

NEW JERSEY STATE REPORT 2018

By Cindy Bartman



New Jersey's portal for services for persons with developmental and intellectual disabilities is via: The Department of Human Services, Division of Developmental Disabilities for individuals 21 years old or older and for those individuals under 21, the Department of Children and Families.

The majority of this report will focus on those individuals requiring services through the Division of Developmental Disabilities (DDD).

DDD funds a broad range of community-based residential care services, individual and family supports services, and day programs for individuals with developmental disabilities. DDD also operates the State's five residential developmental centers for individuals with developmental disabilities¹

DDD is anticipated to spend \$1.81 billion in FY 2019, 29.0 million (1.6 percent) more than in FY 2018, including: 918.2 million in State appropriations from the General Fund and Casino Revenue Fund, \$879.9 million in federal funds; and \$15.0 million from All Other Funds.²

Gross funding for the State developmental centers is recommended to decrease by \$18.2 million (6.0 percent), to \$284.9 million with State appropriations accounting for \$17.3 million of the decline. The continued initiative to move individuals from the developmental centers into the community drives the funding decrease. The average daily population for all centers is projected to fall by 88 (6.5 percent), while 125 vacant State-funded positions (5.8 percent of the total) are to be eliminated.³

Gross funding for DDD community Programs is proposed to increase by \$47.2 million (3.2 percent) to \$1.53 billion with State appropriations accounting for \$14.3 million of the increase.⁴

The combined gross appropriations for the Community Care Program and the Supports Program are recommended to increase by \$78.7 million (6.4 percent) to \$1.32 billion. State appropriations for the programs would increase by \$19.7 million (3.0 percent) to \$674.7 million. The increase are reflective of the department's continued shift of most DDD services to the two Medicaid-eligible community-based programs.⁵

A decline of \$29.4 million in the Client Housing appropriation is attributable to the phase-out of client contributions toward the cost of DDD-provided services as part of the ongoing shift to a

¹ Analysis of the New Jersey Budget DHS FY 2018-2019 Prepared by the Office of Legislative Services NJ Legislature, May 2018

² *ibid*

³ *ibid*

⁴ *ibid*

⁵ *ibid*

new voucher-based housing cost subsidy policy for DDD clients living in State-licensed residential facilities.⁶

New language would authorize the DDD to effect supplemental appropriations of unspecified, unlimited amount to the Community Programs Grants-in-Aid accounts in the course of the fiscal year and without additional legislative approval. This language is intended to ensure the timely payment of service providers.⁷

STATE DEVELOPMENTAL CENTERS

The Governor's FY 2019 Budget recommends reducing the appropriation for the State's five developmental centers by \$18.2 million. The Office of Management and Budget (OMB), however, intends to lapse the \$18.1 million in FGY 2018 surplus appropriations into the General Fund at the end of FY 2018. Accordingly, the proposed FY 2019 funding level is virtually identical to anticipated FY 2018 expenditures.⁸

Salaries and Wages account for another \$8.1 million of the \$17.3 million decline in the recommended FY2019 State-funded appropriation, which reflects a reduction in vacant State-funded positions. State-funded positions are to decrease by 125 from 2,159 positions in FY 2018 to 2,034 in FY 2019. The allocation of the net savings among the five developmental centers is uneven. The New Lisbon Developmental Center would absorb a \$5.0 million reduction, the Vineland Developmental Center a \$3.0 million reduction, and the Woodbine Developmental Center a \$2.0 million reduction, while Green Brook Regional Center would see no change. Hunterdon Developmental Center, on the other hand, would receive a \$1.3 million increase in its Salaries and Wages appropriation.⁹

According to the OMB (budget analysis), the appropriation decrease reflects trends in operations and a commitment to reducing the number of individuals with developmental disabilities who live in State-operated institutions. According to budget data...in FY 2016, the average daily population at the developmental centers totaled 1,537. The number declined to 1,438 in FY 2017 and is projected to fall to 1,362 in FY 2018 and 1,274 in FY 2019.

COMMUNITY PROGRAMS

Effective November 1, 2017, the Community Care Waiver (CCW) was incorporated into New Jersey's larger and more wide-ranging Comprehensive Medicaid Waiver, and was re-named the Community Care Program. Under the CCP the DDD provides eligible adults who primarily live in

⁶ *ibid*

⁷ *ibid*

⁸ *ibid*

⁹ *ibid*

State-licensed residential facilities with community-based services. Some adults who live in a family home also receive home-based services through the CCP. The program is part of an ongoing multi-year initiative to provide a larger number of adults with developmental disabilities with home-and community-based services as opposed to providing support in an institutional setting.¹⁰

The Supports Program provides services to adults with developmental disabilities who are living in unlicensed settings, such as with family members or in their own homes. DDD is transitioning all individuals who receive services from the division and are not enrolled in the Community Care Program into the Supports Program. This allows the State to receive a 50-percent federal match for program expenditures, whereas previously the DDD provided exclusively State-funded services to these clients. The program is part of an ongoing multi-year initiative to provide a larger number of adults with developmental disabilities with home-and community-based services as opposed to providing support in an institutional setting.¹¹

The reduction (in client housing appropriation) represents the phase-out of client contributions toward the cost of DDD-provided services. Under the system that is being replaced clients pay 75 percent of their gross annual income to the division for the services they receive. Budget language dedicates the cost of recoveries to the operation of DDD community-based residential programs.¹²

The decrease is an outcome of the multi-year restructuring of DDD programs so that DDD-provided services qualify for federal Medicaid matching funds. The services were previously supported by State funds only. Notably, Medicaid requires a shift in the provider reimbursement model for DDD clients in State-licensed residential facilities from a capitation rate, which included the cost of housing, to a fee-for-service system. Given that Medicaid does not pay for housing services, a new DDD housing subsidy system for clients in State-licensed residential facilities was created and the decrease in this budget line reflects the transition to the new housing subsidy system.¹³

The Client Housing appropriation pays for the Supportive Housing Connection (SHC) program, a relatively new voucher-based rental assistance program administered by the department and the New Jersey Housing and Mortgage Finance Agency for individuals with developmental disabilities who live in DDD community-based residential programs. Under the new system, clients no longer pay 75 percent of their gross annual income to the division. Instead, individuals contribute 30 percent of their gross income toward their rent, directly paid to the

¹⁰ *ibid*

¹¹ *ibid*

¹² *idid*

¹³ *idib*

residential facility-operating landlord. The remainder of eligible rental costs is paid by the SHC directly to the landlord.¹⁴

MINIMUM MONTHLY PERSONAL NEEDS ALLOWANCE

The Governor's FY 2019 Budget eliminates language setting the minimum monthly personal needs allowance for residents in nursing facilities, state or county psychiatric hospitals and State Developmental Centers at \$50, which was included in the FY 2018 Appropriations Act pursuant to a Legislative budget resolution. Absent this language, statutory language provisions reduce the monthly personal needs allowance to \$40 for individuals whose only source of income is Supplemental Security Income (SSI) benefits (the \$30 federal allowance plus \$10 State supplemental), and \$35 for Medicaid recipients with income other than SSI benefits. The Governor anticipates \$3.0 million in cost savings from the reduction in the personal needs allowance for nursing home recipients.¹⁵

The personal needs allowance is used for purchasing personal items such as clothing, grooming aids, newspapers, and other items that are not regularly provided by the facility in which the person resides.¹⁶

NEW DHS COMMISSIONER

Carole Johnson was nominated to be Commissioner of the Department of Human Services by Governor Phil Murphy. She previously served in the Obama White House as senior health policy advisor and member of the Domestic Policy Council health team. The Commissioner also has served on Capitol Hill working for the U.S. Senate Special Committee on Aging and for members of the U.S. Senate Finance Committee and U.S. House of Representatives Ways and Means Committee. In addition, she managed health care workforce policy issues for the U.S. Department of Health and Human Services Health Resources and Services Administration. Johnson previously was policy director for the Alliance of Community Health Plans, an association of nonprofit health plans; program officer with the Pew Charitable Trusts Health and Human Services Program; health policy researcher at the George Washington University; and, senior government relations manager with the American Heart Association.¹⁷

In an article found on NJ.com written by Sue Livio, reporter for the Star Ledger, Ms. Johnson was quoted saying "I think it's important we continue to have a robust conversation in New

¹⁴ *ibid*

¹⁵ *ibid*

¹⁶ *ibid*

¹⁷ Website for State of NJ, DHS Home, Commissioner and Key Staff, About the Commissioner

Jersey about the continuum of services, ensuring people have choice and families are able to get the care that is most appropriate for their loved one."

NEW TO NJ: OMBUDSMAN FOR PEOPLE WITH ID/DD

Paul Aronsohn (former Mayor, Ridgewood, NJ) was appointed by Governor Murphy in April, 2018. Mr. Aronsohn's duties include serving as a source of information for individuals and their families, to help them better understand state and federal laws and regulations; Coordinating with the State Council on DD, to provide information and support on navigating and understanding the process for obtaining services from the state Division of Children's System of Care and DDD, including information on transitioning between the two programs; Providing information and communication strategies to individuals and their families for resolving disagreements with various state agencies, as well as education on the dispute resolution; Working with service recipients, families and the departments to facilitate the provision of services and supports; Identifying common concerns for individuals and their families, and making recommendations to the Division of Children's System of Care, DDD, DCF, and DHS; To assist the Division of Children's System of Care and DDD in creating public information programs designed to inform individuals with intellectual or developmental disabilities, their families, and the public about the role of ombudsman.¹⁸

STEPHEN KOMNINOS LAW

Signed into law on October 6, 2017 and became effective on May 1, 2018. Named after Mr. Stephen Komninos, and individual who resided in a New Jersey group home. (This law) strengthens protections for adults with developmental disabilities. Creates new processes and requirements for provider agencies, the Division of Developmental Disabilities (DDD) and units within the Office of Program Integrity and Accountability (OPIA) within the Department of Human Services (DHS).¹⁹

Two unannounced site visits annually by a DHS representative to all community residential programs (group homes and supervised apartments) to evaluate if individuals residing in these settings are at risk of, or being subjected to, abuse, neglect or exploitation by a caregiver²⁰

Notification in-person or by phone within two hours must be made to an individual's guardian of all major, moderate and minor physical injuries as defined by DHS regulation. If there is no

¹⁸ DHS/DDD Quarterly Division Update for Individuals, Families and Providers, April 26, 2018

¹⁹ *ibid*

²⁰ *ibid*

guardian, a family member who requests notification may be notified, unless the individual prohibits the family member from receiving this information.²¹

If there is a legitimate reason why a notification was not provided within two hours, notification must be provided within eight hours with a written explanation of the cause for the delay provided to the guardian and to DHS. Follow-up communication with the guardian or family member can be done via email/electronic communication.²²

Verification of a reported injury within 48-hours by a DHS representative, of any moderate or major physical injury or abuse, neglect or exploitation of an individual residing in a developmental center or an individual residing in a community residential program.²³

Developmental Centers will schedule meetings twice per year with parents/guardians to provide an opportunity to share experiences. Parents and guardians of individuals residing in a developmental center, a community residential program, or participating in a day program have an opportunity to exchange contact information with other parents and guardians of individuals in the developmental center or program.²⁴

A guardian may participate in a DHS Office of Investigations (OI) interview of the individual the guardian represents. The guardian has the right to terminate the interview unless termination would impede the investigation. A guardian may provide information to facilitate an investigation. If the individual does not have a guardian, a family member may provide information, unless the individual expressly prohibits the family member from providing information.²⁵

The guardian of an individual will be provided with a written summary of the findings of a DHS investigation involving an alleged incident of abuse, neglect or exploitation of the individual. If the individual does not have a guardian, a family member may receive the summary, unless the individual prohibits the family member from receiving information.

The actual reports and records of an investigation may be provided to the guardian or a person responsible for the welfare of an individual - if the information is needed in connection with providing care to, treatment, an assessment, evaluation or supervision of the individual; and DDD determines that providing the information is in the best interest of the individual.²⁶

²¹ *ibid*

²² *ibid*

²³ *ibid*

²⁴ *ibid*

²⁵ *ibid*

²⁶ *ibid*

Drug testing is required of direct care applicants and employees of any DHS-funded, licensed or regulated program for adults with developmental disabilities. Employees of developmental centers are already subject to drug testing. This includes drug testing as a condition of employment, random testing while employed and drug testing for cause based on a concern or suspicion.²⁷

When an applicant refuses the test or tests positive, the person will not be eligible for employment. A current staff member who refuses to undergo testing will be terminated from employment. When a staff member tests positive, at the agency's discretion, they may be referred for treatment or terminated from employment.²⁸

The law requires ALL persons employed by, or volunteering in, any DHS-funded, licensed or regulated program, or a person providing services with indirect State funding to an individual with a developmental disability to report incidents or suspicions of abuse, neglect or exploitation.²⁹

CRIMINAL HISTORY RECORD CHECKS

Updated legislation for conducting federal and state criminal history record information (CHRI-fingerprinting) checks for: Agency employees and agency heads. Community Care Residence (CCR) providers. Individuals living in the household of a CCR provider. Alternates for CCR providers. Signed into law on/about January 12, 2018. Effective immediately.³⁰

Shifts responsibility for conducting fitness for employment determinations from the agency to DHS. DHS responsible to: Make fitness for employment determination based on federal and state fingerprint results. Provide written notification to employee and agency head of qualification/disqualification.³¹

CHILD ABUSE RECORD INFORMATION CHECKS - Known as CARI check

Signed into law August 7, 2017. Effective February 1, 2018. Requires checks of the Department of Children and Families (DCF) child abuse registry for any person seeking employment in: Any facility or program licensed, contracted, regulated or funded by DHS. Providing community-base services with indirect funding. Law also applies to staff employed by DCF provider agencies, DHS developmental centers.³²

²⁷ *ibid*

²⁸ *ibid*

²⁹ *ibid*

³⁰ *ibid*

³¹ *ibid*

³² *ibid*

PRIVATE INTERMEDIATE CARE FACILITY

Spectrum for Living operates group homes, a medical group home, supervised apartments as well as a 60-bed ICF which opened in 1983. This is the only privately operated ICF/IID in the state. Spectrum for Living also operates adult day programs and provides case management and respite services to persons in the community.

UNIONIZATION

The State-operated developmental center employees are members of one of three AFL/CIO labor unions - they are: Communications Workers of America (CWA), American Federation of State, County, and Municipal Employees (AFSCME), International Federation of Professional and Technical Engineers (IFPTE).

On May 1, 2018, CWA ratified a contract with the Murphy Administration which covers 35,000 workers employed by the Executive Branch of NJ State Government in the Administrative/Clerical, Professional and Supervisory Bargaining Units. The term of the Contract is from July 1, 2015 through June 30, 2019. The terms of the Agreement include two across the board salary increases of 2% beginning August 15, 2017 and another 2% beginning the first pay period in July, 2018. The Contract also includes a settlement with the State of New Jersey over litigation that was precipitated by the Christie Administration.³³

³³ Communications Workers of America New Jersey website