



Maryland General Assembly Session
**2012 Legislative
Wrap-up**

May 16, 2012 -

2012 Special Session Update

The Maryland General Assembly ended its three-day Special Session completing work on the FY 2013 state budget that was left unfinished during the 2012 Regular Session a month ago. With the passage of the Budget Reconciliation and Financing Act (SB 1301) and the State and Local Revenue and Financing Act of 2012 (SB 1302), the so-called “doomsday” budget cuts will not go into effect for FY13 and the state’s structural deficit will be reduced by \$560 million, essentially halved.

Taken together, the following actions are among the many that result from this Special Session:

- Tax rates for single filers with federal adjusted gross incomes of over \$100,000 and for couples with federal adjusted gross incomes of over \$150,000 will be progressively raised and exemptions for higher earners will be phased out. These income tax adjustments are expected to affect 13% of Maryland taxpayers.
- Teacher pension costs will be equally shared with local governments; phased in over four years.
- 300 additional community slots for the Medicaid Older Adults Waiver and 180 additional community slots for the Medicaid Living At Home Waiver will be restored.
- A 1% rate increase will be restored for community-based providers serving individuals receiving home and community-based services through Medicaid, including Adult Medical Day Care providers, Assisted Living providers, Mental Health providers, and Developmental Disability providers
- Crisis prevention services for 70 individuals with developmental disabilities will be restored.
- The Geographic Cost of Education Index for public K-12 education will be restored.
- A 1% inflation factor for public K-12 education will be restored.
- An across-the-board 8% budget reduction in all state agencies will be restored.
- The loss of 500 additional state employees’ positions will be avoided.

As of May 15, 2012, the FY 2013 budget is not yet complete. While the General Assembly passed a budget bill, they did not pass the accompanying Budget and Reconciliation and Financing Act (BRFA) and the bill to raise taxes. Both of these other bills were required in order to fully fund the budget. It is expected the General Assembly will meet in a special session in May in order to pass

these two items and avoid more than \$512 million in cuts to state agencies, provider rates for mental health and developmental disability programs, education, the state employee pay increase, and more. Aside from the budget debacle, one of the issues elevated to a new level this Session was re-entry from incarceration. While only one bill among many related to assisting people who are in the criminal justice system transition back into the community passed, the number of bills and the attention they received was significant and will help inform future efforts in this area.

FY 2013 Budget

Because the FY 2013 budget is not yet complete as of May 15, 2012, the information here is presented on the assumption that the General Assembly meets in special session before the end of the current fiscal year and passes legislation to avert \$512 million in additional cuts. Without this action, the most direct threat to addiction treatment and recovery services is the 8% cut to agencies. It is unknown how these cuts would be made, but knowing what pieces of the budget are traditionally at risk, health and human services will be a large target. The so-called “doomsday budget” would also eliminate 500 state jobs which could also impact programs important to NCADD-Maryland and its members.

Assuming the budget problem is fixed, the FY 2013 budget for the Alcohol and Drug Abuse Administration (ADAA) will be bigger than the current year by about 1%. The growth is due to a projected increase in funding from slots revenue for problem gambling, to a total of \$3 million. The amount of ADAA grant dollars transferred to Medicaid to cover addiction treatment services for Primary Adult Care (PAC) enrollees grows to \$16.1 million, a \$6.8 million increase in the amount transferred in FY 2012. Approximately \$1 million more in FY13 will be spent on supportive housing through the Access to Recovery program, bringing the statewide total to \$5.3 million.

After the transfer of \$16 million to Medicaid, the ADAA budget is basically level funded. In the context of the current economy and state budget situation, that is positive news. The reduction in grant dollars to local jurisdictions remains a concern, however, and many questions remain regarding what grant funding will look like in both an integrated behavioral health system and in 2014 when federal health care reform is implemented.

Recovery Support Bills

The 2012 Maryland General Assembly saw an unprecedented number of bills introduced related to the successful re-entry into the community of people leaving prisons and jails. Members of NCADD-Maryland’s Recovery Leadership Program testified on a number of bills and helped give the issues meaningful, personal stories. Wayman Brooks, Lisa Smith and Theresa Thomas testified in support of bills providing information on expungement, automatically suspending the accrual of child support payments for people incarcerated under certain circumstance, and shielding certain criminal records from potential employers and landlords.

The only successful one of the seven re-entry bills NCADD-Maryland supported was the one related to suspending child support payments (*House Bill 651 - Child Support - Incarcerated Obligors - Suspension of Payments and Accrual of Arrearages*). The bill faced a great deal of opposition from legislators who believe a person’s financial obligation to his or her children should not be put on hold while he or she is incarcerated. Proponents of the bill made the point that in the long run, the person would have a greater chance of success after release from prison if their overall debt did not grow

while they were unable to earn a living. That success would include, of course, the person's ability to pay his or her child support obligations. The bill passed the House and Senate by slim margins.

One of the reasons for the number of re-entry bills and the attention to the matter was because of the work of the State's Task Force on Re-Entry. Its work concluded at the end of 2011 and the recommendations included two pieces of legislation (the child support and criminal record shielding bills). The weight of the Task Force helped get the child support bill passed, but the opposition to these issues continues to be strong. The "ban the box" bill (*Senate Bill 671/HB 800 - State Personnel - Applicants for Employment - Criminal History Records Checks*) was finally introduced without any organizational opposition, yet still failed in the House Appropriations Personnel Subcommittee because of the attitude of some of its members.

Health Care Reform

NCADD-Maryland worked extensively on promoting several amendments to *HB 443 - Maryland Health Benefit Exchange Act of 2012*. Working hand in hand with the University of Maryland Law School Drug Policy and Public Health Strategies Clinic, meetings were held with most members of the Senate Finance and House Health and Government Operations Committees about the need to incorporate into the bill the federal parity requirements and make important changes to the navigator program. We also participated in the stakeholder meetings held by the Governor's Office of Health Care Reform and Lt. Governor and were ultimately successful in getting the amendments into the bill.

The meetings with legislators not only accomplished the goal of amending the bill, but also educated them about the need to include addiction treatment and mental health services as a vital component of services provided through the Exchange. The amount of support for our amendments was encouraging and relationships with these legislators on health policy were strengthened as a result of this work.

Treatment and Prevention

NCADD-Maryland supported a bill to allow more people in the criminal justice system to access drug treatment programs. *HB 96 - Criminal Procedure - Probation Before Judgment - Possession of a Controlled Dangerous Substance* will help a relatively small number of people who have a second drug possession charge by making them eligible for probation before judgment with the requirement that they complete a drug court or other treatment program. The success of the legislation and the discussions held by committee members demonstrate a continued support for treatment instead of incarceration.

There were two prevention related bills that were introduced that NCADD-Maryland supported. *HB 531 - State Government - Commemorative Days - Prescription Drug Take Back Day* would have provided an opportunity for greater education and awareness of prescription drug abuse by having the state recognize a day for that purpose. This bill did not receive a vote in committee. *HB 1444 - Alcoholic Beverages Sales - Prohibition on Use of Self-Scanning Cash Registers* would have prevented the sale of alcohol via self-scanning machines in a handful of stores in Maryland and provided yet another opportunity for public education and awareness, this time of underage drinking. This bill was given an unfavorable report in the House Economic Matters Committee, a committee well known for its support of the alcoholic beverage industry's interests.

Medical Marijuana

The passage of legislation in 2011 created the Maryland Medical Marijuana Model Program Workgroup, a workgroup on which NCADD-Maryland served. The result of that work was a report with two different proposals that became legislation in the 2012 General Assembly Session. *HB 1024 - Medical Marijuana Commission* reflected the proposal championed by Department of Health and Mental Hygiene Secretary Sharfstein and endorsed by NCADD-Maryland. The bill would have created a limited medical marijuana program with tight controls and a focus on research outcomes. The other proposal, *HB 1158/SB 995 - Medical Marijuana Oversight Commission*, would have allowed broader authority for physicians to prescribe medical marijuana and broader participation of patients. There was a third proposal unrelated to the work of the official Workgroup, *HB 15 - Maryland Medical Marijuana Act*, that reflected earlier conceptions of a program.

The day before the hearings on these bills, the Governor announced that he would veto any bill that was passed, expressing concern about possible federal prosecution of state employees involved in the program. This effectively killed debate on the bills for most of the Session. In the last two weeks, however, Delegate Dan Morhaim who has been the lead legislative champion on this issue announced progress in discussions with the Administration whereby the Governor would consider signing legislation that would extend the current affirmative defense law for people charged with possession of marijuana to caregivers of those using marijuana for medical purposes. Both the Senate and House amended and moved heavily amended bills to this effect (*SB 995 - Medical Marijuana - Caregivers - Certificate of Qualifying Patient* and *HB 15 - Medical Marijuana - Caregiver - Affirmative Defense*), but given the lateness of Session, there was not enough time to hammer out the differences in the two version.

Gambling

Throughout the General Assembly Session, there was debate taking place related to expanding legalized gambling. There were numerous bills introduced related to various aspects of the existing slots venues as well as proposed amendments to the State Constitution to allow table games in slots venues and increase the number of sites from five to six. For much of Session, little chance of passage was given for any of the proposals. Late in Session, however, it became clear that a significant push for a Constitutional amendment was taking place in order to pass legislation that would automatically go to the voters in the general election this November. A bill passed out of the Senate (*SB 892 - Gaming - Video Lottery Terminals and Table Games*) that would have allowed table games at the slots venues and expanded to six the number of sites eligible. That additional site was intended to be at National Harbor in Prince George's County.

The bill as amended included details as to where revenue from the expansion would be directed and became complicated because of those details. The House of Delegates has always been less favorably inclined to support gambling expansion and the list of details made gathering enough votes for the bill more difficult. As the House Ways and Means Committee deliberated, the Senate passed a second bill, *SB 26 - Commercial Gaming - Table Games - Video Lottery Facilities and Terminals*, which made the expansions without some of the other implementation details.

There was no mention of funding for problem gambling in either of the bills that passed the Senate. NCADD-Maryland worked with the Maryland Council on Problem Gambling to create and distribute a fact sheet with two amendment options that would have directed revenue from the new table games to the state's Problem Gambling Fund. There was general positive reaction to the idea that funds should be directed to address the problems created by expanding legalized gambling, but the

feedback from delegates on the committee up until the very last day of session was that no bill would be passing out of the House committee.

By the evening of the last day of session, the House Ways and Means Committee had agreed to a bill that would send to the voters the broad language expanding gambling to six sites and allowing table games. In the end, however, there was not enough time to gather the votes needed on the House floor to support the measure. The failure of this bill is widely believed to be the real sticking point between the House and Senate resulting in the failure of the tax legislation and BRFA.

Other Legislation

There were a few other pieces of legislation that NCADD-Maryland weighed in on. *SB 679/HB 709 - General Assembly - Fiscal Notes - Criminal Justice Policy Impact Statements* would have required additional information be included in fiscal notes created for certain criminal justice bills. The legislation would have required information on the potential impact on racial and ethnic groups as well as greater detail on the costs of implementation on bills related to criminal offenses and penalties. This was the first time this bill was introduced and it was given an unfavorable report by the Senate Rules Committee.

A bill that NCADD-Maryland opposed was *SB 287/HB 560 - Family Investment Program - Eligibility - Drug Testing*. This bill would have required all applicants for public assistance to submit to a drug urinalysis in order to receive assistance. This bill would have cost more than \$3 million to implement and would not expand treatment resources. NCADD-Maryland opposed the bill stating that there are more effective ways to spend \$3 million to address substance abuse problems. The bill was soundly defeated in the Senate Finance Committee and the House Bill was subsequently withdrawn.

Finally, NCADD-Maryland attempted to amend *SB 954 - Medical Records - Enhancement or Coordination of Patient Care*, a bill introduced at the request of CareFirst. The bill as originally introduced had numerous flaws and raised concerns from many stakeholder groups. CareFirst agreed to a number of amendments but was not inclined to support one proposed by NCADD-Maryland and the Drug Policy Clinic that would have highlighted the additional confidentiality protections provided to most addiction treatment records under federal law. Because the bill had been introduced late in session and because the bill made reference in general terms to the application of all existing federal laws pertaining to confidentiality, legislators agreed to the bill without that additional amendment.

Next Steps

There is a great deal of work that NCADD-Maryland will continue participating in during the interim. Just as last year, the two main public policy discussions that will require significant attention are the efforts to integrate the public addiction treatment and mental health systems and those related to the continuing implementation of federal health care reform. There will also be two other areas of significant work, those regarding re-entry and problem gambling.

Behavioral Health Integration

There is little doubt the State will integrate the publicly funded addiction treatment and mental health services systems within the next two years. Secretary Sharfstein and Deputy Secretary Chuck

Milligan have created a process by which they intend to achieve consensus on a financing model for Medicaid funded services. There will also be discussions around non-Medicaid funds and services, the role of local authorities, the specific data to collect and analyze, and behavioral health homes. The intent of DHMH is to have recommendations by the end of September in order to craft the new system's details and prepare for the legislative and regulatory changes that will be required for implementation. In addition, discussions around program accreditation, workforce issues, and the merging of ADAA and the Mental Hygiene Administration will be taking place.

NCADD-Maryland will continue to coordinate efforts with other organizations such as the Maryland Addictions Directors Council and the Drug Policy Clinic in order to maximize effectiveness and cover all meetings. NCADD-Maryland should work with the other organizations to develop priorities and consistent messages around those priorities. The groups then need to make sure that the priorities and messages are well represented in all of the discussions and that responses are brought back for further policy and strategy discussions.

Throughout this process, members of NCADD-Maryland's Recovery Leadership Program (RLP) should be meaningfully involved. While most members of the RLP are not policy experts, their perspective and experiences are crucial to creating a new system that meets the needs of people seeking treatment and recovery support services. Time should be invested in making sure the participating RLP members understand as much of the policy implications as possible.

Health Care Reform

One of NCADD-Maryland's top priorities will be to participate in the decisions about the state's essential health benefit (EHB). The Maryland Health Care Reform Coordinating Council was given authority to select the EHB in House Bill 443. It is currently seeking applications from people to serve on an advisory committee to assist in selecting the State's benchmark plan. NCADD-Maryland has nominated representatives to serve on that committee and will work to ensure that comprehensive addiction treatment services are included in that benefit package.

With the passage of HB 443 this Session, new Advisory Committees to the Health Benefit Exchange are already being formed. NCADD-Maryland has also identified appropriate people willing and able to commit to participating on these committees. As with behavioral health integration, ensuring a seat at the table for people in the Recovery Community is also a priority.

Re-Entry from Incarceration

The attention during Session given to issues of people returning to communities from incarceration presents an opportunity to continue educating law makers about the issues facing people with criminal records, their families, and the neighborhoods where they live. Because so many people who are in recovery also have criminal records, this issue has become a higher priority for NCADD-Maryland. NCADD-Maryland's RLP will continue to identify policy issues that need to be addressed, develop strategies to achieve positive changes, and build relationships with policy makers who can champion these issues.

Problem Gambling

The issue of funding services to address problem gambling is one that appears to have some popular support among law makers. NCADD-Maryland's position that expansion of legalized gambling

should include expansion of the state's Problem Gambling Fund will continue to be voiced. NCADD-Maryland will continue to identify and develop stronger relationships with law makers who support this position.

Public Health Initiatives

NCADD-Maryland will also need to remain involved in work related to medical marijuana. While it is not likely that a significant program will be established in an O'Malley Administration, the support among legislators and the public is large enough that various proposals will continue to be developed and put forth. Because of NCADD-Maryland's involvement in the Medical Marijuana Model Program Workgroup in 2011, the organization's opinion and potential support will be sought.

NCADD- Maryland will monitor the development of a prescription drug monitoring program. DHMH is striving to have regulations in place sometime this year and NCADD-Maryland will need to review the program to ensure people who are identified as possibly having a substance abuse problem are properly screened and referred to appropriate treatment services.