress is outlined for each item below.

1. Training Materials for Coordinators of Community Services (CCS) on the SDS Model

Health - General Article, §7-408(A), Annotated Code of Maryland as amended, requires the DDA to train CCS on the SDS model, in consultation with stakeholders.

The DDA has, in recent months, provided new and updated SDS model related guidance, forms, and webinars for all stakeholders, including CCS.

Note: Appendix A contains links to training materials released for multiple stakeholder types, including up-to-date information on use of, procedures for, policies related to, and resources related to self-directed services. All items in Appendix A apply exclusively to this reporting requirement.

In January 2023, the DDA will form a stakeholder group for input on new training for CCS, participants, and their teams related to self-directed services, procedures, policies, and resources.

2. CCS Education of Recipients on Models of Service/CCS Reports to DDA

Health - General Article, §7-408(B) and §7-408(C), Annotated Code of Maryland as amended, require CCS to educate recipients on the models of service delivery both during the initial development of the person-centered plan (PCP) and yearly thereafter. CCS are further required to report to DDA their compliance with this requirement.

CCS share information regarding the DDA operated Medicaid Waiver programs service delivery

¹ “RECOMMENDATIONS TO SUMMER STUDY WORKGROUP HR318 of 2021.” (p. 60)
https://mgaleg.maryland.gov/cmte_testimony/2022/fin/1n-cuufG3bJaosLXPCXK386Dz23BVpGlj.pdf

models, including self-directed services and traditional/provider-managed services. The choice of service model is documented on the Waiver program's required Freedom of Choice Form. In addition, annually the CCS reviews the service delivery models and indicates the participant's choice on the Level of Care Recertification form. These forms are submitted to MDH via LTSSMaryland-DDA Module.

3. Annual Access to Individual and Family Directed Goods and Services (IFDGS)

Health - General Article, §7-409(A)(1), Annotated Code of Maryland as amended, expands the definition of IFDGS and clarifies that recipients may use the annual budget for IFDGS, in accordance with the PCP and recipient need.

In response to changes to IFDGS in the Annotated Code, the DDA has proposed to the public changes to (IFDGS noted within the DDA operated Medicaid Waiver Programs renewal applications. As per federal requirements, a 30-day public input process was conducted from September 6, 2022 through October 6, 2022. Updates and revisions to the DDA operated Medicaid Waiver Programs are being entered into the federal Center for Medicare and Medicaid Services (CMS) waiver portal. The proposed IFDGS changes will be submitted to CMS in early 2023.

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

4. Access to Plan of Service and Budgets in the Long Term Services and Supports Software System (LTSSMaryland-DDA Module)

Health - General Article, §7-409(A)(2), Annotated Code of Maryland as amended, requires the DDA to provide access to the Plan of Service and recipient budget in the LTSS software system.

The MDH LTSS team is supporting the DDA in establishing access to the MyLTSS portal to provide access for all participants to their Person Centered Plan (PCP) and budget allocation. The existing MyLTSS functionality designed for other MDH programs is being updated and enhanced to support the DDA operated Medicaid programs. Participants will have the ability within MyLTSS to provide access to their representatives. On November 7, 2022, the DDA and LTSS team met with representatives from the Self-Directed Advocacy Network of Maryland (SDAN) and People on the Go, a state-wide advocacy group for people with disabilities. During the meeting, MDH staff provided an overview of the MyLTSS portal, answered questions, and requested recommendations for enhancements. It is anticipated that access to MyLTSS for DDA participants will be implemented in summer 2023.

5. Support Broker Services (SBS)

Health - General Article, §7-409(A)(3), Annotated Code of Maryland as amended, allow the DDA to authorize up to 30 hours/month of SBS, provided that services are needed, selected by the recipient, within the total approved annual budget, and authorized by the federal

Centers for Medicaid and Medicare Services (CMS).

The DDA has proposed to the public changes to Support Broker Services noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows:

“Additional Support Broker Services up to 30 hours per month, as needed by the participant and within the participant’s total approved annual budget, may be purchased with unallocated funds under the budget authority due to:

- a. The scope, frequency, and intensity of supports needed (for example 24/7 supports, multiple staff and services);*
- b. Language barriers; and*
- c. The lack of support network to assist with the self directed service model requirements.”*

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

6. Family Members/Legal Guardians Providing Services

Health - General Article, §7-409(A)(4), Annotated Code of Maryland as amended, allows family members and legal guardians to provide services, provided that they are authorized by the recipient or their representative, and provided that a support broker is hired.

The DDA has proposed to the public changes to Support Broker Services noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows: *“Support Broker Services are required when a relative, legally responsible individual, representative payee, and guardian serve as paid staff in order to assure proper oversight and quality assurance as well as reduce conflicts of interest.”*

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

7. Mileage Reimbursement for Specialized Vehicles

Health - General Article, §7-409(A)(5), Annotated Code of Maryland as amended, requires the DDA to provide mileage reimbursement for use of specialized, modified, or accessible vehicles when driven by the recipient’s employee while engaging in activities specified in the PCP.

The DDA has proposed to the public changes to Support Broker Services noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows: *“Mileage reimbursement, under the self-directed service delivery model, to the owner of a specialized, modified, or accessible vehicle driven by an employee of the participant and for the purpose of the participant engaging in activities specified in the recipient's person-centered plan of service.”*

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

8. Administrative Duties and Expenses

Health - General Article, §7-409(A)(6), Annotated Code of Maryland as amended, clarifies that the DDA should provide recipients the ability to hire at least one employee to manage administrative duties and staff, and to use their budget to pay administrative expenses.

The DDA has proposed to the public changes to IFDGS noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows:

The goods and services may include:

“Day to day administrative supports which include assistance with all aspects of household and personal management essential to maintain community living, including support with scheduling and maintaining appointments and money management.”

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

9. Personal Supports include Overnight Supports

Health - General Article, §7-409(A)(7), Annotated Code of Maryland as amended, clarifies that recipients have the authority to choose their vendor for overnight supports, provided they have a demonstrated need for overnight supports provided through personal support services.

Personal Supports is a self directed service. Participants have the employer authority to hire employees, vendors, and providers.

The DDA has also proposed to the public changes to Personal Supports noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows:

“B. Personal Supports provide habilitative services and overnight supports to assist participants who live in their own or family homes with acquiring, building, or maintaining the skills necessary to maximize their personal independence. These services include:

3. Overnight supports.

E. Personal Supports are available:

5. Overnight”

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

10. Vendor Choice for Fiscal Management and Counseling Services (FMCS) Agency

Health - General Article, §7-409(A)(8), Annotated Code of Maryland as amended, clarifies that recipients must have a choice of at least three vendors for FMCS.

MDH has contracted with the following FMCS vendors for which participants can choose from:

- [GT Independence](#)
- [Public Partnerships LLC \(PPL\)](#)
- [The Arc Central Chesapeake Region](#)

The MDH Office of Contract Management and Procurement (OCMP) on behalf of the DDA issued a Multi-Award Request for Proposal (RFP) via eMaryland Marketplace Advantage (eMMA) on May 28, 2021. The competitive solicitation closed on September 10, 2021. In response to the RFP, and in accordance with the Board of Public Works (BPW) contract approval process, the three agencies referenced above were awarded a FMCS contract on June 8, 2022. On July 28, 2022, Deputy Secretary Simons' office issued a public statement to announce the DDA FMCS Open Enrollment for all participants in self-direction and those interested in self-direction. Open Enrollment began on August 1, 2022 and ended on November 15, 2022. The DDA held fourteen in-person sessions, six webinars during the months of August and October, and five Self-Direction FMCS Lunch-n-Learns during the months of August and September to inform participants self directing their services and the public of the Open Enrollment process and opportunities to meet the three new FMCS agencies.

Reference:

- [Financial Management and Counseling Services Agencies](#)
- [Financial Management and Counseling Services - Open Enrollment](#)
- [MDH Memo Financial Management and Counseling Services June 23, 2022](#)
- [MDH Financial Management and Counseling Services - Provider Onboarding and Open Enrollment Letter June 1, 2022](#)

11. Employment of a Representative in the Direction of Services

Health - General Article, §7-409(A)(9), Annotated Code of Maryland as amended, clarifies that recipients have the option to employ a support broker/brokers, or other representatives, in directing services.

The DDA's Self-Directed Services (SDS) Participant's Agreement documents both the participant's request for assistance in self-directing their services, and the team members' agreement to assist and support with the specific work or tasks. The participant's CCS assists the participant and their team to complete this agreement per the participant's preferences

and best interests.

Reference:

- [DDA Self-Directed Services - Participant Agreement - Revised Jan 31, 2022](#)

12. Training of a Representative, Support Broker, and Team

Health - General Article, §7-409(A)(10), Annotated Code of Maryland as amended, requires that the DDA provides training for representatives, support brokers, or team of individuals on self-directed services.

The DDA provides training for Support Brokers to be certified. Training dates are available on the [DDA training calendar](#).

In January 2023, the DDA will form a stakeholder group for input on new training for CCS, participants, and their teams related to self-directed services, procedures, policies, and resources.

13. Expand Support Broker Services

Health - General Article, §7-409(B), Annotated Code of Maryland as amended, requires that the DDA provide Support Broker Services that are authorized by regulations adopted or guidance issued by the CMS in 1915 (c) of the Social Security Act and selected by the recipient.

The DDA has proposed to the public changes to Support Broker Services scope noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows:

“A. Support Broker Services assist the participant in:

3. Performing other tasks as assigned by the participant and as authorized by regulations adopted or guidance issued by the federal Center for Medicare and Medicaid Services (CMS) under §1915 (c) of the Social Security Act including:

- a. Assists the participant (or the participant’s family or representative, as appropriate) in arranging for, directing, and managing services;*
- b. Assists the participant (or the participant’s family or representative, as appropriate) in identifying immediate and long-term needs, developing options to meet those needs and accessing identified supports and services;*
- c. Practical skills training to enable families and participants to independently direct and manage waiver services. Examples of skills training include providing information on recruiting and hiring personal care workers, managing workers and providing information on effective communication and problem-solving; and*
- d. Providing information to ensure that participants understand the responsibilities involved with directing their services. The extent of the assistance furnished to the participant or family is specified in the service implementation plan.”*

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)

- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

14. Removing Limits on IFDGS and Hours of Personal Support Services

Health - General Article, §7-409(C), Annotated Code of Maryland as amended, prohibits limits on individual-directed and family-directed goods and services, or personal support services, provided that services are necessary, within the annual budget, and authorized by Social Security Act §1915(C).

The DDA has proposed to the public changes to noted within the DDA-operated Medicaid Waiver Programs renewal applications as follows:

“Personal Support services are limited to 82 hours per week under the traditional model unless otherwise preauthorized by the DDA.”

“There is no limit on the amount an individual may expend on goods and services from their individualized budget so long as the totality of services purchased through the individualized budget addresses the needs identified in the individual’s person-centered plan.”

Proposed Waiver Renewal Applications ([links](#))

- [Family Supports Waiver - Renewal 2023](#)
- [Community Supports Waiver - Renewal 2023](#)
- [Community Pathways Waiver - Renewal 2023](#)

15. Elimination of Competency Assessments

Health - General Article, §7-409(D), Annotated Code of Maryland as amended, prohibits competency assessments prior to the authorization of self-directed services.

There are no competency assessments prior to authorization.

SDAN Summer Study Workgroup HR318 of 2021 - Recommendations - Current Status

The Self-Directed Advocacy Network of Maryland (SDAN) submitted Recommendations to Summer Study Workgroup HR318 of 2021, as part of the Workgroup to Review and Recommend Policies for the Maryland Self-Direction Program. These recommendations were partially, although not in every detail, incorporated in HB1020. While the DDA must format its self-direction programming in alignment with statutory requirements, we below note the manner in which DDA’s current self-direction programming compares to the recommendations issued by SDAN.

1. Overnight Supports (ONS) and Personal Supports (PS)

Aligns with Health - General Article, §7-409(A)(7) and §7-409(C) noted above.

2. Competency Assessments, Team Assistance, and Third Party Support Broker

Aligns with Health - General Article, §7-409(D), §7-409(A)(9), and §7-409(A)(4) noted above.

3. Support Broker (SB) Hours, Expansion of Duties, and Third Party Support Broker

Aligns with Health - General Article, §7-409(A)(3), §7-409(B) and §7-409(A)(4) noted above.²

4. Training for CCS, Support Broker, Participants, and Advocates and Designated Funding

Aligns with Health - General Article, §7-408(A) and §7-409(A)(10) noted above.

Participants can use the allocated budget to pay for ongoing training of direct support professionals. The waiver programs specifically state: “*For participants enrolled in the self-directed services delivery model, this Waiver program service includes:*

1. *The reasonable and customary costs of training the participant’s direct support staff, including First Aid and Cardiopulmonary Resuscitation certifications;”*

5. Transportation

Aligns with Health - General Article, §7-409(A)(5) noted above.

6. Individual and Family Directed Goods and Services (IFDGS)

Aligns with Health - General Article, §7-409(A)(1) and §7-409(C) noted above.

7. Transparency in the Person-Centered Planning Processes

Aligns with Health - General Article, §7-409(A)(2) noted above.

8. Parity and Access to Manager Position Supports

Aligns with Health - General Article, §7-409(A)(6) noted above.

9. Nursing Workgroup

The Maryland Department of Disabilities has, as of Fall 2022, initiated a workgroup on how Maryland can best address nursing supports for adults with complex medical needs.

² Note that, while SDAN initially recommended 40 hours of support broker services per month, ensuing amendments to HB1020 lowered this amount to 30 hours. SDAN was involved in the negotiation that resulted in this change.

Appendix A: Training Materials Regarding SDS

Financial Management and Counseling Services (FMCS)

Guidance

- [DDA -FMCS Transition, PCP, SDS BudgetSheet, and Timesheet/Invoice Process Updates and Guidance - Updated October 27, 2022](#)
- [Financial Management and Counseling Services Agencies](#)
- [Financial Management and Counseling Services - Open Enrollment](#)
- [MDH Memo Financial Management and Counseling Services June 23, 2022](#)
- [MDH Financial Management and Counseling Services - Provider Onboarding and Open Enrollment Letter June 1, 2022](#)

Forms and Tools

- [DDA - SDS Budget Sheet - Revised July 21 2022 - FMCS Addition](#)
- [Instructions for DDA's SDS Budget Sheet - Revised July 21, 2022 \(FMCS Addition\)](#)
- [CCS - LTSSMaryland FMCS Service Referral Training - July 20, 2022](#)
- [FMCS - LTSSMaryland Training - July 20, 2022](#)

Self Directed Budgets

- [Instructions for DDA's SDS Budget Sheet - Revised July 21, 2022 \(FMCS Addition\)](#)
- [Instructions for DDA's SDS Budget Sheet - Revised April 8, 2022](#)
- [DDA - SDS Budget Sheet- Revised July 21, 2022 - FMCS Addition](#)
- [DDA - Self Directed Services Budget Sheet - Revised April 8, 2022](#)

Reasonable and Customary Rate

- [DDA SDS—Reasonable and Customary Wage and Rate Update Guidance](#)
- [DDA SDS—Staff Reasonable and Customary Wages REVISED – July 1, 2022](#)
- [DDA SDS—Provider/Vendor Reasonable and Customary Rates REVISED – July 1, 2022](#)

Resources and Tools

- [DDA SDS - Checklist for Modifications and Revised Budgets - May 25, 2022](#)
- [Arc - SDS Employee-Change-Form-Fillable](#)
- [Medsource - SDS Employee Change Form](#)
- [Self-Directed Services - Budget Allocation Rate Change Guidance - April 8, 2022](#)
- [Self-Directed Services - Family As Staff Form Guidance - Revised April 26, 2022](#)

Webinars

- [Virtual FMCS Open Enrollment Information Fair - October 25, 2022 10:00am](#)
- [Virtual FMCS Open Enrollment Information Fair - October 25, 2022 5:00pm](#)
 - [Webinar PPT - October 25, 2022](#)
 - [Webinar PPT Servicio de Asesoramiento y Gestión Financiera \(FMCS\), Presentation en Español- Octubre 17, 2022](#)
- [FMCS Lunch and Learn - Choice Form, LTSSMaryland Service Referrals, and Transfers](#)

- September 9, 2022
 - Webinar PPT - September 9, 2022
- FMCS Lunch and Learn - Choice, Open Enrollment, and FMCS Information - August 26, 2022
 - Webinar PPT - August 26, 2022 FMCS Lunch and Learn - SDS Budget Sheet and Modifications - August 19, 2022
 - Webinar PPT - August 19, 2022
- Webinar - Financial Management and Counseling Services (FMCS) Open Enrollment Information Fair - August 1, 2022 (Session: 12-2 pm)
 - Webinar PPT - August 1, 2022 (Session: 12-2 pm)
- Webinar - Financial Management and Counseling Services (FMCS) Open Enrollment Information Fair - August 1, 2022 (Session: 5 - 7 pm)
 - Webinar PPT - August 1, 2022 (Session: 5 - 7 pm)
- Webinar - DDA -FMCS Transition, PCP, SDS Budget Sheet, and Timesheet/Invoice Process Updates and Guidance July 21, 2022
 - Webinar PPT - July 21, 2022
- DDA - Reasonable and Customary Updates Webinar - May 25, 2022
 - DDA - Reasonable and Customary Updates Presentation - May 25, 2022
- DDA Self Directed Services SDS Budget Sheet and Modification Updates Webinar - April 8, 2022
 - DDA Self Directed Services SDS Budget Sheet and Modification Updates Presentation - April 8, 2022