

# Health & Human Services

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Potential JBC Legislation

## Potential JBC Legislation Related to Health & Human Services

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### **Recommended Bill Issue #1: Containing Costs (Community Transition Services)**

*Department Request - HCPF is proposing legislation<sup>1</sup> that would expand Medicaid benefits to include services to help people transition out of institutional long-term care and into a community setting. The request for legislation is accompanied by a budget request for a net decrease of \$1.1 million total funds, including a decrease of \$703,203 General Fund.*

#### **The Proposed Bill (No action yet taken by the JBC; will be considered during figure setting):**

- The bill would be authorizing legislation to expand Medicaid benefits to include transition services
- Would provide state authorization for services currently provided under the Colorado Choice Transitions (CCT) demonstration, under which federal authorization is not allowing new clients after December 31, 2018.
- The Department states that this legislation would result in a net savings due to reduced nursing home utilization



### **Recommended Bill Issue #2: Nursing Facility Per Diem**

*HCPF - Department request - The Department is proposing legislation<sup>2</sup> that would limit the allowable growth of nursing home rates for one year to 1.0% instead of 3.0%. The Department advocates that this request will better align the increase for nursing facilities with that of the requested across-the-board rate increase of 0.77%. The rate for nursing facilities is exempt from Medicaid Provider Rate Review Advisory Committee; instead, the Department adjusts it annually based on a statutory formula. *Note, the Governor is requesting a 1.0% across the -board-increase for all providers except those under HCPF, which resulted in the 0.77% increase.**

#### **The Proposed Bill (No action yet taken by the JBC; will be considered during figure setting):**

- Would place a maximum on the allowable growth rate of nursing home rates at 1.0% for one year
- If approved, this bill would reduce General Fund expenditures by \$12.5 million in FY 18-19.
- *As of January 18th, the JBC has not acted on figure setting recommendations for total compensation common policies and provider rates. The justification given by JBC staff for this request, which is to align the nursing home rate increase with the ATB provider rate increase, could be altered if the JBC acts to give a rate increase above or below 0.77%.*



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<sup>1</sup> The full issue brief can be found beginning on Page 48: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_hcpbrf1.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_hcpbrf1.pdf)

<sup>2</sup> The full issue brief can be found beginning on Page 64: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_hcpbrf1.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_hcpbrf1.pdf)

**Recommended Bill Issue #3: R-13 All-Payers Claims Database**

HCPF is requesting \$2.8 million total funds (including \$1.7 million General Fund) for costs associated with the All-Payers Claims Database (APCD); \$550,000 General Fund would be used to fund a shortfall due to the expiring of a private grant.

The request for legislation<sup>3</sup> is due to a possible statutory conflict identified by Legislative Legal Services. HB10-1330, which established the APCD, called for the database to be funded through gifts, grants, and donations. However, Section 24-75-1305 (1), C.R.S., states that General Fund money (or any state money) cannot be used to fund or backfill a program that had previously been funded by grant money. HCPF counter argued this conflict, but LLS is not satisfied with the counter-argument and recommends that, if the JBC decides to fund the request, that it also run legislation separate of the Long Bill to address this statutory conflict.

Part of the funding request in this issue includes \$500,000 General Fund to provide a scholarship to researchers using the APCD. However, there is no statutory guidance for such a scholarship program. JBC staff will recommend that the JBC remove this funding in the Long Bill.

**The Proposed Bill (No action yet taken by the JBC; will be considered during figure setting):**

- Is necessary in order to align the Department’s funding request of \$2.8 million, including \$550,000 General Fund, with statute, should the JBC and General Assembly grant the funding request
- Should include statutory guidance for a scholarship for researchers using the APCD



**Recommended Bill Issue #4: Healthcare Affordability and Sustainability Fee**

HCPF is requesting \$1.2 million total funds for 11 new staff positions to support the CO Healthcare Affordability and Sustainability (CHASE) Fee, legal services to defend the enterprise, data analytics services, and software licensing. However, JBC staff believes that these “new” responsibilities should have been identified in the fiscal note for SB17-267, which enterprised the CHASE fee and should not be addressed as a supplemental or new budget request, although the Department could expend funds without a Long Bill appropriation because of the continuous appropriation granted by the legislation. JBC staff does recognize that part of the Department’s request could have validity. As an example, many hospitals have identified enough errors in the calculation and distribution of the provider fee to suggest that the Department might be understaffed in this area; the request includes positions such as a rate analyst and an accountant that might mitigate that issue.

**The Proposed Bill (No action yet taken by the JBC; will be considered at a later date):**

- Would eliminate continuous spending authority for the Colorado Healthcare Affordability and Sustainability Fee



**Recommended Bill Issue #5: Children’s Habilitation Residential Program Transfer<sup>4</sup>**

State statute requires that HCPF and DHS cooperatively provide mental health services to Medicaid-eligible children who reside in psychiatric residential treatment facilities, and to children in the child welfare system. This statute also requires that children with an intellectual or developmental disability placed in a licensed care facility meet an out-of-home requirement, and it must have been determined that the child was subject to neglect or abuse at home.

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<sup>3</sup> The full issue brief can be found beginning on Page 67: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_hcpbrf1.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_hcpbrf1.pdf)

<sup>4</sup> The full issue brief can be found beginning on Page 17: [https://leg.colorado.gov/sites/default/files/fy2018-19\\_hcpbrf3.pdf](https://leg.colorado.gov/sites/default/files/fy2018-19_hcpbrf3.pdf)

However, JBC staff discovered that some parents may voluntarily place their child in the foster care system if they have experienced hardship in accessing CHRP services. HCPF is requesting legislation to change this statute which would allow for these children to receive services in a residential setting without custodial rights having to be relinquished, and in specific cases where there is not found to be neglect or abuse. HCPF and DHS also request for the program to be moved from DHS to HCPF. County child welfare agencies and CCBs are supportive of this change.

**The Proposed Bill (No action yet taken by the JBC; will be considered at a later date):**

- Would allow children with an intellectual or developmental disability to receive residential services, without having to meet the statutory requirement that the child has been placed in foster care or is subject to abuse
- Could help families remain whole and allow them to receive the services they need



**Recommended Bill Issue #6: Collaborative Management and Integrated Care Management Programs**<sup>5</sup>

Currently, counties can opt into the Collaborative management program (CMP) in which they enter into a memorandum of understanding with other entities to provide collaborative care. At the point of opting into the CMP, the county Human Services must decide to either elect savings, where the county will be allowed to retain under-expenditures, or to participate in surplus distribution. If the county underspends, it can keep a percentage of its savings. If it overspends, it cannot participate in surplus distribution.

The Department may also enter into an ICM performance contract with a county or a group of counties, through which a county may use up to 5% of under-expenditures to reduce the county share or to spend the funds on additional children. When counties enter into an ICM contract and elects to keep its underexpended General Fund, it is good that they have underspent, but unfortunate because that amount is no longer available for surplus distribution.

**The Proposed Bill (No action yet taken by the JBC; will be considered during figure setting)**

- Would address these issues by removing statutory language that allows CMP and ICM counties to elect to retain savings each year; instead, all counties would be allowed to retain up to 30% of its savings to fund state-approved prevention and intervention programs and services
  - The remaining 70% would be available for surplus distribution
- Would also allow the Department to distribute to counties other available funds for Title IV-E waiver interventions



**Recommended Bill Issue #7: Competency Restoration**<sup>6</sup>

DHS has a request for FY 18-19 including \$13.1 million General Fund to address the increasing number of court-ordered inpatient competency restoration. JBC staff identified several potential statutory changes that may need to occur in order to reduce the need to expand the State's inpatient psychiatric bed capacity:

- Require the Court to make findings identifying the relevant statutory criteria, if the Court has made an order that a competency *evaluation* occur in an inpatient setting;

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<sup>5</sup> The full issue brief can be found beginning on Page 16: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_humbrf1.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_humbrf1.pdf)

<sup>6</sup> The full issue brief can be found beginning on Page 15: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_humbrf4.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_humbrf4.pdf)

- Expand the minimum information a competency evaluator must include in a written report to the court;
- Limit the Court's discretion to order that a defendant receive competency restoration services in an inpatient setting; and
- Reduce the maximum allowable term of confinement for a defendant to receive competency restoration services

**No action yet taken by the JBC; will be considered during figure setting**



**Recommended Bill Issue #8: Managed Service Organizations<sup>7</sup>**

SB16-202 required the Department of Human Services to annually disperse additional funding to managed service organizations (MSOs) to increase access to effective substance use disorder services. MSOs must periodically report actual expenditures and the progress made in implementing the community action plan. (These annual disbursements are made from the Marijuana Tax Cash Fund.) JBC staff discovered in August of 2017 that the Department has been requiring MSOs to revert unexpended funds back to the Department, even though the Department was late in disbursing funds to several MSOs, giving some MSOs as little as 21 days to spend their second disbursement. DHS argues that, "the Department has interpreted the bill to mean that if the MSOs did not expend the dollars allocated through SB 17-202, then they must return any overpayment to the State in order for both the Department and the MSOs to be in compliance with the terms of the State Fiscal Rules and the requirements of the bill. The Department is opposed to this bill.

**The Bill (The JBC approved to have this bill drafted on 1/10/18):**

- Would statutorily allow MSOs up to two years to expend its annual disbursement
- This bill language might be more aligned with statutory intent which guides when funding is to be disbursed to counties, and the timing in which the counties must spend the funds



**Recommended Bill Issue #9: Child Find<sup>8</sup>**

The Child Find process is used to identify eligible infants or toddlers who are eligible to receive early intervention services. Infants or toddlers who either have a developmental delay or disability, have been diagnosed with a mental or physical condition that has a high probability of resulting in delay or disability, or live with a parent who has a developmental disability.

Child Find is housed within the Department of Education, while the services provided to eligible individuals are provided through the Department of Human Services.

**The Proposed Bill (No action yet taken by the JBC; will be considered at a later date):**

- Would move the Child Find program and associated funding entirely to the Office of Early Childhood in DHS
- This will result in a net savings of General Fund, improved compliance with federal and state regulations, and better outcomes for children and families.

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<sup>7</sup> The full issue brief can be found beginning on Page 29: [http://leg.colorado.gov/sites/default/files/fy2018-19\\_humbrf4.pdf](http://leg.colorado.gov/sites/default/files/fy2018-19_humbrf4.pdf)

<sup>8</sup> The full issue brief can be found beginning on Page 7: [https://leg.colorado.gov/sites/default/files/fy2018-19\\_humbrf3.pdf](https://leg.colorado.gov/sites/default/files/fy2018-19_humbrf3.pdf)

### **Recommended Bill Issue #10: ReHire Colorado**

DHS is requesting legislation to eliminate the end date for ReHire Colorado<sup>9</sup>, the Department's transitional jobs program. ReHire subsidizes the wages of unemployed and under-employed workers to offer the opportunity to learn workplace behaviors and skills, with the hope that this will help the adult secure long term employment. The program is statutorily mandated to stop offering new transitional jobs after December 31, 2018 and is set to end on June 30, 2019.

#### **The Proposed Bill (No action yet taken by the JBC; will be considered during figure setting):**

- Would eliminate the end date for ReHire Colorado, which is statutorily set to end on June 30, 2019



### **Recommended Bill Issue #11: Stationary Sources Control Fund**

<sup>10</sup>Because of an accounts receivable write-off in FY 2016-17, the Stationary Sources Control Fund (SSCF) does not have sufficient resources to cover anticipated expenses in FY 2018-19. In 2012 CDPHE changed accounting systems, and some of the data was corrupted and prevented the Department from being able to reconcile the balances from its old accounting system. This caused the SSCF revenue to be overstated. Fees that are allocated to the SSCF can be adjusted downward if the Fund is carrying a surplus, but have not been increased since 2008.

The Air Pollution Control Division estimates that it will need to eliminate 30.0 FTE without a cost or revenue change, resulting in a decrease in both oil & natural gas facilities and non-oil and natural gas facilities.

JBC staff recommends legislation to adjust the rate by which fees are assessed for work performed by the Air Quality Control Division. Currently, statute dictates that for a significant user of prescribed fire who submits planning documents and ordinances, the Division can collect \$76.45/hour for up to 30 hours of evaluating the documents. If the document inspection takes over 30 hours, the total fee that can be collected is capped at \$3,000.

#### **The Proposed Bill (No action yet taken by the JBC; will be considered at a later date):**

- Would adjust the rate at which fees are assessed for work performed by the Air Quality Control Division

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<sup>9</sup> The full issue brief can be found beginning on Page 15: [https://leg.colorado.gov/sites/default/files/fy2018-19\\_humbrf2.pdf](https://leg.colorado.gov/sites/default/files/fy2018-19_humbrf2.pdf)

<sup>10</sup> The full issue brief can be found beginning on Page 8:  
[https://leg.colorado.gov/sites/default/files/fy2018-19\\_pubheabrf2.pdf](https://leg.colorado.gov/sites/default/files/fy2018-19_pubheabrf2.pdf)

# *Joint House and Senate Health and Human Services Committee*

January 18, 2017

Gretchen M. Hammer  
Medicaid Director



**COLORADO**  
Department of Health Care  
Policy & Financing

## *Our Mission*

**Improving** health care access and  
outcomes for the **people** we serve  
while demonstrating sound  
stewardship of financial **resources**



**COLORADO**  
Department of Health Care  
Policy & Financing

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## What are Long-Term Services and Supports?



**At Home** (e.g. personal or family home; group homes; assisted living facilities)

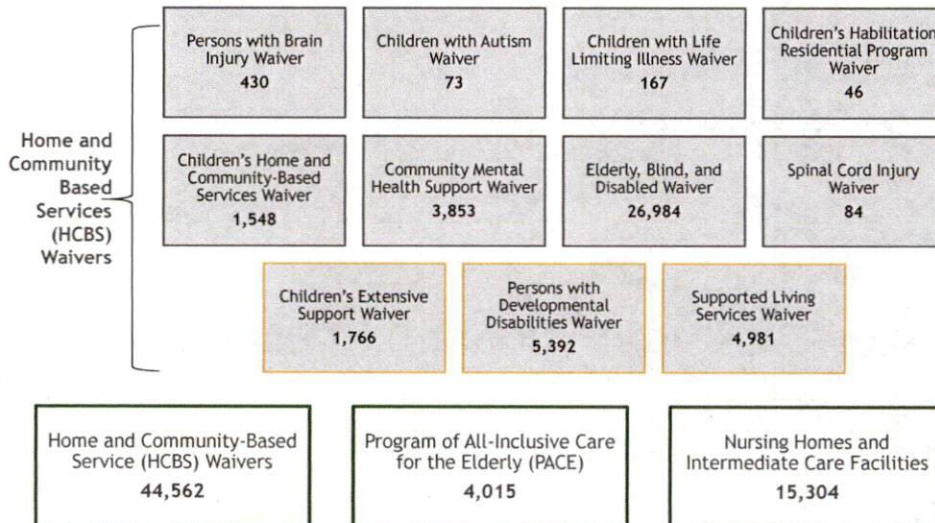


**In Community** (e.g. day programs; supported employment)



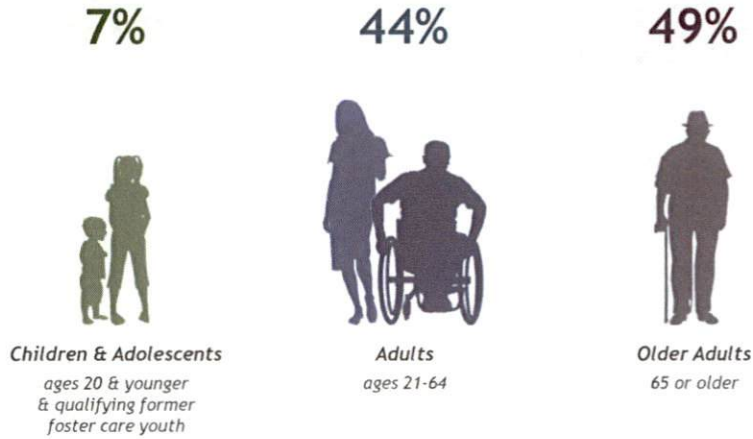
**Within Institutions** (e.g. nursing homes; intermediate care facilities)

## 2016 Medicaid LTSS & Enrollment





# Who Receives LTSS?



Source Note: CY 2016 data; Data represent percentage of people receiving Medicaid LTSS in various age groups

# Vision for Future



## HB 14-1051

Directed the Department to create a comprehensive plan, *“to ensure that Coloradans with intellectual and developmental disabilities and their families will be able to access the services and supports they need and want at the time they need and want those services and supports.”*

Annual update provided each November 1 on:

- Progress on Waiting List
- System Design & Service Delivery
- Capacity Building Funds

## Current Enrollment Data

Children's Extensive Support (CES)	Adult Supported Living Services (SLS)	Adult Comprehensive (DD)
<ul style="list-style-type: none"> <li>• Enrollment: 1,710</li> <li>• Current Waiting list: 0*</li> <li>• Average Cost Per Enrollment FY16-17: \$18,220.51</li> </ul>	<ul style="list-style-type: none"> <li>• Enrollment: 4,842</li> <li>• Current Waiting list: 0*</li> <li>• Average Cost Per Enrollment FY16-17: \$14,261.48</li> </ul>	<ul style="list-style-type: none"> <li>• Enrollment: 5,264</li> <li>• Current Waiting list: 2,915</li> <li>• Average Cost Per Enrollment FY16-17: \$70,579.68</li> </ul>

While there are no clients left on the waiting lists, some clients are still in the process of enrolling with the CCB or selecting their providers so are not yet receiving services.

\* Data Source: Community Contract Management System, September 30, 2017

## ***Progress: Waiting List***

- As of the November 1, 2017 HB 14-1051 update there were 2,915 individuals waiting for HCBS-DD services
- **87%** of those individuals are receiving some Medicaid services while waiting
- The General Assembly provided funding to eliminate HCBS-SLS and HCBS-CES waiting lists, CCBs are responsible to enroll all eligible individuals



## ***Progress: System Design and Service Delivery***

- Increased access to providers for I/DD services - 441 providers enrolled as of January 2018 up from 358 last year
- Provider enrollment has increased by 151 providers in the last two years
- New provider search tool allows individuals and families to search for HCBS-DD, HCBS-SLS, and HCBS-CES waiver providers



## ***Progress: System Design and Service Delivery***

- HB 15-1318
  - Creates a single waiver for adults with I/DD with a continuum of newly defined services, flexible service array and conflict free case management
- HB 15-1368
  - Creates a Cross System Response for Behavioral Health Crisis Pilot Program for Adults with I/DD to coordinate services including crisis intervention, stabilization, and follow-up services. The Pilot went live August 1, 2016



## ***Progress: Capacity Building***

### **Fiscal Year 2015-16**

- In the Fiscal Year 2015-16 the General Assembly appropriated \$1,586,987 for waiver enrollments
- In addition, the Department allocated \$1,441,346 to the CCBs for waiver enrollments using existing appropriations



## *Progress: Capacity Building*

### Fiscal Year 2016-17

- In Fiscal Year 2016-17 the General Assembly appropriated \$4,701,000 for system capacity to HCBS-SLS providers
- In addition, the Department allocated \$1,000,000 to the CCBs for waiver enrollments using existing appropriations in November 2016

*Thank You*

Gretchen M. Hammer  
Medicaid Director