

Office of the
Legislative Fiscal Analyst

FY 2005 Budget Recommendations

Joint Appropriations Subcommittee for
Health and Human Services

Utah Department of Human Services
Division of Services for People with Disabilities

Contents:

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1.0 Summary: Division of Services for People with Disabilities

The Division of Services for People with Disabilities (DSPD) is responsible for providing residential, day and family support services for people with mental retardation and other developmental disabilities. To receive services, people must have substantial functional limitations in three or more of the following life activities: self care, receptive and expressive language, learning, mobility, self direction, capacity for independent living, and economic self-sufficiency. The services provided range from limited family support to a full array of 24-hour services both in the community and at the Utah State Developmental Center. Services are also available in private Intermediate Care Facilities for people with Mental Retardation (ICFs/MR) with funding through the Department of Health.

Financial Summary

The Fiscal Analyst recommends a budget appropriation for DSPD for FY 2005 just under \$153.0 million, including \$42.3 million from the General Fund. The majority of the balance is from Medicaid transfers and other federal funds. The Analyst’s recommendation includes the transfer of 1.4 FTEs and \$58,800 (\$26,100 General Fund) to the Executive Director’s Office for the Human Resources staff consolidation. The recommendation includes no funds from the “Trust Fund for People with Disabilities” (General Fund Restricted) as funds expected to be available for appropriation is small.

	Analyst FY 2005 Base	Analyst FY 2005 Changes	Analyst FY 2005 Total
Financing			
General Fund	\$42,300,800	(\$26,100)	\$42,274,700
Federal Funds	2,000,000		2,000,000
Dedicated Credits Revenue	1,415,300		1,415,300
Transfers - H - Medical Assistance	105,305,100	(32,700)	105,272,400
Transfers - Other Agencies	340,700		340,700
Beginning Nonlapsing	2,874,000		2,874,000
Closing Nonlapsing	(1,209,200)		(1,209,200)
Total	\$153,026,700	(\$58,800)	\$152,967,900
Programs			
Administration	\$2,550,700	(\$9,000)	\$2,541,700
Service Delivery	12,558,000	(49,800)	12,508,200
State Developmental Center	31,893,600		31,893,600
DD/MR Waiver Services	100,057,700		100,057,700
Brain Injury Waiver Services	2,033,600		2,033,600
Physical Disability Waiver Services	1,670,200		1,670,200
Non-waiver Services	2,262,900		2,262,900
Total	\$153,026,700	(\$58,800)	\$152,967,900
FTE/Other			
Total FTE	946.7	(1.4)	945.3
Vehicles	92	0	92

2.0 Issues: Division of Services for People with Disabilities

2.1 Previous Budget Adjustments

Compared with the original FY 2002 appropriation, the DSPD budget for FY 2004 has actually seen its General Fund increased by approximately \$350,000, from an FY 2003 original amount of \$42.1 million to \$42.45 million. This includes a reallocation by the Department which moved \$3.1 million of General Fund to the Division and reallocated the same amount of federal block grants to other divisions. The total FY 2004 appropriated budget (all funds) is up by \$6.2 million, largely due to increased Medicaid collections. See Additional Information Section 4.1 in this report for a five year budget history.

2.2 Legislature Needs to Authorize Use of FY 2003 Carry-forward Balance

The 2003 Legislature authorized non-lapsing status for all year-end fund balances in DSPD, but limited its use for one-time expenditures (unless otherwise approved by the Legislature). The Division carried forward approximately \$3.4 million from FY 2003 into FY 2004. It plans to use these funds over the next several years for emergency cases, court ordered clients and for children aging out of DCFS and Youth Corrections programs. DSPD expects planned cost savings, intended to bring its budget into equilibrium, will provide continuation funding of these services by FY 2006.

2.3 Waiting List for People with Disabilities – Lawsuit Filed

There are currently 1,929 people with immediate needs waiting for various community-based services, including 424 waiting for community residential services. It would take approximately \$8.3 million dollars (General Fund) to fund the current waiting list.

In December 2002, the Disability Law Center filed a class-action lawsuit in the U.S. District Court, claiming the State has unlawfully failed to provide services to individuals on the waiting list in violation of Medicaid law and the “Americans with Disabilities Act.” On August 26, 2003, the U.S. District Court dismissed the Medicaid claims of the lawsuit. The lawsuit is still progressing on the other claims.

2.4 Waiting List for People with Disabilities Funding

The Analyst recommends that the Legislature consider appropriating additional funds for bringing people off the waiting list. If funds become available, the Analyst recommends that \$420,000 of General Funds be made available for this purpose. This, combined with expected Medicaid matching funds of \$966,000, would serve about 120 people who are currently in immediate need of services.

2.5 Portability Funding

Since FY 2000, approximately 80 people have moved from the ICF/MR to services in the community. It was understood that funds would follow the clients from one system of care to the other. However, as they left the ICFs/MR, their vacated beds were backfilled with new residents resulting in a growth of the two systems combined. However, there has been no additional appropriation to fund this growth. The Department of Health has transferred \$277,000 to DSPD for the first group of 21 individuals that transferred out in FY 2000. Another 59 have transferred since then, but no funds have been transferred and DSPD has “absorbed” their cost. Due to lack of funds, the portability program has been put on hold since FY 2003.

2.6 FMAP Match Rate

The Federal Medical Assistance Payments (FMAP) match rate changes from 71.60 percent to 72.01 percent effectively for State Fiscal Year 2005. This rate change will realize a projected savings to the division of about \$601,800 (General Funds) for FY 2005.

2.7 DSPD Budget Equilibrium Project

The Division has revamped its budget control mechanisms and is reviewing its service delivery processes with the intention of generating several million dollars of on-going savings. The \$3.4 million of non-lapsing carry forward balance from FY 2003 will be used for emergency, court-ordered and “aging out” clients that are expected to come into service in FY 2004 and FY 2005. Projected savings, equivalent to the \$3.4 million carry-forward amount, are expected to fully materialize by FY 2006 and will be available to continue those service programs.

2.8 One-time General Fund Appropriation

The 2003 Legislature used \$350,000 of one-time General Funds in the FY 2004 budget to partially offset a base reduction of \$1.1 million, mostly in the non-waiver services program. The fiscal analyst recommends that the Legislature consider replacing these funds with on-going General Funds, if available.

2.9 One-time Appropriations from Trust Fund

For FY 2004, the Legislature switched General Funds with a one-time appropriation of \$235,000 from the People with Disabilities Trust Fund in the base appropriated budget. The Analyst’s FY2005 base budget restores the \$235,000 in General Funds.

2.10 Intent Language

The 2003 Legislature approved the following intent language applicable to the Division of Services for People with Disabilities:

Prevailing labor market conditions

“It is the intent of the Legislature that in renewing contracts with private providers the Division of Services for People with Disabilities shall consider prevailing labor market conditions.”

This is a continual consideration by the Division during contract development with service providers. The Division considers market conditions in the rate setting process. It negotiates contracts within the boundaries of the department-approved rates for the services purchased.

Rent and costs of operating state-owned group homes

“It is the intent of the Legislature that rent collected from individuals who occupy state owned group homes be applied to the cost of maintaining these facilities. It is also the intent of the Legislature that the Division of Services for People with Disabilities provide an accounting of state owned group home rents and costs to the Legislature or Office of Legislative Fiscal Analyst.”

The Legislative Analyst has reviewed the FY 2003 statement showing total rental receipts of \$103,666. After food charges and maintenance expenses are deducted, there is a net income of \$7,115. The private providers who operate these homes hold these funds for future major repairs of the facilities. As of June 30, 2003, these accumulated funds total about \$106,832 for the five homes.

Flexibility to implement budget reductions

“It is the intent of the Legislature that the Division of Services for People with Disabilities has the flexibility to implement Fiscal Year 2004 budget reductions in programs as appropriate. It is further the intent of the Legislature that the Division first seek to achieve savings through attrition, second, through re-evaluation of service packages and reduction of service levels within those packages where appropriate, and lastly, through removing individuals from service entirely. The Division will report to the Health and Human Services Joint Appropriations Sub-Committee during the 2004 General Session on the actions taken.”

The Division will report in more detail to the subcommittee during the 2004 General Legislative Session.

Use of funds appropriated for the waiting list

“It is the intent of the Legislature that funds appropriated for the home and community based services waiting list for people with disabilities be used exclusively for direct services and related support.”

The Fiscal Analyst has received this information and, along with the Division, will provide the subcommittee further information on the use of waiting list funds for direct services and related supports during the budget hearing.

Limits on services to non-Medicaid eligible clients

“It is the intent of the Legislature that the Division of Services for People with Disabilities not spend more than 10 percent of this line item providing services to individuals served by the division who are non-Medicaid or non-waiver eligible..”

This limit on services to non-Medicaid clients and non-waiver services has been complied with. The Division spent a total of \$132,441,100 for services in FY 2003, including the Developmental Center. The total without the Center is \$101,506,200. FY 2003 expenditures on non-waiver eligible clients and for non-Medicaid services to people eligible for the waiver totals \$3,083,600. This represents just over three percent of the total service expenditures (without the Developmental Center).

In FY 2003, the 313 people in the non-Medicaid, non-waiver group made up 7.3 percent of those receiving services and accounted for expenditures totaling \$2,677,800. As of December 2003, 41 percent of the people in this group (92 out of 226) have had a reduction in funding to match the amount paid by the State for services to a person eligible for the Medicaid waiver.

Many waiver eligible individuals also receive non-Medicaid reimbursed services, such as guardianship, housing, cash assistance, psychological evaluations, special needs, and start-up costs. In FY 2003, 765 waiver eligible individuals received non-Medicaid services totaling \$405,800.

Currently (December, 2003), 226 people remain on the non-waiver services program and now comprise 5.2 percent of the total client population. It is expected that this number will see further reductions in the future. Since 1999, over 700 people have been transitioned from non-waiver services to Medicaid waiver eligibility.

3.0 DSPD Issues and Data

The Division serves as the “gate keeper” for services for people with mental retardation and developmental disabilities (MR/DD). The Division has statutory authority for providing community-based services and supports for people with disabilities through its three Medicaid Home and Community-Based Services waivers (HCBS) – one for individuals with developmental disabilities, one for individuals with brain injuries, and one for individuals with physical disabilities. Independent service providers deliver these services under contractual agreement with the Division through its four regional offices. The Division also provides some state-funded programs for certain individuals not Medicaid eligible.

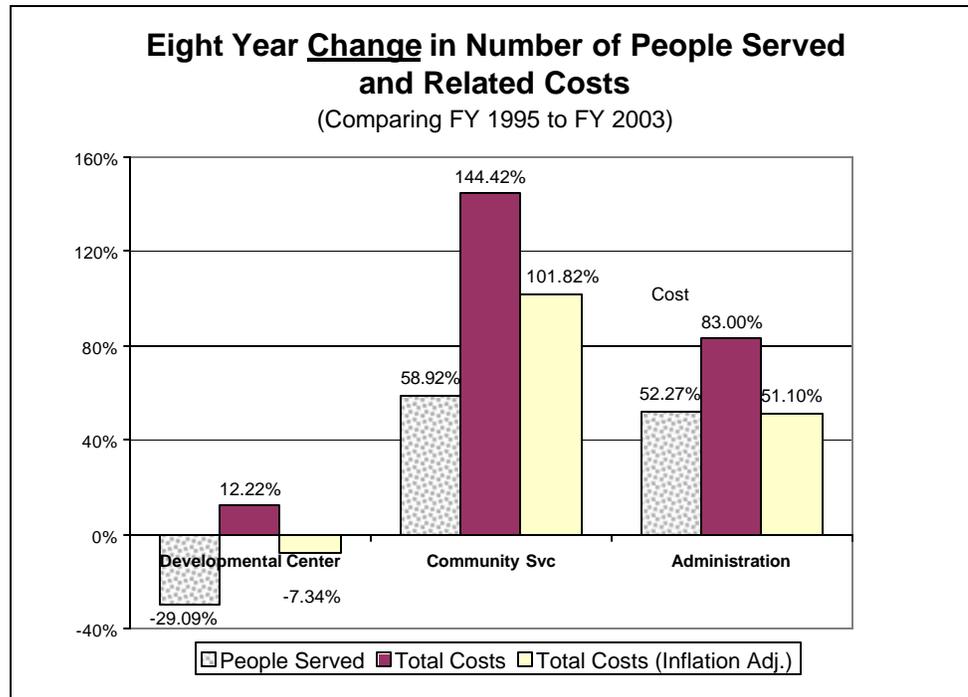
The Division also operates the State Developmental Center in American Fork, Utah’s only state operated ICF/MR (Intermediate Care Facility for persons with Mental Retardation). The Division also certifies eligibility for and approves referrals for services through private ICFs/MR providers. However, ICFs/MR operates under the authority of and is funded through the Department of Health.

Performance Measures

Service Budgets Have Grown Faster than the Number of People Served

The following chart and table compares eight-year changes in service budgets with increases in the number of people receiving services. The Analyst has adjusted budgets by annual changes in the Consumer Price Index. Budgets show significantly greater percentage increase than the percentage increase in the number of people served. Community-based services’ budgets have grown by over 144 percent (101.8 percent adjusted for inflation) over the past eight years; however, the number of people receiving services has only increased about 58.9 percent. A possible explanation for the faster rise in service costs is the increasing needs of people with disabilities as they finally receive services after waiting, some for up to ten years, for services.

The Developmental Center has seen a 29 percent decrease in the number of residents, while it’s inflation-adjusted budget has declined by 7.3 percent. The inflation-adjusted budget for administration and service delivery staff has grown by 51 percent, which is about the same as the growth in the overall population served (52.3 percent). The budget figures and actual numbers of people served are shown in the next chart and table.



DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES HISTORY OF GROWTH IN SERVICES COMPARED TO GROWTH IN BUDGETS (FY 1995 TO FY 2003)

	Developmental Ctr		Community Based Svc		Admin & Svc Delivery**	
	Adjusted* Expenditures	Clients Served	Adjusted* Expenditures	Clients Served ***	Adjusted* Expenditures	Tot.Clients Served
FY 1995	\$ 27,566,500	330	\$ 41,529,600	4,034	\$ 8,001,900	4,364
FY 1996	27,605,500	307	47,635,700	4,394	8,741,300	4,701
FY 1997	26,451,700	284	56,002,700	4,595	9,447,300	4,879
FY 1998	26,970,700	261	62,074,500	4,704	9,612,600	4,965
FY 1999	26,985,800	237	67,147,700	4,865	9,966,700	5,102
FY 2000	27,352,700	236	72,739,800	5,210	11,276,800	5,446
FY 2001	27,203,400	234	75,955,900	5,718	12,283,300	5,952
FY 2002	27,117,700	234	81,493,800	5,952	12,503,600	6,186
FY 2003	25,543,300	234	83,814,800	6,411	12,091,000	6,645
8-Yr % Chg	-7.34%	-29.09%	101.82%	58.92%	51.10%	52.27%

* Actual expenditures adjusted for inflation.
 ** Includes support coordinators & other support staff
 *** Includes duplicate counts where one person is receiving more than one service.

Sources: Legislative Fiscal Analyst and DSPD

*Satisfaction with
Direct Care Staff and
Support Coordination*

In FY 2003, the Division's Quality Management team began surveying people receiving services about satisfaction with direct care staff and support coordination. Trained reviewers obtained satisfaction information in person from individuals with Developmental Disabilities / Mental Retardation (DD/MR) or brain injuries who receive services from provider agencies. Division research staff obtained satisfaction information from individuals with DD/MR or brain injury who hire their own staff and from individuals with physical disabilities using mailed satisfaction surveys.

During FY 2003, 100 percent of all individuals who hire their own staff rated their direct care staff as "excellent" or "good." Among individuals receiving services through provider organizations, 93 percent expressed satisfaction with their direct care staff. When looking at support coordination, satisfaction remained above 90 percent for all three groups.

**Impact of Recent
Budget Reductions**

The Division has aggressively worked to maximize Title XIX (Medicaid) reimbursement, by identifying eligible expenses and switching people from state funded services to the Medicaid waiver, significantly increasing Title XIX revenues. Despite budget reductions, this increase in Title XIX funds has made it possible for the Division to avoid eliminating services to people currently receiving services. Actual FY 2002 expenditures totaled \$143.9 million (\$40.2 million General Fund). For FY 2003 actual expenditures increased to \$147.1 million (\$44.7 million General Fund). The appropriated budget for the current fiscal year is \$145.4 million (\$42.5 million General Fund).

**Non-lapsing
Authority: \$3.4
million carried
forward into FY 04**

The 2003 Legislature passed HB 211 which authorized all appropriations to DSPD as non-lapsing, to be used only for one-time expenditures unless otherwise authorized by the Legislature. At the end of FY 2003, the Division carried forward a non-lapsing balance of \$3,389,600 into FY 2004.

**Division projects
operating deficits in
FYs 2004 and 2005**

DSPD is obligated to provide services to individuals ordered by the courts into services and to young people "aging out" of DCFC and Youth Corrections Services. It must also provide services in emergency situations where individuals lose their caregivers as family and friends become unable to continue care. Medicaid clients are entitled to all necessary services. Currently, about 83 individuals are waiting for additional services. Without additional appropriated funds, as these emergency clients come into service or become in need of additional services, it is estimated the Division would experience an operating loss of about \$500,000 in the current FY 2004, and another \$1.6 million in FY 2005. This is without bringing any individuals off the waiting list.

DSPD Proposal to Bring Budget into Equilibrium

The Division is initiating a top to bottom review of its budgeting practices, controls, management of provider contracts, and is reviewing its service packages to individuals and how they are determined. The Division has prepared a plan to bring their existing budget into “equilibrium.” The proposal includes cost reduction plans such as a review of support packages to its 725 most costly clients (whose packages cost over \$50,000 annually). A two percent reduction in these support packages could generate annual savings of about \$1.1 million. Another proposal would require that any increase in services for a client is funded with a reduction in other service packages. The Division is also considering using a fixed cost residential alternative to its current residential model which costs vary according to the needs of the client.

Legislature needs to approve DSPD’s proposal to use FY2003 Carry-forward.

The Division plans to use its carry-forward funds to cover the forecast operating deficits over the next several years, while planned cost savings materialize and bring its budget into equilibrium. By statute, these carry-forward funds may only be used for one-time purposes unless approved by the Legislature. The Fiscal Analyst recommends that the subcommittee review the proposed use of these funds.

Health Care Financing

Utah’s Medicaid agency is the Division of Health Care Financing (HCF) in the Department of Health. This agency coordinates with DSPD in establishing rates and eligibility, in preparing revisions and renewals of Utah’s Home and Community-Based Services Waiver, receiving billings and processing reimbursements of Medicaid dollars, and in compliance training and monitoring. HCF also contracts with and provides administrative oversight for private Intermediate Care Facilities for people with Mental Retardation (ICFs/MR).

Intermediate Care Facilities for People with Mental Retardation (ICF/MR)

One system of providing Medicaid supported services for people with disabilities is the mix of private and publicly owned and operated ICFs/MR. Private institutions range in size from 15 beds to more than 80. The ICF/MR system is funded through the Division of Health Care Finance (HCF) in the State Department of Health. The Utah State Developmental Center in American Fork, with its current population of 229 residents, is a state operated ICF/MR and is funded through DSPD. The ICF/MR system is approximately 70 percent funded with Medicaid transfer payments.

ICF/MR System Expansion Request Denied

Although the ICF/MR program is optional, if a state chooses to provide the service, it becomes an entitlement to eligible individuals, meaning that there cannot be a waiting list for services. The current ICF/MR system is approximately 98.9 percent full. There is a state-imposed moratorium on the creation of added capacity, which has been in place since 1989. A request to add two fifteen bed facilities by two providers was denied by the Department of Health this fall. However, the denial has been appealed.

Home and Community-based Services (HCBS)

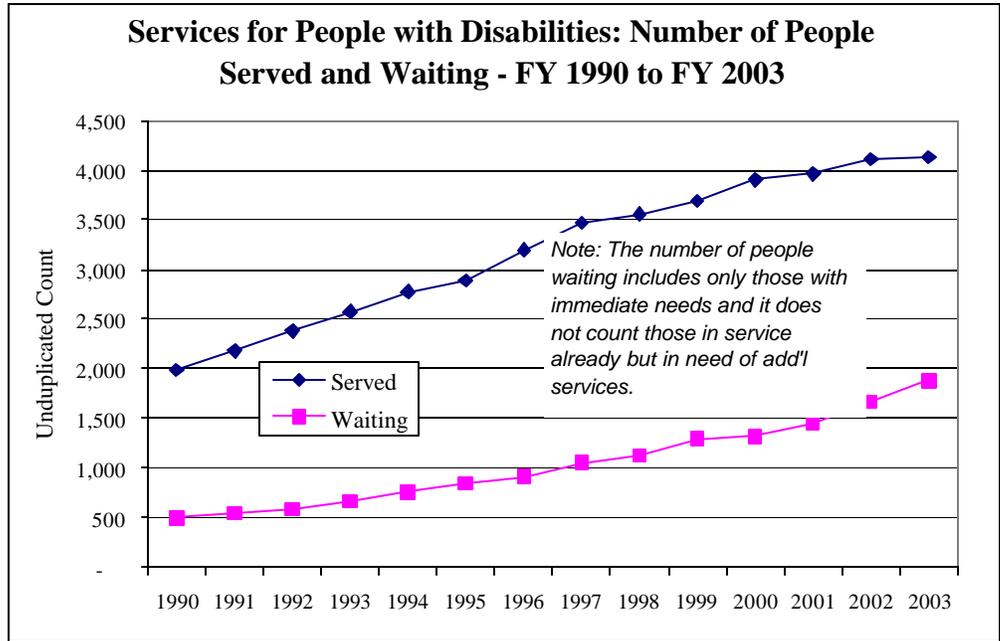
The State has also chosen to provide an alternative to the ICF/MR system, which is the Home and Community Based Services (HCBS) system. The HCBS includes a range of services and supports for people in homes and apartments, including full residential placements, located in community settings throughout the State. This system is also 70 percent funded by Medicaid transfers through its waiver program. This service is not an entitlement to eligible people, but can be used only as far as resources permit. Therefore, most states have waiting lists for services in the HCBS alternative program. The HCBS system is funded through DSPD, which determines eligibility for services in both the ICF/MR and the HCBS systems and serves as the “gatekeeper” for both systems.

Waiting List for Community-based Services number over 1,900 – with a cost estimate of \$8.3 million (Gen. Fund)

As of October 23, 2003, there were 1,929 people on the “immediate needs” waiting list for community-based services who are currently not receiving any services. These include 424 waiting for community residential services, 1,370 for family support, 401 for supported employment, 202 for day training, and 55 for personal assistance services. Some individuals are waiting for more than one type of service. It would take approximately \$8.3 million dollars (General Fund) to fund the current waiting list. In addition there are 83 people currently in service that have an immediate need for additional services, with an estimated cost of about \$590,500 (General Fund). The Division maintains a second list of people identified with future service needs numbering 703 individuals. This brings the total of all people waiting for services, either with immediate needs, or future needs, to 2,715.

\$33 million in new funds for the waiting list since 1995, but the list continues to grow

Over the years, the Legislature has attempted to reduce this list, but it still grows. Since 1995, the Legislature has increased the base service budgets by approximately \$33 million in new funding (including \$8.9 million State Funds and \$2.8 million in TANF transfers) to provide services for people on the waiting list. In addition, \$5.5 million in new base funding has been appropriated for emergency community placement needs (including \$1.8 million State Funds and TANF transfers). Due to revenue shortfalls in the past few years, the Legislature has been unable to provide additional funding since the 2001 General Session. Service budgets have been reduced by about \$1.5 million (General Fund), mostly in non-waiver services. The following chart shows the growth in the number of people served and the number of people on the waiting list since FY 1990. It shows only people receiving no services, not those in service waiting for additional services. Since 1990, the number of people in service has grown by 2,140 (107 percent), and the waiting list has grown by 1,379 (277 percent).



**Analyst
Recommends
Additional Funding
for the Waiting List
if funds become
available**

The Analyst believes it is important to continue to make efforts at reaching the people with immediate needs on the waiting. The Division has a policy to try to reach as many people as possible with any new funds. It tries to spend at least 40 percent of any new funds on those in need of in-home services which is much less costly than residential services. The Fiscal Analyst recommends that, if funds become available, the Legislature provide an additional \$420,000 of General Funds for this purpose. Medicaid would provide a match of about \$966,000. The combined funds of approximately \$1,386,000 could provide services for an estimated 120 individuals. Intent language restricting the use of any such funds exclusively for the waiting list would also be recommended.

Supreme Court Decision Regarding ADA “Integration Rule” – Olmstead Case

The U.S. Supreme Court ruled in 1999 (*Olmstead vs. I.C., et al*) on an appeal of a lower court decision alleging that the state of Georgia violated the “integration rule” of the Americans with Disabilities Act (ADA). The suit charged that Georgia was in violation of the ADA because it had denied community-based services to two mentally ill residents in a psychiatric hospital. Basically, the Supreme Court said that states must place institutionalized people with disabilities in community settings, if appropriate, and if desired by the affected individual, and if “the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with mental disabilities.” The Court did not say that ADA provides individuals in an institution with an entitlement to community-based services. Justice Ginsberg, in the majority opinion, specifically allowed that states could maintain a well-ordered waiting list for services as long as the list moved at a “reasonable pace” and there was a “comprehensive, effective working plan for placing qualified persons with mental disabilities in less restrictive settings.” In Utah, the Departments of Health and Human Services, allied agencies, service providers and consumers are currently developing the working plan through a collaborative effort.

Waiting Lists Under Attack – Lawsuits Filed in 24 States

In large part due to various interpretations of the Supreme Court *Olmstead* decision, the practice of maintaining waiting lists for HCBS services is under attack in many states by advocates for people with disabilities. Waiting list lawsuits challenge the States’ discretion to limit availability of Medicaid long-term waiver services. Plaintiffs charge that provisions of the Federal Medicaid law and Americans with Disabilities Act create an obligation for states to furnish Medicaid home and community services on an as need basis. As of June 2003, such lawsuits have been filed in 24 states, including Colorado, Montana, New Mexico, Oregon, and Washington. Settlement agreements have been reached in seven of these cases where state and local agencies have typically agreed to significantly increase funding for HCBS services over a period of time. However, recent revenue problems and budget cuts have cast doubt as to some states’ abilities to comply with the settlement requirements. Four lawsuits have been dismissed by the district courts.

Utah Sued Over Its Waiting List

In December 2002, the Disability Law Center, on behalf of the ARC of Utah and individuals who have been waiting for community services, filed a class-action lawsuit in the U.S. District Court. The suit claims the State has unlawfully failed to provide services to individuals on the waiting list in violation of Medicaid law and the “Americans with Disabilities Act.” The suit does not include a specific funding demand but it does ask the State to eliminate the waiting list by creating a plan to provide services to all eligible individuals. On August 26, 2003, the U.S. District Court dismissed the Medicaid claims of the lawsuit. The lawsuit is still progressing on the other claims.

Emergency Services

Each year, there are emergencies requiring immediate assistance from the Division. Crises arise when children grow older and/or become too behaviorally difficult and when caretakers become ill or die. It also includes cases where individuals are committed to Division services by the courts. Children “aging” out of State services in the Divisions of Child and Family Services and Youth Corrections are also required to be served by DSPD. The Division typically spends between \$500,000 and \$800,000 each year for these emergency services needs.

Portability Between ICFs/MR and Community Services

In 1998, Representative Hogue sponsored legislation that set in motion a process where individuals with developmental disabilities and/or mental retardation who are receiving state services could move from institutional care (ICFs/MR) to community based services (or the reverse). Approximately 80 people since FY 2000 have moved from the ICF/MR to services in the community. It was agreed that to facilitate these moves, state funds would also be transferred from the Department of Health, which funds ICFs/MR clients, to DSPD, which funds the community services program. Under contract, \$277,200 of General Funds was transferred in FY 2001 and FY 2002, which represent the equivalent ICF/MR costs, for the individuals who moved out in the first year, FY 2000. Last year, the Legislature transferred this amount from the Health Department’s base budget to the DSPD budget. DSPD has absorbed the costs of people moved since then. There have been no moves from a community placement to an ICF/MR.

Portability On Hold Due to Lack of Funds.

As individuals transferred out of ICFs/MR, other clients entered the system and “back-filled” the vacated beds. This prevented the Health Department from transferring any additional funds for clients transferred to the DSPD community waiver services. DSPD was able to absorb the service costs of transferees in the FY 2001 and FY 2002 budget years. However, both Health and DSPD are unable to absorb the cost of further transfers. Therefore, a hold has been placed on any further portability transfers since FY 2003.

Federal Match Rate Change

The Federal Medical Assistance Payments (FMAP) match rate changes from 71.60 percent to 72.01 percent effectively for State Fiscal Year 2005. This rate change will realize a projected savings to the department of \$601,800 in General Funds, with detailed savings by program as shown below. These funds are available for re-distribution by the appropriations subcommittee or it may let these funds stay with the Division for additional services.

Service Delivery	\$36,600
Developmental Center	130,300
DD/MR Waiver Services	418,900
Brain Injury Waiver Services	8,900
Physical Disability Waiver Services	7,100
Total	\$601,800

**Trust Fund for
People with
Disabilities**

In 1995, the Legislature created a Trust Fund for People with Disabilities (63A-5-220, UCA) consisting of proceeds from the sale or lease of lands and facilities at the Utah State Developmental Center (USDC) at American Fork. By statute, the Legislature may only appropriate interest earned on the fund, lease and rental receipts. After approved by the Board of Services for People with Disabilities, these funds may be used for programs described in Title 62A, Chapter 5, which is the DSPD section of the code.

**Trust Funds
Available for FY
2005 Are Limited**

The June 30, 2003, trust fund balance of approximately \$2.7 million comes from the sale of land to American Fork City in FY 1998, contract payments on the sale of the Adventure and Learning Park to Highland City, the sale of five acres of orchards, recent sale of the State-owned section of the Tri-City golf course, and interest and lease payments. For FY 2004, the Legislature appropriated a total of \$435,000 from the Trust Fund. Of this amount, \$235,000 was a one-time replacement of General Fund in the base budget, which as been restored with General Funds in the Analyst's FY 2005 recommended budget. Another \$200,000 was appropriated in FY 2004 for one-time uses by the Developmental Center and other Division programs. Considering prior appropriations, it is estimated that the June 30, 2004 balance available for appropriation would be \$15,800. With expected receipts of lease and interest revenues in FY 2005 of \$71,000, the total available for appropriation in FY 2005 would only be about \$86,800.

3.1 Division of Services for Peoples with Disabilities - Administration

Recommendation For DSPD Administration, the Fiscal Analyst’s FY 2005 budget totals approximately \$2.5 million, including \$1.3 million from the General Fund. The Analyst’s recommendation includes the transfer of 0.3 FTE and \$9,000 (\$4,000 General Fund) to the Executive Director’s Human Resource Office as part of the human resource staff consolidation.

Purpose The State Administration Office provides development, quality assurance, general management, and budget and fiscal oversight for the state operated support coordination (case management) system, contracts for private and public service providers, and the Utah State Developmental Center at American Fork. The Office also develops policy recommendations for the Board of Services for People with Disabilities.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$936,600	\$1,340,400	\$1,336,400	(\$4,000)
General Fund, One-time		2,500		(2,500)
Federal Funds	100,000			
Dedicated Credits Revenue	19,800	54,200	54,100	(100)
GFR-Trust for People with Disabilities		50,000		(50,000)
Transfers-H-Medical Assistance	3,462,200	1,168,500	1,151,200	(17,300)
Transfers-Other Agencies	177,400			
Beginning Nonlapsing	40,300			
Closing Nonlapsing	(2,378,800)			
Total	\$2,357,500	\$2,615,600	\$2,541,700	(\$73,900)
Expenditures				
Personal Services	\$1,800,600	\$1,819,800	\$1,796,900	(\$22,900)
In-State Travel	32,700	43,300	43,300	
Out of State Travel	2,900	11,200	11,200	
Current Expense	362,500	433,000	391,000	(42,000)
DP Current Expense	128,800	163,300	154,300	(9,000)
Other Charges/Pass Thru	30,000	145,000	145,000	
Total	\$2,357,500	\$2,615,600	\$2,541,700	(\$73,900)
FTE/Other				
Total FTE	31.2	30.6	30.3	(0.3)

*Non-state funds as estimated by agency

3.2 Service Delivery

Recommendation

The Analyst’s FY 2005 budget for this program totals \$12.5 million, including \$4.9 million from the General Fund. The Analyst’s recommendation includes the transfer of 1.1 FTE and \$49,800 (\$22,100 General Fund) to the Executive Director’s Human Resource Office as part of the human resource staff consolidation.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$5,463,200	\$4,931,800	\$4,909,700	(\$22,100)
General Fund, One-time		16,100		(16,100)
Federal Funds	400,000	152,800	152,800	
Transfers-H-Medical Assistance	6,500,000	7,537,100	7,445,700	(91,400)
Closing Nonlapsing	(77,600)			
Total	<u>\$12,285,600</u>	<u>\$12,637,800</u>	<u>\$12,508,200</u>	<u>(\$129,600)</u>
Expenditures				
Personal Services	\$10,572,600	\$10,755,000	\$10,671,600	(\$83,400)
In-State Travel	136,300	136,300	136,300	
Out of State Travel		3,300	3,300	
Current Expense	1,174,800	1,306,000	1,259,800	(46,200)
DP Current Expense	394,000	429,300	429,300	
Capital Outlay	5,600	5,600	5,600	
Other Charges/Pass Thru	2,300	2,300	2,300	
Total	<u>\$12,285,600</u>	<u>\$12,637,800</u>	<u>\$12,508,200</u>	<u>(\$129,600)</u>
FTE/Other				
Total FTE	216	217	216	(1)
Vehicles	28	28	28	0

*Non-state funds as estimated by agency

Purpose

The Division has divided the state into four regions for service delivery, which is the same regional structure used by several other divisions in the Department. The regional service delivery staff provides service coordination for service recipients and is the point of entry for people seeking services from the Division. The regions contract for services with local private providers, and oversee and evaluate the quality of services delivered.

3.3 State Developmental Center

Recommendation

The Analyst’s recommended FY 2005 budget for the Utah State Developmental Center totals \$31.9 million, including \$8.5 million from the General Fund.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$8,301,300	\$8,515,200	\$8,515,200	\$0
General Fund, One-time		(213,900)		213,900
Dedicated Credits Revenue	1,377,300	1,364,500	1,361,200	(3,300)
GFR-Trust for People with Disabilities	200,000	285,000		(285,000)
Transfers-H-Medical Assistance	21,122,400	21,758,800	21,701,900	(56,900)
Transfers-Other Agencies	97,900	315,300	315,300	
Closing Nonlapsing	(14,000)			
Lapsing Balance	(150,000)			
Total	\$30,934,900	\$32,024,900	\$31,893,600	(\$131,300)
Expenditures				
Personal Services	\$26,012,600	\$26,575,100	\$26,493,800	(\$81,300)
In-State Travel	4,400	6,800	6,800	
Out of State Travel		7,200	7,200	
Current Expense	4,262,600	4,708,100	4,655,500	(52,600)
DP Current Expense	582,300	621,700	624,300	2,600
DP Capital Outlay		6,000	6,000	
Capital Outlay	73,000	100,000	100,000	
Total	\$30,934,900	\$32,024,900	\$31,893,600	(\$131,300)
FTE/Other				
Total FTE	687	699	699	0
Vehicles	63	64	64	0

*Non-state funds as estimated by agency

Purpose

The Utah State Developmental Center (USDC), (formerly known as the Utah State Training School), is an Intermediate Care Facility (for persons who have) Mental Retardation (ICF/MR). The Center provides 24-hour residential services and active treatment services. Specialized services include medical and dental services, physical, occupational, speech, and recreation therapy; psychological services, social work, and day training.

The Center has seen its population decrease from about 425 in 1991 to 229 today, largely due to the out movement of clients to community placements mandated by the early 90’s lawsuit settlement, known by the name “Lisa P.” The Center has restructured its delivery system, remodeling many of its dormitory type housing units into apartments with one to three bedrooms, providing more independence and privacy. This has altered the care delivery system at the Center, requiring a greater staff-to-client ratio. This has served to decrease problem behaviors of residents and improved their quality of life.

3.4 DD/MR Waiver Services

Recommendation

The Analyst’s FY 2005 budget for services for people with developmental disabilities / mental retardation (DD/MR) totals just over \$100 million, including \$26.1 million from the General Fund. Note the FY 2004 carry-forward balance of \$3,389,600 which is projected to be depleted to \$1.2 million by the end of FY 2005. The actual FY 2003 closing non-lapsing balances are found in various division programs and total \$3,389,600.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$27,408,200	\$26,056,500	\$26,056,500	\$0
GFR-Trust for People with Disabilities		100,000		(100,000)
Transfers-H-Medical Assistance	68,163,800	72,311,000	72,311,000	
Transfers-Other Agencies	25,400	25,400	25,400	
Beginning Nonlapsing		3,389,600	2,874,000	(515,600)
Closing Nonlapsing	(881,100)	(2,874,000)	(1,209,200)	1,664,800
Expenditures				
Other Charges/Pass Thru	\$94,716,300	\$99,008,500	\$100,057,700	\$1,049,200
Total	<u>\$94,716,300</u>	<u>\$99,008,500</u>	<u>\$100,057,700</u>	<u>\$1,049,200</u>
FTE/Other				

*Non-state funds as estimated by agency

Services Provided

Included in DD/MR Waiver Services, as well as the other waiver services, is a multitude of services, from family support to 24-hour residential services.

RESIDENTIAL SERVICES include five basic models, which fall into two broad categories of supported living and supervised living:

- a. Supported Living – Trained staff available to provide support services as needed, but less than 24 hours a day.
 - ◆ *Supported living arrangements:* Consumers live independently in apartments and receive periodic assistance and training with money management and other skills necessary for independent living.
 - ◆ *Supervised apartments:* Consumers live in apartments for two or three people. Apartment supervisors are available to provide whatever assistance may be needed.
- b. Supervised Living – Trained staff available to provide supervision and support 24 hours a day.
 - ◆ *Professional parent homes:* These are family homes in which one or two children with disabilities live with 24-hour support in a very intensive therapeutic family arrangement. The families are supported by trainers and consultants and also receive respite care.

- ◆ *Host homes:* These are provided for individuals who have been living in professional parent homes when that person turns 18 years of age and wishes to continue to live in that family home with other adults. The professional parent assumes more of a peer role with the individual and the individual works with the trainer in the acquisition of skills that allow independence as an adult. The person may receive support and/or supervision up to 18 hours per day.
- ◆ *Group homes:* These are the oldest models of community residential living. Although up to eight people may live in a group home, five or fewer people share most homes. In most cases, the group home staff works shifts to provide support throughout the time consumers are at home (typically 17 to 18 hours, but can be up to 24-hours). Training and assistance is provided to meet the needs identified in individual program plans.

DAY SERVICES programs take place in the community or in workshops and are designed to maintain skills in post-school years and provide work opportunities.

- ◆ *Day programs* are designed to promote the ongoing development and maintenance of skills. The services may be provided in a variety of settings, including natural workplace settings throughout the community or at sheltered sites. Many participants in these programs receive federal funding through the Medicaid program. Care must be taken that the goals and objectives for each individual are not directed at teaching specific job skills. Medicaid will not pay for vocational training that is part of a day training program. The average daily cost for day services is approximately \$49.
- ◆ *Supported retirement* is designed for people who are age 55 or older or whose health prevents their continued participation in employment or day training. This program utilizes Senior Citizen Centers, Adult Day Centers, and other community programs that provide a variety of activities for seniors.

SUPPORTED EMPLOYMENT programs place people with disabilities in jobs in regular work environments. A job coach is assigned to each person to provide training on the job and to help solve problems that may arise. The cost of supported employment is approximately \$24 per job coach hour. In some cases, individuals are able to reduce the need for a job coach and may eventually handle a job on their own. For most individuals who enter this service, the Office of Rehabilitative Services in the State Office of Education funds the first 170 hours of training and the Division of Services for People with Disabilities provides the ongoing funding.

FAMILY SUPPORT provides services to families that enable them to care for their children with disabilities at home. These services are provided through contract provider agencies or by staff hired directly by parents. The individualized nature of the program does not allow for fixed rates or allocations of funding. The average expenditure for a family is about \$3,700 per year.

TRANSPORTATION SERVICES helps people with disabilities in getting from their homes to day programs, jobs, and other activities. The need for assistance with the means or cost of transporting people is one of the most frequently mentioned issues when public hearings are held on services for people with disabilities. This is especially true in the rural areas of the state. In 2003, 1,663 people received transportation services.

Additional Mandated Services

Federal Medicaid regulations for the waiver program require that all identified needs of people in the waiver be provided, particularly critical public health and safety needs. Since 2002, the Division has evaluated all requests of people already receiving services but who were requesting additional services. There was at one time a waiting list for over 700 such services. In the last 18 months, by separating “wants” from needs, by setting much more strict requirements, DSPD has reduced the list to 83 individuals. These needed services must be provided, as mandated by Medicaid. The cost, estimated at \$590,500 (General Fund), is part of the expenditure plan of the Division’s use of the FY 2003 carry-forward balance.

3.5 Brain Injury Waiver

Recommendation

The Analyst’s FY 2005 budget for this program totals approximately \$ 2.0 million, including \$547,000 from the General Fund.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$568,200	\$547,000	\$547,000	\$0
Transfers-H-Medical Assistance	1,388,000	1,486,600	1,486,600	
Closing Nonlapsing	(2,500)			
Total	<u>\$1,953,700</u>	<u>\$2,033,600</u>	<u>\$2,033,600</u>	<u>\$0</u>
Expenditures				
Other Charges/Pass Thru	<u>\$1,953,700</u>	<u>\$2,033,600</u>	<u>\$2,033,600</u>	<u>\$0</u>
Total	<u>\$1,953,700</u>	<u>\$2,033,600</u>	<u>\$2,033,600</u>	<u>\$0</u>
FTE/Other				

*Non-state funds as estimated by agency

Program Description

The Brain Injury Home and Community-Based Waiver is for people who have a documented brain injury, are 18 years of age or older, and require the level of care provided in a nursing facility. Services provided under this waiver include:

- 1) *Case Management*: Assists people in gaining access to needed services;
- 2) *Respite Care Services*: Gives regular caregivers a break on a short-term basis;
- 3) *Supported Employment*: Helps pay wages to persons who require assistance on the job;
- 4) *Specialized Medical Equipment*: Includes special equipment designed to help individuals move around and communicate with others;
- 5) *Chore Services*: Helps keep the home clean, sanitary and safe;
- 6) *Emergency Response System*: A device that lets high-risk individuals call for help in case of emergency;
- 7) *Companion Services*: Non-medical care, supervision, and social activities given to adults who have a hard time functioning;
- 8) *Family Training*: Offers training and counseling services to families to help them care for the person receiving waiver services;
- 9) *Structured Day Programs*: Supervised activities to help maintain independence.

3.6 Physical Disabilities Waiver

Recommendation

The Analyst’s FY 2005 budget for this program totals approximately \$1.7 million, including \$494,200 from the General Fund.

	2003 Actual	2004 Estimated*	2005 Analyst	Est/Analyst Difference
Financing				
General Fund	\$827,000	\$494,200	\$494,200	\$0
Transfers-H-Medical Assistance	950,000	1,176,000	1,176,000	
Closing Nonlapsing	(24,400)			
Total	<u>\$1,752,600</u>	<u>\$1,670,200</u>	<u>\$1,670,200</u>	<u>\$0</u>
Expenditures				
Other Charges/Pass Thru	<u>\$1,752,600</u>	<u>\$1,670,200</u>	<u>\$1,670,200</u>	<u>\$0</u>
Total	<u>\$1,752,600</u>	<u>\$1,670,200</u>	<u>\$1,670,200</u>	<u>\$0</u>
FTE/Other				

*Non-state funds as estimated by agency

Purpose

The Physical Disabilities Waiver and state-funded Personal Assistance Services program provide monthly expenditure allocations between \$370 and \$2,600 to people with severe physical disabilities who can live independently with the aid of a personal attendant. Without this assistance, they would likely be in nursing homes. The grants are based on the level of care required by the person. The person is responsible for the hiring, supervising and paying the attendant. An intermediate organization handles payment and other payroll functions for the individuals hired by the service recipients.

3.7 Non-Waiver Services

Recommendation

The Analyst’s FY 2005 budget for this program totals approximately \$2.3 million, including \$415,700 from the General Fund. The majority of funds come from the federal Social Services Block Grant.

	2003	2004	2005	Est/Analyst
	Actual	Estimated*	Analyst	Difference
Financing				
General Fund	\$1,075,000	\$415,700	\$415,700	\$0
General Fund, One-time		350,000		(350,000)
Federal Funds	1,500,000	1,847,200	1,847,200	
Transfers-Other Agencies	519,800			
Closing Nonlapsing	(11,200)			
Total	<u>\$3,083,600</u>	<u>\$2,612,900</u>	<u>\$2,262,900</u>	<u>(\$350,000)</u>
Expenditures				
Other Charges/Pass Thru	<u>\$3,083,600</u>	<u>\$2,612,900</u>	<u>\$2,262,900</u>	<u>(\$350,000)</u>
Total	<u>\$3,083,600</u>	<u>\$2,612,900</u>	<u>\$2,262,900</u>	<u>(\$350,000)</u>
FTE/Other				

*Non-state funds as estimated by agency

Purpose

Non-waiver services include services provided individuals who are not eligible for the Medicaid waivers due to resources of the individual or due to the nature of the disability. It also includes non-Medicaid eligible services provided to individuals in the waiver program, such as Authorized Psych, Payment (psychological assessments to determine existence, nature or extent of psychological impairment or deterioration), residential start-up costs, one-time grant assistance to assist families in maintaining disabled individuals in the family home, special needs money, etc. These expenditures do not draw down matching Medicaid funds.

Request to Restore One-time Funding with On-going Base Budget Adjustment

The 2003 Legislature reduced funding for the Non-Waiver Program by about \$1 million (\$848,000 General Fund) which eliminated all General Funds in this program. Near the end of the Session, it restored \$350,000 of the General Fund reduction with one-time funds. The Division requests that these one-time funds be replaced with a base (on-going) budget adjustment. The Fiscal Analyst concurs and recommends that, if funds become available, the Legislature considers this request.

Efforts to Limit Expenditures in this Service Category

There has been a concerted effort to bring people from this state-funded program over to the Medicaid waiver program. Since 1999, over 700 people have moved from non-waiver to waiver (Medicaid) funding. As of December, 2003, there were 226 people remaining in this program. People receiving services in this program who could become Medicaid waiver eligible, but refuse to apply or “spend down” their income and assets, have had their service funding reduced to that which the State would provide under the waiver program. As of December, 2003, 92 people have had their service funding reduced to the amount of the State match.

The 2003 Legislature directed the Division to limit expenditures to people who are non-Medicaid waiver eligible to ten percent of the Division’s total appropriated budget. In FY 2003, these expenditures totaled \$2,668,800, or approximately 2.5 percent of the Division’s program budget.

4.0 Additional Information: Division of Services for People with Disabilities

4.1 Funding History

	2001	2002	2003	2004	2005
Financing	Actual	Actual	Actual	Estimated*	Analyst
General Fund	\$39,000,600	\$40,244,700	\$44,579,500	\$42,300,800	\$42,274,700
General Fund, One-time				154,700	
Federal Funds	5,331,200	3,445,200	2,000,000	2,000,000	2,000,000
Dedicated Credits Revenue	1,471,700	1,301,900	1,397,100	1,418,700	1,415,300
GFR - IT Innovation Fund	39,300				
GFR - Trust for People with Disabilities		200,000	200,000	435,000	
Transfers - H - Medical Assistance	87,293,800	94,890,500	101,586,400	105,438,000	105,272,400
Transfers - Other Agencies	1,027,500	3,831,800	820,500	340,700	340,700
Beginning Nonlapsing		500	40,300	3,389,600	2,874,000
Closing Nonlapsing		(31,500)	(3,389,600)	(2,874,000)	(1,209,200)
Lapsing Balance		(8,800)	(150,000)		
Total	\$134,164,100	\$143,874,300	\$147,084,200	\$152,603,500	\$152,967,900
Programs					
Administration	\$2,710,700	\$2,577,200	\$2,357,500	\$2,615,600	\$2,541,700
Service Delivery	11,564,600	12,276,000	12,285,600	12,637,800	12,508,200
State Developmental Center	31,615,000	32,213,500	30,934,900	32,024,900	31,893,600
DD/MR Waiver Services		87,500,800	94,716,300	99,008,500	100,057,700
Residential Services	60,459,100				
Brain Injury Waiver Services		1,486,700	1,953,700	2,033,600	2,033,600
Day Services	12,242,700				
Physical Disability Waiver Services		1,819,700	1,752,600	1,670,200	1,670,200
Supported Employment	5,760,400				
Non-waiver Services		6,000,400	3,083,600	2,612,900	2,262,900
Family Support	6,473,300				
Services for Individuals with Physical Dis	1,353,400				
Transportation Services	1,984,900				
Total	\$134,164,100	\$143,874,300	\$147,084,200	\$152,603,500	\$152,967,900
Expenditures					
Personal Services	\$36,421,000	\$38,137,000	\$38,385,800	\$39,149,900	\$38,962,300
In-State Travel	203,100	193,200	173,400	186,400	186,400
Out of State Travel	32,100	8,100	2,900	21,700	21,700
Current Expense	7,336,200	7,231,300	5,799,900	6,447,100	6,306,300
DP Current Expense	1,392,100	1,246,500	1,105,100	1,214,300	1,207,900
DP Capital Outlay	41,000	40,100		6,000	6,000
Capital Outlay	309,400	180,200	78,600	105,600	105,600
Other Charges/Pass Thru	88,429,200	96,837,900	101,538,500	105,472,500	106,171,700
Total	\$134,164,100	\$143,874,300	\$147,084,200	\$152,603,500	\$152,967,900
FTE/Other					
Total FTE	933	953	933	947	945
Vehicles	72	87	91	92	92

*Non-state funds as estimated by agency.

4.2-Federal Funds

	FY 2003 Actual	FY 2004 Authorized	FY 2005 Analyst
SSBG (Social Services Block Grant)	\$2,000,000	\$2,000,000	\$2,000,000
	\$2,000,000	\$2,000,000	\$2,000,000
<i>No State match required.</i>			

4.3 Future Impact of Current Federal Fund Decisions

The future of the Social Services Block Grant is tenuous. It has been reduced significantly over the past few years. These reductions have so far impacted DSPD by more than \$200,000. It is expected the block grant will remain level-funded in the next federal budget cycle. However, Congress has yet to act on its funding level.