

COMMONWEALTH of VIRGINIA

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To: The Honorable Janet D. Howell, Chair, Senate Finance & Appropriations Committee

The Honorable Barry Knight, Chair, House Appropriations Committee

Fr: Nelson Smith

Pursuant to 320 S.2 of the 2020 *Appropriation Act*, the purpose of this letter is to report on the use of the allocation, assignment, and authorization of services of new Developmental Disability (DD) waivers slots.

Specifically the language requires:

*2. The department shall report within 30 days after the close of each quarter, the number of new slots for the fiscal year that have been allocated by Community Services and of those how many are accessing services. The report shall be provided on the department's website.*

This represents a revised version of the November 17, 2022 Item S.2 report for the first quarter of FY23, per requests for additional clarity and information included in previous versions of the report.

There were no new DD waiver slots funded for FY 2023. Therefore, this report details the progress made toward full assignment of the FY 2022 slots and the linkage of individuals associated with those slots to waiver services as demonstrated by service authorization.

The allocation of the FY22 slots was delayed due to several changes to the wording of the Priority One category criteria, as requested by numerous stakeholders during the 60-day public comment period required by the Administrative Process Act for all proposed regulations. The DD waiver regulations (12VAC 30-122-10-570), with all changes approved by the Department of Medical Assistance Services (DMAS), were finalized on March 31, 2021. The adoption of the Priority One category change necessitated an update of the “Priority Needs Checklist” (PNC), which the Community Services Boards (CSBs) must complete for each person on the waiting list and required all individuals on the waiting list to be reviewed to determine if they qualified under the new criteria. Specifically, the update mandated by the new regulations permitted individuals without a primary caregiver to qualify for the Priority One category and added clarity to the Priority One criterion regarding young adults who are no longer eligible for school-based services. Previously those individuals with DD who lived on their own without an unpaid primary caregiver were essentially not eligible for the Priority One category regardless of the urgency of their need and thus ineligible for a DD waiver slot. The transition aged youth criterion language was adjusted from requiring them to be “transitioning to independent living” to “expressed a desire to live independently,” as independent living typically requires a waiver slot and accompanying residential services first.

At the same time, the “Critical Needs Summary” (CNS) form was updated to be more discerning. That form must be completed on each person who is Priority One to determine whose needs are most critical and therefore put forward for Waiver Slot Assignment Committee (WSAC) consideration. In particular, the behavioral and medical sections of that form were expanded to better capture needs in those important areas and ensure that individuals with the most significant needs are the recipients of DD waiver slots. Because the updated versions of these forms are now in place, no similar delay in slot allocation is anticipated to occur in the future.

The updated forms were sent to the Community Services Boards (CSBs) by the Department of Behavioral Health and Developmental Services (DBHDS) on April 2, 2021, with a memorandum instructing CSB case managers to begin “as soon as possible” to reevaluate individuals on the waiting list using the two new forms so that all would be completed by the fall when the FY22 slots were anticipated to be distributed (i.e., upon Centers for Medicare and Medicaid Services (CMS) approval of the Federal Financial Participation for the slots). The forms were added to the electronic Waiver Management System (WaMS) at the beginning of July 2021, and DBHDS conducted multiple training events on the completion of the forms in WaMS the first full week of July and held another training at the end of July for those who might have missed the first sessions.

Unfortunately, by the end of the first quarter of FY22, there remained a high percentage of individuals who had not had the two new forms completed. The FY22 slots could not be allocated until each CSB’s percentage of Priority One individuals was known, as the CMS approved algorithm (also included in regulations) relies on those numbers.

As of the second week in October 2021, 20 DBHDS Waiver Operations staff were assigned to assist numerous CSBs in contacting individuals on their portions of the waiting list to facilitate the completion of the needed forms. This work continued through January 2022 and included calling all individuals on the waiting list to update these forms as required. All updates were completed as of January 25, 2022. The algorithm to allocate the slots to the CSBs was conducted and CSBs were notified of their allocations on January 27. The allocations to each CSB can be seen in the first data column of Table 1 below.

DBHDS staff immediately began working with CSB staff to call together and schedule meetings of the local Waiver Slot Assignment Committees (WSACs). These committees are comprised of volunteers from each locality in order to maintain independent bodies to review those individuals most in need of DD waiver slots and complete the slot assignment process. Thirty WSAC meetings were held in the third quarter of FY22. The remaining meetings were held in April and May (fourth quarter). Table 1 shows that 586 persons were assigned a DD waiver slot in the third quarter and 370 in the fourth quarter. Therefore, 99.6% of all of the “no restriction” FY22 DD waiver slots were assigned by the end of FY22. “*No restriction*” is defined as slots that can be allocated to the CSBs, as opposed to facility and reserve slots, which are assigned directly by DBHDS to individuals exiting facilities or moving between waivers.

Some CSBs that held WSACs to assign the FY22 slots in the third and fourth quarters of FY22 were unable to assign all of the Community Living waiver slots because regulations require that those slots be assigned to individuals requiring 24/7 residential services. If no one on a CSB’s Priority 1 list requires that level of support within 90 days of the slot being available, that slot must be assigned through a *regional* WSAC so that another CSB within the region who does have an individual requiring those services will receive that slot. Also a few CSBs did not have anyone on the Priority 1 portion of the waiting list (Community Living and Family & Individual Supports waivers slots may only be assigned to Priority 1 individuals as long as any individuals in the state are in that category). The same rule applies in that circumstance:  after 90 days, the slot must be assigned through a regional committee. Thus, three slots were assigned in the first quarter of FY23 through the regional WSAC process.

Because the algorithm used to allocate the slots does not always lead to a clean distribution of all slots (it may lead to a fraction of a slot going to multiple CSBs, which is not possible), there were two slots unable to be directly allocated to a CSB. As in years past, these slots are made available by DBHDS to individuals in emergency need. As of the date of the original version of this report, all FY22 slots had been assigned with the exception of one CL waiver slot (hence 959 appearing in the first column, vs. 960, which was the total number of slots of this type funded by the General Assembly). As of the date of this revised report, both have been assigned to individuals in emergency situations. Thus, all of the 960 slots have been assigned to individuals.

**Table 1: Total number of FY 22 DD waivers “no restriction” (both Community Living and Family & Individual Supports waivers) slots allocated and assigned by quarter and Community Services Board.**

|  |  |  |
| --- | --- | --- |
| **Community Services Board** | **# of FY22 Slots Allocated** | **# of Waivers Assigned** |
| **FY22** | **FY22** | **FY22** | **FY22** | **FY23** |
| **Q1** | **Q2** | **Q3** | **Q4** | **Q1** |
| Alexandria Community Services Board | 14 | 0 | 0 | 11 | 3 | 0 |
| Alleghany Highlands Community Services Board | 3 | 0 | 0 | 3 | 0 | 0 |
| Arlington County Community Services Board | 22 | 0 | 0 | 22 | 0 | 0 |
| Blue Ridge Behavioral Healthcare | 30 | 0 | 0 | 0 | 30 | 0 |
| Chesapeake Integrated Behavioral Healthcare | 24 | 0 | 0 | 24 | 0 | 0 |
| Chesterfield Community Services Board | 47 | 0 | 0 | 0 | 47 | 0 |
| Colonial Behavioral Health (CBH) | 18 | 0 | 0 | 18 | 0 | 0 |
| Crossroads Community Services Board | 10 | 0 | 0 | 4 | 6 | 0 |
| Cumberland Mountain Community Services Board | 9 | 0 | 0 | 5 | 4 | 0 |
| Danville-Pittsylvania Community Services Board | 13 | 0 | 0 | 12 | 1 | 0 |
| Dickenson County Behavioral Health Services | 2 | 0 | 0 | 1 | 1 | 0 |
| District 19 Community Services Board | 18 | 0 | 0 | 18 | 0 | 0 |
| Eastern Shore Community Services Board | 5 | 0 | 0 | 0 | 5 | 0 |
| Fairfax-Falls Church Community Services Board | 150 | 0 | 0 | 0 | 150 | 0 |
| Goochland-Powhatan Community Services | 6 | 0 | 0 | 6 | 0 | 0 |
| Hampton-Newport News CSB | 32 | 0 | 0 | 31 | 1 | 0 |
| Hanover County Community Services Board | 16 | 0 | 0 | 0 | 16 | 0 |
| Harrisonburg-Rockingham CSB | 15 | 0 | 0 | 0 | 15 | 0 |
| Henrico Area Mental Health & Developmental Services Board | 40 | 0 | 0 | 40 | 0 | 0 |
| Highlands Community Services Board | 8 | 0 | 0 | 8 | 0 | 0 |
| Horizon Behavioral Health | 26 | 0 | 0 | 26 | 0 | 0 |
| Loudoun County Department of Mental Health, Substance Abuse and Developmental Services | 50 | 0 | 0 | 0 | 50 | 0 |
| Middle Peninsula-Northern Neck CSB | 16 | 0 | 0 | 16 | 0 | 0 |
| Mount Rogers Community Services Board | 12 | 0 | 0 | 12 | 0 | 0 |
| New River Valley Community Services | 22 | 0 | 0 | 21 | 1 | 0 |
| Norfolk Community Services Board | 26 | 0 | 0 | 26 | 0 | 0 |
| Northwestern Community Services Board | 26 | 0 | 0 | 1 | 25 | 1 |
| Piedmont Community Services Board | 14 | 0 | 0 | 14 | 0 | 0 |
| Planning District One Behavioral Health Services | 9 | 0 | 0 | 0 | 9 | 0 |
| Portsmouth Department of BHS | 10 | 0 | 0 | 10 | 0 | 0 |
| Prince William County CSB | 58 | 0 | 0 | 58 | 0 | 0 |
| Rappahannock Area CSB | 47 | 0 | 0 | 47 | 0 | 1 |
| Rappahannock-Rapidan CSB | 20 | 0 | 0 | 20 | 0 | 0 |
| Region Ten Community Services Board | 30 | 0 | 0 | 30 | 0 | 0 |
| Richmond Behavioral Health Authority | 23 | 0 | 0 | 21 | 2 | 0 |
| Rockbridge Area Community Services | 4 | 0 | 0 | 0 | 1 | 0 |
| Southside Community Services Board | 8 | 0 | 0 | 5 | 3 | 0 |
| Valley Community Services Board | 17 | 0 | 0 | 17 | 0 | 1 |
| Virginia Beach Community Services Board | 43 | 0 | 0 | 43 | 0 | 0 |
| Western Tidewater Community Services Board | 16 | 0 | 0 | 16 | 0 | 0 |
| Total | 959 | 0 | 0 | 586 | 370 | 3 |

Table 2 details the total number of DD waivers slots appropriated for FY22 by category and the number assigned as of the end of each quarter. Facility slots are assigned by DBHDS as needed to enable individuals to move from institutional settings into the community. Reserve slots are assigned by DBHDS to enable individuals to move between waivers as their needs change or for emergency purposes.

**Table 2. Total number of DD waivers slots appropriated for FY22 by category and the number assigned by quarter.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Slot Type - FY 2022** | **# of Slots Appropriated** |  |  | **# of FY22 Slots Assigned as of Quarter End** |
| **FY22Q1** | **FY22Q2** | **FY22Q3** | **FY22Q4** | **FY23Q1** | **Total Assigned** |
| CL - Facility | 20 | 0 | 0 | 0 | 1 | 0 | 1 |
| CL - Regular (No Restriction) | 75 | 0 | 0 | 43 | 31 | 0 | 74 |
| CL - Reserve | 15 | 0 | 1 | 0 | 2 | 2 | 5 |
| FIS - Facility | 5 | 0 | 0 | 0 | 0 | 0 | 0 |
| FIS - Regular (No Restriction) | 885 | 0 | 0 | 543 | 339 | 3 | 885 |
| FIS - Reserve | 10 | 0 | 1 | 0 | 0 | 1 | 2 |
|  Total | 1,010 | 0 | 2 | 586 | 373 | 373 | 967 |

**Individuals Assigned a FY22 “No Restriction” Slot Who Have Authorized Services**

In the first quarter of FY23, 294 individuals started services through their FY22 slots. The total number of individuals assigned a “no restriction” slot (those available to be allocated to CSBs for assignment) who have been authorized for at least one DD waiver service was still low as of the original date of this report (530 or 55% of the 960 slots), in part due to the delay in the FY2022 slot allocation and assignment process. See Table 3 below.

However, a significant time delay between the slot assignment and service authorization is normal and typically expected due to the following required steps:

* Individual formal acceptance of the slot offered
* Confirmation/updating of functional and financial eligibility
* Confirmation of updated physical exam
* Individual/family selection of service providers
* Service providers intake process for the new individual
* Development of the Individual Support Plan
* Service Authorization process

The COVID-19 pandemic has exacerbated the typical process-related delays and has likely complicated linkage to services for FY2022 slots, as it did in FY2021. There has been a reduction in the number of providers of certain services due to permanent or temporary closures, as well as staff shortages, which have limited providers in accepting new individuals. DBHDS and DMAS anticipate that the DD waiver rate increases at the beginning of this fiscal year will ameliorate provider and staff barriers in the near future.

Further, a number of individuals/families continue to be reluctant to expose themselves/their loved ones to unfamiliar people and thus delayed the start of services. Some family members have said that they do not want to begin services until “COVID is over.” While this is likely unrealistic, DBHDS staff, who would normally reassign waiver slots not being utilized after 150 days from the date of slot assignment (per regulations), are currently prevented from doing so due to the American Rescue Plan Act prohibition against terminating individuals’ eligibility for Medicaid services. This has resulted in a temporary halt to actions to repossess and reassign slots in situations in which individuals or their families do not begin waiver services in a timely manner.

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| **Table 3**. **Number of individuals who received a FY22 DD waiver “no restriction” (both Community Living and Family & Individual Supports waivers) slot by quarter of their first service approved and CSB.** |
| **Community Services Board** | **SFY 2022** | **SFY 2023** |
| **Total** | **Q1** | **Q2\*** | **Q3** | **Q4** | **Q1** |
| Alexandria Community Services Board | 11 | 0 | 0 | 2 | 4 | 5 |
| Alleghany Highlands Community Services Board | 3 | 0 | 0 | 0 | 1 | 2 |
| Arlington County Community Services Board | 19 | 0 | 0 | 0 | 15 | 4 |
| Blue Ridge Behavioral Healthcare | 18 | 0 | 0 | 0 | 3 | 15 |
| Chesapeake Integrated Behavioral Healthcare | 13 | 0 | 0 | 0 | 3 | 10 |
| Chesterfield Community Services Board | 24 | 0 | 0 | 0 | 3 | 21 |
| Virginia Beach Community Services Board | 32 | 0 | 0 | 0 | 24 | 8 |
| Colonial Behavioral Health (CBH) | 10 | 0 | 0 | 0 | 6 | 4 |
| Crossroads Community Services Board | 3 | 0 | 0 | 0 | 0 | 3 |
| Cumberland Mountain Community Services Board | 7 | 0 | 0 | 2 | 3 | 2 |
| Danville-Pittsylvania Community Services Board | 7 | 0 | 0 | 0 | 3 | 4 |
| Dickenson County Behavioral Health Services | 1 | 0 | 0 | 1 | 0 | 0 |
| District 19 Community Services Board | 1 | 0 | 0 | 0 | 0 | 1 |
| Eastern Shore Community Services Board | 0 | 0 | 0 | 0 | 0 | 0 |
| Fairfax-Falls Church Community Services Board | 43 | 0 | 0 | 0 | 0 | 43 |
| Goochland-Powhatan Community Services | 6 | 0 | 0 | 1 | 5 | 0 |
| Hampton-Newport News Community Services Board | 21 | 0 | 0 | 0 | 14 | 7 |
| Hanover County Community Services Board | 10 | 0 | 1 | 0 | 0 | 9 |
| Harrisonburg-Rockingham Community Services Board | 9 | 0 | 0 | 0 | 2 | 7 |
| Henrico Area Mental Health & Developmental Services Board | 19 | 1 | 0 | 0 | 6 | 12 |
| Highlands Community Services Board | 4 | 0 | 0 | 0 | 2 | 2 |
| Horizon Behavioral Health | 18 | 0 | 0 | 0 | 11 | 7 |
| Loudoun County Department of Mental Health, Substance Abuse and Developmental Services | 30 | 0 | 1 | 0 | 5 | 24 |
| Middle Peninsula-Northern Neck Community Services Board | 11 | 0 | 0 | 0 | 7 | 4 |
| Mount Rogers Community Services Board | 10 | 1 | 1 | 0 | 6 | 2 |
| New River Valley Community Services | 15 | 0 | 0 | 0 | 2 | 13 |
| Norfolk Community Services Board | 9 | 0 | 0 | 0 | 2 | 7 |
| Northwestern Community Services Board | 12 | 0 | 0 | 1 | 1 | 10 |
| Piedmont Community Services Board | 11 | 0 | 0 | 1 | 5 | 5 |
| Planning District One Behavioral Health Services | 4 | 0 | 0 | 0 | 3 | 1 |
| Portsmouth Department of Behavioral Healthcare Services | 9 | 0 | 0 | 0 | 5 | 4 |
| Prince William County Community Services Board | 51 | 2 | 0 | 2 | 34 | 13 |
| Rappahannock Area Community Services Board | 33 | 0 | 0 | 0 | 18 | 15 |
| Rappahannock-Rapidan Community Services Board | 10 | 0 | 0 | 0 | 5 | 5 |
| Region Ten Community Services Board | 13 | 0 | 0 | 0 | 5 | 8 |
| Richmond Behavioral Health Authority | 11 | 0 | 0 | 0 | 6 | 5 |
| Rockbridge Area Community Services | 1 | 0 | 0 | 0 | 0 | 1 |
| Southside Community Services Board | 5 | 0 | 0 | 0 | 2 | 3 |
| Valley Community Services Board | 4 | 0 | 0 | 0 | 0 | 4 |
| Western Tidewater Community Services Board | 12 | 0 | 0 | 0 | 8 | 4 |
| Total | 530 | 4 | 3 | 10 | 219 | 294 |

\* Two slots appear to have services approved before the January 27, 2022 allocation (i.e., in the second quarter). The reason is that those slots, once allocated in the third quarter, were utilized to pay back emergency slots loaned in the second quarter, as is common practice.

In conclusion, the unrestricted FY2022 slots have been allocated to the CSBs and assigned to individuals. The CSBs’ work of linking individuals in receipt of those slots to the appropriate waiver services is ongoing and continues to experience pandemic-related challenges.

cc: The Honorable John Littel, Secretary, Health & Human Resources