JOINT BUDGET COMMITTEE

INTERIM SUPPLEMENTAL BUDGET REQUESTS FY 2017-18

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

(Executive Director's Office, Medical Services Premiums, Indigent Care Programs, and Other Medical Programs)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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INTERIM SUPPLEMENTAL REQUESTS

CHILDREN'S BASIC HEALTH PLAN (CHP+)

	REQUEST	RECOMMENDATION
TOTAL	**$9,617,758**	**$0**
FTE	0.0	0.0
General Fund	0	0
Cash Funds	9,617,758	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **YES**

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of an unforeseen circumstance arising while the General Assembly is not in session and data that was not available when the original appropriation was made. During figure setting the JBC discussed possible contingency plans for CHP+ if Congress did not reauthorize federal funding, but the budget assumed Congress would reauthorize federal funding. As of the request, Congress has not reauthorized federal funding.

Department Request

The Department requests cash funds overexpenditure authority to continue operating the Children's Basic Health Plan (marketed as the Child Health Plan *Plus*, or CHP+) for the month of February. The Department is currently operating the program with federal funds left over from federal fiscal year 2016-17, but projects those funds will be insufficient to continue coverage beyond January 31, 2018. The proposed extension of CHP+ would be financed with reserves in the Children's Basic Health Plan Trust (CHP+ Trust) with no matching federal funds. State statute does not require a federal match for CHP+. If the JBC does not approve the request, the Department will send letters on December 26 notifying current CHP+ enrollees that their benefits will terminate January 31, 2018.

CHILDREN'S BASIC HEALTH PLAN (CHP+) REQUEST	
LINE ITEM	CASH FUNDS (CHP+ TRUST)
Children's Basic Health Plan Administration	$400,793
Children's Basic Health Plan Medical and Dental Costs	$9,216,965
TOTAL	**$9,617,758**

BACKGROUND

CHP+ is Colorado's version of the federal Children's Health Insurance Program (CHIP) and provides low-cost health insurance for children and pregnant women in families with slightly more income than Medicaid eligibility criteria allow. The effective income eligibility limits for Colorado's CHP+ are 148

percent to 265 percent of the federal poverty guidelines for children[1] and 201 percent to 265 percent of the federal poverty guidelines for pregnant women.[2] Annual membership premiums vary based on income, with an example being $75 to enroll one child in a family earning 215 percent of the federal poverty guidelines. The Department's November 1, 2017 forecast projected an average monthly enrollment in FY 2017-18 of 74,446, including 73,684 children and 762 pregnant women. The federal match rate for CHP+ is currently 88.0 percent. The state match for CHP+ comes primarily from an annual statutory allocation of tobacco master settlement money to the CHP+ Trust.

STATUS OF FEDERAL REAUTHORIZATION EFFORTS

Both the federal Senate and House have introduced versions of legislation reauthorizing federal funding for CHP+, but there are differences in how the chambers fund the program, and no announced timeline for final action. The House added a five-year reauthorization of federal funding for CHP+ to a continuing resolution to fund the government through January 19, 2018, which the full chamber passed. A budget bill or continuing resolution needs to be passed by Friday, December 22, 2017, to avoid a federal government shutdown. The House continuing resolution would maintain the current federal match rate for CHP+ of 88 percent for Colorado for two years and then step it down in year three and four, eventually reaching 65 percent for Colorado. This is similar to a bill that passed out of Senate Finance, but has not been considered by the full chamber. However, the House bill also includes offsets to pay for CHP+ and community health centers that are not part of the Senate bill, such as increasing Medicare premiums for higher income beneficiaries, requiring states to consider lottery winnings and other lump sum payments in determining Medicaid eligibility, increasing collections of third-party payments under Medicaid, reductions in federal payments to hospitals that serve a disproportionate share of indigent patients, shortening the grace period for unpaid premiums for individuals in subsidized marketplace plans, and reductions to the Prevention and Public Health Fund. These same offsets were in previous House bills reauthorizing funding for CHP+ that did not advance in the Senate. The presence of the offsets in the House continuing resolution, plus potentially other unrelated provisions in the spending package, make it hard to predict the likely outcome of this effort to reauthorize federal funding for CHP+.

NOTIFICATION OF BENEFIT TERMINATION

If the request is not approved, the Department will generate notifications December 26, 2017, to inform members their coverage will terminate January 31, 2018. The Department's schedule for sending notices by December 26 is intended to provide families with time to shop for alternatives. The minimum notice required under federal rules before the Department can terminate coverage is 10 days from the date a notice is generated. Due to printing and mailing time, the actual effective notice to recipients could be less. However, the Department argues that the minimum notice does not provide sufficient time for families to potentially enroll in alternatives, such as employer-sponsored coverage or coverage through the health care exchange. For example, many private plans require someone to be enrolled by the 15th of the month to begin coverage the next month. If a family misses the enrollment deadline for an alternative option, they could experience a month gap in coverage. The Department's planned notification schedule also responds to stakeholder feedback that early and frequent communication will provide the most benefit for CHP+ families in navigating potential alternatives.

[1] The federal poverty guidelines vary based on family size. For reference, a family of three would qualify with effective income from $30,017 to $54,113.

[2] The federal poverty guidelines vary based on family size. For reference, a family of three would qualify with effective income from $40,840 to $54,113.

If the request is not approved and Congress eventually reauthorizes federal funding for CHP+, the Department would send a second notice to members reinstating coverage. This could cause confusion for members and unnecessary stress, if federal funding is renewed. Also, if members enroll in an alternative that is more costly and/or less desirable during the time between the two notices, they will need to go through the administrative hassle of reversing that enrollment and may lose some money spent on premiums, depending on the refund policies of the alternative option.

If the request is approved, the Department would delay sending notices of coverage termination until the end of January. The Department previously sent a notice alerting members that CHP+ might be terminated, pending federal decisions. Other states, including Alabama, Connecticut, Oklahoma, Utah, and Virginia have also begun the process of sending notices of potential program termination, with varying degrees of specificity.

OTHER STATE RESPONSES

About a third of states project running out of federal funds by the end of January, according to the Kaiser Family Foundation.[3] Previously, a few states projected to run out of money in 2017, but Congress authorized redistributions between the states, without increasing the total federal funds, to address emergency shortfall states estimated to run out of money before the end of 2017. The projections are in flux based on enrollment and expenditure patterns and pending final redistributions by the Centers for Medicare and Medicaid Services.

States are in various stages of planning for a potential end to federal funding, but the Kaiser Family Foundation reports at least 14 states plan to terminate or phase out coverage at the end of January and 3 states at the end of February. Also, the Kaiser Family Foundation reports "several states" plan to transition children to Medicaid, including Idaho, Louisiana, and Oregon, but it is not clear that these plans have all the necessary state approval and funding.

The Department is aware of Minnesota[4] and Oregon[5] currently using state money to extend the program pending federal action, similar to what the Department has requested.

INCREASED MEDICAID COSTS WITHOUT FEDERAL FUNDING FOR CHP+

If federal funding for CHP+ ends, Colorado's expenditures for Medicaid will increase. Colorado expanded Medicaid coverage to children 6-18 years old with effective income from 108 to 147 percent of the federal poverty guideline and pregnant women with effective income from 143 to 200 percent of the federal poverty guideline, and currently receives a federal match rate of 88 percent for these populations that were previously eligible for CHP+. If Congress does not reauthorize federal funding for CHP+, then the federal match rate for these populations will drop to 50 percent. Colorado must continue Medicaid coverage for the children based on a federal maintenance of effort requirement, but could end coverage for the pregnant women with a state statute change. The Department projects the state share of expenditures for Medicaid would increase $19.1 million in FY 2017-18 and $60.7 million in FY 2018-19 for these populations. However, statute allows money that would be freed up in the CHP+ Trust by the termination of CHP+ to be used for the children in this income range on

[3] http://files.kff.org/attachment/Fact-Sheet-State-Plans-for-CHIP-as-Federal-CHIP-Funds-Run-Out
[4] http://www.governing.com/topics/health-human-services/tns-minnesota-chip-funding.html
[5] http://www.oregon.gov/oha/ERD/Pages/OregonWillContinueKidsCoverageDespiteCongressCHIPFundingRenewalFailure.aspx

Medicaid. Using the CHP+ Trust to help pay the increase in the state share for Medicaid would reduce the new General Fund obligation to $2.2 million in FY 2017-18 and $46.7 million in FY 2018-19.[6]

ALTERNATIVE STATE COVERAGE FOR CHILDREN AND PREGNANT WOMEN ON CHP+

For the CHP+ population, the Department has discussed several options for alternative coverage, including the options outlined in the hearing responses.[7] The least expensive option that would cover all current CHP+ recipients would require legislation to expand Medicaid eligibility and allow the current portion of the Healthcare Affordability and Sustainability (HAS) Fee that supports CHP+ to pay for the children and pregnant women moved to Medicaid. The Department estimates this option would cost $25.4 million General Fund in FY 2017-18 and $59.5 million General Fund in FY 2018-19 compared to the Department's November 1 request.[8] The cost could be reduced with a smaller Medicaid expansion or policies like a buy in.[9]

STAFF RECOMMENDATION

Staff recommends denying the request. If Congress does not reauthorize funding, the balance in the CHP+ Trust will be necessary to offset increased costs for Medicaid, as described above. Any money spent from the CHP+ Trust on the Department's supplemental proposal would reduce the money available in the CHP+ Trust to offset the increased General Fund obligation for Medicaid children and pregnant women.

Extending CHP+ for one month could give the General Assembly more time to consider alternatives, if Congress does not reauthorize funding, but the General Assembly already has three weeks from the beginning of the legislative session on January 10 to the projected termination of CHP+ January 31. While this is a compressed time frame that would require quick action by the General Assembly, the real problem is less the available time and more the costs and budgetary tradeoffs of any alternative to CHP+.

If Congress reauthorizes funding at any time in January, the Department could continue CHP+ with no interruption in coverage. The Department would need to send a new notice to members, and this could cause confusion. If Congress acts in late January, printing and mailing time delays might result in members not knowing for a short period of time that their coverage is extended, even though CHP+ would pay for care during the period. Some members might enroll in an alternative assuming termination of CHP+ and then want to reverse that action. In addition to the administrative hassle, this could result in some lost money for premiums, depending on the refund policies of the alternative coverage options. While there are potential negative consequences of sending a notice of termination and then sending a notice reinstating coverage, the potential negative consequences do not appear insurmountable.

Extending the program for one month could give Congress more time to consider reauthorizing federal funding for CHP+, but it is not clear that additional time would help federal deliberations. Congress has known states will run out of funding for a year, but the most progress on efforts to

[6] If Colorado passed legislation to terminate Medicaid coverage for the pregnant women, the remaining increase in costs for just children would be $0 in FY 17-18 and $31.2 million in FY 2018-19.

[7] See the response to question 72, http://leg.colorado.gov/sites/default/files/fy2018-19_hcphrg1.pdf

[8] This estimate assumes the balance in the CHP+ Trust is used to pay for the increased state share of costs for Medicaid described in the first paragraph of the subsection, rather than for expanding Medicaid.

[9] A buy in would require a federal waiver.

reauthorize funding has all happened in the last few weeks with the clock ticking down. Arguably, projections that 16 states will run out of money by the end of January increase the impetus for Congressional action, one way or the other, and any state efforts to extend the program with state resources might reduce pressure and delay Congressional action further.