

MEMORANDUM

TO: Joint Budget Committee

FROM: Eric Kurtz, JBC Staff (303-866-4952)

SUBJECT: Children with Autism proposed legislation

DATE: January 26, 2015

This memo address some questions that JBC members had about the Children with Autism proposed legislation.

Summary of Proposed Legislation

The bill draft is LLS 15-0774.01 and it accomplishes five changes to the current program:

1. Expands eligibility to add children ages 6 to 8 (Section 1)
2. Allows children who begin receiving services before age 8 to receive a full three years of services, and no more than three years (Section 1)
3. Allows General Fund support and thereby eliminates the enrollment cap of 75 (Section 2)
4. Eliminates the statutory \$25,000 expenditure cap on services and allows the cap to be adjusted through the budget process (Section 3)
 - a. The appropriation will be based on a \$30,000 cap in FY 2015-16
5. Provides for an annual evaluation of the effectiveness of services for people with autism (Section 4)

Current Eligibility Criteria

Currently, to qualify for the autism waiver a child must be eligible for Medicaid, be under the age of 6, have a diagnosis of autism, be at risk of institutionalization, and not in another waiver program. Once qualified, a child must wait until there is room on the waiver before receiving services. Enrollment on the waiver is capped at 75. Pursuant to statute, children on the wait list are prioritized for services based on imminent need. Because the children are at risk of institutionalization, they are considered a family of one and parent income is not considered.

Need for the Legislation

The proposed legislation is designed to address the following issues:

- **Large waitlist** -- The waitlist for services is four times the size of the enrollment cap of 75. As of the budget request the number of people on the waitlist for services was 320, the average time on the waitlist before receiving services was 2.5 years, and in the last three years 95 clients on the waitlist aged out of eligibility before receiving services. The Department believes many more people have not signed up for the waitlist due to low expectations that they will receive services and assumes that if the enrollment cap were removed an additional 161 clients more than the 320 on the waitlist would enroll in the first year.

- **Length of services too short** -- Once people get off the wait list the average length of time they are eligible for services before aging out of the waiver is less than a year. According to the Department, intensive behavior therapies should be provided for three years to have the greatest impact for children with autism.
- **Age limits don't match window when services are effective** -- The current age cap for the waiver is shorter than the window of time when research indicates services are most effective. The Department cites guidance from the Lovass Institute that behavioral treatment should be received by age 12 and is most effective between the ages of 2 and 8.
- **Annual expenditure limit doesn't allow provide rate increases** -- The annual expenditure limit of \$25,000 has meant no provider rate increases for autism services for several years. If autism service rates were to increase it would diminish the buying power of clients within the annual expenditure limit.
- **Medicaid coverage is less than required by state statute for private insurance plans issued in Colorado** – Section 10-16-104 (1.4), C.R.S., referred to as the Health Insurance Mandated Autism Treatment (HIMAT), requires health plans issued or renewed in Colorado to include coverage of autism services, but Medicaid clients do not have access to these services unless there is room under the enrollment cap. The HIMAT does not apply to self-funded plans governed by the Employee Retirement Income Security Act (ERISA) or plans issued in other states, which is a significant portion of the Colorado insurance market. Health plans offered to Colorado state employees cover these services.

Financing

The current source of funds for the Children with Autism program is the Autism Treatment Cash Fund that receives an annual \$1.0 million statutory transfer from tobacco settlement moneys. The Autism Treatment Cash Fund has accumulated a balance due to children aging out of the program before they fully utilize services. As a result, there is a fund balance that can be used to support the proposed expansion in FY 2015-16. In FY 2016-17 and beyond, the amount available from the Autism Treatment Cash Fund to support the proposed expansion is less. *The bill draft does not currently include an appropriations clause. The JBC staff recommends that the JBC approve the addition of an appropriations clause before the bill is introduced consistent with the FY 2015-16 costs identified in the table below.*

R8 Children with Autism Waiver Expansion			
	FY 2015-16	FY 2016-17	FY 2017-18
Total	\$10,616,568	\$19,042,713	\$22,726,738
General Fund	367,564	8,830,589	10,567,929
Cash Funds	4,840,203	508,566	577,333
Federal Funds	5,408,801	9,703,558	11,581,476

JBC Questions

[Rep. Young] Will families continue to be charged for the cost of evaluations?

Department Response: The assessments families currently have to seek on their own is the standardized, norm-referenced assessment that provides a gauge on the severity of the child's needs. This is used to prioritize the child on the waitlist. This requirement was a result of

legislation passed in 2012. Eliminating the waitlist for the Children with Autism waiver would eliminate the need to prioritize children. The Department would no longer need those assessments prior to enrolling a child, and the assessments completed after the child is enrolled on the waiver would be a waiver benefit and paid for by Medicaid [Sen. Lambert] How will the Department use the proposed evaluation funding?

[Sen. Lambert] How will the Department use the proposed evaluation funding? Will the funding result in rigorous evaluations of autism treatments?

Department response: Currently the Department has an outside contractor that is conducting this evaluation. The current structure of the evaluation is the waiver providers conduct standardized norm-referenced assessments when the child enrolls onto the waiver and every six months thereafter to measure the child's progress. A post treatment assessment is also completed during the last month the child is on the waiver. This is used to show the child's progress during the duration of time on the waiver. These assessments measure a child's adaptive functioning, which include self-help skills, expressive and receptive communication, and adaptive and maladaptive behaviors. Each child has a unique id and the provider enters the child's information into a data system monitored by the contractor. The plan would be to use the current structure in the future with small changes as need is identified from the results of the first evaluation.

Since many children on the waiver receive services for less than a year due to the waitlist and enrollment cap, it is difficult for the Department and the evaluation contractor to get enough data to prove the effectiveness of the treatments. Under the proposed request, children would be guaranteed three years of services which would dramatically improve the data for the program.

[Rep. Hamner/Rep. Rankin] Rather than eliminating the enrollment cap, should the enrollment cap be raised?

Department response: The Department is concerned that just increasing the cap would result in a continuous waitlist. This would perpetuate the issue of children not receiving the services needed at the time they need them. In addition, Home and Community Based Services (HCBS) waivers have specific eligibility criteria. Only those children at risk of institutionalization into an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IDD) and meet the functional eligibility requirements would be eligible for the program. This means that not all children diagnosed with Autism would qualify for the waiver. The Department believes enrollment would not grow out of control because only children at risk of institutionalization in an ICF/IDD that meet the functional requirements for HCBS waiver enrollment would be eligible for the waiver.

Enrollment Assumptions

The tables on the next page summarize the Department's enrollment assumptions for the autism waiver. This may be helpful to the JBC in evaluating the Department's response to the question about whether the enrollment cap should be increased or eliminated.

R-8 Children With Autism Waiver Expansion
Appendix A: Calculations and Assumptions

Table 6.2
CWA Expansion Enrollment Ramp Up - Average Number of Enrollees Per Month

Row	Fiscal Year	FY 2015-16	FY 2016-17	FY 2017-18
A	Starting Point	68	549	618
B	July	118	555	624
C	August	168	561	631
D	September	218	567	638
E	October	268	573	645
F	November	318	579	652
G	December	368	585	659
H	January	418	591	666
I	February	458	597	672
J	March	498	603	678
K	April	538	608	683
L	May	578	613	689
M	June	549	618	695
N	Yearly Average Total	370	588	661

Table 6.3
Estimated Clients that will Enroll in the CWA Waiver if Enrollment Cap Is Removed

Row	Item	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Notes
A	Prior Year Base Caseload and Waitlist ⁽¹⁾	433	487	549	618	FY 2013-14 Historical Data; Otherwise Row E of Previous Year
B	Prior Year Estimated Children Ages 2-8 on Medicaid with a Diagnosis of ASD	2,459	2,768	3,116	3,508	Data; Otherwise Row D of Previous Year
C	Percent of Children Ready to Enroll out of Estimated Population with a Diagnosis of ASD	17.61%	17.61%	17.61%	17.61%	Row A / Row B
D	Current Year Estimate of Total Children ages 2-8 with ASD	2,768	3,116	3,508	3,949	Identified in FY 2013-14 and Held Static
E	Estimated Children on Medicaid that Would Enroll on the CWA Waiver	487	549	618	695	Table 6.4 Row E Row C * Row D

(1) Waitlist is at 220 as of the start of FY 2014-15, all 220 will be enrolled in FY 2015-16

Table 6.4
Estimated Children on Medicaid Ages 2-8 with a Diagnosis of Autism Spectrum Disorder (ASD) by Fiscal Year

Row	Item	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Notes
A	Previous Year Eligible Children on Medicaid Ages 2-8	248,391	279,614	314,761	354,326	FY 2013-14 Historical Data; Otherwise Row C of Previous Year
B	Growth Trend	12.57%	12.57%	12.57%	12.57%	Eligible Children Growth Trend Average Growth FY 2008-09 to FY 2012-13
C	Current Year Eligible Children on Medicaid Ages 2-8	279,614	314,761	354,326	398,865	Row A * (1 + Row B)
D	Denver Metro Percent of Children with a Diagnosis of ASD by Age 8	0.99%	0.99%	0.99%	0.99%	Narrative
E	Estimate of Medicaid Population with a diagnosis of ASD Ages 2-8	2,768	3,116	3,508	3,949	Row C * Row D