



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

June 24, 2022

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

The Honorable Bill Ferguson  
President of the Senate  
H-107 State House  
Annapolis, MD 21401-1991

The Honorable Adrienne A. Jones  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401-1991

**Re: SB 620/HB946 (Ch. 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 Ferguson, and Speaker Jones:

The Maryland Department of Health (MDH) respectfully submits this report on home- and community-based long-term care services, pursuant to Health – General §15-135(g) and Senate Bill (SB) 620/HB 946 (2004). The report addresses MDH's efforts to promote home- and community-based services and to help nursing facility residents transition to the community.

If further information on this subject is needed, please contact Heather Shek, Director of Governmental Affairs, at [heather.shek@maryland.gov](mailto:heather.shek@maryland.gov).

Sincerely,

Dennis R. Schrader  
Secretary

Cc: Steven R. Schuh, Deputy Secretary, Health Care Financing and Medicaid  
Heather Shek, Director, MDH Office of Governmental Affairs  
Sarah Albert, Department of Legislative Services, 5 copies (MSAR # 8421)

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## **Money Follows the Individual Accountability Act Report January 2020**

**Health-General Article §15-135** requires the Maryland Department of Health (MDH) to report to the Governor and the General Assembly 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.

This report is intended to satisfy these reporting requirements.

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### **BACKGROUND**

The 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 these 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, 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.

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 into the HCBOW Registry.

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

The range of community options continues to expand as the Medicaid Program implemented provisions of the Affordable Care Act including Community First Choice and the extension of the Money Follows the Person Demonstration.

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## **EFFORTS TO PROMOTE HOME AND COMMUNITY-BASED SERVICES**

This section presents a summary of the MDH's efforts to promote HCBS, including information on the Community First Choice (CFC) program, the Balancing Incentive Program (BIP), Maryland Access Point (MAP), and the MFP demonstration.

### *Community First Choice*

The Community First Choice (CFC) program was established under the ACA and offered by the Centers for Medicare and Medicaid Services (CMS) to provide states an additional 6 percent in Federal Financial Participation (FFP) on the program's services. To maximize the enhanced federal match, the State consolidated similar services from three existing programs (services previously covered through the LAH Waiver and WOA, as well as services covered through the State Plan personal care option for individuals needing assistance with activities of daily living (ADL)) and now offers these services through CFC. This included removing CFC 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. CFC continues to be a popular choice for individuals of all ages, living in their homes, in need of assistance with ADL, such as bathing, grooming, dressing, and instrumental activities of daily living (IADL).

### *The Balancing Incentive Program*

The Balancing Incentive Program (BIP), offered by CMS and created by the Affordable Care Act, provided financial incentives to States to increase community-based services as an alternative to institutional services. States that spent less than 50 percent of their long-term care dollars on community-based long-term services and supports received a two percent increase in their Federal Medical Assistance Percentages. In order to receive enhanced Federal Medical Assistance Percentages, states had to 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) conflict-free case management systems; and (3) a core standardized assessment.

On April 1, 2012, Maryland became the second BIP state to be approved to begin collecting enhanced FMAP. In the first 18 months of BIP participation, Maryland submitted key deliverables including achieving the community-based supports spending benchmark; implementation of a core standardized assessment across the LAH Waiver, WOA, and Personal Care programs; and implemented a No Wrong Door/Single Entry Point System, which in Maryland, is referred to as Maryland Access Point (MAP).

BIP's 2014 accomplishments were 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 included 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.

BIP'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 was generated by participation in BIP. Also during 2015, the remaining standardized assessment tools were selected and an agreement for use of the behavioral health assessment was finalized.

BIP's 2016 accomplishments include the implementation of standardized assessment tools for Brain Injury (MPAI 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 was to assist local Maryland Access Point sites in improving relationships with area hospitals and using innovation to improve hospital discharges.

Furthermore, in January of 2016, BIP funding supported implementation of the Level One Screen of Individuals on the Waiver Registry. At present, the Level One Screen remains in use to prioritize individuals' for waiver services based on their risk of institutionalization. MDH continues to triage the Registry using the Level One Screen as the primary mechanism (80% based on risk of institutionalization, 20% based on the date the individual was added to the Registry).

The BIP spanned October 1, 2011 to September 30, 2015; however, additional funds earned continued to be drawn down through the execution of various initiatives. Maryland was no longer eligible to receive BIP funds on or about September 30, 2016. The BIP was significant for Maryland because it helped transform 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 long term services and supports, and implemented conflict-free case management ensuring access to quality long term services and supports for all individuals seeking them.

#### *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.<sup>2</sup> MAP sites can be accessed in person or via phone and additional

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<sup>2</sup> 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.

information can be accessed through the Maryland Access Point website. The statewide toll-free number for the Maryland Access Point program went live in June of 2014.<sup>3</sup>

The MAP program operates and maintains a statewide, public website that provides an extensive database with a user-friendly search capability and e-form capability, among other functions. In 2014, staff from the Maryland Department of Aging (MDoA) and the MDH worked with the provider union in preparation for a new searchable personal assistance provider registry hosted and maintained on the MAP website. The provider registry is accessible to the 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 relaunched with these improvements and supported by a new vendor.

In addition to the statewide website, 20 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 MFP Demonstration and BIP. 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, the MDoA received a \$2.3 million three-year grant to: (1) enhance Options Counseling statewide, (2) integrate the MAP initiative with the BIP and other ACA programs, and (3) develop a strategy for sustainability. Options Counseling is a service through which all individuals and their caregivers plan and make informed decisions regarding their long term care.

MDH worked with 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 long term services and supports, the federal match will be an important sustainable 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. MDH 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.

A strong partnership between the MDoA and the MDH has allowed for continued progress on the initiatives of the grant. 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 to help people plan for future needs. The Level One Screen is a tool the MAP sites began 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 used to help determine service needs, prioritize individuals based on risk of institutionalization, and make referral recommendations.

In 2015, the MAP sites began to administer the Level One Screen to new callers that expressed an interest in waiver services. As of January 1, 2016, the MAP sites are responsible for adding

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<sup>3</sup> 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.

individuals to the HCBOW Registry. This provides an opportunity for people seeking services to receive Options Counseling and other referrals in one call. In 2018, a separate process to administer the Level One Screen was completed using a contractor. The contractor contacted all individuals on the HCBOW Registry and administered the Level One Screen to support future efforts to prioritize individuals based on risk and target limited waiver slot availability to those individuals that would be most likely to enter a nursing facility in the absence of services. In October 2019, the MDH began inviting individuals on the Registry to apply for the HCBOW based on risk of institutionalization as determined by data from the Level One Screen. The MAP Coordinators continue to refer participants to the HCBOW Registry and collect MFP consent forms.

### *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, 3,426 individuals have transitioned to the community from institutions, including 3,136 individuals from nursing facilities, 200 individuals from State Residential Centers (with 108 from Rosewood) and 90 individuals from chronic hospitals as of November 15, 2019. Transitions through the MFP Demonstration were originally set to end on December 31, 2018. In January 2019, a short-term extension for the demonstration was authorized through the Medicaid Extenders Act of 2019. CMS approved Maryland to continue transitioning individuals through the MFP demonstration through December 31, 2019.

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, MDH and its representatives have conducted face-to-face outreach visits with 52,124 institutional residents, provided options counseling 27,360 times, and assisted nursing facility residents with 7,948 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 2010 to provide direct housing assistance to MFP applicants<sup>4</sup>. The housing specialists worked closely with applicants, their supporters, case managers, housing authorities, and landlords to secure and sustain successful tenancy. In 2011, Maryland was awarded 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 technical assistance, but has also broadened the focus to

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<sup>4</sup> 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.

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 Program). 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). In March of 2015, Maryland was awarded an additional \$9.8 million in funding through a second round of the PRA Program. The second round of funds will be used to operate an additional 150 units for the same target population throughout the State of Maryland. This award demonstrates the strength of the housing partnership and the need for continued work in this area.

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 Department of Disabilities (MDOD), Maryland Department of Health (MDH), and Maryland Department of Housing and Community Development, as well as several non-profits and Centers for Independent Living, have developed trainings and program guidelines, as well as a web-based registry for interested individuals. As of November 15, 2019, the PRA Program has a total of 154 residents at 19 properties throughout the state.

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 units. This training was expanded to Supports Planning Agencies statewide in 2015 following the second PRA award, and is provided throughout the year as part of the required training for new supports planners. From 2015 to the present, MPAH has also held statewide trainings for Supports Planning Agencies, housing providers, Center for Independent Living staff, and other case management providers. The trainings provided information related to the PRA Program eligibility requirements, use of the MPAH web-based referral and registry system, strategies for assisting people to transition to permanent supportive housing, and approaches to support people with maintaining successful tenancy.

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 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. As of November 15, 2019, 63 individuals have been housed throughout the State of Maryland through the MFP Bridge Subsidy program.



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.

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

The Minimum Data Set 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 LTSS Maryland tracking system to automate the referral process. The MFP demonstration received 2,339 MDS referrals including 1,711 for individuals who are not eligible for Medicaid from January 1, 2019 to November 15, 2019.

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

From December 2002 to January 2014, 1,013 individuals have 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.

From January 6, 2014, through November 15, 2019, 2,294 individuals have transitioned from nursing facilities to the community through the HCBOW.

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**OBSTACLES CONFRONTED IN ASSISTING NURSING FACILITY RESIDENTS TO MAKE THE 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 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 home and community-based services.

The 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 CFC program and the waiver programs including Home and Community-Based Options, Community Pathways, Community Supports, Family Supports, 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.

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#### **RECOMMENDATIONS FOR REMOVING THE OBSTACLES CONFRONTED IN ASSISTING NURSING FACILITY RESIDENTS TO MAKE THE 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, MDH 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.