



COMMONWEALTH of VIRGINIA

DEPARTMENT OF

BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

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September 1, 2025

To: The Honorable Louise L. Lucas Chair, Senate Finance & Appropriations Committee
The Honorable Luke. E. Torian, Chair, House Appropriations Committee
Michael Maul, Commissioner, Department of Planning and Budget

From: Nelson Smith, Commissioner, Department of Behavioral Health and
Developmental Services

Cc: The Honorable Janet V. Kelly, Secretary, Health and Human Resources

Re: Item 294 D.1, 2025 Appropriation Act

Item 294 D.1 of the 2025 Appropriation Act directs the Department of Behavioral Health and Developmental Services (DBHDS) to submit a report detailing all unspent funds related to the Department of Justice (DOJ) settlement agreement. The language reads:

D.1. Any funds appropriated in this act for the purpose of complying with the settlement agreement with the United States Department of Justice pursuant to civil action no: 3:12cv059-JAG that remain unspent at the end of each fiscal year shall be reported by the Department of Behavioral Health and Developmental Services to the Department of Planning and Budget and the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by September 1 after the close of each fiscal year. The department shall include in its report each item and the amount of funding for such item that remains unspent, with an explanation for the remaining balance at year end."

In 2011, the Department of Justice (DOJ), found that Virginia provided insufficient community-based treatments for persons with mental disabilities and was in violation of the Americans with Disabilities Act (ADA) and its interpretation in the *Olmstead* case. This resulted in a settlement agreement between the federal government and Virginia. In response, Virginia closed its training centers and has worked to move individuals into local community settings while expanding community resources. By Order of the United States District Court for the Eastern District of Virginia entered on January 15, 2025, the Settlement Agreement between the Commonwealth and the Department of Justice concerning the Commonwealth's system of services for individuals with developmental disabilities, entered in 2012, was replaced by a Permanent Injunction. The requirements of the Permanent Injunction continue to need one-time funding.

Status of the DOJ Permanent Injunction

The Permanent Injunction requires the Commonwealth to take defined actions to work toward goals established in the Injunction.

Table 1: Program 499 DOJ Remaining Balances Explanation

The following table details each remaining balance in Agency 720 Program 499 along with an explanation for the balance. The total balance for Program 499 is **\$7,526,184.27**.

Agency 720, Program 499 General Fund DOJ Balances		
Item	Balance	Explanation
Event Tracking System - CHRIS	\$1,967,082.60	There is a 2.5-year plan currently being developed by DBHDS for the creation of an event tracking system which has involved, collecting high level requirements and submitting advance planning documents to request matching funds. In January of 2026, the design and build of the system will begin, with the system projected to be completed in FY 2028. The Department is waiting on approval of an Advanced Planning Document (APD) with the Centers for Medicare and Medicaid Services (CMS) to begin the project.
Waiver Management System Change Requests	\$890,662	The WMS system continues to receive updates and changes based on feedback from stakeholders and requirements of the injunction. WMS system ended up with balances due to some change orders not being completed in time, as well as higher than forecasted Medicaid administrative draw downs.
Individuals Family Support Program (IFSP)	\$231,427.59	IFSP receives a set allocation to cover both administration and payments. For this cycle, IFSP support resulted in fewer commitments than budgeted, leading to a lower utilization of allocated funds.
Support Intensity Scale (SIS) Assessments and Renorming	\$2,556,747.94	SIS is reimbursed at a 50% rate by Medicaid. Depending on when the invoices are paid the cash flow of Medicaid dollars will shift from one fiscal year to another. Fluctuations in reimbursement, because of timing of payments in the previous fiscal year offset balances for the next fiscal year.
Housing Software	\$190,258.73	This balance is the result of contract timelines not being in alignment with the fiscal year, delays in receiving quotes from the vendor and 3 rd party reseller, and delays in deliveries that prevented the approval of related costs and the expenditure of these funds in FY 2025.
DOJ Admin / Community Provider Training / HCBS staff / Licensed Behavioral Analysts/ Qualtrics	\$1,164,835.40	The majority of this balance is the result of vacancy savings. The Department was given funding to start over 20 positions last year; however not all of the positions came on in the projected timeframe. The rest of the savings is related to administrative costs being less than forecasted.
Human Rights Investigator Certification and Provider Training Curriculum	\$119,077.92	Less progress was made on this initiative than expected during the year due to issues with creating the curriculum which resulted in remaining balances.

Preadmission Screening and Resident Review (PASRR) and Quality Service Reviews (QSR)	\$164,244.37	QSR and PASRR reviews ended up with balances as forecasted reviews were slightly lower than anticipated. This amount represents less than 8 percent of the budgeted amounts for the reviews.
Source System Reviews	\$64,346.45	The remaining balance was a result of delays in approvals for funding and finding candidates to fill the positions, and the remaining salary balances for the employees who were not hired until March of FY 2025.
Data Entry Staff, Mortality Review Coordinator	\$177,501	Positions were hired throughout FY 2025 resulting in a balance of unutilized salary amounts.

Table 2: Program 444 DOJ Remaining Balances Explanation

The following table details each remaining balance in Agency 720 Program 444 along with an explanation for the balance. The total balance for Program 444 is **\$1,985,327**.

Agency 720, Program 444 General Fund DOJ Balances		
Item	Balance	Explanation
DDHSN / Non-Medicaid Family to Family / Individuals not Covered by Medicaid	\$1,985,327	This amount represents balances for the Department of Disabilities and Special Needs (DDHSN) consisting of dental contracts, dental vehicles, dental staff, registered nurse care consultants (RNCC), and mobile rehab engineering (MRE) vehicles and equipment. This balance is due to delays in approval of funding, invoices, and procurement processes which resulted in payment not being remitted until FY25 had closed, excess salary balances for positions hired throughout FY25 and open positions, as well as the utilization of donated and recycled equipment.

Table 3: Agency 790 DOJ Remaining Balances Explanation

The following table details each remaining balance in Agency 790 Program 445 along with an explanation for the balance. The total balance for Program 445 is **\$882,097**.

Agency 790, Program 445 General Fund DOJ Balances		
Item	Balance	Explanation
State Rental Assistance Program-DD	\$829,370	This amount is the result of the timing of slots and allocation of resources for rental assistance.

DD Crisis Services	\$52,727	DBHDS budgets a contingency for the crisis programs. This balance is the remainder of the contingency that was unused by the crisis services program.
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