M00F04
AIDS Administration
Department of Health and Mental Hygiene

Operating Budget Data

($ in Thousands)

	FY 07 Actual	FY 08 Working	FY 09 Allowance	FY 08-09 Change	% Change Prior Year
General Fund	$4,328	$4,693	$4,542	-$151	-3.2%
Special Fund	11,474	10,835	15,036	4,200	38.8%
Federal Fund	52,867	55,543	51,355	-4,187	-7.5%
Total Funds	**$68,670**	**$71,071**	**$70,933**	**-$138**	**-0.2%**

- The fiscal 2009 allowance decreases the AIDS Administration budget by $138,057, but the actual change in costs is masked by one-time health insurance savings and Other Post Employment Benefits (OPEB). Absent health insurance and OPEB funding which distort year-to-year comparisons, the underlying fiscal 2009 budget change for the AIDS Administration is decreasing $0.8 million, or 1.1%.
- Federal funds are decreasing by $4.2 million, and the allowance replaces these funds with special funds accrued from drug rebates in the Maryland AIDS Drug Assistance Program (MADAP).
- Funding for prescription drug subsidies are decreasing by $0.9 million while the funding of health insurance subsidies is increasing by $1.2 million. These adjustments bring the budget allocation in line with actual expenditures.

Personnel Data

	FY 07 Actual	FY 08 Working	FY 09 Allowance	FY 08-09 Change
Regular Positions	124.00	121.00	111.00	-10.00
Contractual FTEs	0.00	9.75	10.50	0.75
Total Personnel	**124.00**	**130.75**	**121.50**	**-9.25**
Vacancy Data: Regular Positions				
Turnover, Excluding New Positions		4.44	4.00%	
Positions Vacant as of 01/01/08		25.00	20.66%	

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

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- The fiscal 2009 allowance includes 10 fewer regular positions and 0.75 additional contractual positions than the fiscal 2008 working appropriation. It is expected that the regular positions will be abolished at the Board of Public Works meeting on January 30, 2008.

- All 10 of the abolished positions are currently vacant. Three have been vacant for more than a year, and 4 have been vacant for less than six months. The AIDS Administration has 5 other positions that have been vacant for more than a year.

- As of January 1, 2008, the AIDS Administration had a vacancy rate of 20.7% with 25 vacant positions. This is significantly higher than the budgeted turnover of 4.0%. In the past four years, the vacancy rate for the AIDS Administration has not been lower than 10%. After 10 positions are abolished the vacancy rate will drop to 13.5%.

Analysis in Brief

Major Trends

Distribution of Cases Remains Constant: In recent years, the distribution of HIV and AIDS cases throughout the State has remained constant with Baltimore City having almost half of the cases. Also, Maryland had the third highest annual AIDS case report rate of any state in calendar 2005.

MADAP Enrollment and Expenditures Steadily Increasing: MADAP, the Maryland AIDS Insurance Assistance Program (MAIAP), and MADAP-Plus have been in a growth trend since fiscal 2003. While MADAP and MADAP-Plus are expected to continue on that trend, MAIAP enrollment is expected to decrease in calendar 2008.

Funding Remains Level While Services Decrease: There is a direct relationship between the funding level and the number of services provided. In recent years, the budgets for medical services, case management, and dental services have been relatively level, which has caused the amount of services provided to decrease because the cost of providing the services increases from year to year.

Issues

Federal Reauthorization Requires Name-based HIV Reporting: The federal reauthorization of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, which is a major funding source for the AIDS Administration, changed the basis for the funding distribution to name-based HIV reporting. This means the AIDS Administration must change from a code-based to a name-based system to continue to receive Ryan White CARE funding. The AIDS Administration plans on completing the transition to a name-based system in fiscal 2009.

Centers for Disease Control and Prevention Recommends Universal HIV Testing: In September 2006, the federal Centers for Disease Control and Prevention (CDC) issued revised recommendations for HIV testing. The major revision is that all Americans between the ages of 18 to 64 should be routinely tested for HIV to help catch infections early and stop the spread of the deadly virus. Since Maryland's informed consent laws inhibit the implementation of the CDC recommendation, a workgroup was convened to formulate recommendations as to how the State should address the CDC recommendations.

Recommended Actions

1. Adopt narrative requesting a status report on the transition to name-based HIV reporting.

Operating Budget Analysis

Program Description

The AIDS Administration was established in 1987 to provide the Department of Health and Mental Hygiene (DHMH) and the State with expert scientific and public health leadership to combat the spread of HIV. The mission of the AIDS Administration is to decrease disability and death due to AIDS by reducing transmission of HIV and to help Marylanders already infected live longer and better lives. This is to be accomplished by monitoring the spread of the epidemic and its impact on populations within the State, controlling the spread of HIV infection in Maryland, and reducing morbidity and mortality associated with HIV. The key functions of the AIDS Administration are:

- executive oversight of the mission of the administration;
- planning, developing, and evaluating programs;
- supporting programs statewide for treatment and support services to ensure that people with HIV infection have access to the medical and support services needed to live with their disease, notably the Maryland AIDS Drug Assistance Program (MADAP) and two insurance assistance programs (one federal funded and one general funded);
- supporting programs statewide for prevention and education to reduce the likelihood of transmission by giving people the information they need to adopt behaviors which will prevent them from becoming infected; and
- surveillance to track HIV and AIDS.

The AIDS Administration consults and coordinates its work with the 24 local health departments. Each local health department has counseling and testing sites where free tests and consultations are available. The administration also funds clinical activities for the diagnosis and evaluation of patients with HIV.

Performance Analysis: Managing for Results

Distribution of Cases Remains Constant

Based on data through June 2007, there are currently an estimated 31,686 Marylanders living with HIV or AIDS (17,765 with HIV and 13,921 with AIDS). As shown in **Exhibit 1**, most of the people living with HIV/AIDS are concentrated in Baltimore City, Prince George's County, or the prison system. The distribution of persons living with HIV/AIDS shows little change from the prior year.

Exhibit 1
Distribution of Prevalent HIV/AIDS Cases for 2006

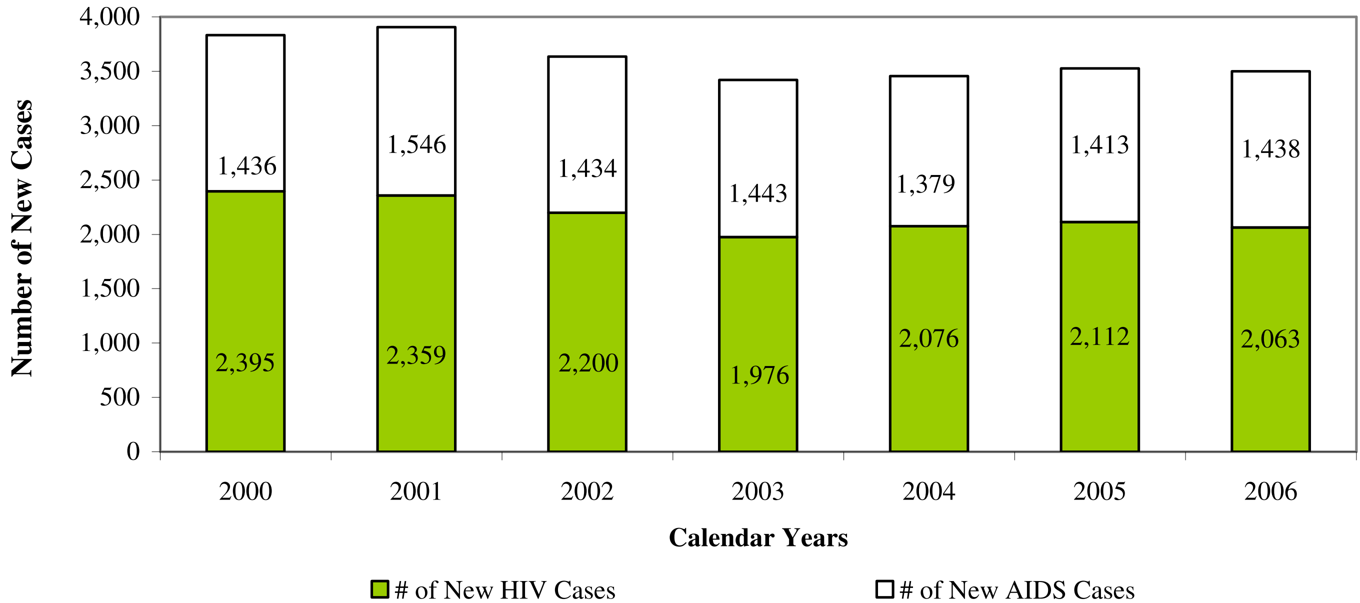
Jurisdiction	Number	Percent
Baltimore City	15,563	49.1%
Prince George's	4,983	15.7%
Corrections	2,675	8.4%
Montgomery	2,644	8.3%
Baltimore County	2,282	7.2%
Anne Arundel	931	2.9%
Harford	348	1.1%
Howard	322	1.0%
Remainder of State	1,938	6.1%
Total	**31,686**	**100.0%**

Source: AIDS Administration

Exhibit 2 details trends in new reported cases of HIV and AIDS in Maryland. The exhibit illustrates that new reported AIDS cases, as measured over the period 2000 through 2006, shows an average annual decline of 1.0%. With the advent of new drug therapies, new reported AIDS cases, which were running at about 2,300 per year in the mid-1990s, have fallen significantly with the most recent actual data reporting 1,438 new AIDS cases. The number of new AIDS cases increased in calendar 2005 and 2006. The AIDS Administration estimates new reported AIDS cases will decrease 2.3% over the next two years.

Over the same seven-year period, the number of new HIV cases has overall decreased 13.9%. However, in 2004 and 2005, the new reported HIV cases increased by 5.1% and 1.7%, respectively. This potential trend ended in 2006 with a 2.3% decrease in the number of new reported HIV cases.

Exhibit 2
Managing for Results
Incidence of HIV and AIDS in Maryland
Calendar 2000-2006 Estimates



Note: All estimates are produced from trends in data through June 30, 2007. Figures are based on date of diagnosis, not the date of reporting.

Source: AIDS Administration

In 2005, which is the most recent nationwide comparison conducted by the federal Centers for Disease Control and Prevention (CDC), Maryland had the third highest annual AIDS case report rate of any state. Also, Maryland's new reported AIDS cases were roughly double the national average. CDC analysis reported that nationally there were 14.0 new AIDS cases per 100,000 population in 2005 compared to the Maryland average of 28.5 per 100,000 population. AIDS Administration data as of June 30, 2007, shows that Maryland's AIDS rate has fallen to 24.8 cases per 100,000.

Maryland's AIDS population continues to show some striking differences to the nation as a whole. Specifically, for new AIDS cases reported in 2005:

- **Gender** – Female cases comprise a higher percentage of all adult/adolescent cases in Maryland at 37% compared to nationwide at 26%.

- **Race/Ethnicity** – Compared to the national AIDS cases, a higher percentage of Maryland cases are African American (Maryland 84% versus national 48%), while a much lower percentage are Hispanic (Maryland 2% versus national 20%), and white (Maryland 13% versus national 29%). It is important to note, these racial differences are due in part to the differences between the Maryland population and the United States population.

- **Exposure Category** – Maryland male AIDS cases are more likely to report injection drug use (Maryland 43% versus national 23%), and less likely to report that they are MSM (men having sex with men) than national cases (Maryland 27% versus nation 44%).

MADAP Enrollment and Expenditures Steadily Increasing

The AIDS Administration provides three major health services programs, which are MADAP, MADAP-Plus, and the Maryland AIDS Insurance Assistance Program (MAIAP), which are outlined in **Exhibit 3** below.

Exhibit 3
AIDS Administration's Health Services Programs

	Benefit	Income Eligibility	Fund Source
MADAP	Assistance with HIV/AIDS-related drug costs.	116% to 500% of the FPG	Federal Funds
MAIAP	Maintains health insurance for individuals testing positive for HIV who can no longer work due to their illness.	116% to 300% of the FPG	General Funds
MADAP-Plus	Complements MAIAP by providing health insurance assistance to persons at risk of losing private health insurance coverage.	301% to 500% of the FPG	Federal Funds

FPG: Federal Poverty Guideline
MADAP: Maryland AIDS Drug Assistance Program
MAIAP: Maryland AIDS Insurance Assistance Program

Source: AIDS Administration

MADAP is the largest program run by the AIDS Administration. Clients are certified eligible for MADAP for a one-year period, after which time they may reapply for certification. Following the increase in eligibility limits promulgated by the AIDS Administration in 2004, MADAP has one of the nation's most expansive eligibility requirements alongside extremely generous drug coverage.

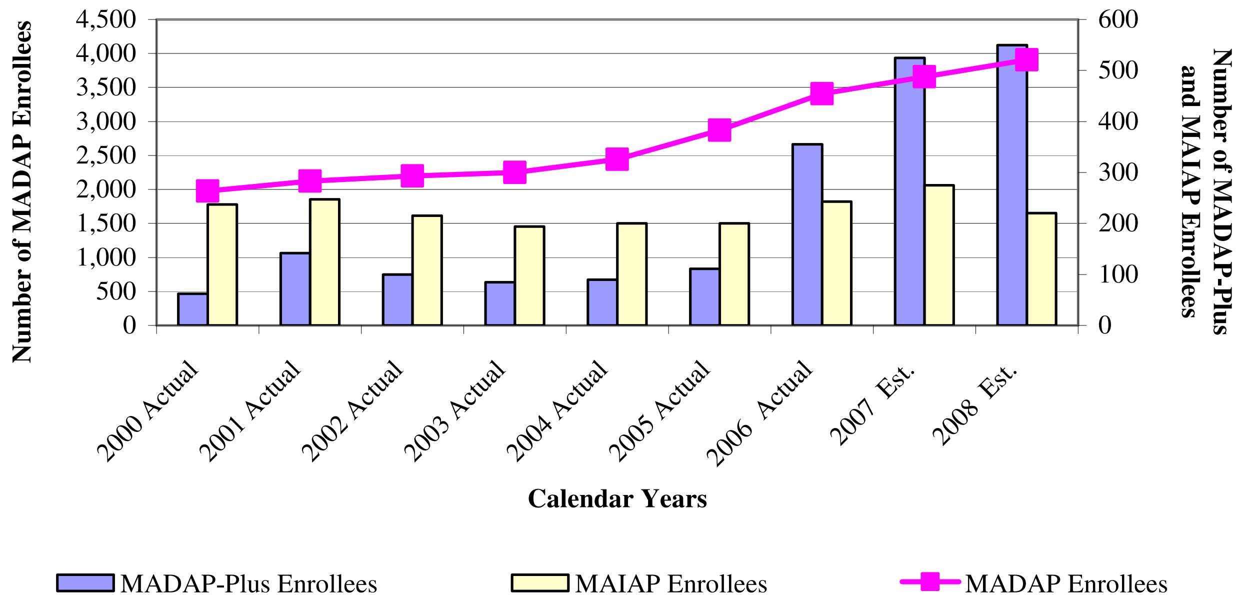
MAIAP's program enrollment is capped at 450, but actual enrollment is much lower. In calendar 2006, fewer than 250 individuals were enrolled in the insurance program. MAIAP was due to sunset in 2002, but Chapter 30 of 2002 extended the program until 2010.

MADAP-Plus had failed to live up to enrollment expectations for a number of years, but with the 220% increase in enrollment in calendar 2006, the program will finally surpass the original enrollment target of 300. In addition, MADAP-Plus enrollment increased another 48% in calendar 2007, and the program is expected to grow another 5% in calendar 2008.

As shown in **Exhibit 4**, MADAP, MAIAP, and MADAP-Plus have been in a growth trend since fiscal 2003. While MADAP and MADAP-Plus are expected to continue on that trend, MAIAP enrollment is expected to decrease in calendar 2008.

The Managing for Results (MFR) data shows that the budget for MAIAP is decreasing by almost $200,000 from calendar 2007 to 2008, which would have caused a decrease in MAIAP enrollment of 55. However, according to budget data, MAIAP funding is not experiencing a decrease close to the numbers indicated in the MFR data. From fiscal 2008 to 2009, MAIAP funding is decreasing $20,000, which translates to 6 fewer cases.

Exhibit 4
Managing for Results
Enrollees in MADAP and MAIAP



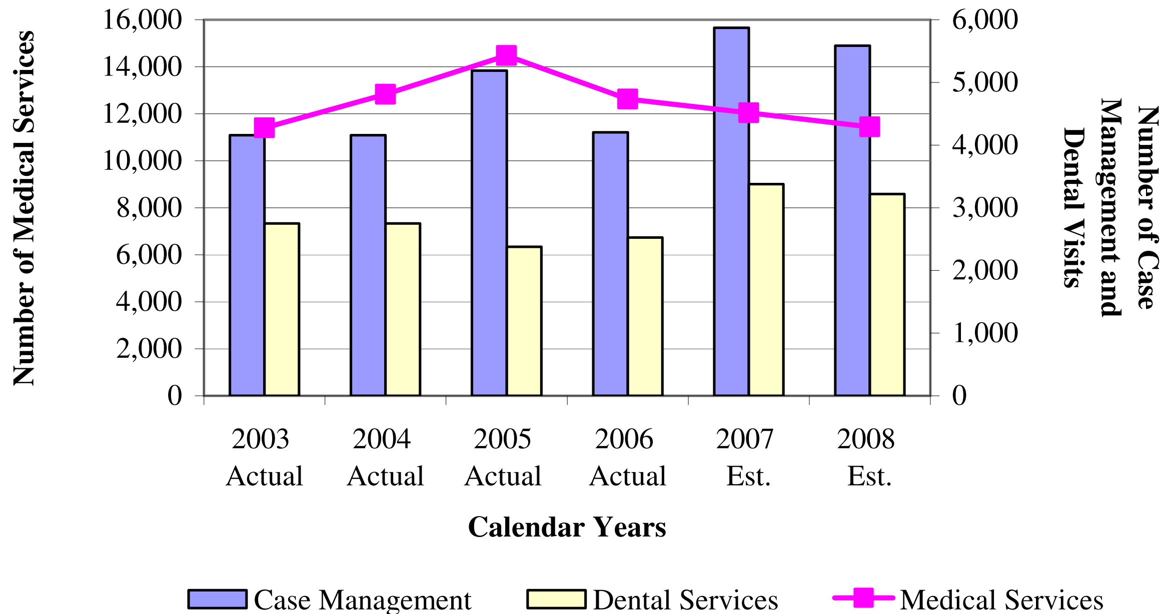
MADAP: Maryland AIDS Drug Assistance Program
MAIAP: Maryland AIDS Insurance Assistance Program

Source: AIDS Administration

Funding Remains Level While Services Decrease

Exhibit 5 demonstrates the relationship between funding level and amount of services provided by the AIDS Administration in the areas of medical services, case management, and dental services. As shown, there is a direct relationship between the funding level and the number of services provided. In 2006 when funding decreased by $0.4 million, medical services and case management services also decreased. In recent years, the budgets for all three services have been relatively level, which has caused the amount of services provided to decrease because the costs of providing the services increases from year-to-year.

Exhibit 5
Managing for Results
Various Services and the Budget



($ in Millions)

	2003 Actual	2004 Actual	2005 Actual	2006 Actual	2007 Est.	2008 Est.
Budget for Medical Services	$2.5	$2.5	$3.4	$3.3	$3.3	$3.3
Budget for Case Management	2.4	2.4	2.6	2.4	3.5	3.5
Budget for Dental Services	0.4	0.4	0.4	0.4	0.6	0.6
Total Budget	**$5.3**	**$5.3**	**$6.4**	**$6.0**	**$7.3**	**$7.3**

Source: AIDS Administration

Medical services consist of doctor visits at the local health departments and community agencies. The level of funding for medical services has been flat since fiscal 2005, and it is expected

to remain flat through calendar 2008. As a result, the number of medical services is expected to decrease.

The AIDS Administration provides funding to the local health departments to provide case management services for people enrolled in MADAP. Between calendar 2003 and 2006, the funding level and number of case management services remained flat. Then, in calendar 2007 the funding increased 46%, and it is expected to remain at that level through calendar 2008. However, as the funding remains flat the number of services provided is suppose to decrease by 5% in calendar 2008.

Dental services are provided at some health departments and two dental clinics in Baltimore City. The level of funding for dental services was level from calendar 2005 to 2006, and the number of services provided also remained level. In calendar 2007, the level of funding increased 41% and the number of services provided increased by 34%. Then, in calendar 2008, the funding will remain level, so the number of dental services provided is expected to decrease by 5%.

Governor's Proposed Budget

As shown in **Exhibit 6**, the AIDS Administration budget decreases by $138,057, or 0.2%, in the allowance. However, the actual change is masked by one-time health insurance savings used to fund a portion of health insurance premiums in fiscal 2008 and the first-time inclusion of Other Post Employment Benefits in the fiscal 2009 allowance. The AIDS Administration's underlying change is decreasing by $789,952, or 1.1%.

Personnel

The fiscal 2009 allowance includes 10 fewer positions than the fiscal 2008 working appropriation. It is expected that these positions will be abolished at the Board of Public Works meeting on January 30, 2008. All of the 10 abolished positions are currently vacant. Three have been vacant for more than a year, and four have been vacant for less than six months. The AIDS Administration has 5 other positions that have been vacant for more than a year.

As of January 1, 2008, the AIDS Administration had a vacancy rate of 20.7% with 25 vacant positions. This is significantly higher than the budgeted turnover of 4.0%. In the past four years, the vacancy rate for the AIDS Administration has not been lower than 10%. However, the fiscal 2009 allowance adjusts the budgeted turnover for the AIDS Administration from 4.8% to 4.0%. After the 10 positions are abolished, the vacancy rate will decrease to 13.5%.

Impact of Cost Containment

The reduction of 10 positions is part of a statewide cost containment action imposed by the General Assembly during the 2007 special session. In addition, the AIDS Administration eliminated some education and training contracts that were funded with general funds. The reduction totals $118,670 in general funds. The contracts conducted regional HIV prevention programs targeting the general public and provided HIV prevention education to high risk persons through the Division of Parole and Probation. The fiscal 2009 allowance includes $10.5 million for education and prevention programming, and $1.2 million of that funding consists of general funds.

Exhibit 6
Governor's Proposed Budget
DHMH – AIDS Administration
($ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Total
2008 Working Appropriation	$4,693	$10,835	$55,543	$71,071
2009 Governor's Allowance	4,542	15,036	51,355	70,933
Amount Change	-$151	$4,200	-$4,187	-$138
Percent Change	-3.2%	38.8%	-7.5%	-0.2%

Where It Goes:	
Personnel Expenses	
Employee and retiree health insurance	$377
Reduce Other Post Employment Benefits liability	357
Increments and other compensation	166
Decreased budgeted turnover to 4%	48
Workers' compensation	-61
Ten abolished positions	-522
Other fringe benefit adjustments	4
Other Changes	
MADAP-Plus allowance increases to stay in line with actual spending for the program	1,193
Increase in federal funding for HOPWA	627
New federal grant for an HIV Minority AIDS Initiative	304
Increased federal funding for Youth Services Initiative	88
Increased contractual staffing needed to accomplish the HIV reporting transition by December 2008	47
Travel expenses	20
Rent paid to Department of General Services	-36
End of federal funding for the web-based HIV risk behavior program	-136
Federal funding reduced for prevention activities	-136
Education and training funding reduced	-212
Human service contracts to local health departments	-218
End of federal SAMHSA grant	-387
Reduction in funding for health services	-749
Pharmaceutical costs for MADAP brought in line with actual costs	-912
Total	**-$138**

HOPWA: Housing Opportunities for Persons with AIDS
MADAP: Maryland AIDS Drug Assistance Program
SAMHSA: Substance Abuse and Mental Health Services Administration

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

Drug Rebates

In the fiscal 2009 allowance, federal funds are decreasing $4.2 million and being replaced with $4.2 million in special fund revenue accrued from drug rebates in MADAP. Federal law makes the AIDS Administration eligible to receive drug rebates from the pharmaceutical companies for pharmaceutical purchases made under MADAP.

In fiscal 2009, the AIDS Administration anticipates receiving $12.8 million in drug rebates, but the allowance includes $15.0 million in drug rebate special funds. The additional $2.2 million of the drug rebate allocation in fiscal 2009 is contingent on the passage of a departmental bill making the special fund holding the drug rebates non-lapsing, which would allow drug rebate balances from previous years to be spent in fiscal 2009 and future years. **The AIDS Administration should update the committees on the status of the departmental bill to make the drug rebate special fund non-lapsing. Also, the AIDS Administration should provide the committees with a contingency plan for MADAP if the bill is not successful.**

If the AIDS Administration continues to receive a level federal grant award, the administration may have trouble maintaining MADAP benefits at the current level. In 2010, it is estimated that the available drug rebate balance will be $0.7 million to $1.2 million. If federal fund and drug rebate attainment is level from fiscal 2009, then MADAP will be short $1.0 million or $1.5 million absent any growth in the program. **Since the fiscal 2009 allowance relies on funding in excess of the annual revenue stream, the AIDS Administration should discuss the future sustainability of MADAP if the federal grant award remains level.**

MADAP-Plus

MADAP-Plus is a program administered by the AIDS Administration that maintains health insurance for individuals testing positive for HIV who are at risk for losing private health insurance and have a household income of 301% to 500% of the federal poverty guidelines. The fiscal 2009 allowance increases the allocation for MADAP-Plus by $1.2 million to correspond with actual spending for MADAP-Plus in fiscal 2007. The fiscal 2008 working appropriation for the program remains at almost 50% of what the program is expected to cost in fiscal 2008. However, funding is available to backfill the MADAP-Plus funding in fiscal 2008 because the pharmaceutical costs of MADAP appear to be overbudgeted. Also, there are available drug rebates if needed.

Pharmaceutical Costs

In the allowance, the increase in funding for MADAP-Plus is offset by a $0.9 million decrease in the cost of pharmaceuticals for MADAP. The cost of drugs has been decreasing even though the MADAP enrollment has been increasing. According to the AIDS Administration, the reason the MFR data reflects a decreasing average cost per enrollee in MADAP is because most of the new enrollees either have insurance or qualify for MADAP-Plus. As a result, the insurance coverage covers some of the enrollee’s pharmaceutical costs, which results in a decreased average cost per enrollee.

Housing Opportunities for Persons with AIDS (HOPWA)

Annual funding from the federal Department of Housing and Urban Development's HOPWA is provided to the AIDS Administration to fund tenant-based rental assistance for persons living with HIV/AIDS whose income is at or below 80% of the mean income in their county of residence. The services include a housing care plan to assist individuals in obtaining permanent stable housing. Funding goes to 13 of the 24 counties. The federal funding level for HOPWA decreased by 50% from fiscal 2007 to 2008. However, the $843,000 in funding available for HOPWA in fiscal 2009 is more than double the fiscal 2007 funding.

HIV Minority AIDS Initiative

The AIDS Administration received new funding from the federal Health Resources and Services Administration through a competitively awarded grant. The grant provides $304,000 in funding for fiscal 2009 to provide education and outreach services through a network of providers in Baltimore City to increase access to MADAP by minority populations.

Issues

1. Federal Reauthorization Requires Name-based HIV Reporting

In December 2006, Congress passed the reauthorization of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, which funds almost 60% of the AIDS Administration budget. The Ryan White CARE Act provides primary health care and support services for persons living with HIV/AIDS.

With respect to Maryland, the major change in the Ryan White CARE Act reauthorization was the change to the basis for funding distribution. With the reauthorization, Congress changed the requirements of funding from a formula based on AIDS surveillance to a formula based on HIV surveillance. Along with that requirement, the federal government will only accept name-based HIV data and not code-based data, which is how Maryland collected HIV data.

Federal Funding

Most of the Ryan White CARE Act funding received by the State is through Title II, which provides grants to all 50 states for a variety of medical and support services. Title II also includes the funding for MADAP that supports the provision of HIV medications. In the reauthorization, the funding level for Title II of the Ryan White CARE Act is held harmless at a rate of 95% of the federal fiscal 2006 formula grant awards.

Over the next two years, the reauthorization imposes a penalty of sorts to states that submit code-based HIV data. Since the reliability of the code-based data has been deemed questionable, the funding for states submitting code-based HIV information to the Department of Health and Human Services (HHS) will be reduced to adjust for possible duplicative case reporting.

The Plan

States that did not have a sufficiently accurate and reliable name-based HIV reporting system at the time the bill was passed were given a waiver from the federal government to establish a system. In federal fiscal 2009, the Secretary of HHS may terminate the waiver for any state that does not substantially follow the transition plan submitted to obtain the waiver. However, the waiver may be continued through federal fiscal 2010 if the state can demonstrate that it is in substantial compliance with the transition plan submitted.

To comply with the federal waiver, DHMH submitted a transition plan to CDC and HHS. During the 2007 session, legislation was also passed that made the necessary statutory changes to enable the AIDS Administration to implement a name-based HIV reporting system. Almost immediately after the bill was signed, the AIDS Administration began reporting new HIV cases to the CDC in a name-based format.

In the late spring and early summer of 2007, the AIDS Administration focused on educating providers, laboratories, health officers, and professional associations about the change in reporting requirements. Since then, the administration has been working on setting up a system internally to re-report the code data as name data to the CDC. As of early January 2008, roughly 20% of the HIV cases had been re-reported to the CDC in a name-based format. The AIDS Administration anticipates that the first 50% or 60% of case re-reporting will be relatively easy to match, but the last cases will be more difficult.

The cases of HIV that have been reported by code need to be fully re-reported by name by December 31, 2008, and the AIDS Administration anticipates that goal will be achieved. The AIDS Administration is in the process of hiring 18 temporary staff to re-report code-based data to name-based data, and in fiscal 2009 3 more temporary positions will be added. In addition to re-reporting HIV cases in a name-based format, the AIDS Administration has to work with other states to resolve the potential of duplicative cases. **The AIDS Administration should update the committees on the progress the administration has made toward implementing a name-based HIV reporting system, specifying whether the re-reporting process is on schedule.**

2. Centers for Disease Control and Prevention Recommends Universal HIV Testing

In September 2006, the federal CDC issued revised recommendations for HIV testing, which reversed the decade-old approach of HIV testing recommendations. For roughly the past 10 years, CDC recommended that individuals at high risk for HIV should be tested, and the test was to be accompanied with comprehensive counseling and informed consent elements. The new recommendations relax the counseling and informed consent elements and expand testing to everyone between the ages of 18 through 64 to help catch infections early and stop the spread of the virus. The CDC also revised the recommendations for testing pregnant women to advocating that HIV screening be included in the routine panel of prenatal screening tests for all pregnant women.

The new HIV testing recommendations are part of an all-out effort to address three problems:

- an estimated 250,000 Americans are infected with HIV and are unaware of their status;
- 40% of infected people are diagnosed when their infection is already in an advanced stage; and
- the number of new infections annually in the United States has not declined in 15 years.

The fact that one-quarter of people living with HIV are unaware of their status is troubling because researchers estimate that untested HIV-infected individuals are more than twice as likely to engage in high-risk sexual behavior. It is estimated that people who are unaware of their infections to account for 50% to 70% of new sexually transmitted HIV infections.

Timely access to diagnostic HIV test results improves health outcomes. Currently, persons with the HIV infection often visit health care settings for HIV-related symptoms years before diagnosis but are not tested for HIV because they are not considered to be at risk. The recommendations are intended for providers in all health care settings, including hospital emergency departments, urgent care clinics, inpatient services, sexually transmitted disease (STD) clinics or other venues offering clinical STD services, tuberculosis clinics, substance abuse treatment clinics, other public health clinics, community clinics, correctional health care facilities, and primary care settings.

The problem is that the CDC recommendations are inconsistent with the law in a number of states, including Maryland. The new recommendations eliminate the previous requirement for written consent and pretest counseling. However, as of February 2007, 35 states required written consent and 28 states required pre-test counseling. Over the past year, many states (including Maryland), have wrangled with the decision to move away from the status quo of informed consent and test counseling to adhere to the CDC's recommendations. States such as Illinois, California, and Maine have decided to remove the written consent and counseling requirements, while Massachusetts has resisted the push to waive the written consent requirement.

Exhibit 7 shows the three areas in which Maryland statute is incompatible with the CDC recommendations.

In Chapter 183 of 2007, the Maryland legislature created a workgroup to be convened by the AIDS Administration to review and make recommendations regarding the CDC recommendations. The workgroup consisted of 45 stakeholders, and the final report was submitted January 4, 2008. In addition to the workgroup meetings, the AIDS Administration collected public commentary from three town hall meetings and through the agency's web site.

The final recommendation of the workgroup is for legislation to be introduced during the 2008 session to modify the informed consent and test counseling processes for HIV testing. Specifically, the workgroup recommends that documentation of provider-patient information exchange should occur, but a separate HIV testing written consent form is not necessary. With respect to the testing requirements, the workgroup recommends relaxing the pre-test requirement to permit other mediums of communicating the information, such as brochures, videos, or counselors. However, post-test counseling for HIV-positive clients should continue to be in person.

In fiscal 2009, the Department of Public Safety and Correctional Services (DPSCS) will change its policy with regard to HIV testing. Currently, committed offenders are tested on a voluntary basis at intake or if a doctor prescribes the test due to the individual presenting symptoms. The fiscal 2009 allowance for DPSCS includes $3 million in general funds for additional HIV testing. Committed offenders will be tested at intake and release on an opt-out basis. The funding will cover the testing and treatment costs for those offenders found to be positive.

The AIDS Administration should update the committees on the status of potential legislative changes to the informed consent and the test counseling statutes. The administration should also explain how the new policies will change the work of the administration and the plan for informing the public and the health care profession about the new policies.

Exhibit 7
Comparison of Maryland Statute and CDC Recommendations

	Maryland Law	CDC Recommendation
Screening Options	**Opt-in Screening** – A patient must separately consent to HIV screening (Health-General Article, Section 18-336).	**Opt-out Screening** – HIV screening is recommended for patients in all health-care settings after the patient is notified that testing will be performed unless the patient declines.
Consent	**Written Consent** – A patient must sign a written consent form approved by DHMH that is separate from any other consent form and contains specific information. (Health-General Article, Section 18-336).	**General Consent** – Separate written consent should not be required. General consent for medical care should be considered sufficient to encompass consent for HIV testing.
Pre-test Counseling	**Required** – A medical provider must provide content specific counseling before a patient may consent to an HIV test. (Health-General Article, Sections 18-336 and 18-338.2).	**Not Required** – Prevention counseling should not be required with HIV diagnostic testing or as part of HIV screening programs in health care settings.

CDC: Centers for Disease Control and Prevention
DHMH: Department of Health and Mental Hygiene

Source: AIDS Administration

Recommended Actions

1. Adopt the following narrative:

   Status Report on the Transition to Name-based HIV Reporting: The committees would like to monitor the Department of Health and Mental Hygiene's (DHMH) AIDS Administration's transition to name-based HIV reporting. The federal reauthorization of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, which is a major funding source of the AIDS Administration, changed the basis for the funding distribution to name-based HIV reporting. This means the AIDS Administration must change from a code-based to a name-based system to continue to receive Ryan White CARE funding. The AIDS Administration needs to complete the transition to a name-based system by December 31, 2008, in order to sustain federal funding at a level comparable to the current level. The AIDS Administration should report on the status of the transition by January 10, 2009.

Information Request	Author	Due Date
Status report on the transition to name-based HIV reporting	DHMH	January 10, 2009

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets
AIDS Adminsitration
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2007					
Legislative Appropriation	$10,640	$51	$57,553	$0	$68,243
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-6,312	11,429	0	0	5,117
Reversions and Cancellations	0	-5	-4,685	0	-4,690
Actual Expenditures	**$4,328**	**$11,474**	**$52,867**	**$0**	**$68,670**
Fiscal 2008					
Legislative Appropriation	$4,688	$10,835	$57,054	$0	$72,578
Cost Containment	-17	0		0	-17
Budget Amendments	22	0	-1,511	0	-1,490
Working Appropriation	**$4,693**	**$10,835**	**$55,543**	**$0**	**$71,071**

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

Fiscal 2007

The AIDS Administration spent $68.7 million in fiscal 2007, which is $0.4 million more than the legislative appropriation. The management of the MADAP drug rebates generated a significant fund swap for the AIDS Administration causing special funds to increase and general and federal funds to decrease.

In past years, the drug rebate funds went directly to the AIDS Administration, but the fiscal 2007 allowance proposed changing the accounting of the drug rebate funds by having the rebate funds go into the State's general fund. Since the accounting change would have caused a significant decrease in funding for the program, the allowance allocated $6.0 million in general funds and $5.3 million in federal funds to make up the difference. However, legislation was adopted during the 2006 session to avoid the accounting change by establishing a special fund to receive the rebate funds ($11.3 million in special funds) and only to be used to fund MADAP. As a result, the additional general and federal funds were not needed in the AIDS Administration, and the general funds ($6.0 million) were redistributed throughout DHMH and most ($4.7 million) of the federal funds were canceled.

The AIDS Administration's general funds also decreased as a result of decreased expenditures for MAIAP's purchase of care services ($115,066), increased turnover ($126,880), savings due to the hiring freeze ($80,000), and a Department of Budget and Management telecommunications surplus ($13,691). Special funds also increased by $83,550 to cover the higher than anticipated costs of human services contracts.

Fiscal 2008

The fiscal 2008 working appropriation for the AIDS Administration is $71.1 million, which is $1.5 million less than the legislative appropriation. The general fund appropriation increased $21,781 due to the cost-of-living adjustments, but this increase was offset by $16,949 in cost containment in the area of supplies and fixed charges. Lower than anticipated federal fund attainment also caused the MADAP appropriation for the AIDS Administration to decrease by $1.5 million.

Appendix 2

Audit Findings

Audit Period for Last Audit:	April 14, 2004 – March 20, 2007
Issue Date:	October 2007
Number of Findings:	4
Number of Repeat Findings:	1
% of Repeat Findings:	25%
Rating: (if applicable)	n/a

Finding 1: Controls were not in effect to prevent payments of pharmacy claims for clients with third-party insurance coverage.

Finding 2: Verifications were not performed to ensure pharmacy claims paid were properly supported and related prescriptions were provided to clients.

Finding 3: **User access to the pharmacy and insurance carrier claims payment database was not adequately restricted.**

Finding 4: The administration did not ensure that State funds held in bank accounts, maintained by a private contractor, were adequately collateralized.

*Bold denotes item repeated in full or part from preceding audit report.

Object/Fund Difference Report
DHMH – AIDS Administration

Object/Fund	FY07 Actual	FY08 Working Appropriation	FY09 Allowance	FY08-FY09 Amount Change	Percent Change
Positions					
01 Regular	124.00	121.00	111.00	-10.00	-8.3%
02 Contractual	0	9.75	10.50	0.75	7.7%
Total Positions	**124.00**	**130.75**	**121.50**	**-9.25**	**-7.1%**
Objects					
01 Salaries and Wages	$ 6,942,236	$ 7,574,388	$ 7,942,941	$ 368,553	4.9%
02 Technical and Spec. Fees	0	301,606	348,363	46,757	15.5%
03 Communication	67,187	81,788	85,773	3,985	4.9%
04 Travel	64,996	79,872	99,787	19,915	24.9%
07 Motor Vehicles	22,168	7,680	10,505	2,825	36.8%
08 Contractual Services	27,760,395	24,439,097	24,800,053	360,956	1.5%
09 Supplies and Materials	33,652,696	38,496,738	37,584,858	-911,880	-2.4%
10 Equip. – Replacement	8,125	568	0	-568	-100.0%
11 Equip. – Additional	68,429	0	0	0	0.0%
13 Fixed Charges	83,786	89,523	60,923	-28,600	-31.9%
Total Objects	**$ 68,670,018**	**$ 71,071,260**	**$ 70,933,203**	**-$ 138,057**	**-0.2%**
Funds					
01 General Fund	$ 4,328,292	$ 4,693,169	$ 4,542,341	-$ 150,828	-3.2%
03 Special Fund	11,474,352	10,835,281	15,035,527	4,200,246	38.8%
05 Federal Fund	52,867,374	55,542,810	51,355,335	-4,187,475	-7.5%
Total Funds	**$ 68,670,018**	**$ 71,071,260**	**$ 70,933,203**	**-$ 138,057**	**-0.2%**

Note: The fiscal 2008 appropriation does not include deficiencies.

Appendix 3

Fiscal Summary
DHMH – AIDS Administration

Program/Unit	FY07 Actual	FY08 Wrk Approp	FY09 Allowance	Change	FY08-FY09 % Change
G101 Executive Direction	$ 598,356	$ 559,633	$ 544,742	-$ 14,891	-2.7%
G102 Exec. Dir. – Prevention Cooperative Agree	252,112	281,148	249,562	-31,586	-11.2%
G104 Surveillance	96,517	85,029	92,631	7,602	8.9%
G198 Prior Years Grant Activity	83,677	5,127	5,127	0	0%
G202 Epi. and Health Svcs. – Prevent Coop Agreement	0	63,110	1,802	-61,308	-97.1%
G204 Epi. and Health Svcs. – Ryan White	82,348	225,057	200,496	-24,561	-10.9%
G401 Surveillance	167,990	386,053	443,824	57,771	15.0%
G403 Surveillance – Surveillance Coop Agreement	1,944,401	1,736,318	1,613,024	-123,294	-7.1%
G413 Aids-Antiretroviral Surveillance	99,897	12,813	0	-12,813	-100.0%
G433 Evaluate Web-based HIV Risk Behavior	137,197	135,903	0	-135,903	-100.0%
G443 Surveillance/Medical Monitoring Project	313,473	298,100	332,004	33,904	11.4%
G453 Surveillance/Perinatal Prevention	102,430	55,130	130,886	75,756	137.4%
G501 HIV Health Services	1,636,941	1,614,480	1,434,519	-179,961	-11.1%
G504 HIV Health Svcs. – Ryan White	8,617,088	9,988,855	9,564,706	-424,149	-4.2%
G505 HIV Health Svcs. – HRSA Pediatric Svcs.	926,370	1,044,573	1,015,277	-29,296	-2.8%
G511 HIV – MADAP/MAIAP Programs	957,285	953,560	957,997	4,437	0.5%
G514 HIV – Ryan White Programs	39,897,014	41,699,346	41,799,520	100,174	0.2%
G517 HIV Health Services/HOPWA Formula	399,371	215,770	843,110	627,340	290.7%
G524 HIV Minority AIDS Initiative	0	0	304,000	304,000	0%
G525 Youth Initiative	394,520	355,009	450,459	95,450	26.9%
G601 Education and Training	368,509	365,103	282,345	-82,758	-22.7%
G602 Educ. and Trng. – Prevent. Coop. Agreement	4,129,599	4,984,399	4,935,651	-48,748	-1.0%
G606 AIDS – SAMHSA	1,032,998	386,598	0	-386,598	-100.0%
G701 Prevention Programs	720,053	847,727	914,314	66,587	7.9%
G702 Prev. Programs – Prevent. Coop. Agreement	5,242,874	4,362,927	4,393,294	30,367	0.7%
G706 Ecstacy – Other Club Drugs Prevention	4,239	0	0	0	0%
G709 Alcohol and Drug Abuse	464,759	409,492	423,913	14,421	3.5%
Total Expenditures	**$ 68,670,018**	**$ 71,071,260**	**$ 70,933,203**	**-$ 138,057**	**-0.2%**
General Fund	$ 4,328,292	$ 4,693,169	$ 4,542,341	-$ 150,828	-3.2%
Special Fund	11,474,352	10,835,281	15,035,527	4,200,246	38.8%
Federal Fund	52,867,374	55,542,810	51,355,335	-4,187,475	-7.5%
Total Appropriations	**$ 68,670,018**	**$ 71,071,260**	**$ 70,933,203**	**-$ 138,057**	**-0.2%**

Note: The fiscal 2008 appropriation does not include deficiencies.

Appendix 4