

**M00M**  
**Developmental Disabilities Administration**  
 Department of Health and Mental Hygiene

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$453,634	\$472,965	\$486,306	\$13,341	2.8%
Special Fund	3,079	3,414	4,444	1,030	30.2%
Federal Fund	248,797	265,784	297,043	31,259	11.8%
Reimbursable Fund	<u>192</u>	<u>104</u>	<u>105</u>	<u>2</u>	<u>1.5%</u>
<b>Total Funds</b>	<b>\$705,701</b>	<b>\$742,266</b>	<b>\$787,898</b>	<b>\$45,632</b>	<b>6.1%</b>

- The fiscal 2009 allowance for the Developmental Disabilities Administration (DDA) represents a \$45.6 million, or 6.1%, increase over the fiscal 2008 working appropriation. Included in the increase are costs associated with health insurance and Other Post Employment Benefits (OPEB) liability, which account for \$4.8 million of the total increase.
- Excluding costs associated with health insurance and OPEB liability funding, the Governor's proposed allowance for fiscal 2009 increases \$40.8 million, or 5.6%.

***Personnel Data***

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>
Regular Positions	1,232.15	1,232.45	1,159.95	-72.50
Contractual FTEs	<u>74.94</u>	<u>71.11</u>	<u>71.32</u>	<u>0.21</u>
<b>Total Personnel</b>	<b>1,307.09</b>	<b>1,303.56</b>	<b>1,231.27</b>	<b>-72.29</b>

***Vacancy Data: Regular Positions***

Turnover, Excluding New Positions	57.42	4.95%
Positions Vacant as of 12/31/07	119.50	9.70%

- In the fiscal 2009 allowance, 72.50 full-time equivalent positions are abolished within DDA, in accordance with action by the Board of Public Works (BPW) to reduce the number of PINs across all agencies.

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

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- The projected fiscal 2009 turnover rate is 4.95%. To achieve the proposed turnover rate, it will be necessary to maintain 57.42 vacancies.
- As of January 1, 2008, the agency had 119.50 vacant positions. However, following the abolitions made by BPW on January 30, 2008, the agency has only 47.0 vacant positions out of an authorized 1,159.95 for a vacancy rate of 4.0%.

## ***Analysis in Brief***

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### **Major Trends**

***New Admissions to the State’s Residential Centers Remains Frozen:*** Admission to one of the four State Residential Centers (SRCs) is frozen to all individuals, with the exception of those that are ordered by the court system to be admitted to a DDA facility. At the same time, DDA continues to work to place those individuals that are currently in an SRC in a community care placement. As a result, the average daily population is steadily declining.

### **Issues**

***Rosewood Closure Plan:*** In January 2008, the Department of Health and Mental Hygiene (DHMH) announced the decision to close Rosewood. The plan set forth by DHMH accounts for the transition of the 165 individuals currently residing in the facility to appropriate community placements or to an alternate SRC by June 2009. An alternative placement for court-ordered individuals currently residing at Rosewood has not yet been determined, constituting a major obstacle to the successful and safe closure of Rosewood.

### **Recommended Actions**

	<u><b>Funds</b></u>
1. Reduce funding for Transitioning Youth Initiative.	\$ 3,938,883
2. Add language to restrict funds associated with the closure of Rosewood.	
3. Adopt narrative requesting a report on the policy of serving court-involved individuals within the Developmental Disabilities Administration system.	
<b>Total Reductions</b>	<b>\$ 3,938,883</b>

## **Updates**

***Money Follows the Person Initiative:*** Funds included in the fiscal 2008 budget were released in December 2007 associated with the Money Follows the Person initiative following a report from DHMH detailing the way in which it would spend the funds to implement the program. The fiscal 2008 DHMH budget included \$2 million in held funds for this purpose.

***Performance-based Contracting for Community Service Provider Reimbursement Agreements:*** In response to a 2007 *Joint Chairmen’s Report* request, DDA submitted a report on its efforts to incorporate performance-based contracting in community service provider reimbursement agreements.

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**Department of Health and Mental Hygiene**

***Operating Budget Analysis***

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**Program Description**

A developmental disability is a condition attributable to a mental or physical impairment that results in substantial functional limitations in major life activities and which is likely to continue indefinitely. Examples include autism, blindness, cerebral palsy, deafness, epilepsy, mental retardation, and multiple sclerosis. The Developmental Disabilities Administration (DDA) provides direct services to these individuals in four State residential centers and through funding of a coordinated service delivery system that supports the integration of these individuals into the community. Because the majority of the individuals served are Medicaid-eligible, the State receives federal matching funds for services provided to Medicaid enrolled individuals. Goals of the administration include:

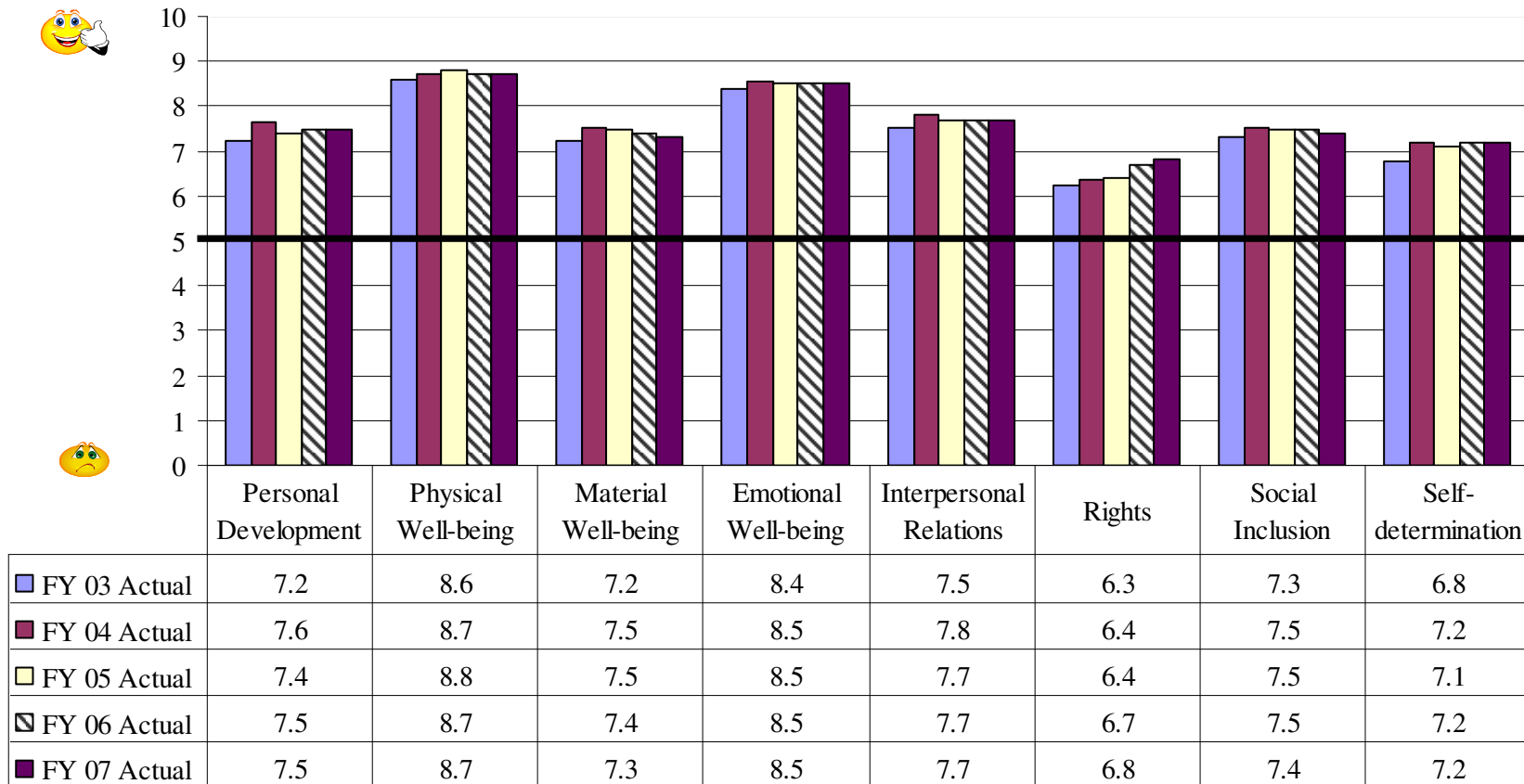
- empowerment of the developmentally disabled and their families;
- integration of individuals with developmental disabilities into community life;
- provision of quality support services that maximize individual growth and development; and
- establishment of a responsible, flexible service system that maximizes available resources.

**Performance Analysis: Managing for Results (MFR)**

DDA sponsors an annual survey, administered by the Arc of Maryland, which attempts to gauge the satisfaction level and quality of life of individuals receiving community services. DDA's Ask Me! survey collects information from individuals receiving DDA funded support services from all Maryland community providers. The fiscal 2007 survey collected information between August 2006 and June 2007 from a random sample of 1,172 individuals 18 years and older supported by 43 community agencies throughout the State. In many instances, the survey is administered by a self-advocate, an individual who also has developmental disabilities.

The Ask Me! survey results presented in **Exhibit 1** indicate how satisfied DDA service recipients are in eight personal domain areas. Each individual is shown a set of three faces and asked to identify a face that best describes how they feel about a question: a face with a smile indicates a favorable response; a face with no smile or no frown indicates a neutral response or "not sure," depending on the question; and a face with a frown indicates an unfavorable response. The replies are converted into a scale of 0 to 10 with 0 indicating unfavorable responses on all items, 5 indicating all neutral or equal number of favorable and unfavorable responses, and 10 indicating favorable responses on all items within a domain area. The fiscal 2007 data shows a decrease or no change from fiscal 2006 in seven of the eight personal development domains and only one domain that showed improvement over the previous year.

**Exhibit 1  
Ask Me! Survey  
Fiscal 2003-2007**



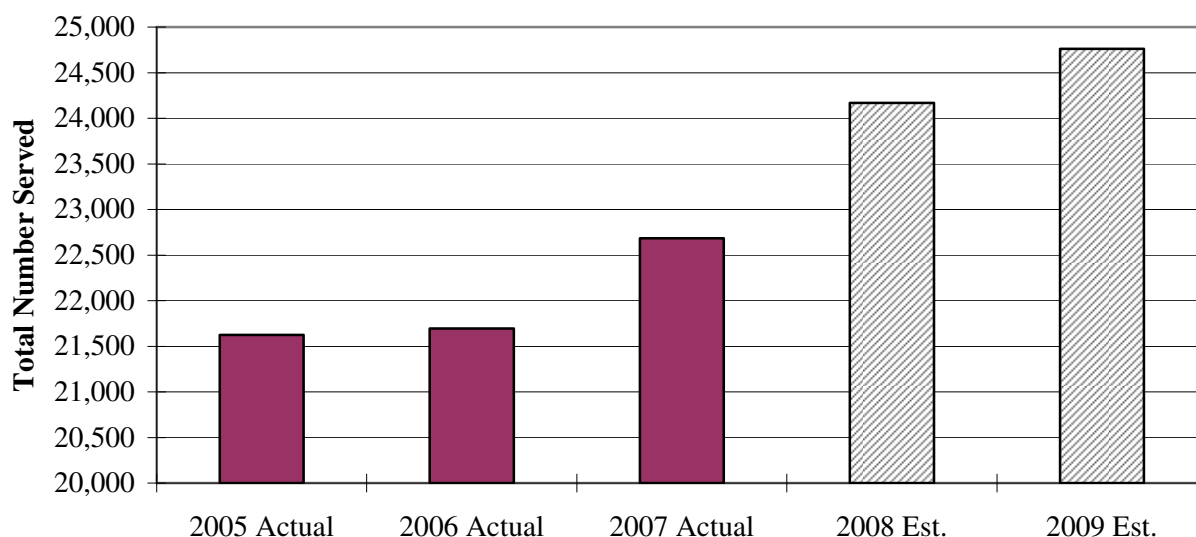
Note: 😊 indicates a favorable response for all questions in a particular area. 😞 indicates unfavorable responses for all questions in a particular area.

Source: Developmental Disabilities Administration; The Arc of Maryland

In general, the results of the survey show little or no change in satisfaction between fiscal 2003 and 2007. The one exception is in the category of personal rights, where there has been an average increase of 0.5 points on the 10-point scale for personal rights. The other categories have been stable or have increased very little since fiscal 2003. This indicates that either there is no room for improvement or that the performance measure does not accurately capture the level of satisfaction that individuals feel with their providers. **The agency should comment on alternative methods for measuring client satisfaction and quality of life including models utilized by other states to measure performance for agencies providing services to the developmentally disabled population. Additionally, the agency should update the committee on the findings of the Task Force to Study the Developmental Disabilities Administration Rate Payment Systems, as required by Chapter 34 of 2007.**

Another performance goal of DDA is to serve individuals in the community, rather than in institutional settings. **Exhibit 2** shows the change in the number of individuals served in the community including the total number and percentage change. Between fiscal 2006 and 2007, there has been an increase of 989 individuals served in the community, representing a 4.56% increase. DDA expects the number of individuals served in the community to continue increasing by 6.54% in fiscal 2008 and by 4.48% in fiscal 2009. It may be of some interest to note that DDA’s projection of the number of individuals served in the community has come up short in the past. In last year’s MFR data, DDA predicted a 6.19% increase in fiscal 2007, with 23,037 individuals served. However, the actual increase in 2007 was only 4.56%, a difference of 353 individuals.

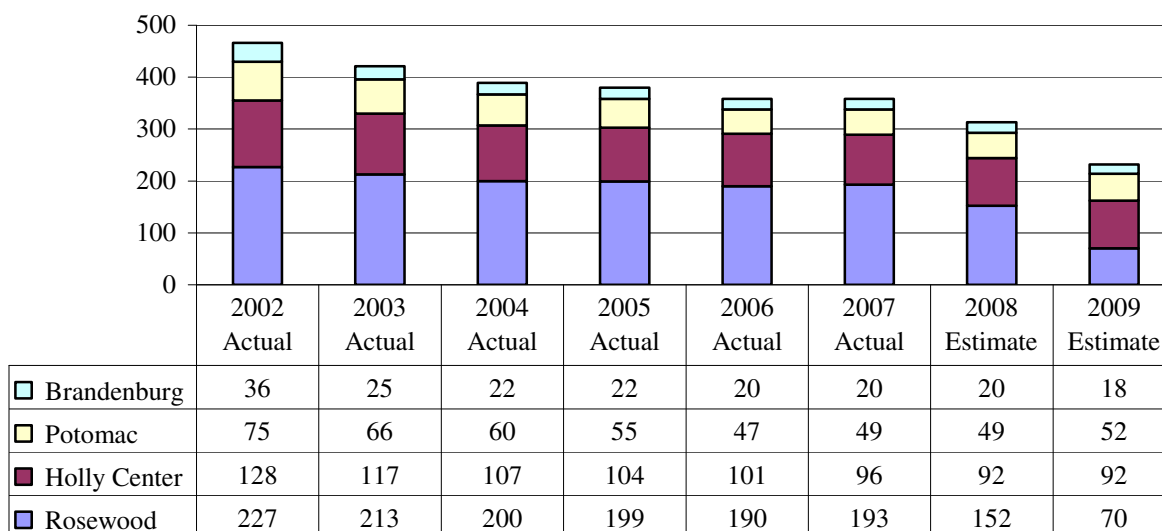
**Exhibit 2  
Change in Individuals Served in the Community  
Fiscal 2005-2009**



Source: Department of Health and Mental Hygiene

The number of individuals served in one of the four State Residential Centers (SRCs) is dramatically less compared to the number of individuals served in the community. Consistent with DDA’s mission of providing services in the least restrictive setting, the average daily population has been steadily declining since fiscal 2002, as shown in **Exhibit 3**. In fact, there has been a 23% decrease in the average daily population between fiscal 2002 and 2007. The decline is seen at all of the State’s facilities. The decline is due in large part to the policy of the department of freezing admission to the SRCs, with the exception being those individuals who are committed by the court system to a DDA facility. The announcement to close the Rosewood facility accounts for the significant drop in the fiscal 2009 estimated numbers.

**Exhibit 3**  
**Average Daily Population of State Residential Centers**  
**Fiscal 2002-2009**



Source: Department of Health and Mental Hygiene; Department of Legislative Services

## Fiscal 2008 Actions

### Impact of Cost Containment

Cost containment actions approved by the Board of Public Works (BPW) in August 2007 reduced the general fund appropriation by \$2.0 million. Of this reduction, \$1.2 million was taken from the Community Services program and limits the number of absent days for which a community provider can still be paid. Currently, when an individual is absent from his/her planned day activity, the provider still gets paid for services that would have been provided to that individual even though he/she were absent. According to regulation, the provider is paid for 35 absence days and may be paid for an additional 90 with DDA approval. This action reduces the 90 days to 55.

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The remaining reductions that resulted from the BPW cost containment action include: decreased funds for overtime within all programs of DDA (\$0.3 million); decreased funds for the Holly Center due to a declining patient census (\$0.3 million); and other reductions to equipment rental and maintenance (\$0.2 million).

Cost containment actions approved by BPW reduced the federal fund appropriation by \$19,532, which resulted in various reductions from Program Direction and Community Services.

### **Proposed Deficiency**

The Governor provided a general fund deficiency appropriation for DDA in the amount of \$598,863. The deficiency appropriation is for the payment of the Intermediate Care Facility for the Mentally Retarded (ICF-MR) provider fee, which is levied by the State on the four State Residential Centers (SRCs) based on the number of individuals receiving care at the facility. For the time between July 1, 2007, and December 31, 2007, the federal government paid 6% of the total ICF-MR fee. Subsequently, the rate that the federal government contributes towards the ICF-MR fee dropped to 5.5%. General fund deficiency is needed to supplement the lower federal fund revenue between January 1, 2008, and June 30, 2008.

### **Governor's Proposed Budget**

The Governor's allowance for DDA, as shown in **Exhibit 4**, represents a \$45.6 million, or 6.1%, increase over the fiscal 2008 working appropriation. General fund support increases by \$13.3 million, a 2.8% increase; special fund support increases by \$1.0 million, an increase of 30.2%; federal fund support increases by \$31.3 million, an increase of 11.8%; and reimbursable fund support increases \$1,596, an increase of 1.5%.

It is important to note that the federal funds appear to increase much more than general funds in the fiscal 2009 allowance. This is due to the differences in the way that federal fund revenue is accounted for in institutional settings versus community settings. Federal fund revenue generated in institutions is received in the Maryland budget as general funds that are then directed to the particular institution for the delivery of care. Federal fund revenue generated from care delivered in the community is received by the State as federal funds and is counted as such.

The fiscal 2009 budget accounts for the transition of 153 individuals from institutional care to community care. Although those individuals are Medicaid eligible in both the institution and the community, the State classifies the funds received from the federal government differently depending on whether that care is delivered in an institutional setting or a community setting.

Serving individuals in the community continues to be the top priority of DDA and, as such, the Community Services program experiences significant budgetary growth in its major program areas. Those changes are detailed in Exhibit 4. In addition, the tentative plan for closing the Rosewood Center, transitioning individuals to the community and identifying an alternate facility for court-involved individuals in the DDA system is also shown in Exhibit 4.

**Exhibit 4**  
**Governor’s Proposed Budget**  
**Developmental Disabilities Administration**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Special Fund</b>	<b>Federal Fund</b>	<b>Reimb. Fund</b>	<b>Total</b>
2008 Working Appropriation	\$472,965	\$3,414	\$265,784	\$104	\$742,266
2009 Governor’s Allowance	<u>486,306</u>	<u>4,444</u>	<u>297,043</u>	<u>105</u>	<u>787,898</u>
Amount Change	\$13,341	\$1,030	\$31,259	\$2	\$45,632
Percent Change	2.8%	30.2%	11.8%	1.5%	6.1%

**Where It Goes:**

<b>Personnel Expenses Not Related to the Closure of Rosewood</b>	<b>\$2,600</b>
Health Insurance – reduce long-term Other Post Employment Benefits liability funding .....	\$3,813
Employee and retiree health insurance – pay-as-you-go costs .....	1,794
Fiscal 2008 Budget Section 45 – one-time hiring freeze savings .....	632
Increments.....	458
Other fringe benefit adjustments.....	-69
Workers’ compensation .....	-208
Abolished/transferred positions .....	-3,820
<b>Community Services Program</b>	<b>\$32,883</b>
Transitioning youth.....	12,331
Cost-of-living adjustment (1.5% increase) .....	8,135
Fiscal 2008 annualization.....	5,262
Emergencies.....	3,120
Waiting list placements.....	2,707
Rate rebasing for providers serving individuals in the community .....	637
Prior year grant activity – revenue from provider audits and settlements.....	560
Provider Consumer Information System II system upgrade.....	109
Purchase of new vehicle for Western Maryland Regional Office.....	22
<b>Rosewood Closure Plan</b>	
<b>Deinstitutionalization</b>	<b>\$20,546</b>
Deinstitutionalization of 135 non-court involved individuals from Rosewood.....	18,129
Deinstitutionalization of 18 non-court involved individuals from Brandenburg.....	2,417

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**Where It Goes:**

<b>Central Maryland Regional Office</b>	<b>\$277</b>	
Moving and fit up costs for new Central Maryland Regional Office.....		110
Rent for new Central Maryland Regional Office.....		167
<b>Rosewood Center</b>	<b>-\$15,537</b>	
Contractual psychologist, psychology associates, and behavioral technicians to replace services provided by abolished PINs.....		854
Immediate Care Facilities for the Mentally Retarded provider fees .....		359
Other contractual physicians and medical care professionals.....		143
Contractual labor for in-patient clinic services .....		45
Lower pharmacy costs .....		-32
Lower food costs.....		-92
Lower motor vehicle costs .....		-100
Lower fuel and utility costs associated with closure of Rosewood.....		-255
Increased turnover adjustments.....		-688
Decreased overtime.....		-715
Salary savings based on phased out closure of Rosewood .....		-15,056
<b>Perkins Ward</b>	<b>\$2,543</b>	
New staff (31 full-time equivalent (FTE)).....		2,039
Contractual physicians to care for court-ordered individuals including contractors.....		122
Food costs .....		112
Fuel and utilities for previously unoccupied ward.....		96
Increased prescription drug costs for court-ordered individuals.....		95
Other costs associated with treating court-involved individuals.....		79
<b>Brandenburg Center</b>	<b>\$1,526</b>	
New staff (10 FTE) .....		858
Contractual physicians increase as a result of new court-ordered population .....		255
Medical supplies and prescription drugs for new court-ordered population.....		222
Additional food costs associated with greater population.....		103
Increased equipment costs .....		40
Health care contractors providing medical services.....		33
Other costs associated with treating court-involved individuals.....		15
<b>Potomac Center</b>	<b>\$865</b>	
New staff (10 FTE) .....		751
Contractual physician services for court-ordered population at Potomac.....		52
Prescription drugs and medical supplies .....		37
Other costs associated with treating court-involved individuals.....		25
<b>Other Changes</b>	<b>-\$71</b>	
Other .....		-71
<b>Total</b>		<b>\$45,632</b>

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

## **Personnel Expenses Not Related to the Closure of Rosewood**

The expenses under the personnel heading in Exhibit 4 are only those costs associated with the normal operation of the four SRCs, the Community Services program, and the Executive Direction program. The other personnel costs related to the plan to close Rosewood and transition its residents will be discussed in greater detail in subsequent sections that explore the overall budgetary impacts of the transition plan.

Changes in personnel costs not directly related to the closure of Rosewood account for \$2.6 million of the total change in the budget. The largest increase in the personnel section is for employee and retiree health insurance and Other Post Employment Benefits liability funding. Together these costs account for a \$5.6 million increase in personnel costs. Other significant increases to the personnel budget include savings resulting from the fiscal 2008 hiring freeze (\$0.6 million), and an increase for increments (\$0.5 million).

There are also significant decreases in the personnel section affecting all units of DDA. First and foremost, the budget abolishes 72.50 full-time equivalent (FTE) positions throughout the department for a total decrease of \$3.8 million. All of the abolished positions are currently vacant and are cut in accordance with the decision by the Board of Public Works to reduce the overall number of PINs across all Executive agencies. Of the 72.50 FTE positions cut at DDA, 61.0 positions are abolished at Rosewood, 6.0 positions are abolished at Holly Center, 3.0 positions are abolished from the Community Services program, 1.5 FTE positions are abolished at Potomac Center, and 1.0 position is abolished within the Executive Direction program. Of the 1,159.95 FTE authorized positions within DDA, 518.9 of those are assigned to Rosewood. When Rosewood finally closes, the position count within DDA will be reduced by almost 50%. Workers' compensation costs also decrease by \$0.2 million.

## **Operating Expenses**

DDA expects to serve as many as 25,000 individuals in the community in fiscal 2009. This number is in sharp contrast to 300 individuals served in the SRCs. Indeed, providing services to individuals in the community, rather than in a facility, continues to be the model of service delivery that DDA pursues. As the largest arm of the agency serving individuals, the Community Service program experiences significant budgetary growth in fiscal 2009. Another significant change in the operating budget for DDA occurs as a result of the plan to close Rosewood and to transition its residents to community care settings or to an alternate SRC. The changes in the operating budget will be explained first in terms of the expansion in the Community Services program and then in relation to the overall plan that DDA has devised which affects not only Rosewood, but other SRCs as well.

## **Community Services Program**

The operating budget for the community services program, excluding Rosewood-related expenditures, increases by \$32.9 million, as shown in Exhibit 4. The community services program is responsible for planning, developing, and directing a statewide, comprehensive system of services for

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individuals with developmental disabilities and their families. In fiscal 2009, the Community Services program expands services in five main program areas: transitioning youth program, provider cost-of-living adjustments (COLA), fiscal 2008 annualization, emergency services, and waiting list equity fund placements. The major changes in the budget associated with each program area are discussed below:

- ***Transitioning Youth Program Increases by \$12.3 Million.*** The transitioning youth program identifies individuals graduating from the school system who are eligible for DDA services such as supported employment and other day services. The program is intended to ease the transition of individuals previously served through the public school system into the DDA system. In fiscal 2009, DDA expects to serve 625 additional individuals through this program.
- ***COLA for Community Providers Increases Costs by \$8.1 Million.*** The Governor has included in the fiscal 2009 budget a COLA increase of 1.5% for all community providers.
- ***Fiscal 2008 Annualization Costs Increases by \$5.3 Million.*** Annualization costs result from the expansion of services in the previous fiscal year. If an individual is able to be placed in the community for the first time in fiscal 2008, the costs are included as part of the base of services for fiscal 2009. Annualization costs from individuals served in fiscal 2008 increases the budget by \$5.3 million.
- ***Costs Associated with Emergency Services Increases by \$3.1 Million.*** Emergency services are provided when an individual becomes homeless, their caregiver passes away, or any other situation arises that threatens the life and safety of the individual. The DDA budget estimates that it will provide residential, day, and support services to approximately 68 additional people and day services to an additional 38 individuals in emergency situations in fiscal 2009.
- ***Waiting List Equity Fund Placement Costs Increases by \$2.7 Million.*** Currently, the waiting list has approximately 17,000 individuals waiting for one or more of three basic services – residential, day, and support services. When an individual requests service, his/her need is classified based on a four-tier model of need. The four tiers include future need, current request, crisis prevention, and crisis resolution. Requests for service that are classified as crisis resolution are served first. For example, an individual with elderly caregivers who are unable to provide adequate care constitute a crisis resolution level of need. The Waiting List Equity Fund is supported through interest on the sale of properties owned by DDA as well as savings associated with the movement of an individual from institutional care to community care. The funds dedicated to expansion of services for individuals on the waiting list account for \$2.7 million of the increase and are estimated to serve 80 additional individuals by the end of fiscal 2009.

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In addition to the major program areas listed above, other factors contribute to the total increase for the Community Services program. Each year, DDA evaluates the base rate that it pays to community providers, also called rate rebasing. In fiscal 2009, rate rebasing costs account for \$0.6 million of the increase. In addition, an increase of \$0.6 million was added to cover provider audits and settlements in fiscal 2009. Providers are audited each year to determine if the State owes them more money or if the State has overpaid for their services.

Lastly, DDA is continually upgrading its database system, Provider Consumer Information System II (PCIS2), which accounts for \$0.1 million of the increase. The PCIS2 System is the latest version of DDA's Management Information System. It is an Internet enabled, database application, that is accessed by providers regional offices, headquarters staff, and other authorized users. The system tracks statewide information on the following areas: Provider Demographics, Consumer Demographics, Rates, Contracts, Payments, Community Services Budget, Amount Spent on Individual consumers, Waiting List, and Federal Fund Participation.

### **Central Maryland Regional Office**

The Central Maryland Regional Office is currently located at the Rosewood Center facility. Following the closure, the office will need to relocate. Moving costs and expenditures associated with making the new space operable account for \$0.1 million of the increase for the office. Rent for the new office is estimated to be \$0.2 million in fiscal 2009. The cost of rent is based on the current cost for leasing space at the Southern Maryland Regional Office (\$21.00/sq ft.) plus 4% inflation. The move is expected in January 2009.

## ***Issues***

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### **1. Rosewood Closure Plan**

#### **Background**

Since the fall of 2006, Rosewood has incurred repeated violations resulting in Immediate Jeopardy findings by the Office of Health Care Quality (OHCQ), the State's health care facility regulatory agency. Surveys completed by OHCQ are used to determine compliance by Rosewood with federal and State regulations governing Intermediate Care Facilities for the Mentally Retarded (ICF-MRs). As a condition of receiving federal matching Medicaid funds, facilities such as Rosewood must ensure that clients are not subject to physical, verbal, sexual, or psychological abuse or punishment.

In its initial annual survey in the fall of 2006, OHCQ found that Rosewood was not in substantial compliance with federal regulations related to client protections and issued a Notice of Immediate Jeopardy, which would result in the termination of about \$17 million in Medicaid funding if the Immediate Jeopardy was not adequately resolved.

Upon its second annual full-facility survey of Rosewood in August of 2007, OHCQ once again found Rosewood to be in non-compliance with federal and State regulations. OHCQ's survey included a finding of Immediate Jeopardy regarding client protections and client rights. The finding centered on a court-ordered patient, whose behavior of threatening and violent acts against residents and staff was first identified during the January re-inspection survey. OHCQ noted that as of January 2007, there was no behavior plan and staff was ill-equipped to manage the person's behavior. The most recent Immediate Jeopardy finding was issued in November 2007.

In response to the problems plaguing Rosewood, the legislature passed HB 970 during the 2007 session, later enacted as Chapter 445 of 2007, which required DDA to establish a transitional plan for each individual currently residing at Rosewood should the facility close. The plan, *Rosewood Center – Plan for Services to Residents*, was published in January 2008 and lays out a detailed plan for each individual according to their unique service needs and which will constitute the appropriateness of the community or facility placement.

#### **Plan As Submitted with the 2009 Allowance**

The Department of Health and Mental Hygiene (DHMH) has produced a detailed plan for the closure of the Rosewood Center, transitioning individuals to the community and identifying an alternate facility for court-involved individuals in the DDA system. It not only affects the residents currently residing at the facility, but also affects how the State will handle the care and treatment of court-ordered individuals going forward. Although it is a goal of DDA to serve all individuals in the community, the impetus for the closure of Rosewood was not attainment of that goal alone. Instead, the decision to close Rosewood was most likely a combination of transitioning individuals to the community as well as addressing the issue of serving court-ordered individuals in an appropriate manner. With the closure of Rosewood, the agency has begun the process of developing a more substantial plan of treatment for these individuals.

**Exhibit 5** shows the plan as presented in the fiscal 2009 allowance. Of the 165 individuals currently residing at Rosewood, 135 non-court involved individuals will be transitioned to community-based placements by June 2009. Of the remaining 30 individuals who are court-committed to the care of DDA, community placements have been deemed appropriate for 17 of those individuals while the other 13 will be transferred to an alternate State Residential Center.

Exhibit 5 and the fiscal 2009 allowance include Brandenburg as an alternate facility for court-ordered individuals, although the department advises that it is no longer part of the closure plan. The department has not yet come to a final decision on which facility will be designated for treatment of court-ordered individuals only. However, for purposes of explaining the budgetary changes, this analysis shows the proposed changes at Brandenburg. In order to place court-ordered individuals at Brandenburg, the original plan called for the 18 individuals currently residing at the facility to be moved into community placements.

**Exhibit 5**  
**Impact of Rosewood Closure on Facility Populations**  
**Facilities and Individuals Affected**



Note: This illustrates the plan as presented with the fiscal 2009 allowance. Subsequently, Brandenburg was eliminated as an option for court-ordered individuals. The issue of locating an appropriate facility for court-ordered individuals has not been resolved.

Source: Department of Health and Mental Hygiene

The plan not only accounts for the 30 court-ordered individuals at Rosewood, but also plans for the future placement of individuals that enter the DDA system through the courts. As it stands now, the alternative facilities for the care and treatment of court-involved individuals include the transition of the Joseph D. Brandenburg Center from an ICF-MR to a facility dedicated solely to the treatment of court-ordered individuals (30 beds), a new medium security ward at Clifton T. Perkins Hospital Center (15 beds), and the expansion of beds at the Potomac Center dedicated to the treatment of court-ordered individuals (5 beds).

**Exhibit 6** is a snapshot of the costs associated with closing Rosewood and establishing facilities dedicated solely to the treatment of court-involved individuals. As the chart below illustrates, the greatest costs and savings are associated with the movement of the largest amount of individuals. However, it is important to note that although the ward at Perkins will only serve 15 individuals, the cost is much higher than at Brandenburg which will potentially serve 30 individuals, due to the start-up and operational costs associated with opening a new ward at Perkins. On the other hand, the Brandenburg facility is already in operation, and those costs are already built into the budget; expanding the capacity at Brandenburg does not incur any start up costs.

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**Exhibit 6**  
**Costs and Savings of Facilities and Individuals Affected by Closure Plan**  
**(\$ in Thousands)**

<u>Placement</u>	<u>Costs/(Savings)</u>	<u>Number of Potential Individuals Served</u>
Community	\$20,546	153
Clifton T. Perkins Ward	\$2,543	15
Brandenburg	\$1,526	30
Potomac	\$865	5
Rosewood	(\$15,537)	-165

Source: Department of Health and Mental Hygiene

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The plan set forth by DHMH addresses the costs associated with the closure of one facility and the expansion of others. As mentioned before, the plan is a guide that DHMH has produced, but one that may change slightly upon implementation. For instance, DHMH has yet to finalize the decision on an alternate SRC for court-ordered individuals. The fiscal 2009 budget indicates that the alternate facility will be Brandenburg, although the department indicates that that is no longer a viable option. If DHMH chooses an alternate facility that is currently unoccupied, the cost to treat 30 individuals will be much higher due to the start-up costs mentioned previously. Also, the plan accounts for all non-court involved residents from Rosewood to transition to community settings.

Yet, if for some reason an appropriate placement cannot be found for a particular individual, an alternative SRC must be identified. This will require additional staff and logistical planning at the alternative SRC that can only be determined once the situation arises. If any of these contingencies were to arise, there could potentially be significant budget implications.

### **Timeline for Deinstitutionalization of Non-court Involved Individuals**

The plan to close Rosewood includes finding medically appropriate community placements for 135 non-court involved individuals currently residing at Rosewood and 18 individuals currently residing at Brandenburg by the end of June 2009. DHMH will provide technical assistance to existing providers with a desire to expand services for these individuals or contract with new providers in the community. In addition, there will be a need for expanded services in the community for individuals with co-occurring mental illness and mental retardation. Costs associated with the transition of 135 individuals from Rosewood to community placements are estimated at \$18.1 million; costs associated with the transition of 18 individuals from Brandenburg are estimated at \$2.4 million. Residential, day, and resource coordination support services are included in the estimated costs.

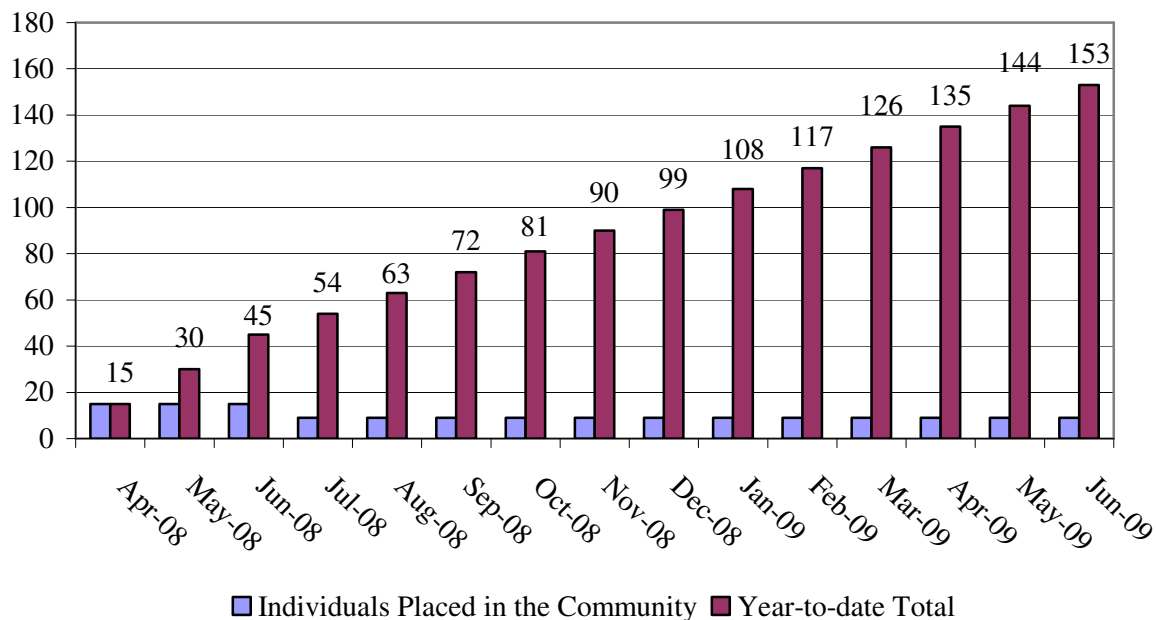
In the meantime, Rosewood will continue to serve some individuals throughout the course of the entire year. For that reason, many of the same costs associated with operating the facility will apply in fiscal 2009. In order to serve individuals throughout the course of the entire fiscal year, DDA includes an increase of \$1.4 million primarily for contractual physicians, ICF-MR fees, and healthcare contractors. Accounting for the closure of the facility, the DDA budget decreases by \$17 million, which reflects staff vacancies, decreased overtime costs, and lower operating costs for fuel, utilities, food, and prescription medicine.

The transition will begin in fiscal 2008 and continue through the end of fiscal 2009. **Exhibit 7** shows the transition of individuals out of Rosewood and Brandenburg and into community placements. The year-to-date total does not include the movement of court-ordered individuals.

As Exhibit 7 shows, 45 individuals will be transitioned to community placements by the end of fiscal 2008. Although the planning is already in motion, DHMH expects that the 45 individuals will not be moved until the last three months of the fiscal year.

There are a number of barriers that arise when transitioning a large number of individuals to community placements. First, there are not presently “empty” slots available for individuals. Each individual will be assessed and placed according to their particular service and medical needs. As presented in the document produced by DHMH, *Rosewood Center – Plan for Services to Residents*, each individual has a unique set of services that they will need and which will constitute the appropriateness of the community placement. Most of the community advocacy groups and the community providers support the transition of individuals from Rosewood to the community, and DDA believes there will be enough capacity for those leaving Rosewood.

**Exhibit 7**  
**Plan for Transition of Individuals from Rosewood and Brandenburg**  
**Fiscal 2008-2009**



Source: Department of Health and Mental Hygiene

Another factor that may delay the process of finding suitable community residences is the zoning approval process that houses need to go through in order to be classified as a group home. Unfortunately, some community residents object to the placement of a group home within their particular community.

**The agency is asked to comment on specifically how it plans to address the barriers and obstacles to timely and safely transition individuals into community placements. Specifically, it should present evidence that there will be sufficient community providers to accommodate not only the 153 individuals entering the community as a result of the closure of Rosewood, but also the regular increase in service to individuals on the waiting list.**

**Serving Court-involved Individuals in DDA: A Four-prong Approach**

**1. Clifton T. Perkins Hospital Ward**

With the adoption of the plan to close Rosewood, DHMH has identified a new system for treating court-ordered individuals. First, individuals directed by the court into the custody of DDA

will be evaluated at the new DDA ward at Perkins Hospital to determine the individual's behavioral challenges and service needs. The ward will consist of 15 beds and require 31 FTE new staff positions. As mentioned earlier, the cost associated with opening the Perkins ward is estimated to be \$2.5 million in fiscal 2009.

In order to accurately evaluate an individual, a risk assessment tool is being developed by DHMH to determine the level of danger that an individual poses to themselves and to those around them. After a complete evaluation, individuals will be transitioned to an appropriate placement either in a community placement that specializes in serving individuals with a history of challenging behaviors or at a smaller residential facility dedicated solely to the treatment of the court-ordered population.

## **2. Joseph D. Brandenburg Center**

With DHMH eliminating Brandenburg as an option, an alternative solution needs to be identified for the long-term care and treatment of up to 30 court-involved individuals. The budget still includes the transformation of Brandenburg from an ICF-MR, Intermediate Care Facility for the Mentally Retarded, to a facility dedicated solely to the treatment of court-ordered individuals. The budget includes accommodation of 30 spaces for court-involved individuals at Brandenburg which would require 10 FTE additional staff. The costs associated with the changes at Brandenburg increase the fiscal 2009 budget by \$1.5 million.

## **3. Potomac Center**

The Potomac Center will also serve as another alternate placement, although the capacity to serve court-ordered individuals will be much lower. Potomac would still operate primarily as an ICF-MR facility as well. Individuals committed by the court system were placed at the Potomac Center beginning in August 2007 following the Immediate Jeopardy findings at Rosewood, and there are currently 6 court-ordered individuals being treated at the facility. Five additional beds at Potomac will be designated for this population in fiscal 2009, requiring 10 FTE additional staff. The fiscal 2009 budget includes an increase of \$864,527 for this purpose.

## **4. Community Placements**

As part of DHMH's response to Chapter 445 of 2007, *Rosewood Center – Plan for Services to Residents*, the agency identified 17 court-committed individuals that could be served in a community setting. In order to successfully and safely transition these individuals into community settings, DDA will have to overcome a number of barriers. First, they will need to work with the court system to expedite the transition. The agency will also have to create and finalize strategies and services to safely manage individuals with challenging behavioral issues in community settings. As part of the overall policy for handling court-ordered individuals, a risk assessment tool is needed to gauge the level of threat that the individuals pose to themselves and to others. In addition, providers will need training and resource support for serving individuals with challenging behaviors. Finally, many court-ordered individuals have co-occurring needs for both mental illness as well as developmental

disabilities. Community providers will need to be identified that specialize in the treatment of both needs.

If the court system finds it appropriate to place individuals in community settings, DDA will have to produce a clear logistical and strategic policy for serving court-ordered individuals. Statute regarding the commitment of individuals who are found to be incompetent to stand trial, Section 3-106 of the Criminal Procedure code, will need to be revised to allow the placement of the individual in a community placement.

**The agency is asked to submit a report that provides a clear and comprehensive policy on the treatment of court-involved individuals. The report should address the barriers that were cited in the response to Chapter 445 of 2007, including, but not limited to, developing a risk assessment tool, providing necessary support and training for providers, and developing protocols for ensuring the public's safety for court-ordered individuals being served in the community.**

### **Costs and Revenue Changes**

The decision to close Rosewood saves the State money on the budget side of the equation but also costs the State money based on lost revenues that would otherwise be generated from the operation of the facility as an ICF-MR. Revenue will also be lost from Brandenburg if it transitions from an ICF-MR to a facility dedicated solely to the service of court-ordered individuals. **Exhibit 8** shows the general fund impact from closing Rosewood and operating Brandenburg as a non-ICF-MR facility. The operating costs are fairly straightforward and consist of the cost of treating individuals at the institutions in fiscal 2008 and part of 2009 and the savings associated with treating individuals in the community in part of fiscal 2009 and for the entirety of fiscal 2010 and 2011.

The revenues associated with the operation of Rosewood and Brandenburg are based on revenues from the Medicaid-eligible population, for which the State recoups 50% of the cost of providing services, as well as the federal government's share of the ICF-MR tax. The ICF-MR tax is a provider tax levied by the State, but for which the federal government also contributes money. Individuals committed to a DDA facility by the court system are not eligible for Medicaid and so the cost to care for those individuals cannot be recouped in any way.

As the chart illustrates, there is an overall cost to the State in fiscal 2008 of \$2.3 million based on the closure plan. First there will be an additional budget cost of \$0.6 million, primarily due to improvements and security measures for the Brandenburg Center in order to make the facility an appropriate placement for court-ordered individuals. In addition to the costs for fiscal 2008, there will also be lost revenues in the amount of \$1.7 million due to lower hospital revenues at both Rosewood and Brandenburg. The net result is a cost of \$2.3 million to the State in fiscal 2008.

In fiscal 2009, there is a reduction of \$7.2 million in operating expenses as a result of transitioning the population to community settings, which is a less costly way to provide services. However, the amount of lost revenues also increases to \$11.7 million. The net effect is a cost of \$4.5 million in fiscal 2009.

**Exhibit 8**  
**Costs and Revenues Associated with the Closure Plan**  
**Fiscal 2008-2011**

<u>General Fund Impact</u>	<u>Fiscal 2008</u>	<u>Fiscal 2009</u>	<u>Fiscal 2010</u>	<u>Fiscal 2011</u>
General Fund Operating Budget*	\$575,520	-\$7,234,713	-\$24,944,874	-\$22,743,703
Lost General Fund Revenues**	-1,702,923	-11,729,782	-23,345,522	-24,183,672
<b>Net General Fund Impact Cost/Savings</b>	<b>\$2,278,443</b>	<b>\$4,495,068</b>	<b>-\$1,599,352</b>	<b>\$1,439,969</b>

\* General fund operating budget is for Rosewood only. Brandenburg will continue to have ongoing operating expenses and is not included in this chart.

\*\*General fund revenue loss includes both Rosewood and Brandenburg since the State will experience decreased revenues from both facilities as a result of the closure plan.

Note: The general fund cost and savings will change if Brandenburg is not considered as an option in the closure plan.

Source: Department of Health and Mental Hygiene

By fiscal 2010, all individuals will be transitioned out of Rosewood and Brandenburg and into the community. For this reason, the savings increase significantly. There are still some operating costs for Rosewood, which is discussed in the subsequent section, but for the most part, serving individuals in the community produces a large savings for the State. It is important to note that the savings in fiscal 2010 are greater than in fiscal 2011. This is due to the enhanced federal fund match that the State will receive in the immediate year following placement of individuals in the community based on the Money Follows the Person initiative. In the year immediately following the transition, the State will receive a 75% match from the federal government for certain services provided to individuals who have transitioned from institutional care to community care.

In fiscal 2010, the State will save \$25.0 million in operating costs due to the closure of Rosewood. However, fiscal 2010 will also be the first year that the full loss of revenue is realized from Rosewood and Brandenburg, a loss of \$23.3 million. Due to the enhanced match from the federal government, there is a savings of \$1.6 million in fiscal 2010. For the next year, when the enhanced match is no longer applicable, there is again a cost to the State of closing Rosewood and transitioning its residents to alternate facilities of \$1.4 million.

### **Out-year Rosewood Costs**

As mentioned above, the costs associated with operating Rosewood are largely eliminated when the last individual leaves the facility. However, there are some lingering costs that the State will have to bear until the facility is sold. **Exhibit 9** shows the out-year costs associated with maintaining Rosewood including workers' compensation claims, the energy loan, Maryland Environmental Service costs, insurance, security personnel, and heat and maintenance costs.

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### **Exhibit 9 Out-year Operating Expenses for Rosewood**

<b><u>Out-year Rosewood Operating Costs</u></b>	<b><u>Fiscal 2010</u></b>	<b><u>Fiscal 2011</u></b>
IWIF – Workers' Compensation	\$1,640,521	\$1,640,521
Energy Loan	\$586,347	\$586,347
Maryland Environmental Service	\$21,447	\$21,447
Insurance	\$55,078	\$55,078
Security	\$200,000	\$200,000
Heat and Maintenance	\$500,000	\$500,000
<b>Total</b>	<b>\$3,003,393</b>	<b>\$3,003,393</b>

IWIF: Injured Workers' Insurance Fund

Source: Department of Health and Mental Hygiene

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### **Waiting List Equity Fund Payment**

The statute guiding the Waiting List Equity Fund (WLEF), Section 7-206 of the Health General Code, indicates that when individuals leave a SRC, the net average cost of serving them in the facility will follow them to the community. Furthermore, any remaining funds that are not used to serve that individual in the community shall be used to provide community-based services to eligible individuals who are currently not receiving services. Since it is less costly to serve individuals in the community, there is generally money left over to deposit into the WLEF. However, as Exhibit 8 demonstrates there are only savings in fiscal 2010 and a cost in fiscal 2008, 2009, and 2011. In other words, once all of the individuals are transitioned to the community and the facility is closed, there are no remaining funds to contribute to the WLEF.

Section 7-206(d)(1) goes on to specify that funds shall be deposited into the WLEF, subject to the appropriation process in the annual operating budget. Since there are very little savings associated with the closure plan and in fact a large amount of lost revenue, the WLEF will not receive funds from the closure in the near future.

## **Other Barriers**

The plan to transition individuals from Rosewood and Brandenburg are contingent upon finding an appropriate place in the community and the approval of the individual or individual's family to the placement. If an individual does not want to be placed in the community, they will have the choice of moving to an alternate SRC. The two alternate facilities are the Potomac Center in Western Maryland and the Holly Center on the Eastern Shore. Families from the Central Maryland region may find it overly burdensome to travel up to two and a half hours to visit their family member. Also, if individuals choose to be placed in either Potomac or Holly, additional staff members will be needed to accommodate the placement.

Another significant obstacle facing the agency is the inability of the Office of Health Care Quality (OHCQ), the department's survey and inspection agency, to complete all of its required surveys and inspections. In fiscal 2007, there were approximately 200 licensed agencies operating at over 2,700 sites throughout the State providing community care to developmentally disabled individuals. Of those, the licensure unit of the OHCQ was only able to complete physical inspections of 1,256 licensed sites. In fact, an audit report on fiscal compliance issued by the Office of Legislative Audits (OLA) in August 2007 found that OHCQ failed to inspect all developmentally disabled at least annually, as required by law. **The agency is asked to comment on how it will ensure that new community placements be properly monitored, especially during the first six months. In addition, the agency should comment on its procedure for following up with individuals placed in the community that may need to switch providers.**

## **Rosewood Staff**

Of the 1,159.95 FTE authorized positions within DDA, 518.9 of those are assigned to Rosewood. When Rosewood finally closes, the position count within DDA will be reduced by almost 50%. Not all of the current staff members at Rosewood will be able to be transferred to another State facility or hospital and, consequently, the department is taking proactive steps to help identify future opportunities for the direct care workers that currently are employed at Rosewood. DHMH has had a human resources staff member present on the Rosewood campus to answer questions and advise current employees about alternate opportunities. Also, DHMH hopes to facilitate the hiring of some of the direct care workers by the community providers when the individuals that they have served are moved into the community. In that case the staff member would move with the individuals to their respective placement. DHMH continues to look for other ways to smoothly transition the staff at Rosewood.

## **Lessons Learned from Prior Institutional Closures**

DDA has closed seven institutions since 1981; Rosewood will be the eighth. The most recent facility to be closed was Great Oaks Center, which closed its doors on May 8, 1996. Great Oaks and Rosewood have many similar characteristics and for that reason, Great Oaks may serve as a guide for successful transition of individuals out of Rosewood and into the community.

*M00M – DHMH – Developmental Disabilities Administration*

The Governor first announced the plan to close Great Oaks in December 1994 and estimated that the facility would close in full by April 1996. In fiscal 1995 there were 165 residents living at Great Oaks, 50 of whom were to be transferred to the community by the end of the fiscal year. An additional 50 residents were to be moved to community placements by the end of the third quarter of fiscal 1996. Lastly, the remaining 65 residents would be moved either to other institutions or to a community placement, allowing the facility to close at the end of April 1996.

Although the closure took a month longer than anticipated, the majority of the residents were transferred successfully to the community. Twenty-eight individuals were transferred to community placements by the end of fiscal 1995. During the course of fiscal 1996, a total of 134 individuals were discharged and 3 died at Great Oaks prior to placement. Of the individuals discharged, 2 went to Rosewood and 4 went home to their families.

The successful transition of individuals out of the Great Oaks Center, roughly the same number of individuals in the same time period, offers positive reinforcement for the Rosewood closure plan.

Another institution that was closed by DDA that serves as a warning for Rosewood is the closure of the Henryton Hospital in 1985. DDA has been unable to sell Henryton in the 22 years since its closure, and as a result, the vacant property has become a source of liability for the State due to a series of arsons on the property. The complex is in poor condition and contains asbestos, similar to some of the buildings at Rosewood. Concerns and issues with the condition of the buildings and grounds have made the complex difficult to sell. Twenty-two years after the closure of the facility, the State is still incurring liability and security costs.

Over the last 15 years, parts of Rosewood have been sold reducing the total size of the campus. Currently, two parcels of the campus are under contract for sale but have not settled. A portion is under contract to a non-governmental organization for the purpose of building a high school. The other parcel is under contract to Baltimore County.

**DLS recommends the addition of language in the budget bill which restricts the funds from DDA until the department submits a finalized budget plan for the closure of Rosewood, and in particular a finalized plan for the placement of court-involved individuals.**

## ***Recommended Actions***

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	<b><u>Amount Reduction</u></b>	
1. Reduce funding for Transitioning Youth Initiative to fiscal 2008 level to serve 497 individuals.	\$ 2,205,774	GF
	\$ 1,733,109	FF
<b>Total Reductions</b>	<b>\$ 3,938,883</b>	
<b>Total General Fund Reductions</b>	<b>\$ 2,205,774</b>	
<b>Total Federal Fund Reductions</b>	<b>\$ 1,733,109</b>	

2. Add the following language:

Provided that (1) \$2,542,577 of general fund appropriation of M00M0201, (2) \$864,527 of general fund appropriation of M00M0701, and (3) \$1,525,630 of general fund appropriation of M00M0901 shall not be expended until the Department of Health and Mental Hygiene submits a written report on the plan to orderly transfer and care for court-ordered individuals that will be relocated due to the closure of Rosewood. The budget committees shall have 45 days from receipt of the report to review and comment.

**Explanation:** The budget plan, as submitted by the Department of Health and Mental Hygiene (DHMH) to close Rosewood and transition its residents is no longer applicable. A major component of the plan transitioning the Brandenburg Center from an Intermediate Care Facilities for the Mentally Retarded to a facility dedicated solely to the treatment of court-involved individuals is no longer a valid option. The department must finalize an alternate plan for the care and treatment of court-ordered individuals including a viable State facility that can serve individuals on a long-term basis.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Budget plan for the closure of the Rosewood Center	DHMH	45 days prior to the expenditure of funds

3. Adopt the following narrative:

**Placement of Court-ordered Individuals:** In fiscal 2009, the Developmental Disabilities Administration (DDA) will implement a new system for serving court-ordered individuals with developmental disabilities. Individuals will first be evaluated for behavioral issues to determine an appropriate placement either at a facility or at a community placement. DDA has identified a number of barriers associated with serving individuals in the community. The agency is asked to submit a report that provides a clear and comprehensive policy on the treatment of court-involved individuals in facility and community settings. The report should address solutions for the problems identified in the agency’s response to Chapter 445 of 2007.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Policy and procedure report for safely and effectively serving court-ordered individuals	DDA	July 1, 2008

## Updates

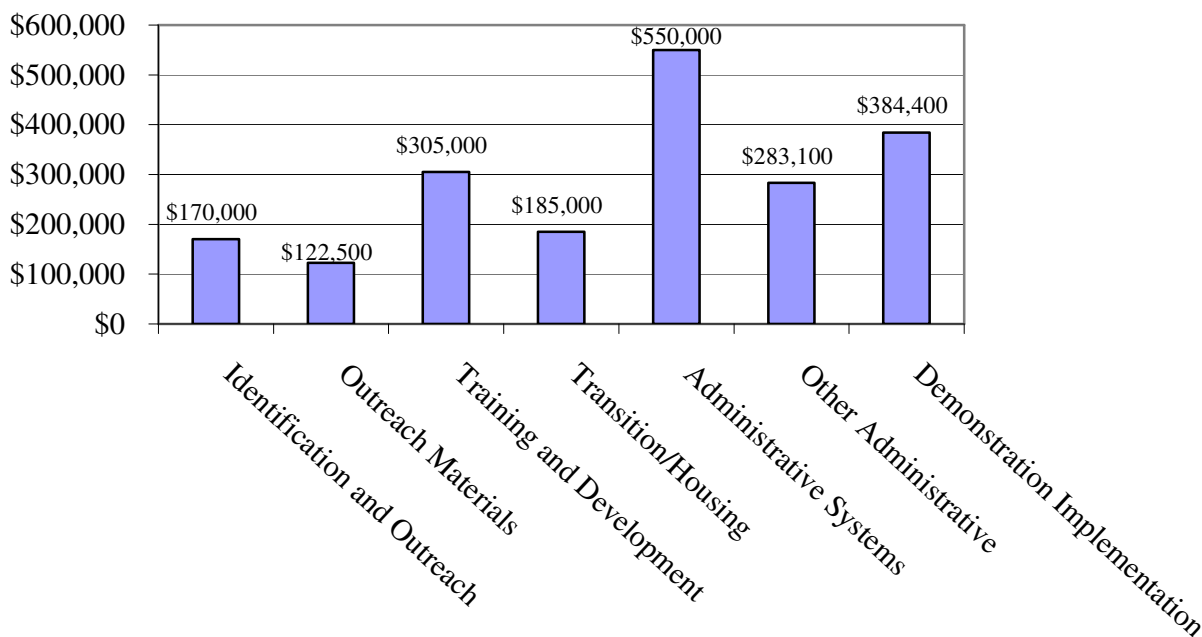
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### 1. Money Follows the Person Initiative

In December 2007, the Chairs of the Senate Budget and Taxation Committee and the House Committee on Appropriations released funds for the MFP initiative, which aims to transition seniors and people with disabilities from institutional facilities to less restrictive home and community placements. The MFP grant, awarded by the Centers for Medicare and Medicaid Services (CMS), is intended to be a five-year program. Under the terms of the grant program, states can receive an enhanced match rate for qualified expenditures associated with transitioning individuals out of long-term care facilities and into community settings. The higher matching rate will be applied to certain services provided to an individual for a one-year period after the individual moves out of an institution and into the community.

The fiscal 2008 DHMH budget includes \$2 million to institute the MFP initiative, which was held until the department released the plan on how it would spend the money to enact the program. The main costs in fiscal 2008 for this program are administrative in nature. However, transitioning individuals to home- and community-based care will incur annualized costs not specified below. **Exhibit 8** illustrates the costs that DHMH estimates will be associated with enacting the MFP program.

**Exhibit 8**  
**Money Follows the Person Distribution of Funds**



Source: Department of Health and Mental Hygiene

While this initiative is important to CMS and advocates within DHMH that support home- and community-based services, transitioning individuals to community care will not be a cost-neutral proposition. DHMH will receive an enhanced match to cover the costs associated with transitioning individuals to community care, but only for the first year. After that time, there will be an annualized cost to the State of caring for individuals in a community setting. As demonstrated by the closure of Rosewood, there is actually a slight cost associated with moving individuals out of the facility and into the community that is not fully recouped by the enhanced match offered by MFP.

## **2. Performance-based Contracting for Community Service Provider Reimbursement Agreements**

In the 2007 *Joint Chairmen's Report*, the committees found that DDA does not incorporate performance-based contracting into its community service provider reimbursement agreements, which account for \$602 million of the DDA budget. To successfully link attainment of outcome-oriented performance to provider reimbursement, the committees directed DDA to study options and strategies in achieving that goal.

DDA responded with a report dated December 20, 2007, that outlined ways in which it was attempting to correlate provider reimbursement rates with performance-based measures.

### **DDA's Response**

DDA contends that it has a number of strategies already in place that links performance measures to reimbursement rates including utilizing the Community Services Reimbursement Rate Commission (CSRRC); incorporating "Ask Me!" survey results into provider ratings; current regulations and laws that ensure quality services to individuals; and convening a task force to study DDA rate payment systems.

CSRRC is charged with analyzing issues regarding reimbursement for services paid for by DDA and the Mental Hygiene Administration. One of its charges is to examine linking reimbursement rates to quality of care and outcomes. DDA feels that working closely with the CSRRC is an important way to evaluate methods for performance-based contracting. The Governor's fiscal 2009 budget, however, has eliminated funding for CSRRC.

As a means to determine the quality of provider services, DDA uses the current "Ask Me!" survey as a quality measure. This survey evaluates consumer satisfaction regarding consumers' quality of life and well-being. The validity of this survey is enhanced by the fact that it is administered by individuals with developmental disabilities. The survey results are incorporated into provider ratings, which are published, and consumers can use these ratings to choose their provider. Also, to ensure quality services, DDA providers are surveyed by the Office of Health Care Quality on a regular basis.

DDA also argues that current regulations and laws encourage quality service to developmentally disabled individuals through three important sections:

*M00M – DHMH – Developmental Disabilities Administration*

1. COMAR 10.22.02, which states that “A licensee shall develop and adopt written policies and procedures for ensuring: (1) That each individual’s health and safety needs, as identified in the individual plan (IP), are being met; (2) Fundamental rights in accordance with Health-General Article, §7-1002, Annotated Code of Maryland; (3) That services are provided in a manner which promotes individual choice and the exercise of individual rights;....”
2. COMAR 10.22.04- Values, Outcomes and Fundamental Rights Authority addresses the development of the Individual Plan (IP). This plan establishes the individuals’ goals, needs and outcomes.
3. Health-General Article, Chapter 7-1002, which states (b)(1) “The right to be treated with courtesy, respect, and full recognition of human dignity; (2) The right to receive treatment, services, and habilitation in the least restrictive environment that is available, adequate, appropriate, and in compliance with relevant laws and regulations; (3) The right to be free from mental and physical abuse....”

These regulations are incorporated in the provider agreements for rate-based services and for those exempt from procurement. Also, DDA’s standard rate payment system is designed to allow consumers to easily change providers if they are unhappy with the services they are receiving, which acts as another layer of performance-contracting.

DDA currently uses competitive procurement to procure Resource Coordination Services and Behavioral Support Services that incorporate performance measures, and DDA will continue to incorporate performance measures in competitively bid contracts. To ensure quality of care, funding levels must be adequate to meet the current population needs. However, the current rate systems fell short in reimbursing the providers for their expenses by an estimated \$8.4 million for fiscal 2006 and \$11.0 million for fiscal 2005. Prior to instituting an incentive system, the funding shortfall should be addressed and rectified.

Chapter 34 of 2007 convened a task force to study the DDA rate payment system to determine ways that the system could be improved and to recommend a new system for procuring services. Part of the task force’s charge is to develop recommendations to address the problem of the structural underfunding of community providers, one of which may include fiscal incentives. The task force is due to submit a report on its findings to the Governor and the General Assembly in 2008.

## *Current and Prior Year Budgets*

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### **Current and Prior Year Budgets Developmental Disabilities Administration (\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2007</b>					
Legislative Appropriation	\$449,699	\$3,676	\$238,560	\$103	\$692,038
Deficiency Appropriation	0	45	10,145	0	10,190
Budget Amendments	3,935	0	110	89	4,134
Reversions and Cancellations	-1	-643	-18	0	-661
<b>Actual Expenditures</b>	<b>\$453,634</b>	<b>\$3,079</b>	<b>\$248,797</b>	<b>\$192</b>	<b>\$705,701</b>
<b>Fiscal 2008</b>					
Legislative Appropriation	\$473,750	\$3,414	\$265,804	\$104	\$743,071
Cost Containment	-2,091	0	-20	0	-2,110
Budget Amendments	1,305	0	0	0	1,305
<b>Working Appropriation</b>	<b>\$472,965</b>	<b>\$3,414</b>	<b>\$265,784</b>	<b>\$104</b>	<b>\$742,266</b>

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

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## **Fiscal 2007**

In fiscal 2007, the budget for DDA closed at \$705.7 million, an increase of \$13.7 million over the original legislative appropriation.

The general fund appropriation increased by \$3.9 million. The most significant general fund changes to the programs within DDA include the following:

- Fiscal 2007 COLA result in a \$1,190,113 increase in salaries, wages, and fringe benefits.
- Annual salary review increased wages by \$329,338.
- An increase of \$91,505 was added to cover increased utility rates at Holly and Potomac Centers.
- An increase of \$1,759,986 was added to cover the cost of nonbudgeted Rosewood corrective action contracts to address recent survey and certification deficiencies and for increased overtime expenditure
- Food costs and facility maintenance contracts at the Holly Center increased the budget by \$94,397.
- Waiting List Equity Fund payments for individuals transitioned from the Brandenburg Center to the community account for \$114,462 of the increases.
- General funds in the amount of \$71,706 were realigned to increase funding for health insurance appropriations.
- Increased ICF-MR Provider Tax fees at Rosewood, Holly, Potomac, and Brandenburg Centers account for \$1,516,059 of the increase.
- Cost containment measures taken by BPW decreased general fund appropriation by \$300,000. The decrease reflected savings incurred by the hiring freeze in February 2007.
- Lower expenditures on community residential services account for a \$407,341 decrease in general fund appropriation.
- Increased turnover decreases the general fund appropriation by \$529,093.

Deficiency appropriation increased special funds by \$45,123 at Rosewood. Due to lower expenditures for prior year grants and the WLEF, \$643,000 in special funds were cancelled.

*M00M – DHMH – Developmental Disabilities Administration*

Federal fund appropriation increased by \$10.3 million. Part of the increase was due to a deficiency appropriation of \$10.1 million and the remaining \$0.1 million balance was a budget amendment to replace computer equipment and to cover the increased costs associated with the Community Support Living Arrangements (CSLA) services.

At the end of fiscal 2007, \$17,714 in federal funds were cancelled within the Community Services program and at the Holly Center due to a lower than expected number of Medicaid-eligible individuals served.

Reimbursable funds increased by \$89,200 to cover the cost of emergency preparedness training for DDA institutions. Specifically, DDA is tasked with developing and maintaining an education and training program for State residential centers and DDA provider agencies that need to respond to disaster situations.

**Fiscal 2008**

Cost containment actions approved by BPW reduced the general fund appropriation by \$2,090,644, which resulted in various reductions across all six program areas of DDA; \$250,000 of this reduction occurred at the Holly Center to reflect declining patient census.

Cost containment actions approved by BPW reduced the federal fund appropriation by \$19,532, which resulted in various reductions from Program Direction and Community Services.

Budget amendments increased general funds by \$1.3 million to cover utility rates increases (\$299,466) and to account for COLA (\$1,005,666).

## ***Audit Findings***

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Audit Period for Last Audit:	January 1, 2003 – December 31, 2005
Issue Date:	May 2007
Number of Findings:	10
Number of Repeat Findings:	3
% of Repeat Findings:	30%
Rating: (if applicable)	n/a

**Finding 1:** DDA did not ensure that federal reimbursement rates for certain services corresponded to the related rates paid to providers and, as a result, federal funds totaling \$4.1 million were not claimed during calendar 2004 and 2005; some of these funds can no longer be recovered. DHMH concurs with this finding.

**Finding 2:** **Rejected federal fund reimbursement claims were not always investigated and resolved timely, and efforts to resolve such claims were not adequately documented. Additionally, DDA did not obtain sufficient payment data to readily determine which rejected claims remained unresolved. DHMH concurs with this finding.**

**Finding 3:** Oversight of efforts to maximize the number of Medicaid-eligible clients could be improved. DHMH disagrees with this finding.

In response to the audit findings, DHMH argues that each region already has a system set up to make certain the Medicaid application or denial for each individual applying for services is complete and tracks the respective outcome. Furthermore, it argues that DDA has historically managed the waiver slot allocation so that there are always adequate slots available for individuals who are eligible for Medicaid assistance.

**Finding 4:** DDA did not ensure that fiscal year-end settlements of amounts advanced to and earned by providers were completed within the time frame specified by law. DHMH concurs with this finding.

**Finding 5:** **DDA did not adequately verify that enhanced funding paid to providers to increase the compensation of direct service workers was used for that purpose and had not pursued timely recovery of funding that was improperly used by providers. DHMH partially agrees and partially disagrees with this finding.**

In fiscal 2004, DDA established requirements that independent certified public accountants attest to the amount providers spent to increase wages to direct-support staff and fringe benefits for all staff. This proved to be a difficult task since accurately

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determining what percentage of the provider payment increase went directly to wage and benefit increases. Also, it was not clear to DHMH that it had direct authority to collect misspent funds from providers. The Administration is now considering drafting regulations to clarify its authority to recover money not spent for wage and benefit increases.

**Finding 6:** DDA did not maintain documentation supporting waiting list initiative accomplishments reported to the General Assembly budget committees, and waiting list records were not always accurate.

DHMH concurs with this finding. During the waiting list initiative time period, there was a transition from one data collection system to another. PCIS2 was not operational for the entire period and could not be used to track the waiting list initiative data.

**Finding 7:** **DDA did not ensure that payments to providers of the CSLA services were based on actual hours of service provided to clients, as required by State regulation.**

DHMH concurs with this finding and agrees that a method to ensure CSLA payments match the hours of service delivered by providers had not been implemented during the audit period, although the process was being developed during that time. The administration determined that the best way to review the hours of services delivered by providers was through performance audits carried out by an independent contractor.

**Finding 8:** Proper security access controls had not been established over critical PCIS2 production data files. DDA agrees with this recommendation. The administration has made several changes to address this situation. Users found to have multiple logon IDs are now limited to only one.

**Finding 9:** Monitoring the security of the PCIS2 database was inadequate and unnecessary services were enabled on a critical server. DHMH concurs with this finding.

**Finding 10:** DDA did not have a current, comprehensive, and documented disaster recovery plan. DHMH concurs with this finding.

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

## ***Audit Findings***

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### **Potomac Center**

Audit Period for Last Audit:	April 1, 2004 – May 6, 2007
Issue Date:	August 2007
Number of Findings:	1
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	n/a

**Finding 1:** Adequate internal controls were not established over equipment inventory.

**Object/Fund Difference Report  
DHMH – Developmental Disabilities Administration**

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	1232.15	1232.45	1159.95	-72.50	-5.9%
02 Contractual	74.94	71.11	71.32	0.21	0.3%
<b>Total Positions</b>	<b>1307.09</b>	<b>1303.56</b>	<b>1231.27</b>	<b>-72.29</b>	<b>-5.5%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 68,936,402	\$ 70,605,643	\$ 60,542,300	-\$ 10,063,343	-14.3%
02 Technical and Spec. Fees	2,842,585	2,510,406	3,109,559	599,153	23.9%
03 Communication	368,893	361,116	336,663	-24,453	-6.8%
04 Travel	67,963	64,180	62,551	-1,629	-2.5%
06 Fuel and Utilities	2,639,373	2,944,078	2,754,930	-189,148	-6.4%
07 Motor Vehicles	437,465	446,932	375,254	-71,678	-16.0%
08 Contractual Services	626,175,958	661,830,053	716,923,259	55,093,206	8.3%
09 Supplies and Materials	2,586,943	2,398,018	2,898,311	500,293	20.9%
10 Equip. - Replacement	653,180	269,725	238,163	-31,562	-11.7%
11 Equip. - Additional	109,945	9,834	80,907	71,073	722.7%
12 Grants, Subsidies, and Contributions	489,433	414,757	19,578	-395,179	-95.3%
13 Fixed Charges	392,639	411,197	556,634	145,437	35.4%
<b>Total Objects</b>	<b>\$ 705,700,779</b>	<b>\$ 742,265,939</b>	<b>\$ 787,898,109</b>	<b>\$ 45,632,170</b>	<b>6.1%</b>
<b>Funds</b>					
01 General Fund	\$ 453,633,760	\$ 472,964,581	\$ 486,305,935	\$ 13,341,354	2.8%
03 Special Fund	3,078,630	3,413,557	4,443,902	1,030,345	30.2%
05 Federal Fund	248,796,803	265,784,092	297,042,967	31,258,875	11.8%
09 Reimbursable Fund	191,586	103,709	105,305	1,596	1.5%
<b>Total Funds</b>	<b>\$ 705,700,779</b>	<b>\$ 742,265,939</b>	<b>\$ 787,898,109</b>	<b>\$ 45,632,170</b>	<b>6.1%</b>

Note: The fiscal 2008 appropriation does not include deficiencies.

**Fiscal Summary**  
**DHMH – Developmental Disabilities Administration**

<u>Program/Unit</u>	<u>FY07 Actual</u>	<u>FY08 Wrk Approp</u>	<u>FY09 Allowance</u>	<u>Change</u>	<u>FY08-FY09 % Change</u>
01 Program Direction	\$ 6,212,468	\$ 5,854,322	\$ 5,899,695	\$ 45,373	0.8%
02 Community Services	621,695,756	660,352,092	714,268,090	53,915,998	8.2%
01 Rosewood Center	44,636,119	43,920,350	30,441,301	-13,479,049	-30.7%
01 Holly Center	19,117,386	18,458,748	19,623,163	1,164,415	6.3%
01 Potomac Center	9,257,485	9,273,606	11,332,104	2,058,498	22.2%
01 Brandenburg Center	4,781,565	4,406,821	6,333,756	1,926,935	43.7%
<b>Total Expenditures</b>	<b>\$ 705,700,779</b>	<b>\$ 742,265,939</b>	<b>\$ 787,898,109</b>	<b>\$ 45,632,170</b>	<b>6.1%</b>
General Fund	\$ 453,633,760	\$ 472,964,581	\$ 486,305,935	\$ 13,341,354	2.8%
Special Fund	3,078,630	3,413,557	4,443,902	1,030,345	30.2%
Federal Fund	248,796,803	265,784,092	297,042,967	31,258,875	11.8%
<b>Total Appropriations</b>	<b>\$ 705,509,193</b>	<b>\$ 742,162,230</b>	<b>\$ 787,792,804</b>	<b>\$ 45,630,574</b>	<b>6.1%</b>
Reimbursable Fund	\$ 191,586	\$ 103,709	\$ 105,305	\$ 1,596	1.5%
<b>Total Funds</b>	<b>\$ 705,700,779</b>	<b>\$ 742,265,939</b>	<b>\$ 787,898,109</b>	<b>\$ 45,632,170</b>	<b>6.1%</b>

Note: The fiscal 2008 appropriation does not include deficiencies.