



# DEPARTMENT OF HUMAN SERVICES – SERVICES FOR PEOPLE WITH DISABILITIES

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
STAFF: STEPHEN JARDINE

BUDGET BRIEF

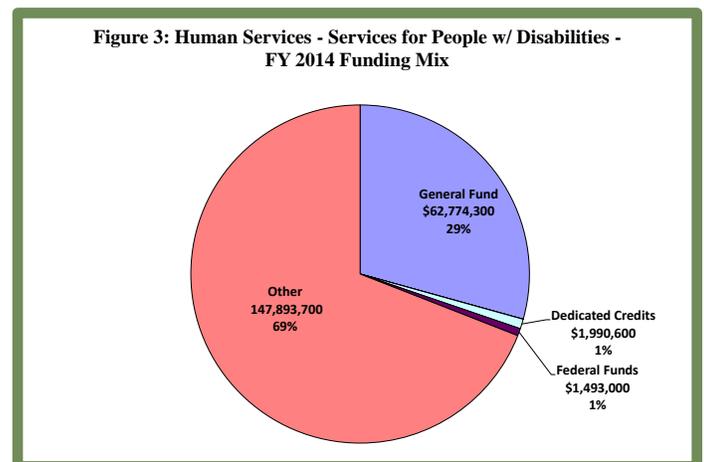
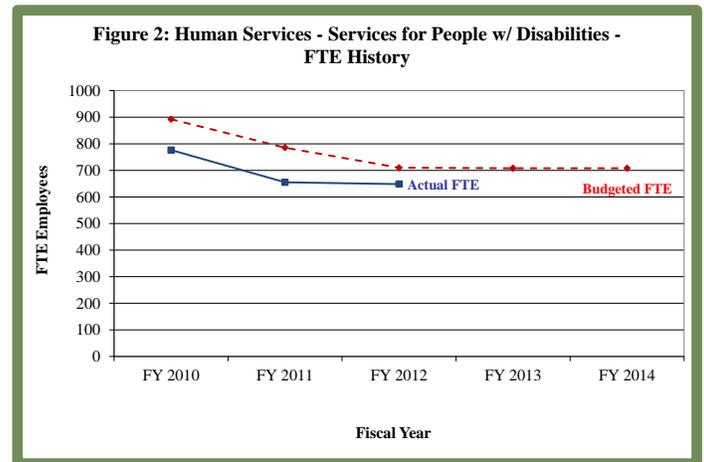
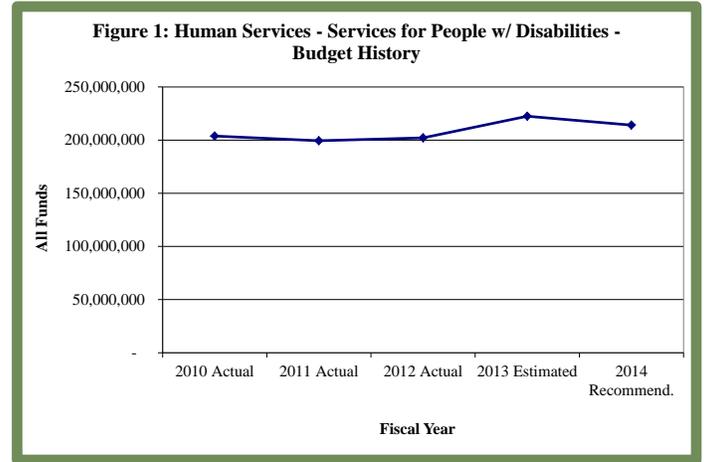
## SUMMARY

The Analyst’s FY 2014 base budget recommendation is \$214,151,600 for the Division of Services for People with Disabilities line item. This recommendation is \$8,330,700 less than the FY 2013 Revised budget. This funding level supports 708 FTE. This brief highlights some issues in the Division of Services for People with Disabilities as well as some uses of the funding provided. The Subcommittee annually reviews each base budget to propose any changes and to vote to approve it. The Analyst recommends the Subcommittee approve the \$214,151,600 FY 2014 recommended budget, which includes a reduction of \$406,300 from the General Fund due to a change in the Federal Medical Assistance Percentage (FMAP) rate, and one proposed intent language statement.

## LEGISLATIVE ACTION

1. For the Division of Services for People with Disabilities, the Fiscal Analyst recommends an FY 2014 budget of \$214,151,600 as shown in Table 1 on page 5.
2. The Fiscal Analyst further recommends the subcommittee approve the following intent language:

*The Legislature intends the Division of Services for People with Disabilities (DSPD) use FY 2014 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the divisions of Child and Family Services and Juvenile Justice Services, and individuals court ordered into DSPD services. The Legislature further intends DSPD report to the Office of the Legislative Fiscal Analyst on the use of these nonlapsing funds.*



## **OVERVIEW**

The Division of Services for People with Disabilities (DSPD) is responsible for providing residential, day services, family support services, and attendant care for people with severe intellectual disabilities or other related conditions, brain injuries, or physical 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, or 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 Intellectual Disabilities funded in the Department of Health.

DSPD contracts for services with local private providers and oversees and evaluates the quality of services provided.

DSPD, under the State Medicaid plan, has an interagency agreement with the Department of Health to act as the operating agency to administer the Home and Community-based Services Waiver program which allows services to be provided in a less restrictive setting than institutional care while still qualifying for Medicaid. DSPD, under the State Medicaid Plan, administers four waiver programs: 1) the Community Supports Waiver, 2) the Acquired Brain Injury Waiver, 3) the Physical Disability Waiver, and 4) the Autism Pilot Waiver. Waiver programs are exceptions to the regular Medicaid State Plan allowing states more flexibility. DSPD also offers non-waiver services for individuals who do not qualify for the Medicaid waivers.

For additional information on DSPD, please refer to the Compendium of Budget Information for the 2013 General Session found at [http://le.utah.gov/lfa/reports/cobi2013/agcy\\_200.htm](http://le.utah.gov/lfa/reports/cobi2013/agcy_200.htm)

## **ISSUES**

### ***FY 2014 Budget Adoption***

Adoption of the FY 2014 budget enables the programs to continue for the next fiscal year at the level outlined. Some changes in the budget may occur, namely non-state fund increases or decreases (i.e. federal funds, transfers, dedicated credits and non-lapsing balances) and program shifts within a line item.

### ***Department Requests for Consideration***

The department requests the following actions from the subcommittee for the Division of Services for People with Disabilities:

1. ***Provide \$2,543,300 in General Fund and \$5,851,700 in federal Medicaid funds to replace one-time funds currently covering a structural imbalance in the Community Supports Waiver program.*** DSPD is requesting the \$2,543,300, funded one time during the 2012 General Session, be funded with ongoing General Fund. The Community Supports (Medicaid Home and Community-based Services) Waiver program allows states to provide services to individuals using Medicaid funds outside of standard institutional programs and provides services in community settings such as residential services (including supported living arrangements, supervised apartments, professional parent homes, host homes, and group homes), day services, supported employment, family support, and transportation services. The Governor recommends funding this request with \$2,543,300 ongoing General Fund for FY 2014. *Should additional resources become available to the subcommittee, the Fiscal Analyst would recommend an increase of \$2,543,300 from the General Fund and \$5,851,700 from Federal Medicaid funds for this request.*
2. ***Provide \$1,866,000 in General Fund and \$4,344,700 in federal Medicaid funds to pay for required additional needs of individuals as a condition of participation in the Medicaid waiver programs.*** Utah serves 4,800 individuals in its DSPD Medicaid waiver programs. Of the 4,800 covered individuals, 650 or 13.0 percent have been identified as having increased health and safety needs. These are individuals already receiving services whose needs have increased due to worsened condition. In order for a person to meet the test to receive additional services, the person must have lost a primary caregiver or had a dramatic change in his or her health or behavior. Whether a person meets the test is determined by a review administered by a services review committee. It is a Medicaid requirement that the health and safety service needs of individuals receiving services under these waivers be met. A state's participation in the Medicaid waiver program and, consequently, receipt of federal Medicaid funds requires a review of an individual's needs take place at least annually. The Governor

recommends funding this request with \$1,866,000 ongoing General Fund for FY 2014. *Should additional resources become available to the subcommittee, the Fiscal Analyst would recommend an increase of \$1,853,100 from the General Fund and \$4,356,200 from Federal Medicaid funds for this request.*

3. **Provide \$1,054,100 in General Fund to maintain youth with intellectual disabilities on the Medicaid waiver who are aging out of Division of Child and Family Services (DCFS) custody.** A small number of children and youth with intellectual disabilities in DCFS custody are put on the Medicaid Community Services Waiver in order to meet their needs. In FY 2012 the total number was 115. When these youth become adults they age out of DCFS custody and lose the funding previously provided for them as the funding stays with DCFS to pay for new children and youth with intellectual disabilities placed in DCFS custody. As a condition of the federal waiver approval, Utah agreed not to drop current waiver recipients from service (*State Medicaid Directors Letter – Olmstead Update No. 4*). In recent years, the cost associated with youth aging out of DCFS was covered by nonlapsing funds. The division does not anticipate having nonlapsing funds available for FY 2014. The Governor recommends funding this request with \$1,054,100 ongoing General Fund for FY 2014. *Should additional resources become available to the subcommittee, the Fiscal Analyst would recommend an increase of \$1,054,100 from the General Fund for this request.*
4. **Provide \$150,000 in General Fund to fund Family Preservation and Service Broker Services.** This request is to provide 30 percent of the people on the disabilities waiting list (575 individuals) and their families with family preservation and service broker services. From FY 2007 through FY 2009 DSPD operated family preservation and crisis prevention programs as pilot programs. DSPD found both programs helpful in defraying and delaying high cost residential placements by providing families with “behavioral support, parenting skills training, group problem solving, information, referral, crisis prevention, natural support development, respite assistance, and emergency financial assistance.” These programs were eliminated in September 2008 as state revenues declined due to the economic downturn. These programs target families who are at risk of situations such as divorce, family break up, homelessness, and loss of basic utilities. The Governor does not recommend funding this request. *Should additional resources become available to the subcommittee, the Fiscal Analyst would recommend an increase of \$150,000 from the General Fund for this request.*
5. **Provide \$3,079,000 in General Fund and \$7,168,000 in federal Medicaid funds to fund 25 percent of the Disabilities Waiting List.** The division maintains a statewide waiting list for services. Calculation of the estimated cost of providing service for individuals on the statewide waiting list is based on the average cost of providing each service for each person who is waiting. The waiting list is updated using an ongoing review process. People no longer needing services or who no longer wish to wait for services are removed from the waiting list. As of June 30, 2012, there were 1,940 individuals with severe disabilities waiting for services at a total calculated cost of \$43,006,800 (\$12,461,200 in state General Fund). At the beginning of the current budget process, the department made a request of the Governor to fund \$3,079,000 in General Fund and \$7,168,000 in federal Medicaid funds to bring 25 percent or 477 of the most critical individuals on the disabilities waiting list into services. The Governor does not recommend funding this request at this time.
6. **Item of intent language for inclusion in FY 2014 recommended by the Governor**

*The Legislature intends the Division of Services for People with Disabilities (DSPD) use FY 2014 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the divisions of Child and Family Services and Juvenile Justice Services, and individuals court ordered into DSPD services. The Legislature further intends DSPD report to the Office of the Legislative Fiscal Analyst on the use of these nonlapsing funds.*

### **ACCOUNTABILITY DETAIL**

For an eight year history of output and outcome measures used by the division, see the issue brief *Division of Services for People with Disabilities Performance Measures*.

### **BUILDINGS**

For a discussion of buildings used by the Division of Services for People with Disabilities including the Utah State Developmental Center, see the Department of Human Services In-depth Budget Review found at

<http://le.utah.gov/interim/2010/pdf/00001613.pdf> pages 79 through 86. For a listing of those buildings see the Department of Human Services In-depth Budget Review Appendix 3, pages 25 through 27 found at <http://le.utah.gov/interim/2010/pdf/00001614.pdf>.

### **TIER APPROACH TO MEDICAID WAIVERS**

Intent language passed in item 98 of House Bill 2, *New Fiscal Year Supplemental Appropriations Act (2012 General Session)*, instructed DSPD, in consultation with stakeholders, providers, and the state Medicaid agency, to explore options for a tier approach for individuals waiting for services to be utilized as an alternative or in addition to programs currently funded as part of the DSPD appropriations and to report back to the Social Services Appropriations subcommittee by January 2013. DSPD submitted a white paper for public comment and provided a report to the Legislative Fiscal Analyst. See the issue brief *DSPD Options for a Tier Approach to Community Services (2013 General Session)*.

### **PERFORMANCE AUDIT OF THE MEDICAID FRAUD CONTROL UNIT**

The Office of the Legislative Auditor General (OLAG) completed [A Performance Audit of the Medicaid Fraud Control Unit](#) in August of 2012. In its response letter to the audit, the Medicaid Fraud Control Unit (MFCU) stated the following with regard to the topic of cost avoidance (MFCU response to OLAG recommendations): “Just one example in the past year: The MFCU concluded audits of providers who contract for services to the disabled with the Division of Services for People with Disabilities. Through our audit, we determined that there does not exist a valid measurement for the services we pay for to provide daily care to the disabled clients in the program. The reimbursement policies in place at the time prevented us from bringing legal action. However, we saw the problem as a significant risk of fraud or abuse. Accordingly, we have begun working with good providers and the Division of Services for People with Disabilities to change the reimbursement system so that a proper audit trail is established and greater accountability exists in the program” (p. 21). In response to this issue, DSPD has stated: “This concern from MFCU is regarding a portion of our current residential rate worksheet which indicates what staff ratios are appropriate when services are being provided. . . . In response, DSPD has formed a stakeholder workgroup, of which MFCU is a member, to draft an improved worksheet tool. This draft tool is now in pilot phase which will end in January. During this development time, DSPD continues to work with MFCU, and other oversight agencies on any suspected fraud and abuse issues” (e-mail to the Legislative Fiscal Analyst, November 13, 2012).

### **BUDGET DETAIL**

The following table shows the budget history for the Division of Services for People with Disabilities and its FY 2014 Recommended Budget. This proposed FY 2014 Budget consists of the ongoing portion of FY 2013 state funds (General Fund and various restricted funds) plus the most recent estimates of other funds (federal funds, dedicated credits collections and various transfer or carry over funds). Estimated expenditures are then proposed based upon available funding.

Human Services - Services for People w/ Disabilities						
Sources of Finance	FY 2012	FY 2013	Changes	FY 2013	Changes	FY 2014*
	Actual	Appropriated		Revised		Recommended
General Fund	54,900,600	63,180,600	0	63,180,600	(406,300)	62,774,300
General Fund, One-time	2,617,000	2,683,300	0	2,683,300	(2,683,300)	0
Federal Funds	1,079,000	1,417,200	75,800	1,493,000	0	1,493,000
American Recovery and Reinvestment Act	60,900	0	0	0	0	0
Dedicated Credits Revenue	2,480,900	1,911,200	79,400	1,990,600	0	1,990,600
GFR - Account for People with Disabilities	100,000	100,000	0	100,000	0	100,000
Transfers - Medicaid	140,564,700	145,189,400	6,970,400	152,159,800	(5,686,100)	146,473,700
Transfers - Other Agencies	938,500	835,100	(85,100)	750,000	0	750,000
Beginning Nonlapsing	73,600	0	695,000	695,000	(125,000)	570,000
Closing Nonlapsing	(695,000)	0	(570,000)	(570,000)	570,000	0
<b>Total</b>	<b>\$202,120,200</b>	<b>\$215,316,800</b>	<b>\$7,165,500</b>	<b>\$222,482,300</b>	<b>(\$8,330,700)</b>	<b>\$214,151,600</b>
<b>Programs</b>						
Administration - DSPD	2,817,400	3,156,900	(176,200)	2,980,700	19,800	3,000,500
Service Delivery	5,722,000	6,506,000	4,800	6,510,800	(19,800)	6,491,000
Utah State Developmental Center	32,309,900	34,335,000	100	34,335,100	0	34,335,100
Community Supports Waiver	155,056,000	164,713,500	7,136,800	171,850,300	(8,190,700)	163,659,600
Acquired Brain Injury Waiver	3,058,300	2,947,700	0	2,947,700	0	2,947,700
Physical Disabilities Waiver	1,961,500	1,850,900	0	1,850,900	0	1,850,900
Non-waiver Services	1,195,100	1,806,800	200,000	2,006,800	(140,000)	1,866,800
<b>Total</b>	<b>\$202,120,200</b>	<b>\$215,316,800</b>	<b>\$7,165,500</b>	<b>\$222,482,300</b>	<b>(\$8,330,700)</b>	<b>\$214,151,600</b>
<b>Categories of Expenditure</b>						
Personnel Services	32,334,700	35,301,100	(1,267,000)	34,034,100	0	34,034,100
In-state Travel	68,900	65,200	37,800	103,000	0	103,000
Out-of-state Travel	4,700	3,000	51,000	54,000	1,100	55,100
Current Expense	5,988,100	6,975,500	(363,800)	6,611,700	18,700	6,630,400
DP Current Expense	1,712,000	1,452,800	801,000	2,253,800	(19,800)	2,234,000
DP Capital Outlay	0	0	200,000	200,000	0	200,000
Capital Outlay	385,100	50,000	420,000	470,000	0	470,000
Other Charges/Pass Thru	161,626,700	171,469,200	7,286,500	178,755,700	(8,330,700)	170,425,000
<b>Total</b>	<b>\$202,120,200</b>	<b>\$215,316,800</b>	<b>\$7,165,500</b>	<b>\$222,482,300</b>	<b>(\$8,330,700)</b>	<b>\$214,151,600</b>
<b>Other Data</b>						
Budgeted FTE	710	716	(8)	708	0	708
Actual FTE	648	0	0	0	0	0
Vehicles	70	70	(3)	67	0	67

\*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

Table 1