- Funding level will require the closure of two developmental centers
- Added 4,000 Individual Options (IO) waiver slots, requested 2,000 additional IO waiver slots, and received federal approval for 6,000 Level 1 waiver slots as part of Medicaid redesign

Mental Retardation and Developmental Disabilities, Department of

Clay Weidner, Budget Analyst

ROLE

The Department of Mental Retardation and Developmental Disabilities (DMR) is the primary service agency for 61,000 Ohioans with mental retardation and other developmental disabilities (MR/DD). The Department provides services to 1,892 individuals at 12 developmental centers. Services are also provided to approximately 9,889 people through two home and community-based Medicaid service waivers (HCBS): Individual Options (IO) and Residential Facilities Waiver (RFW). Approximately 7,400 individuals with MR/DD are living with caregivers over the age of 60. Of that number, approximately 2,300 are on county board waiting lists for waiver services. There are about 16,000 Ohioans in total with MR/DD on county board waiting lists for waiver services. The Department estimates that the remaining 5,100 individuals living with aging caregivers that are not on the waiting list for services will be in need of emergency supports in the near future.

The Department also provides funding assistance to the 88 county boards of MR/DD in Ohio for residential and support services. These services include, but are not limited to, residential supports, early intervention and family supports, adult vocational and employment services, and service and support administration. Approximately 61,000 people receive support services through programs provided by the county boards of MR/DD. Residential supports offered by county boards serve more than 13,000 individuals with MR/DD.

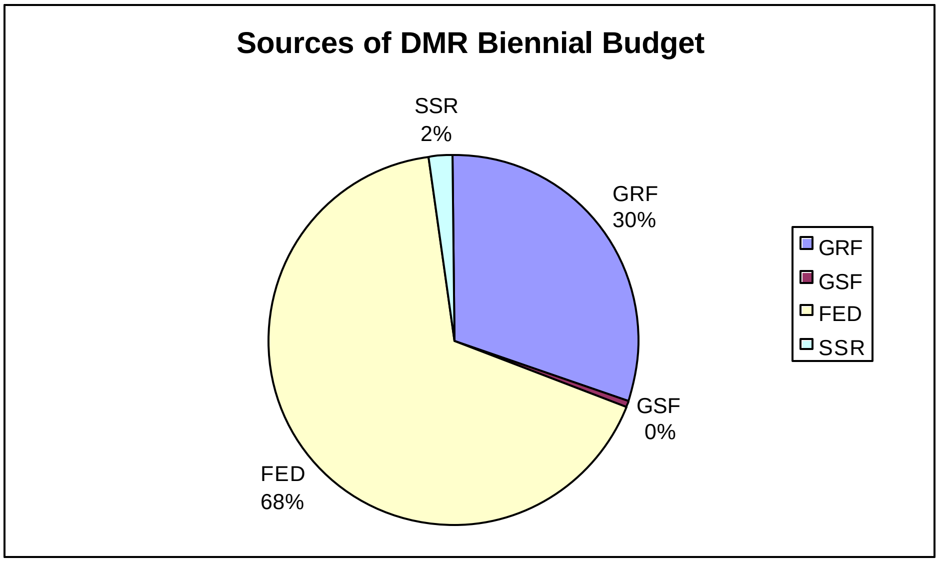
Agency In Brief					
Number of Employees*	Total Appropriations-All Funds		GRF Appropriations		Appropriation Bill(s)
	2004	2005	2004	2005	
4,426	$1.1 billion	$1.2 billion	$351.9 million	$356.4 million	Am. Sub. H.B. 95

*Employee head count obtained from the Department of Administrative Services (DAS) payroll reports as of June 28, 2003.

OVERVIEW

Am. Sub. H.B. 95 increases the Department's budget by 20.6% from FY 2003 expenditures and 4.1% in FY 2005. The increase in funding for FY 2004 is largely attributable to a substantial increase in federal reimbursement generated from Medicaid redesign. In FY 2004, total appropriations for DMR are $1,144,613,335. In FY 2005, this figure increases to $1,191,632,613. The GRF represents 30.4% of the total agency budget. The GRF portion of the DMR budget increases by 1.6% in FY 2004 over FY 2003 expenditures. In FY 2005, this increase is 1.3% from FY 2004. Federal funds represent 66.9% of the total agency budget. The federal portion of the DMR budget increases by 31.7% from FY 2003 expenditures. In FY 2005, this increase is 5.6% from FY 2004.

The following chart illustrates the various funding sources of the DMR biennial budget:



BUDGET ISSUES

MEDICAID REDESIGN

Background

With the passage of Am. Sub. H.B. 94 and Am. Sub. H.B. 405, both of the 124th General Assembly, the most far-reaching reforms of Ohio's MR/DD delivery system began. According to the Department, these changes are necessary to reduce the large residential services waiting lists (approximately 16,000), the inequity among county board services, high direct care staff turnover; to increase consumer choice, to comply with recent Supreme Court decisions (*Olmstead*), and to bring Ohio's MR/DD services in compliance with Medicaid requirements. These reforms, collectively known as Medicaid redesign, are predicated on redirecting GRF and local levy dollars, which have historically funded most MR/DD programs, to maximize Federal Financial Participation (FFP), or federal Medicaid reimbursement. The Department refers to this process as "refinancing." Under the Medicaid program, the federal government reimburses allowable expenditures according to a state's Federal Medical Assistance Percentage (FMAP) rate. The FMAP rate for Ohio in FY 2003 was 58.83%. Refinancing, consequently, frees state and local dollars that were previously used to pay 100% of the costs of services in certain programs. This allows HCBS waiver services to be expanded to those on county board waiting lists and in emergency situations (e.g., death of a caregiver). Formerly, a high percentage of state MR/DD spending was unmatched state and local money that funded Medicaid-reimbursable services. For example, in FY 2000, 31.0% of Ohio's total MR/DD spending was unmatched state and local funds, which ranked as the fourth highest percentage in the United States (behind California, Georgia, and Maryland).[9] The Department believes Medicaid redesign will bring this percentage down.

New Waiver System

The redesign calls for the implementation of a three-waiver system consisting of a Level 1 waiver, Level 2 wavier, and Level 3 waiver. The Level 1 waiver, for which the Department received federal approval, will have an individual cost cap of approximately $5,000. Match for the Level 1 waiver comes directly from the county board of MR/DD. The current IO waiver will be split into the Level 2 and Level 3 waivers. The Level 2 waiver will have an approximate cost floor of $5,001 and a cost cap of approximately $66,000. The Level 3 waiver will have an aggregate cost cap equaling the average cost of state institutionalization. The Level 3 waiver's aggregate cost cap means that a particular individual's cost may exceed the average cost of institutionalization, as long as the average of all enrollees does not exceed the waiver's cost cap. Eventually, the RFW will be phased out and its enrollees will be transferred to one of the three aforementioned waivers.

Progress

During the FY 2002-2003 biennium, the Department added 4,000 IO slots and received federal approval for 6,000 Level 1 slots. The new IO slots were distributed proportionately among Ohio's 88 counties. Of those 4,000 new IO waiver slots, approximately 3,400 are currently being used. The remaining 600 slots have been allocated to county boards. However, the county boards receiving the 600 slots have been unable to supply the necessary match. These county boards are having trouble supplying the match because the boards counted on Level 1 waiver refinancing to free up match money for additional IO waiver slots. If these county boards cannot provide the match within a reasonable period, the Department will take the slots away from them and distribute the slots to county boards that can provide the necessary match.

County boards enrolled 3,215 of the new 4,000 IO slots. Of those county-enrolled slots, 2,218 individuals have been refinanced from the GRF-funded Supported Living program. This represents approximately half of those individuals that county boards had planned to refinance. Additionally, 497 individuals have been moved from county board waiting lists to an IO waiver. Further expansion of IO slots will be needed for county boards to fully refinance Supported Living and use those funds to reduce county board waiting lists. On June 30, 2003, the Department requested an additional 2,000 IO slots from the federal government. If approved, these slots will be paid for entirely by refinanced local moneys. According to the Department, fully implementing the Level 1 waiver is the first priority since doing so would allow county boards to finish refinancing and free up match money for additional IO slots.

The 6,000 Level 1 slots will be filled over three years (3,000 in FY 2004, 2,000 in FY 2005, and 1,000 in FY 2006). The Level 1 waiver has been approved by the federal Centers for Medicare and Medicaid Services and enrollment will begin soon.

[9] Source: Braddock, David, Richard Hemp, Mary Rizzolo, Susan Parish, and Amy Pomeranz, 2002. *The State of the States in Developmental Disabilities: 2002 Study Summary*. Coleman Institute for Cognitive Disabilities and Department of Psychiatry: The University of Colorado. Available at: http://www.cu.edu/ColemanInstitute/stateofthestates/home.htm.

DEVELOPMENTAL CENTER CLOSURES

The developmental center appropriations will not cover increased developmental center costs. As a result, the Department will close two developmental centers (Apple Creek and Springview), one at the end of the FY 2004-2005 biennium. The Springview Developmental Center, which serves 86 people and has 179 staff members, will close by June 30, 2005, and the Apple Creek Developmental Center, which has 181 residents and 381 staff members, will close by June 30, 2006.

Managing the Closures

The Department considered numerous factors before selecting which developmental centers to close, including each centers' cost per resident and proximity to other developmental centers. Springview and Apple Creek have some of the highest costs per resident of all the developmental centers. Springview has the highest daily cost per resident not reimbursed by Medicaid and Apple Creek has the sixth highest. Regarding their proximity to other centers, Apple Creek and Springview are both relatively close to other facilities. Apple Creek is within one hour of four other centers and Springview is within 40 miles of two other centers.

The Department states that it is committed to managing the closings in the most convenient way possible for the affected residents. The Department will meet individually with each resident and their family or guardian to discuss the resident's options. If the resident would like to try a community placement, the Department will supply the state match for a waiver slot. If the resident wants to stay in a developmental center, DMR is committed to placing those individuals in the facility the resident chooses. The Department has created a committee to oversee the safe transition of displaced individuals. The Department hopes parent groups, advocacy groups, and other system stakeholders will actively participate on the committee.

Regarding displaced employees, the Department will try to coordinate vacancies at other developmental centers with those affected employees as much as possible.

Potential Savings

In the short-term, costs of the centers will rise because of employee buyouts, early retirement, unemployment claims, and other transitional costs. Further, the Department will have to request, and provide match for, additional Medicaid waiver slots to accommodate those residents who decide to move into community placements. The DMR is unable to predict exactly how many individuals will choose to move to a community setting as of this writing. The Department estimates that the remaining developmental centers can accommodate a maximum of 161 additional individuals.

According to the Department's preliminary estimates, closing two developmental centers will save the GRF approximately $30 million over the course of four years (FYs 2004-2007).

Controlling Growth and Intake

Under provisions contained in Am. Sub. H.B. 95, the Department will be able to control intake into developmental centers and limit the Department's potential fiscal liability when individuals are committed to state-operated developmental centers from other settings in the MR/DD system.

The Department pays the nonfederal share of Medicaid costs for state-operated intermediate care facilities for the mentally retarded (ICFs/MR) out of its budget. However, the Department of Job and Family Services (JFS) pays the nonfederal share of Medicaid expenditures for individuals living in private and county-owned ICFs/MR.

Am. Sub. H.B. 95 requires DMR to reduce a residential facility's licensed bed capacity by one when a resident of a facility is committed to a state-operated ICF/MR, unless within 90 days that facility replaces the former resident with a designated individual from a state-operated ICF/MR or from another setting. If the individual who has moved from a residential facility to a state-operated ICF/MR is not replaced, the Department of Job and Family Services may transfer the nonfederal share of Medicaid expenditures that will no longer be paid to the residential facility to DMR to cover the costs of the resident's care in the state-operated ICF/MR. The Director of DMR must follow processes provided in the Administrative Procedure Act to reduce a residential facility's licensed capacity.

Am. Sub. H.B. 95 also gives the Department a mechanism to recoup expenses for the provision of services to an individual moving from a county-funded program to a state-operated ICF/MR if the county board refuses to serve a resident of a state-operated facility in the community in exchange. In such cases, the Department is required to use funds otherwise allocated to a county board of MR/DD to cover the non-federal share of the cost of Medicaid services to the individual committed to a state-operated ICF/MR if (1) the individual received Supported Living or home and community-based services funded by the county board of MR/DD and (2) the county board will not admit a resident of a state-operated facility into a residential facility.

Cap on Residential Facility Beds

The Department's budget does not include the funding necessary to support any growth in the residential facility system. Consequently, Am. Sub. H.B. 95 caps the number of residential facility beds in the system and provides the Department with a mechanism to pay for any newly certified ICF/MR bed. The Department of Job and Family Services is responsible for the non-federal share of residential facility expenditures up to the cap set by the bill. The Department of Mental Retardation and Developmental Disabilities is responsible for the non-federal share of residential facility expenditures for any newly certified residential facility beds.

Under the bill, if a residential facility voluntarily converts a residential facility bed for use under the Supported Living program, the Director of DMR must reduce the maximum number of residential facility beds in the state by the number of such beds that the license holder voluntarily converts to use for Supported Living.

Growth in ICF/MR System

Funding in Am. Sub. H.B. 95 is not sufficient to support any growth in the ICF/MR system. In order to fund any growth in the ICF/MR system, the bill provides two mechanisms for the Department to pay the non-federal share of the cost under Medicaid for newly certified ICF/MR beds. If the beds are located in a county served by a county board that initiates or supports the beds' certification, the Department may use funds appropriated for Family Support Services, Service and Support Administration, and other services. If the beds are located in a county served by a county board that does not initiate or support the beds' certification, the Department may use funds appropriated for home and community-based services and Supported Living.

MARTIN V. TAFT

The Department is in negotiations to settle the ongoing lawsuit *Martin v. Taft.* In 1989, the Ohio Legal Rights Service (OLRS) filed a federal class action lawsuit against Ohio claming undue segregation in MR/DD institutions and large waiting lists for people in need of services. According to OLRS, *Martin* seeks integrated community residential services and specifies that state programs should not discriminate against people with severe disabilities. The case has been through several rounds of court-ordered mediation and negotiations. However, a settlement has not been reached.

Language in Am. Sub. H.B. 95 creates a new waiver enrollment priority category for up to 40 individuals in each fiscal year that reside in nursing facilities, are eligible for home and community-based services, and are willing and able to move. According to the Department, this is a good faith effort at settling the lawsuit. However, if an agreement cannot be reached, the Department opposes the creation of the new priority category.

TASK FORCE TO ELIMINATE HEALTH SERVICES DUPLICATION

Am. Sub. H.B. 95 creates the Task Force to Eliminate Health Services Duplication. The Task Force is charged with studying the feasibility of combining the Commission on Minority Health and the departments of Aging, Alcohol and Drug Addiction Services, Health, Mental Health, and Mental Retardation and Developmental Disabilities and creating a centralized services procurement point. The Task Force must submit a report of its findings and recommendations to the General Assembly by March 31, 2004.

OHIO AUTISM TASK FORCE

Am. Sub. H.B. 95 creates the Ohio Autism Task Force. The Task Force consists of 22 members charged with studying and making recommendations regarding the growing incidence of autism and ways to improve the delivery of autism services in Ohio. The Task Force will cease to exist upon the submission of a report of its recommendations to the Governor, Speaker of the House of Representatives, and President of the Senate not later than June 26, 2004. The Department is responsible for providing meeting facilities and other support as necessary.

HOME CARE PROVIDER CHECK-IN SYSTEM

Am. Sub. H.B. 95 requires home care providers to formulate procedures for requiring providers of home care services involving the health and safety of persons over age 60 or disabled adults to have in place a system of monitoring whether its employees are providing the services as scheduled. The requirement is to be implemented by the departments of Mental Retardation and Developmental Disabilities, Aging, Job and Family Services, and Health. Some providers are exempt from these requirements. The departments are to conduct a study on how the exempted providers may be made subject to the requirements of this provision. The departments are required to prepare a report and submit their findings and recommendations to the President of the Senate and the Speaker of the House of Representatives.

This provision of the bill may increase administrative costs for those providers that currently do not have a monitoring system. The study required by this provision would create a minimal increase in expenditures for the departments.

GOVERNOR'S VETOES

The Governor vetoed all of the items included in this section.

Am. Sub. H.B. 95 included language authorizing the creation of a State Facilities Closure Commission regarding the possible closing of state institutional facilities for the purpose of expenditure reductions or budget cuts.

The bill also included language requiring the submission to the General Assembly of specified information describing how a state agency plans to meet the needs of clients served by the proposed closing of a state institutional facility.

Language in the bill required the Director of DMR to issue one or more residential facility licenses to an applicant without requiring the applicant to have development plans submitted, reviewed, or approved and notwithstanding the cap on the maximum number of residential facility beds established in the bill, if certain conditions were satisfied.

Am. Sub. H.B. 95 contained language requiring the Director of Job and Family Services to seek federal Medicaid funds for the administrative costs for habilitation center services, home and community-based services, and Service and Support Administration that each county board of MR/DD incurs pursuant to its Medicaid administrative authority and claims in accordance with Medicaid requirements.

Line Item Detail by Agency

Report For: Main Operating Appropriations Bill — **Version:** Enacted

DMR Mental Retardation and Developmental Disabilities, Department of

Fund	Line Item	Description	FY 2001:	FY 2002:	FY 2003:	FY 2004 Appropriations:	% Change 2003 to 2004:	FY 2005 Appropriations:	% Change 2004 to 2005:
GRF	320-321	Central Administration	$ 11,663,996	$ 9,899,611	$7,333,527	$ 9,174,390	25.10%	$ 9,357,878	2.00%
GRF	320-411	Special Olympics	$ 200,000	$ 200,000	$0	$ 0	N/A	$ 0	N/A
GRF	320-412	Protective Services	$ 1,316,437	$ 1,499,991	$1,449,298	$ 1,911,471	31.89%	$ 2,008,330	5.07%
GRF	320-415	Lease-Rental Payments	$ 27,565,340	$ 24,581,264	$25,127,891	$ 25,935,650	3.21%	$ 23,206,750	-10.52%
GRF	322-405	State Use Program	$ 196,210	$ 242,004	$261,282	$ 268,792	2.87%	$ 273,510	1.76%
GRF	322-413	Residential and Support Services	$ 130,856,142	$ 137,669,440	$154,235,070	$ 8,439,337	-94.53%	$ 8,450,787	0.14%
GRF	322-414	Sermak Class Services	$ 37,015	----	$0	$ 0	N/A	$ 0	N/A
GRF	322-416	Waiver State Match	----	----	$0	$ 95,695,198	N/A	$ 100,019,747	4.52%
GRF	322-417	Supported Living	----	----	$0	$ 43,179,715	N/A	$ 43,179,715	0.00%
GRF	322-451	Family Support Services	$ 7,975,864	$ 7,975,870	$6,975,870	$ 6,975,870	0.00%	$ 6,975,870	0.00%
GRF	322-452	Service and Support Administration	$ 6,384,663	$ 8,849,707	$8,849,724	$ 8,849,724	0.00%	$ 8,849,724	0.00%
GRF	322-501	County Boards Subsidies	$ 46,863,627	$ 49,708,303	$41,416,400	$ 31,795,691	-23.23%	$ 31,795,691	0.00%
GRF	322-503	Tax Equity	----	----	$0	$ 14,000,000	N/A	$ 15,000,000	7.14%
GRF	323-321	Residential Facilities Operations	$ 102,336,062	$ 100,499,356	$100,666,372	$ 105,701,254	5.00%	$ 107,252,799	1.47%
General Revenue Fund Total			**$ 335,395,357**	**$ 341,125,545**	**$ 346,315,434**	**$ 351,927,092**	**1.62%**	**$ 356,370,801**	**1.26%**
4B5	320-640	Conference/Training	$ 195,121	$ 17,887	$24,866	$ 400,000	1,508.62%	$ 400,000	0.00%
488	322-603	Residential Services Refund	$ 679,351	$ 928,265	$322	$ 1,000,000	310,459.01%	$ 1,000,000	0.00%
4U4	322-606	Community MR and DD Trust	----	----	$0	$ 300,000	N/A	$ 300,000	0.00%
4V1	322-611	Program Support	$ 634,540	$ 981,854	$776,016	$ 610,000	-21.39%	$ 625,000	2.46%
4V1	322-615	Ohio's Self-Determination Project	$ 23,033	----	$0	$ 0	N/A	$ 0	N/A
4V1	322-623	Special Projects	----	----	$26,600	$ 0	-100.00%	$ 0	N/A
4J6	322-645	Intersystem Services for Children	$ 1,954,417	$ 1,409,197	$3,200,117	$ 3,300,000	3.12%	$ 3,300,000	0.00%
152	323-609	Residential Facilities Support	$ 106,601	$ 606,527	$810,465	$ 912,177	12.55%	$ 912,177	0.00%
General Services Fund Group Total			**$ 3,593,062**	**$ 3,943,730**	**$ 4,838,386**	**$ 6,522,177**	**34.80%**	**$ 6,537,177**	**0.23%**
3A4	320-605	Administrative Support	$ 6,595,895	$ 3,863,732	$6,873,753	$ 12,492,892	81.75%	$ 12,492,892	0.00%
3A5	320-613	DD Council Operating Expenses	$ 775,662	$ 905,322	$839,507	$ 861,000	2.56%	$ 861,000	0.00%
325	320-634	Protective Services	$ 386,810	$ 150,000	$75,000	$ 100,000	33.33%	$ 100,000	0.00%
3A4	322-605	Community Program Support	$ 737,258	$ 657,994	$0	$ 1,000,000	N/A	$ 1,000,000	0.00%
325	322-608	Federal Grants - Operating Expenses	$ 606,912	$ 1,065,281	$876,046	$ 2,023,587	130.99%	$ 1,833,815	-9.38%

Line Item Detail by Agency

			FY 2001:	FY 2002:	FY 2003:	FY 2004 Appropriations:	% Change 2003 to 2004:	FY 2005 Appropriations:	% Change 2004 to 2005:
DMR	***Mental Retardation and Developmental Disabilities, Department of***								
3A4	322-610	Community Residential Support	----	----	$0	$ 500,000	N/A	$ 500,000	0.00%
325	322-612	Social Service Block Grant	$ 10,026,326	$ 9,982,234	$7,565,273	$ 10,319,346	36.40%	$ 10,330,830	0.11%
3A5	322-613	DD Council Grants	$ 1,959,852	$ 2,153,524	$2,007,402	$ 3,130,000	55.92%	$ 3,130,000	0.00%
325	322-617	Education Grants - Operating	$ 107,632	$ 8,439	$8,028	$ 75,500	840.46%	$ 75,500	0.00%
3G6	322-639	Medicaid Waiver	$ 120,725,093	$ 145,491,897	$228,378,979	$ 344,068,714	50.66%	$ 373,772,814	8.63%
3M7	322-650	CAFS Medicaid	$ 160,018,753	$ 191,543,590	$217,477,018	$ 254,739,737	17.13%	$ 267,668,087	5.08%
3A4	323-605	Residential Facilities Reimbursement	$ 103,416,121	$ 106,580,994	$111,680,440	$ 128,736,729	15.27%	$ 128,831,708	0.07%
325	323-608	Federal Grants - Subsidies	$ 322,571	$ 333,764	$396,179	$ 571,381	44.22%	$ 582,809	2.00%
325	323-617	Education Grants - Residential Facilitie	$ 348,400	$ 356,298	$370,642	$ 425,000	14.67%	$ 425,000	0.00%
Federal Special Revenue Fund Group Total			**$ 406,027,285**	**$ 463,093,069**	**$ 576,548,267**	**$ 759,043,886**	**31.65%**	**$ 801,604,455**	**5.61%**
4K8	322-604	Waiver-Match	$ 17,095,213	$ 13,183,009	$9,727,561	$ 12,000,000	23.36%	$ 12,000,000	0.00%
5H0	322-619	Medicaid Repayment	$ 115	----	$0	$ 25,000	N/A	$ 25,000	0.00%
489	323-632	Operating Expense	$ 7,997,918	$ 11,465,025	$8,993,683	$ 12,125,628	34.82%	$ 12,125,628	0.00%
5S2	590-622	Medicaid Administration & Oversight	----	----	$2,998,303	$ 2,969,552	-0.96%	$ 2,969,552	0.00%
State Special Revenue Fund Group Total			**$ 25,093,245**	**$ 24,648,033**	**$ 21,719,547**	**$ 27,120,180**	**24.87%**	**$ 27,120,180**	**0.00%**
Mental Retardation and Developmental Disabilities, De			***$ 770,108,950***	***$ 832,810,377***	***$ 949,421,634***	***$ 1,144,613,335***	***20.56%***	***$ 1,191,632,613***	***4.11%***