

Maryland Association of Community Services

Wrap-Up Report
Maryland General Assembly
2010 Legislative Session



MACS 2010 Legislative Wrap-Up Report

MACS and members of the Developmental Disabilities Coalition proactively approached the 2010 legislative session of the Maryland General Assembly with bills that would positively impact the developmental disability community. Though the State continues to be faced with difficult economic times, the budget for DD services was spared further cuts, and a bill which aligns inflation for community based developmental disability and mental health services with inflation the state provides for its own budget successfully passed the legislature.

MAJOR VICTORY FOR DEVELOPMENTAL DISABILITY SERVICES

Passage of ***SB 633/ HB 1034 – Community Services Reimbursement Rate Commission – Developmental Disabilities and Community Mental Health Services – Rate Adjustments*** addresses the need for more regular rate adjustments for DD services by creating an update factor for provider rates based on growth for certain common expenses in the State budget.

The amendments that enabled the bill to move forward will "sunset" the bill at the end of five fiscal years (FY '12 through FY '16), but the sunset can be extended or removed at that time. Amendments also place a cap of 4% on the inflationary increases, and require that DHMH develop a plan and a timeline for implementation of real rate-setting for DD and MH services.

Lastly, MACS successfully lobbied to add an amendment to the bill to include a "floor" of 0% in the inflation increase, which protects us from having a "negative" inflationary adjustment, if the state experiences a negative adjustment.

Sponsored by Senator Thomas "Mac" Middleton and Delegate Bob Costa, this legislation creates a reliable update factor so desperately needed by DD providers. The bill sponsors tirelessly worked this bill through the last day of the legislative session.

FY 2011 Budget

Governor O'Malley's budget level-funded most of the DDA budget with an increase for transitioning youth:

Provider Rates – after experiencing an additional \$15 million in cuts to the FY2010 budget, the budget was level funded for existing services in the FY2011 budget.

Transitioning Youth - \$11.8m – fully funds 608 students by providing employment and/or day supports to youth transitioning from school.

Emergencies - \$2.2m – funds 50 emergencies.

Waiting List Equity Fund - \$1.5m – provides supports to 40 people on the DDA Waiting List.

Court-Involved Community Placements - \$1.1m – funds supports for 25 people who are court-ordered into DD services.

The funding for these items was supported by the General Assembly, and ultimately did not face budget cuts from either the House or the Senate budget committees.

Community Services Reimbursement Rate Commission – The Commission will play an active role moving forward. Under SB633/HB1034, the Commission will be responsible for studying the categories of costs used by the State and assessing the average cost structure of providers using these same categories. They will continue to be responsible for reporting on the financial health of the providers as well as the impact of the annual inflationary cost adjustment.

Legislative Highlights

DDA Recipient Appeals

MACS worked to pass ***SB 465 / HB 900 Developmental Disabilities Administration – Recipient Appeals***, sponsored by Senator Mike Lenett and Delegate Karen Montgomery. As introduced it would have allowed for an individual receiving services to request a new matrix evaluation if they experienced a change in their physical or mental health, or their support needs. Unfortunately, a potentially significant fiscal note required an amendment to the bill to address the costs that additional requests for new matrix evaluations would create.

As a first step, the bill was amended to focus on the process DDA must follow if supports or services identified in the individual plan are denied. DDA will be required to notify an individual in writing that they have been denied, why they have been denied and the process to appeal through a Medicaid Fair Hearing versus an informal hearing currently in the developmental disability statute.

Alcohol Tax

A joint legislative effort this year between DD advocates, and mental health, addiction treatment, and health care advocates increased the momentum and the support to pass ***SB 717 / HB 832 The Lorraine Sheehan Health and Community Services Act of 2010***. This legislation would have created a significant source of new funding for developmental disability services through increase of the alcohol tax in Maryland. The bill would have raised a total of \$210 million, of which approximately \$30 million would have been dedicated to DDA services – half of the DD funding for expansion of supports for people on the DDA Waiting List, and half to address the under-funding of existing services.

Sponsored by Delegate Jim Hubbard, Delegate Bill Bronrott, Senator Rich Madaleno and Senator Verna Jones, the effort to increase the alcohol tax did not pass this year but is positioned for potential success next year.

Low Intensity Support Services

Sponsored by Senator Ed Kasemeyer and Delegate Jim Hubbard, **SB 920 / HB 1226 Developmental Disabilities Administration - Low Intensity Support Services** provides clarity to the LISS program by allowing:

- A cap of no less than \$3,000 per individual per year of low intensity support services to a qualifying individual.
- The Administration to waive the cap.
- The Department to develop a simplified application process for low intensity support services.

Passage of this legislation addresses some issues that arose from the transition from Rolling Access to LISS, and should help families to continue to access these funds in times of need.

Waiting List

Successfully passing the General Assembly was **SB 318 / HB 830 Income Tax Check-Off for Developmental Disabilities**, sponsored by Senator Rona Kramer and Delegate Ben Kramer, which will allow taxpayers to make a donation to a fund for the Waiting List through a check-off on their income tax returns. It is unclear how much revenue this will generate for the Waiting List, but it will be a good opportunity for educating the community on the ongoing unmet needs of those individuals waiting for services.

Two attempts to significantly address the Waiting List failed this session:

Sponsored by Delegate Craig Rice, **HB 938 Developmental Disabilities Administration - Waiting List Equity Fund** would have mandated an appropriation to provide at least one service to 90% of the people on the waiting list.

Sponsored by Delegate Herman Taylor, **HB 1283 Developmental Disabilities Waiting List Reduction Act of 2010** would have mandated an appropriation of \$5 Million per year from FY2012 through 2015.

It was a difficult economic climate for these two bills to pass, but it did lead to many discussions with legislative leadership regarding how to fund the Waiting List in the future. MACS expects the discussion to continue through the interim.

Board of Nursing – Membership

Sponsored by Senator Joan Carter Conway and Delegate Shirley Nathan-Pulliam, **SB 266 / HB 302 State Board of Nursing and Certified Nursing Assistant Advisory Committee - Membership - Nominations for Vacancies** was amended, as a result of advocacy by MACS, to include a delegating nurse in a supervised group living setting which includes the DD community, assisted living and group homes for children. There are many nursing issues unique to the community setting and membership on the Board by a nurse with experience in this area of nursing will be a positive change.

Child Residential Programs

Sponsored by Senator Delores Kelley, ***SB 478 Residential Child Care Facilities - Incident Reporting - Interagency Workgroup*** requires that all departments overseeing children in out-of-home placements share incident reports involving those children. It streamlines the process by developing a uniform reporting mechanism shared among the Departments of Health and Mental Hygiene, Juvenile Services, and Human Resources. The bill eliminates the redundancy which will ideally make the system more efficient and allow providers to spend less time on duplicative reporting requirements and more time on the children to whom they are providing services. A workgroup, with the appropriate Departments and in conjunction with the licensed providers of residential child care services, will be established to develop the incident reporting system that providers will be required to implement.