

M00A01.03
Office of Health Care Quality
Department of Health and Mental Hygiene

Operating Budget Data

(\$ in Thousands)

	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 02-04</u> <u>Change</u>	<u>FY 05</u>	<u>FY 04-05</u> <u>Change</u>
Operations	\$12,470	\$12,383	\$12,801	\$331	\$12,833	\$32
Contractual Services	694	591	962	268	911	-51
Grants	139	335	350	211	215	-135
Contingent & Back of Bill Reductions	0	0	0	0	-72	-72
Adjusted Grand Total	\$13,303	\$13,309	\$14,113	\$811	\$13,886	-\$227
General Funds	9,087	9,222	9,196	\$109	8,484	-712
Contingent & Back of Bill Reductions	0	0	0	0	-52	-52
Adjusted General Funds	\$9,087	\$9,222	\$9,196	\$109	\$8,432	-\$764
Special Funds	139	335	708	569	574	-134
Federal Funds	4,007	3,685	4,141	134	4,832	691
Contingent & Back of Bill Reductions	0	0	0	0	-20	-20
Adjusted General Funds	\$4,007	\$3,685	\$4,141	\$134	\$4,812	\$671
Reimbursable Funds	69	66	68	-1	68	0
Adjusted Grand Total	\$13,303	\$13,309	\$14,113	\$811	\$13,886	-\$227
Annual % Change		0.1%	6.0%		-1.6%	

- Since fiscal 2002 the Office of Health Care Quality (OHCQ) has taken approximately \$1.7 million in cost containment actions, most of which have been in personnel savings. However, much of these savings have been offset by the use of federal and special funds for personnel expense. OHCQ has also provided grade increases for nurses during this time.
- The fiscal 2005 allowance deletes \$206,000 associated with 4.3 positions that were eliminated in previous cost containment actions.
- General funds decrease by \$712,000 in the fiscal 2005 allowance while federal funds increase by \$690,000. This shift is largely due to a change in the cost allocation plan allowing OHCQ to claim additional Medicaid funds.

Note: Numbers may not sum to total due to rounding.

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Personnel Data

	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 02-04</u> <u>Change</u>	<u>FY 05</u>	<u>FY 04-05</u> <u>Change</u>
Regular Positions	228.8	202.8	184.4	-44.4	185.4	1.0
Contractual FTEs	3.5	2.6	5.4	1.9	4.4	-1.0
Total Personnel	232.3	205.4	189.8	-42.5	189.8	0.0

Vacancy Data: Regular Positions

Turnover Expectancy	7.62	4.11%
Positions Vacant as of 12/31/03	11.00	5.97%

- Cost containment actions since fiscal 2002 have deleted 44 regular positions from OHCQ. Surveyor positions have been the most frequently deleted, and the Developmental Disabilities and Assisted Living programs have been the most affected.
- The fiscal 2005 allowance adds one regular position, a health facility nurse surveyor.
- The fiscal 2005 allowance deletes one contractual position.

Analysis in Brief

Major Trends

OHCQ May Be Understaffed: Cost containment has reduced OHCQ’s staffing, and some of the performance measures seem to be reflecting this.

Issues

Implementation of “Vera’s Law”: In 2003 Chapter 409, Acts of 2003, or as it is also known, “Vera’s Law” was enacted. Chapter 409 requires the Department of Health and Mental Hygiene to develop guidelines for nursing homes that elect to use electronic monitoring with the consent of a resident or the resident’s legal representative.

Data Collection: OHCQ management lacks some key data necessary for decision-making.

De-institutionalization of the Elderly: There is discussion and support for providing in-home care for some elderly now in nursing homes.

Recommended Actions

	<u>Funds</u>
1. Reduce office supplies to reflect recent growth rate.	\$ 5,132
2. Reduce car maintenance expense.	1,975
3. Adopt narrative directing the Office of Health Care Quality to study the labor-hours required for each of the tasks it performs.	
Total Reductions	\$ 7,107

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Analysis of the FY 2005 Maryland Executive Budget, 2004

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Office of Health Care Quality
Department of Health and Mental Hygiene

Operating Budget Analysis

Program Description

The role of the Office of Health Care Quality (OHCQ), formerly known as Licensing and Certification, is to regulate certain health care facilities. Twelve types of facilities are regulated: nursing homes, hospitals, ambulatory surgical centers, endoscopy centers, birthing centers, home health agencies, health maintenance organizations, hospice care, physical therapy centers, developmental disability homes and facilities, mental health facilities, and substance abuse treatment facilities. Facilities and services are reviewed on a regular basis for compliance with the Code of Maryland Regulations as well as for compliance with federal regulations in those facilities participating in Medicare and Medicaid.

OHCQ's goals are to survey health care facilities and investigate complaints.

Performance Analysis: Managing for Results

OHCQ is meeting its mandate regarding the review of several types of facilities including nursing homes, alcohol and drug abuse programs, renal dialysis, hospitals, and health maintenance organizations (HMO). However, as **Exhibit 1** shows, OHCQ continues to have trouble completing some of its surveys and investigations. The completion rate of surveys and investigations for many categories has been flat or fallen since fiscal 2002. This trend correlates with the cost containment position reductions over the same period. Some of the surveys not completed are done on behalf of the federal government. The federal government regularly monitors OHCQ and has a variety of actions it can take should it find OHCQ is not meeting its contractual obligations. These actions range from a poor "report card" to withholding funds to ending the agreement. **OHCQ should comment on the safety and quality ramifications of it not meeting its mission as well as its standing with the federal government.**

Exhibit 1
Mandated Survey Completion Rates - Office of Health Care Quality
Fiscal 2002 - 2004

<u>Program and Number of Facilities</u>	<u>Requirement</u>	<u>Completion Rate of Mandated Surveys in FY 02</u>	<u>Completion Rate of Mandated Surveys in FY 03</u>	<u>Completion Rate of Mandated Surveys in FY 04 Est.</u>
Nursing home complaints (federal requirement)	Complaint must be investigated within 10 days	73%; average response time was 17 days	Only actual harm investigated on site	Only actual harm investigated on site
Adult medical day care (110)*	One survey every two years	36%	<5%	<5%
Developmental disabilities alternative living units (169 agencies and 2,535 units)	Annual survey	40%	40%	40%
Mortality review for individuals with mental illnesses	Review of all deaths that occur in State mental health facilities	<5%	<5%	<5%
Mortality review for developmentally disabled individuals (variable)	Investigate all deaths in State facilities or State-funded programs	30% (implementation started in calendar 2001)	90%	90%
Assisted living programs (1,218 licensed facilities)	Annual survey	22%	2%	2%
Community mental health programs (993)	Variable; depends on facility type	84%	80%	80%
Home health care agencies (55)	Annual for federal certification; are also 6 facilities that are State-only	100% of federal; 71% of State	100% of federal; 60% of State	100% of federal; 60% of State
Hospice care (35)	Federal requirements call for annual survey of 10% of facilities; State regulations require periodic surveys	11%	0% (OHCQ is investigating complaints only)	0% (OHCQ is investigating complaints only)
Outpatient physical therapy, occupational therapy, and speech therapy programs (157); portable X-ray (10); comprehensive outpatient rehabilitation (18)	Federal requirements call for annual survey of 10% of facilities	0%; OHCQ only surveyed 20 new programs for federal certification	0%; OHCQ only surveyed new programs for federal certification	0%; OHCQ only surveying new programs for federal certification

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<u>Program and Number of Facilities</u>	<u>Requirement</u>	<u>Completion Rate of Mandated Surveys in FY 02</u>	<u>Completion Rate of Mandated Surveys in FY 03</u>	<u>Completion Rate of Mandated Surveys in FY 04 Est.</u>
Ambulatory surgery centers (323)	Federal requirements call for annual survey of 10% of facilities; State requirements call for periodic surveys	100% of federal; 10% of State surveys	0% of federal and State surveys (new programs and complaints only)	0% of federal and State surveys (new programs and complaints only)
HMOs (9)	State requirements call for one survey per year	100%	87%	87%
Prison hospitals (10)	Two surveys per year	59%	40%	0%

* OHCQ notes that efforts in this area are being targeted toward complaint investigation and the certification of new programs; there were 16 new programs and 19 follow-up investigations in fiscal 2003.

JCAHCO = Joint Commission on Accreditations of Health Care Organizations

Source: Department of Legislation Services, Department of Health and Mental Hygiene

Fiscal 2004 Actions

Impact of Cost Containment

As a result of the Board of Public Works action in July 2003, OHCQ took cost containment actions totaling \$589,000 for fiscal 2004. OHCQ was able to achieve this savings by eliminating two contractual positions (\$43,000), using special funds instead of general funds for nursing home surveys (\$358,000), and increasing its federal fund appropriation (\$188,000).

Governor's Proposed Budget

The Governor's fiscal 2005 allowance is \$227,000 (1.6%) less than the fiscal 2004 working appropriation, as shown in **Exhibit 2**.

Exhibit 2
Governor's Proposed Budget
Office of Health Care Quality
(\$ in Thousands)

	<u>FY 03</u> <u>Actual</u>	<u>FY 04</u> <u>Approp.</u>	<u>FY 05</u> <u>Allowance</u>	<u>FY 04-05</u> <u>Change</u>	<u>FY 04-05</u> <u>% Change</u>
General Funds	\$9,222	\$9,196	\$8,484	-\$712	-7.7%
Contingent & Back of Bill Reductions	0	0	-52	-52	
Adjusted General Funds	\$9,222	\$9,196	\$8,432	-\$764	-8.3%
Special Funds	\$335	\$708	\$574	-\$134	-18.9%
Federal Funds	\$3,685	\$4,141	\$4,832	\$691	16.7%
Contingent & Back of Bill Reductions	0	0	-20	-20	
Adjusted Federal Funds	\$3,685	\$4,141	\$4,812	\$671	16.2%
Reimbursable Funds	\$66	\$68	\$68	\$0	0.0%
Adjusted Grand Total	\$13,309	\$14,113	\$13,886	-\$227	-1.6%

Where It Goes:

Personnel Expenses

Increase in regular earnings due to the addition of one regular position.....	\$42
Deletion of funds associated with 4.3 regular positions previously deleted.....	-206
Increments and other compensation	173
Employee and retiree health insurance	37
Workers' compensation premium assessment.....	9
Turnover adjustments	-30
Other fringe benefit adjustments.....	-4

Other Changes

Increase in car maintenance expenditures to reflect actual expenditures in fiscal 2003	13
Increase in office supplies to restore funding to pre-cost containment levels	8
Increase in training mostly in the hospital and HMO quality assurance unit to restore funding to fiscal 2003 actual	3
Increase in cost of insurance	3
Reduction in grants to be in line with expectations - special funds	-135

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Where It Goes:

Reduction in contract expenditures due to the expiration of a consultant's contract ..	-47
Reduction due to the deletion of two contractual positions.....	-46
Reduction in travel expenditures to be more in line with fiscal 2003 actuals	-39
Miscellaneous changes	-8
Total	-\$227

Note: Numbers may not sum to total due to rounding.

Impact of Cost Containment

The fiscal 2005 allowance reflects the elimination of \$71,750, the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in budget reconciliation legislation. Other cost containment actions includes \$650,000 in general fund savings by increasing federal funds from the Medicaid cost allocation plan for services provided by OHCQ to the developmental disability programs.

Personnel

The net changes to personnel result in a \$21,000 increase over the fiscal 2004 working appropriation; however, several of the component items change significantly. The fiscal 2005 allowance includes \$42,000 for a new health facility surveyor nurse. This is in response to Chapter 316, Acts of 2003 which requires the Department of Health and Mental Hygiene (DHMH) to license and regulate nurse registries. There are 38 nurse registries in the State that OHCQ will be responsible for overseeing. The allowance also includes a \$173,000 increase for increments. These are offset by a \$206,000 decrease resulting from the deletion of funds associated with 4.3 regular positions deleted in previous cost containment actions.

Grants

There is a \$135,000 decrease in grants. These grants are available from the civil penalties collected by OHCQ for violations of the federal law. They are to be used to fund projects designed to improve the quality of life of nursing home residents. Recent grants included a grant to the National Citizen's Coalition for Nursing Home Reform to expand the Family Council Development Project. This project is designed to help family members of nursing home residents learn how to effectively advocate for nursing home residents.

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The decrease in grants results from the appropriation of some of the federal civil penalty money to support quality assurance assistance provided by OHCQ to nursing homes. OHCQ expects to receive \$573,000 in civil penalty money in fiscal 2005, down about \$125,000 from fiscal 2004 and up by about \$240,000 from fiscal 2003.

Other Changes

Contractual expenses in the fiscal 2005 allowance decrease by \$47,000 due to the developmental disability database consultant contract expiring. The allowance also deletes two vacant contractual positions for a savings of \$46,000 over the fiscal 2004 working appropriation, and there is a \$39,000 reduction in travel expenses which makes the fiscal 2005 allowance for this item consistent with the fiscal 2003 actual expenditure.

Issues

1. Implementation of “Vera’s Law”

In 2003 Chapter 409, Acts of 2003, or as it is also known, “Vera’s Law” was enacted. Chapter 409 requires DHMH to develop guidelines for nursing homes that elect to use electronic monitoring with the consent of a resident or the resident’s legal representative.

Prior to Vera’s Law, it was not clear if electronic surveillance in nursing homes would have violated Maryland’s wiretapping and surveillance laws. Chapter 409 required OHCQ to develop these guidelines by December 1, 2003.

OHCQ should be prepared to discuss the utilization of electronic surveillance and how electronic surveillance may change the way it does surveys, especially complaint investigations.

2. Data Collection

OHCQ has had difficulty meeting all of its survey requirements. This may be attributable to an expanding workload and position reductions. However, some key data that would help determine the extent to which understaffing is a problem are not available.

OHCQ collects labor-hour data for certain activities, but the collection of this data has been incomplete and the process is being refined at this time. In federal fiscal 2001, (the most recent data available) Maryland operated slightly above the national average for the total number of labor-hours per nursing home survey. The national average was 106 labor-hours per survey, and Maryland spent an average of 108 labor-hours per survey. Similar information would be useful for all of OHCQ’s operations. Unfortunately, OHCQ is not collecting labor-hour data for all of its activities.

The Department of Legislative Services recommends that OHCQ collect labor-hour data for all inspections. This data could be collected by the position classifications, the type of facility inspected, and the type of inspection. This data could then be used to determine OHCQ’s specific workforce needs and identify problems in need of management attention.

3. De-institutionalization of the Elderly

The Secretary of DHMH has proposed expanding efforts to provide in-home care for some elderly who are now in nursing homes. Potential benefits include:

- savings for government and the individual;

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- greater individual preference; and
- higher comfort levels for the patient.

For those elderly who do not require constant care, in-home care has many advantages and attractions.

Shifting patients from institutions to the community will present new challenges for regulators of health quality. Regulators have less access to people's homes because of privacy and civil liberties concerns as well as the logistical issues of the geographical dispersion of private residences. In addition to these issues, the nature of the relationship between an in-home care provider and a client is substantively different than the one between a nursing home resident and an institution's employees.

OHCQ should comment and discuss how it envisions its function and regulatory role for the de-institutionalized elderly and their care providers.

Recommended Actions

- | | <u>Amount
Reduction</u> | |
|--|------------------------------------|----|
| 1. Reduce office supplies to reflect recent historical growth rates. This reduction still allows a 4.4% increase over fiscal 2004. | \$ 5,132 | GF |
| 2. Reduce car maintenance expense. This reduction still allows a 13% increase over the fiscal 2004 working appropriation. | 1,975 | GF |
| 3. Adopt the following narrative: | | |

Labor-Hour Study: The committee is concerned with the Office of Health Care Quality's inability to complete its legislatively mandated mission. While recognizing that cost containment may be contributing to this situation, the office lacks basic operational data to determine its degree of understaffing. The committee requests that the Office of Health Care Quality conduct a comprehensive study of the labor-hours required to conduct a survey, delineated by facility type, and then make an assessment of the office's labor needs.

Information Request	Author	Due Date
Labor-hour study	Office of Health Care Quality	December 1, 2004

Total General Fund Reductions	\$ 7,107
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Current and Prior Year Budgets

Current and Prior Year Budgets Office of Health Care Quality (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2003					
Legislative Appropriation	\$10,462	\$139	\$4,244	\$67	\$14,912
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-413	279	0	0	-134
Cost Containment	-720	0	0	0	-720
Reversions and Cancellations	-107	-83	-559	-1	-750
Actual Expenditures	\$9,222	\$335	\$3,685	\$66	\$13,308
Fiscal 2004					
Legislative Appropriation	\$9,785	\$350	\$3,953	\$68	\$14,156
Cost Containment	-589		0	0	-589
Budget Amendments	0	358	188	0	546
Working Appropriation	\$9,196	\$708	\$4,141	\$68	\$14,113

Note: Numbers may not sum to total due to rounding.

**Object/Fund Difference Report
DHMH - Office of Health Care Quality**

<u>Object/Fund</u>	<u>FY03 Actual</u>	<u>FY04 Working Appropriation</u>	<u>FY05 Allowance</u>	<u>FY04 - FY05 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	202.80	184.40	185.40	1.00	0.5%
02 Contractual	2.60	5.40	4.40	-1.00	-18.5%
Total Positions	205.40	189.80	189.80	0	0%
Objects					
01 Salaries and Wages	\$ 11,312,189	\$ 11,629,836	\$ 11,722,802	\$ 92,966	0.8%
02 Technical & Spec Fees	119,434	220,548	177,759	-42,789	-19.4%
03 Communication	78,870	71,826	78,870	7,044	9.8%
04 Travel	285,237	400,791	363,654	-37,137	-9.3%
07 Motor Vehicles	101,995	74,837	86,873	12,036	16.1%
08 Contractual Services	591,426	961,735	910,761	-50,974	-5.3%
09 Supplies & Materials	83,985	83,766	92,605	8,839	10.6%
10 Equip - Replacement	61,418	7,585	7,687	102	1.3%
11 Equip - Additional	36,221	13,670	4,831	-8,839	-64.7%
12 Grants, Subsidies, Contr.	334,387	350,000	215,000	-135,000	-38.6%
13 Fixed Charges	303,754	298,838	297,512	-1,326	-0.4%
Total Objects	\$ 13,308,916	\$ 14,113,432	\$ 13,958,354	-\$ 155,078	-1.1%
Funds					
01 General Fund	\$ 9,222,420	\$ 9,195,875	\$ 8,484,393	-\$ 711,482	-7.7%
03 Special Fund	335,020	708,254	574,050	-134,204	-18.9%
05 Federal Fund	3,685,265	4,141,003	4,831,645	690,642	16.7%
09 Reimbursable Fund	66,211	68,300	68,266	-34	0%
Total Funds	\$ 13,308,916	\$ 14,113,432	\$ 13,958,354	-\$ 155,078	-1.1%

Note: The fiscal 2004 appropriation does not include deficiencies, and the fiscal 2005 allowance does not reflect contingent reductions.

**Fiscal Summary
DHMH Office of Health Care Quality**

<u>Unit/Program</u>	<u>FY03 Actual</u>	<u>FY04 Legislative Appropriation</u>	<u>FY04 Working Appropriation</u>	<u>FY03 - FY04 % Change</u>	<u>FY05 Allowance</u>	<u>FY04 - FY05 % Change</u>
9999 Cost Containment	\$ 0	-\$ 70,055	\$ 0	0%	\$ 0	0%
S101 Executive Direction	1,377,451	2,297,565	1,396,852	1.4%	1,718,814	23.0%
S102 Hospitals, Ambulatory Care & Complaint	700,963	870,356	708,583	1.1%	742,935	4.8%
S103 Long Term Care	4,700,706	5,044,402	5,066,638	7.8%	4,724,794	-6.7%
S104 Developmental Disabilities Program	2,307,325	2,455,954	2,476,445	7.3%	2,375,155	-4.1%
S105 Developmental Disabilities Adm. Lic.	1,844,279	2,052,344	2,065,467	12.0%	2,064,707	0%
S106 Laboratory Licensing And Certification	697,573	696,799	696,334	-0.2%	644,564	-7.4%
S107 Substance Abuse	327,684	808,743	311,168	-5.0%	299,962	-3.6%
S108 Mental Hygiene	453,924	0	498,784	9.9%	505,501	1.3%
S109 Hospitals and HMOs	460,335	0	427,154	-7.2%	447,903	4.9%
S110 Information Services	438,676	0	466,007	6.2%	434,019	-6.9%
Total Expenditures	\$ 13,308,916	\$ 14,156,107	\$ 14,113,432	6.0%	\$ 13,958,354	-1.1%
General Fund	\$ 9,222,420	\$ 9,784,707	\$ 9,195,875	-0.3%	\$ 8,484,393	-7.7%
Special Fund	335,020	349,999	708,254	111.4%	574,050	-18.9%
Federal Fund	3,685,265	3,953,099	4,141,003	12.4%	4,831,645	16.7%
Total Appropriations	\$ 13,242,705	\$ 14,087,808	\$ 14,045,132	6.1%	\$ 13,890,088	-1.1%
Reimbursable Fund	\$ 66,211	\$ 68,300	\$ 68,300	3.2%	\$ 68,266	0%
Total Funds	\$ 13,308,916	\$ 14,156,108	\$ 14,113,432	6.0%	\$ 13,958,354	-1.1%

Note: The fiscal 2004 appropriation does not include deficiencies, and the fiscal 2005 allowance does not reflect contingent reductions.