

# Money Follows the Individual Accountability Act Report

January 2022

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## Background

Pursuant to Health-General Article §15-135 the Maryland Department of Health (MDH) submits this report on:

1. MDH's efforts to promote home and community-based services (HCBS);
2. The number of nursing facility residents referred by nursing facility staff or identified on the Minimum Data Set (MDS) 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 MDH encountered in assisting nursing facility residents to make the transition from a nursing facility to a community-based residence; and
5. MDH's recommendations for removing the obstacles.

The Maryland Medicaid Program has offered home and community-based services (HCBS) as an alternative to nursing facility placement for many years. Service options began to increase dramatically in 2001 with the implementation of two HCBS waiver programs. These programs were the Waiver for Older Adults (WOA) and the Living at Home (LAH) Waiver, designed to provide community-based services to older adults and individuals with physical disabilities respectively. Medicaid's HCBS 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.<sup>1</sup>

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

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

Additionally, the Affordable Care Act (ACA) continues to expand health insurance to people previously uncovered, through the insurance exchanges and Medicaid expansion. Maryland opted to expand Medicaid under the ACA making Medicaid available to low-income, non-elderly adults with dependents. Furthermore, the Money Follows the Person (MFP) Demonstration, originally authorized by Congress in 2005 (and reauthorized several times after), was again reauthorized by Congress in early January 2021 and extends MFP through September

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<sup>1</sup> The LAH Waiver and WOA were inundated with applications as soon as they began. Most of the applications were from individuals in the community, but some were from individuals living in nursing facilities. As a result, in December 2002 and May 2003 the LAH Waiver and WOA, respectively, closed to applicants from the community. Since that time, enrollment of applicants from the community has been limited. When the LAH Waiver and WOA closed to community applications, MDH created a Waiver Services Registry for each of the two waivers.

30, 2023.<sup>2</sup> The MFP Demonstration supports state efforts for rebalancing their long-term services and supports system so that individuals have a choice of where they live and receive services. With the most recent MFP reauthorization, Maryland will continue to receive an enhanced match on all eligible waiver services for people with disabilities residing in institutions who (1) meet MFP eligibility, and (2) move to the community via the MDH’s HCBS waivers.

## **Efforts to promote home and community-based services**

This section presents a summary of MDH’s efforts to promote HCBS, including information on the Maryland Access Point and the MFP Demonstration.

### **Maryland Access Point – *Maryland’s Aging and Disabilities Resource Center Program***

Maryland Access Point (MAP) serves as Maryland’s Aging and Disability Resource Center (ADRC). ADRCs, originally a program of the Administration on Aging (AoA), are now supported by the U.S. Department of Health and Human Services’ Administration for Community Living, as well as the Centers for Medicare and Medicaid Services (CMS) and the Veterans Administration. ADRCs, such as MAP, assist individuals and their families/guardians in accessing and making informed decisions on long-term services and supports.<sup>3</sup>

There are 20 MAP agencies serving Maryland residents statewide. These MAP agencies, in partnership with local Area Agencies on Aging (AAA), provide a Single-Entry Point/No Wrong Door approach to accessing benefits and services aimed at diverting those with LTC needs from an institutionalized setting.<sup>4</sup> The service needs commonly referred to the MAP include assistance with activities of daily living, financial support, access to affordable healthcare, nutrition, housing, and transportation.

The MAP program works in collaboration with key stakeholder agencies involved in coordinating eligibility for Medicaid services and all state-funded LTC to ensure that those with LTC needs understand their options and know how to access the services they need. This service is known as Options Counseling and is an important MAP service. For instance, Options Counselors provide program information about HCBS waivers to individuals in nursing facilities, as well as their families, guardians and other supports. They also help individuals complete their applications for the HCBOW by obtaining supporting documentation and

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<sup>2</sup> Money Follows the Person, <https://www.medicaid.gov/medicaid/long-term-services-supports/money-follows-person/index.html>

<sup>3</sup> For more information on ADRCs visit: <https://acl.gov/programs/aging-and-disability-networks/aging-and-disability-resource-centers>

<sup>4</sup> ADRCs, such as MAP, are an important part of the Single-Entry Point/No Wrong Door approach. Under funding from the federal Balancing Incentive Program (2011-2015), Maryland transformed its long term services and supports by establishing No Wrong Door Systems for people to obtain information on Medicaid long term services and supports, streamlined access to services, and implemented conflict-free case management ensuring access to quality services for all individuals seeking them. For more information, visit: <https://www.medicaid.gov/medicaid/long-term-services-supports/balancing-incentive-program/balancing-incentive-program/index.html>

providing a packet related to Supports Planning Agency (SPA) selection. If individuals are eligible for other HCBS waivers, Options Counselors provide that information as well.

In addition to Options Counseling, the MAP staff provide the Level One Screen which assesses activities of daily living to determine the LTC needs of each individual. The MAP staff will enter the individual's responses into the statewide LTSS*Maryland* system.<sup>5</sup> Responses are used to generate discussion, prioritize individuals based on risk of institutionalization, and make referral recommendations to a variety of LTC programs such as the Community First Choice, Community Personal Assistance Services, Medical Adult Day Care Services Waiver, and HCBOW programs.

In FY19, 7,703 Level One Screens were completed. A subset of 7,106 Level One Screens were completed to add individuals to the HCBOW Registry. In FY20, 7,507 Level One Screens were completed. A subset of 6,978 Level One Screens were completed to add individuals to the HCBOW Registry. In FY21, 7,890 Level One Screens were completed, and a subset of 7,394 were completed to add individuals to the HCBOW Registry.

One of the 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 help individuals plan for future needs. The Level One Screen and Options Counseling are essential first steps to help the applicant understand and ultimately receive appropriate services in the community.

At the state level, the MAP works with state agencies and MFP stakeholders to address structural and operational systems to improve access to LTSS. MAP has partnered with Maryland 211 to develop a statewide single resource database where community members and staff can go to find information on programs, benefits and services to support the LTC needs of Marylanders. This database is accessible through the MAP website and through a toll-free number (Dial 2-1-1).

Additionally, MDH worked with the Maryland Department of Aging (MDoA) 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 LTSS, the federal match is an important sustainable source of revenue to maintain and grow the MAP program to adequately meet the needs of Marylanders seeking assistance. MDH continues to support the MAP sites in their training related to the requirements to draw down federal matching funds. In 2020, this federal financial participation (FFP) agreement between MDH and MDoA was renewed.

Lastly, in 2020, the MFP Demonstration partnered with the MDoA to provide ongoing support regarding changes to LTSS*Maryland*. The MFP Demonstration conducted two virtual training sessions, one in August 2020 and another in November 2020, to provide updates and support to users of LTSS*Maryland*. In 2021, the MFP Demonstration continued to partner and provide one-on-one check-ins with the network in order to provide support for LTSS*Maryland*.

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<sup>5</sup> LTSS*Maryland* is a web-based solution that, since 2013, has supported Medicaid's HCBS waiver services.

## Money Follows the Person Demonstration

The MFP Demonstration, originally authorized by Congress in 2005, and reauthorized several times after, was again reauthorized by Congress in early January 2021. The reauthorization extends the MFP Demonstration through September 30, 2023. A permanent extension is being considered by Congress. The goal of the MFP Demonstration is to offer additional resources to individuals in institutions by increasing outreach efforts and decreasing barriers to transition. From the start of the program in 2008, 3,671 individuals have transitioned to the community from institutions (see transition breakdown by HCBS waiver below).

### *Total MFP Transitions from March 18, 2008 – December 1, 2021*

Elderly – 1,639	Physical Disabilities – 1,577
Brain Injury – 114	Intellectual/Developmental Disabilities – 341

### *Calendar Year 2021 MFP Transitions, as of December 1, 2021*

Elderly – 28	Physical Disabilities – 40
Brain Injury – 2	Intellectual/Developmental Disabilities – 1

Maryland receives enhanced Federal Medical Assistance Percentage (FMAP) funds for services provided under the MFP Demonstration. To date, the increased funds associated with the MFP Demonstration have been used to enhance community-based services available through existing HCBS programs by adding additional services and supports recommended by stakeholders.

Stakeholder involvement has always been important to the MFP Demonstration. The MFP Demonstration continues to seek input and guidance from stakeholders. Currently, the Stakeholder Advisory Group (SAG) meets every other month to discuss ongoing implementation, hear presentations on topics of interest and provide input for future planning. The MFP SAG also helps to identify barriers to MFP transitions. The SAG is composed of MFP participants, community providers, professional organizations, institutional providers, MDH staff and representatives from various advocacy organizations. All SAG meetings are two hours in length and held virtually or in person. In addition to the SAG meetings, the MFP Demonstration participates in and endorses professional training for providers and stakeholders. The MFP Demonstration works with Maryland Partnership for Affordable Housing (MPAH) to facilitate training, which addresses fair housing, how to identify and report discrimination and provides education on reasonable accommodations.

The MFP Demonstration's benchmark for transitions from January 1, 2020 through December 1, 2021 was 330. The ongoing Public Health Emergency (PHE) due to the COVID-19 pandemic continues to impact MFP transitions. MDH continues to follow the guidance from the Centers for Disease Control and Prevention (CDC) with respect to nursing facility visitation and access for case managers, family members and partnering state contractors. MDH has continued to provide outreach to individuals in nursing facilities through peer outreach and support and MFP Options Counseling via the state contractors. These activities were completed primarily by telephone or a two-way, audio-visual connection. MDH continues to partner with other state

agencies, MFP stakeholders and advocates to brainstorm solutions to increase access to individuals in nursing facilities by utilizing technology to improve communication. CMS approved MFP's request for a verbal consent policy in place of written signatures on consent forms in the wake of the PHE. This policy has helped to mitigate and reduce barriers related to restrictions on nursing facility visitation.

In CY21 CMS announced up to \$5 million in supplemental funding for Maryland and other grantee states for Capacity Building activities. The MFP SAG, content experts and MFP staff facilitated "listening posts" on topics prioritized in a survey completed by stakeholders. Listening posts culminated with recommendations from stakeholders to Medicaid management on the decision to apply for MFP supplemental funding. In June 2021, four Capacity Building written proposals were sent to the CMS for approval based on stakeholder feedback. Shortly thereafter, all four proposals were accepted by the CMS, and \$4,999,738 was awarded by the CMS to fund these projects. The MFP team is currently implementing cooperative agreements with the awardees so that the funds may be dispersed to support their projects up until September 2025. Awardees will present updates to the stakeholders for the duration of their agreements with MDH.

## **Pre-admission Screening and Resident Review**

When an individual enters a nursing facility, a Pre-admission Screening and Resident Review (PASRR) must be performed to ensure that an individual with an intellectual or developmental disability (I/DD) or a serious mental illness (SMI) is receiving the appropriate services within the facility. The PASRR is an essential tool for the MFP team because it identifies if an individual has an I/DD or SMI and his/her predicted length of stay within the facility. The predicted length of stay is important to ensure that MFP staff communicate effectively and consistently with nursing facility residents, their families and all affiliated staff.

The PASRR captures vital information that is also used to identify, target and track current nursing facility residents with I/DD and SMI. The MFP team currently has two dedicated staff who monitor completed PASRR with emphasis on nursing facility residents expressing a desire to return to their home or another community setting of their choice. The MFP team also tracks the resident's progress through state systems and internal mechanisms. Currently, the MFP team is monitoring 150-200 individuals with completed PASRR who are residing in a nursing facility.

The PASRR and Level One Screen are only a few of the tools currently being utilized to help identify and support individuals in accessing HCBS in the community. Given the reauthorization of the MFP Demonstration in January 2021, Maryland continues to identify and incorporate practices from the Demonstration into the structure of the Medicaid-funded services and supports more broadly. To this end, the MFP Demonstration will work with stakeholders in 2022 to revise the sustainability plans currently in place.

## **Housing**

The MFP Demonstration provides direct housing technical assistance to support planning agencies (SPA), community case managers and other MFP stakeholders. The MFP

Demonstration has expanded its focus to affordable housing policy, including partnering with agencies to develop strategies to expand available housing stock over a period of several years.

The housing training completed by MFP staff prepares Supports Planners to provide direct housing assistance, including obtaining the documentation needed to secure housing, assessing an individual's housing needs, preparing for an individual's transition and providing information on how an individual can be a successful tenant once he/she has moved to the community. The housing training is provided to SPA within the Baltimore/Washington Metropolitan Statistical Area (MSA) in order to ensure that housing assistance will be available to individuals applying for the following:

- U.S. Department of Housing and Urban Development (HUD) 811 Project Rental Assistance (PRA);
- Harry and Jeanette Weinberg Foundation's Affordable Rental Housing Opportunities Initiative for Persons with Disabilities (Weinberg Affordable Apartments); and
- The MFP Bridge Subsidy.

The Maryland Partnership for Affordable Housing (MPAH) has also held statewide training for SPA, housing providers, Centers for Independent Living (CIL) staff and other case management providers. These trainings provide information related to the PRA, Weinberg, and MFP Bridge Subsidy eligibility requirements, use of the MPAH web-based referral and registry system, strategies for assisting individuals to transition to permanent supportive housing and approaches to support individuals with maintaining successful tenancy.

*A summary of all affordable and accessible housing programs:*

For the HUD 811 PRA, Maryland was awarded three grants totaling \$27.9 million, which equates to approximately 400 permanent supportive housing units. In FY12 and FY 13 respectively, 150 units were awarded. In FY19, 100 units were awarded. As of November 2021, for the FY 12 and FY13 HUD 811 grants, of the available 325 units, 243 units were filled (this does not include turnovers in process and properties currently in the lease up phase) and 39 units were under construction. The first two awards in FY12 and FY13 consisted of one- and two-bedroom units, and the third award in FY19 also included three-bedroom units. The funding for the FY19 HUD 811 grant is subject to the cooperative agreement between the Department of Housing and Community Development (DHCD) and HUD, which is slated to be completed in 2022.

For the Weinberg Affordable Apartments, Maryland was awarded three grants, totaling \$7 million, for construction and financial assistance. As of November 2021, there were 33 units identified, 29 participants housed and four more to be leased. MFP staff will continue to work with the DCHD, the Maryland Department of Disabilities (MDoD) and property developers to identify and build units for this program.

For the MFP Bridge Subsidy, 63 participants have been housed since its inception in 2016. As of November 2021, 38 participants are being housed through this program and 21 are searching for housing. While the commitments from the Baltimore-Washington area (Montgomery, Prince George's, Howard, Baltimore County, and Baltimore City) have been fully

or nearly fulfilled, the commitments in the western and eastern parts of Maryland are still available, which is likely a result of greater demand in the urban areas with less available supply and greater supply than demand in the more rural areas of the state. A lack of transportation in rural areas is also significantly impacting the percentage of commitments fulfilled in the western and eastern parts of the state. MFP staff and the MPAH are strategizing with stakeholders to find ways to increase utilization of the Bridge Subsidy and address transportation issues in these areas.

*A summary of current MFP housing activities and the impact of the COVID-19 pandemic:*

During the PHE as a result of the COVID-19 pandemic, MFP staff are providing virtual tenancy training to MFP participants who recently moved into HUD 811 PRA, Weinberg or MFP Bridge Subsidy housing. Staff conduct person-centered training by telephone or webinar according to the participant's needs and access to equipment. The MFP Housing and Compliance Director continues to work with the MDOD and the DHCD as part of the MPAH to administer the three housing programs and to increase the opportunities for affordable housing in Maryland.

The MPAH continuously surveys stakeholders about their training needs and develops training to address those needs. In 2021, the MPAH developed a tenant training competency curriculum to teach Supports Planners and other case managers how to conduct tenant training to enhance participants' success in the community. In FY21, the MPAH held 24 training sessions related to supporting individuals with disabilities with housing.

## **Data on Referrals and Transitions**

### **Individuals referred by nursing facilities or identified by the Minimum Data Set**

The Minimum Data Set (MDS) is a federal assessment of all nursing facility residents, regardless of payer. The MDS assessment, conducted upon admission and annually thereafter, ascertains 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 his or her expected duration of stay or whether he or she maintains an official residence elsewhere.

CMS implemented a new version of the MDS assessment on October 1, 2010. The revisions included a 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 and must respond 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 LTSSMaryland to automate the referral process. In June 2021, MDH discovered a defect in the MDS automatic referral process, which resulted in an investigation by the Hilltop Institute at the University of Maryland, Baltimore County (Hilltop). Hilltop provided reports of all MDS referrals from January 2021 to October 2021. The MFP team was able to enter MDS referrals and inform the network of the pending Options Counseling referrals. The MFP Demonstration received 446 MDS referrals from January 1, 2021 to December 1, 2021 and worked with its partners to process the referrals.

## **Number of individuals who have transitioned from nursing facilities to HCBS**

- From December 2002 to January 2014, 1,013 individuals transitioned from nursing facilities to the community through the LAH Waiver.
- From December 2002 to January 2014, 3,265 individuals transitioned from nursing facilities to the community through the WOA. Note, in January 2014, the LAH Waiver and WOA merged to form the HCBOW)
- From January 6, 2014 to December 1, 2021, 2,549 individuals transitioned from nursing facilities to the community through the HCBOW.

## **Obstacles in transitioning from a facility to a community-based residence**

The primary obstacle for individuals in nursing facilities that wish to transition from a nursing facility to a community-based residence continues to be the lack of affordable and accessible housing. Housing affordability for individuals receiving public benefits is difficult in many locations, 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 Medicaid beneficiaries that receive Supplemental Security Income (SSI). 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 financiers 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 HCBS.

The HCBS 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 - HCBOW, Community Pathways, Community Supports, Family Supports, Medical Day Care, Autism, Model and Brain Injury Waivers. Under the Final Rule, CMS no longer defines community settings by location, geography or physical characteristics, but by the nature and quality of individuals’ experiences, which results in a more outcome-oriented definition. Many HCBS providers will need support to meet this standard or may not continue to participate with Medicaid once the Final Rule is fully implemented. This will create increased demand for independent housing and require additional state investments. Based on guidance issued by CMS to State Medicaid Directors on July 14, 2020, the CMS updated the Final Rule implementation timeline to March 7, 2023.

## **Recommendations for removing the obstacles**

MFP funding supports dedicated housing staff through the end of the MFP Demonstration. 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 HCBS 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 support and services that are available to individuals that receive HCBS. Without a sufficient supply of safe, accessible, affordable housing, low-income individuals that could be served in the community will remain in nursing facilities.