JOINT
BUDGET
COMMITTEE

SUPPLEMENTAL BUDGET REQUESTS
FY 2017-18 AND FY 2018-19

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
(Behavioral Health Community Programs)

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

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DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

DEPARTMENT OVERVIEW

The Department of Health Care Policy and Financing (HCPF) helps pay health and long-term care expenses for low-income and vulnerable populations. To assist with these costs the Department receives significant federal matching funds, but must adhere to federal rules regarding program eligibility, benefits, and other features, as a condition of accepting the federal funds. The largest program administered by HCPF is the Medicaid program (marketed by the Department as Health First Colorado), which serves people with low incomes and people needing long-term care. The Department also performs functions related to improving the health care delivery system. This Joint Budget Committee staff budget document concerns the behavioral health community programs administered by HCPF.

“Behavioral health” services include prevention and promotion of emotional health, prevention and treatment services for mental health and substance use disorders, and recovery support. Most behavioral health services are provided to Medicaid-eligible clients through a statewide managed care or "capitated" program through which the Department contracts with “regional accountable entities” (RAEs) to provide or arrange for medically necessary behavioral health services to Medicaid-eligible clients. Each RAE receives a pre-determined monthly amount for each client who is eligible for Medicaid behavioral health services and enrolled with that RAE.

In addition to funding for capitation payments to RAEs, a separate appropriation covers fee-for-service payments for a limited set of behavioral health services to treat mental health conditions and diagnoses that are not covered by the capitation program (e.g., autism spectrum disorders). This line item also covers the client share of expenditures for individuals who are eligible for both Medicaid and Medicare and who receive mental health services under their Medicare benefits package.

SUMMARY: FY 2017-18 APPROPRIATION AND RECOMMENDATION

REQUEST/RECOMMENDATION DESCRIPTIONS

S10 MENTAL HEALTH INSTITUTES FY 2017-18 OVER EXPENDITURE: The request includes an increase in FY 2017-18 appropriations totaling $7,387,850 (including $3,694,541 General Fund). This amount reflects the amount HCPF over expended in FY 2017-18 for the line item that provides Medicaid funding to support expenses at the Mental Health Institutes related to patients who are under age 21 or over age 64. The recommendation includes the requested adjustments to allow the State Controller to release the restriction he placed on FY 2018-19 appropriations. The following table details the requested (and recommended) increase for FY 2017-18 for this line item.

Summary of Request for Mental Health Institutes Medicaid Over Expenditure (FY 2017-18 Appropriations)			
Description	Existing Appropriation	Supplemental Request	Proposed Adjusted Appropriation
Department of Health Care Policy and Financing			
(7) Department of Human Services Medicaid-funded Programs (F) Behavioral Health Services – Medicaid Funding			
Mental Health Institutes	$7,709,992	$7,387,850	$15,097,842
General Fund	3,854,996	3,694,541	7,549,537
Federal Funds	3,854,996	3,693,309	7,548,305

SUMMARY: FY 2018-19 APPROPRIATION AND RECOMMENDATION

Department Of Health Care Policy And Financing: Recommended Changes For FY 2018-19 Behavioral Health Community Programs and DHS, Office of Behavioral Health Programs						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2018-19 Appropriation						
HB 18-1322 (Long Bill)	$667,066,765	$189,527,250	$30,054,951	$0	$447,484,564	0.0
Other legislation	48,601	24,301	0	0	24,300	0.0
Current FY 2018-19 Appropriation:	**$667,115,366**	**$189,551,551**	**$30,054,951**	**$0**	**$447,508,864**	**0.0**
Recommended Changes						
Current FY 2018-19 Appropriation	$667,115,366	189,551,551	$30,054,951	$0	$447,508,864	0.0
S2 Behavioral Health Programs	(16,862,088)	(208,296)	(1,526,548)	0	(15,127,244)	0.0
NP S4 DHS Mental health institute revenue adjustments	509,080	254,540	0	0	254,540	0.0
Recommended FY 2018-19 Appropriation:	**$650,762,358**	**$189,597,795**	**$28,528,403**	**$0**	**$432,636,160**	**0.0**
Recommended Increase/(Decrease)	**($16,353,008)**	**$46,244**	**($1,526,548)**	**$0**	**($14,872,704)**	**0.0**
Percentage Change	(2.5%)	0.0%	(5.1%)	n/a	(3.3%)	n/a
FY 2018-19 Executive Request	**$651,193,900**	**$189,813,566**	**$28,528,403**	**$0**	**$432,851,931**	**0.0**
Request Above/(Below) Recommendation	$431,542	$215,771	$0	$0	$215,771	0.0

Request/Recommendation Descriptions

S2 Behavioral Health: The request includes a reduction of $16,862,088 total funds (including a decrease of $208,296 General Fund) for Medicaid behavioral health community programs, based on recent caseload and expenditure estimates. The requested changes to individual funding sources reflect the state matching requirements associated with each eligibility category. The recommendation includes the requested adjustments.

Non-prioritized (NP) S4 DHS Mental Health Institutes Revenue Adjustment: The request includes an increase of $940,622 total funds for adjustments to appropriations for the Mental Health Institutes, which are operated by DHS. The adjustments reflect updated revenue estimates to ensure both Institutes have sufficient resources to cover operational expenses. The recommendation includes an increase of $509,080 total funds, which corresponds to the amount requested by DHS. HCPF has acknowledged that its request erroneously included a $431,542 increase in the amount of Medicaid revenue the Institutes anticipate earning from the regional accountable entities (RAEs). When the amount of revenues RAEs pay to the Institutes changes, DHS needs its corresponding spending authority adjusted accordingly. However, the corresponding HCPF line item, "Behavioral Health Capitation Payments", remains unchanged regardless of how much RAEs utilize to pay for Institute care.

NON-PRIORITIZED REQUEST APPROVED IN SEPTEMBER 2018 CONCERNING MENTAL HEALTH INSTITUTES FY 2017-18 OVER EXPENDITURE: Due to an over expenditure FY 2017-18 to pay all existing claims associated with Medicaid-eligible patients at the Mental Health Institutes, HCPF submitted an interim supplemental request in September 2018 to increase FY 2018-19 appropriations by a total of $7,387,850 (including $3,694,541 General Fund). The JBC approved this interim request to ensure that HCPF is able to make timely payments to the Department of Human Services (DHS) for the Institutes and other Medicaid-funded programs in the early part of FY 2018-19. Subsequently, HCPF submitted a regular supplemental request (S10) to increase the FY 2017-18 appropriation by the amount of the over expenditure.

PRIORITIZED SUPPLEMENTAL REQUESTS

S2 BEHAVIORAL HEALTH COMMUNITY PROGRAMS (FY 2018-19)

	REQUEST	RECOMMENDATION
TOTAL	**($16,862,088)**	**($16,862,088)**
FTE	0.0	0.0
General Fund	(208,296)	(208,296)
Cash Funds	(1,526,548)	(1,526,548)
Reappropriated Funds	0	0
Federal Funds	(15,127,244)	(15,127,244)

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 data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department requests a reduction of $16,862,088 total funds (including a decrease of $208,296 General Fund) for Medicaid behavioral health community programs based on recent caseload and expenditure estimates. The requested changes to individual funding sources reflect the state matching requirements associated with each eligibility category.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS:

The existing FY 2018-19 appropriation for Medicaid behavioral health community programs provides a total of $656.9 million for the provision of services to an estimated 1,310,621 individuals who are eligible for and enrolled in Medicaid (referred to as "membership" or "caseload"). Based on an actual caseload decline in FY 2017-18, the Department is now projecting a caseload for FY 2018-19 that is 46,507 (3.5 percent) lower than previously anticipated (1,264,114). Based on these revised projections, the Department submitted a supplemental request to reduce FY 2018-19 appropriations by a total of $16.9 million. The following table details the requested changes for FY 2018-19 by line item and fund source.

TABLE 1: BEHAVIORAL HEALTH COMMUNITY PROGRAMS
SUMMARY OF JANUARY 2019 SUPPLEMENTAL REQUEST FOR FY 2018-19

	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
Existing Appropriation for FY 2018-19	$656,887,430	$184,437,583	$30,054,951	$0	$442,394,896
Requested change for Health Capitation Payments	(16,763,133)	191,904	(1,570,369)	0	(15,384,668)
Requested change for Fee-for-service Payments	(98,955)	(400,200)	43,821	0	257,424
Total: Revised FY 2018-19 Estimate	**$640,025,342**	**$184,229,287**	**$28,528,403**	**$0**	**$427,267,652**
Mid-year Change Requested	**($16,862,088)**	**($208,296)**	**($1,526,548)**	**$0**	**($15,127,244)**
Percent change	*-2.6%*	*-0.1%*	*-5.1%*	*n/a*	*-3.4%*

The mix of funds that pay for behavioral health services for Medicaid clients is based on a client's eligibility criteria. Generally, the "traditional" eligibility categories are financed with a 50/50 mix of General Fund and federal funds, and the populations that have been added more recently are financed with a larger share of federal funds and a state match provided from the Healthcare Affordability and Sustainability Fee Cash Fund. Because the current declines in caseload are primarily occurring in the eligibility categories that were added recently, this caseload decline will not have a significant impact on General Fund appropriations. In addition, the Department has increased the caseload forecast for the Individuals with Disabilities eligibility category, which has a significant impact on General Fund expenditures due to the relatively high per-member-per-month rates for this population.

In addition, the Department has also modified per capita rates for FY 2018-19. Some rates are higher, some rates are lower, but the overall average per capita rate is projected to increase by a small amount ($1.89 or 0.3 percent). The most significant rate increases were in two traditional eligibility categories, thereby mitigating the impact of the lower projected caseload on General Fund appropriations:

- Individuals with Disabilities (an increase from $1,620 to $1,654); and
- Adults Age 65 and older (an increase from $233 to $248).

Finally, the Department is now projecting slightly higher incentive payments to behavioral health organizations (BHOs) based on performance measures tied to services provided in FY 2017-18. Specifically, the Department is now projecting incentive payments of up to $28.3 million, compared to earlier estimates of up to $26.7 million. *Appendix B details the caseload and rate data that underlie the Department's revised Capitation payment estimates for FY 2018-19, including anticipated incentive payments and other payment adjustments.*

The following tables (2 through 4) compare the caseload and expenditure data that correspond to the FY 2018-19 appropriation and the Department's most recent estimates.

TABLE 2: BEHAVIORAL HEALTH CAPITATION PROGRAM: ENROLLMENT				
CATEGORY	FY 18-19 INITIAL ESTIMATE	FY 18-19 REVISED ESTIMATE	DIFFERENCE	PERCENT
Children to 147% FPL	506,801	489,098	(17,703)	-3.5%
Adults w/out Dependent Children to 138% FPL	366,408	343,166	(23,242)	-6.3%
Parents/Caretakers to 68% FPL; Pregnant Adults to 200% FPL	197,683	198,865	1,182	0.6%
Parents/Caretakers 69% to 138% FPL	78,809	71,253	(7,556)	-9.6%
Individuals with Disabilities to age 64 (to 450% FPL)	90,896	91,756	860	0.9%
Adults age 65+ (to SSI)	47,392	47,339	(53)	-0.1%
Foster Care to 26 years	22,516	22,483	(33)	-0.1%
Breast & Cervical Cancer to 250% FPL	116	154	38	32.8%
TOTAL	**1,310,621**	**1,264,114**	**(46,507)**	**-3.5%**

TABLE 3: BEHAVIORAL HEALTH CAPITATION PROGRAM: ANNUAL EXPENDITURES				
CATEGORY	FY 18-19 INITIAL ESTIMATE	FY 18-19 REVISED ESTIMATE	DIFFERENCE	PERCENT
Children to 147% FPL	$124,357,037	$116,551,703	($7,805,334)	-6.3%
Adults w/out Dependent Children to 138% FPL	216,304,837	203,585,893	(12,718,944)	-5.9%
Parents/Caretakers to 68% FPL; Pregnant Adults to 200% FPL	73,876,912	71,832,205	(2,044,707)	-2.8%
Parents/Caretakers 69% to 138% FPL	14,555,303	13,415,427	(1,139,876)	-7.8%
Individuals with Disabilities to age 64 (to 450% FPL)	147,266,817	151,772,885	4,506,068	3.1%
Adults age 65+ (to SSI)	11,037,037	11,725,083	688,046	6.2%
Foster Care to 26 years	33,342,223	32,165,665	(1,176,558)	-3.5%
Breast & Cervical Cancer to 250% FPL	41,848	44,543	2,695	6.4%
Rate change for adults without dependent children (for previous year)	0	946,398	946,398	n/a
Health insurance provider fee payments (for previous year)	0	0	0	n/a
Estimated incentive payments (for previous year)	26,717,069	28,696,148	1,979,079	n/a
TOTAL	**$647,499,083**	**$630,735,950**	**($16,763,133)**	**-2.6%**

TABLE 4: BEHAVIORAL HEALTH CAPITATION PROGRAM: ANNUAL PER CAPITA EXPENDITURES				
CATEGORY	FY 18-19 INITIAL ESTIMATE	FY 18-19 REVISED ESTIMATE	DIFFERENCE	PERCENT
Children to 147% FPL	$245	$238	($7)	-2.7%
Adults w/out Dependent Children to 138% FPL	590	593	3	0.6%
Parents/Caretakers to 68% FPL; Pregnant Adults to 200% FPL	374	361	(13)	-3.4%
Parents/Caretakers 69% to 138% FPL	185	188	3	1.8%
Individuals with Disabilities to age 64 (to 450% FPL)	1,620	1,654	34	2.1%
Adults age 65+ (to SSI)	233	248	15	6.3%
Foster Care to 26 years	1,481	1,431	(50)	-3.4%
Breast & Cervical Cancer to 250% FPL	361	289	(72)	-19.9%
TOTAL (excluding adjustments and payments associated with previous fiscal years)	**$474**	**$476**	**$2**	**0.3%**

Staff recommends that the Committee approve the requested adjustments to reflect more recent caseload and expenditure estimates for behavioral health programs. Whether or not the General Assembly approves this supplemental, the Department will continue to make payments to regional accountable entities (RAEs) based on the actuarially certified rates that were set based on state and federal statute, and to make incentive payments to BHOs based on contractual and federally approved criteria.

Please note that in February 2019 the Department will submit an updated caseload and expenditure forecast for both FY 2018-19 and FY 2019-20 that incorporates data through December 2018. Thus, the Committee will have updated information available when it makes final decisions concerning the FY 2018-19 and FY 2019-20 budgets.

S10 MENTAL HEALTH INSTITUTES FY 2017-18 OVER EXPENDITURE (FY 2017-18)

	REQUEST	RECOMMENDATION
TOTAL	**$7,387,850**	**$7,387,850**
FTE	0.0	0.0
General Fund	3,694,541	3,694,541
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	3,693,309	3,693,309

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 data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Department of Health Care Policy and Financing (HCPF) requests an increase in FY 2017-18 appropriations totaling $7,387,850 (including $3,694,541 General Fund). This amount reflects the amount HCPF over expended in FY 2017-18 for the line item that provides Medicaid funding to support expenses at the Mental Health Institutes related to patients who are under age 21 or over age 64. The following table details the requested adjustment.

SUMMARY OF REQUEST FOR MENTAL HEALTH INSTITUTES MEDICAID OVER EXPENDITURE (FY 2017-18 APPROPRIATIONS)			
DESCRIPTION	EXISTING APPROPRIATION	SUPPLEMENTAL REQUEST	PROPOSED ADJUSTED APPROPRIATION
Department of Health Care Policy and Financing			
(7) Department of Human Services Medicaid-funded Programs (F) Behavioral Health Services – Medicaid Funding			
Mental Health Institutes	$7,709,992	$7,387,850	$15,097,842
General Fund	3,854,996	3,694,541	7,549,537
Federal Funds	3,854,996	3,693,309	7,548,305

HCPF used its statutory authority[1] to over expend its FY 2017-18 appropriation for this line item by a total of $7,387,850 to pay all existing claims associated with Medicaid-eligible patients. As required by statute[2], the State Controller restricted HCPF's corresponding appropriation for FY 2018-19 by the amount of the over expenditure. As the existing FY 2018-19 appropriation is only $7,709,992 total funds, this restriction left HCPF with only $322,142 in spending authority for the current fiscal year.

In order to ensure that it is able to make timely payments to the Department of Human Services (DHS) for the Mental Health Institutes and other Medicaid-funded programs during the first several months of the fiscal year, HCPF submitted an interim supplemental request in September 2018 to increase its FY 2018-19 appropriation. The statutory provisions that authorize the Joint Budget Committee (JBC) to approve increases in spending authority during the legislative interim do not allow the JBC to direct the State Controller to release a restriction. The only action the JBC could take in September 2018 to address the immediate problem was to authorize the State Controller to allow an over expenditure of up to $7,387,850 total funds in FY 2018-19. This action resulted in $7,709,992 of available spending authority for FY 2018-19 because the increase authorized by the JBC was equally offset by the existing restriction.

HCPF is now officially requesting that the JBC approve a $7.4 million increase in appropriations for FY 2017-18 (the fiscal year in which the over expenditure occurred), which will allow the State Controller to release the $7.4 million restriction that was placed on the FY 2018-19 appropriation. The JBC's action in September 2018 to authorize a $7.4 million over expenditure of the FY 2018-19 appropriation will then no longer be needed.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS:

Medicaid Funding for the Mental Health Institutes
Federal law does not allow Medicaid to reimburse the Mental Health Institutes for care provided to Medicaid-eligible patients who are ages 21 through 64[3]. For inpatient psychiatric care provided to Medicaid clients who are under age 21 or over age 64, the Institutes collect Medicaid revenues by submitting claims to HCPF. Annual appropriations to DHS for the Institutes include a relatively small amount of reappropriated funds (currently $7.7 million, or 6.3 percent of direct appropriations for the Institutes) to reflect the amount of funds anticipated to be transferred from HCPF for Medicaid-eligible expenses. There is a corresponding appropriation of the same amount to HCPF, which consists of 50 percent General Fund and 50 percent federal funds.

Medicaid Claims Payable at Fiscal Year-end
Current law[4] requires HCPF to record Medicaid program expenditures for budget purposes based on a cash, rather than an accrual, basis. At the end of the state fiscal year there are claims for services that

[1] See Section 24-75-109 (1)(a), C.R.S.
[2] See Section 24-75-109 (3), C.R.S.
[3] Federal managed care regulations permit states to use federal Medicaid funds for capitation payment to managed care plans that cover inpatient psychiatric care for individuals ages 21 through 64 in lieu of other services covered by the State Medicaid plan. These federal payments are limited to 15 days per month. These Medicaid revenues originate from the "Behavioral Health Capitation Payments" line item, and are not relevant to this supplemental request.

[4] See Section 25.5-4-201, C.R.S.

were provided within the state fiscal year that have not yet been paid; these amounts are paid in the following state fiscal year. The amount paid in the following fiscal year is called, "incurred but not reported" (IBNR). Consistent with other Medicaid programs, the Mental Health Institutes are expected to record expenditures for claims that have been paid by HCPF within the state fiscal year; amounts that remain payable at the end of the state fiscal year are then paid out of the appropriation for the next state fiscal year.

HCPF indicates that a normal IBNR equals four to five weeks of payables. For the Institutes, one would thus expect an IBNR of $800,000 to $950,000. The IBNR recorded by DHS for the Institutes has increased annually over the last four fiscal years. Of the amount of Medicaid funds appropriated for the Institutes for FY 2017-18, the IBNR for prior year claims totaled $5.9 million -- requiring all but $1.8 million of the $7.7 million appropriation for FY 2017-18. Claims billed for services provided in FY 2017-18 totaled $9.2 million, leaving DHS short by a total of $7.4 million.

HCPF indicates that the IBNR grew over time for two primary reasons:

- The annual appropriations reflecting Medicaid funds earned by the Institutes did not keep pace with increases in the number of eligible patient-days and increases in the rates charged per patient per day; and
- The implementation of HCPF's new system for processing claims (interChange) in March 2017 caused claims for the Institutes to be rejected or processed incorrectly, which increased the amount of unpaid claims at the end of FY 2016-17.

FY 2017-18 Over Expenditure and Impact on FY 2018-19 Claims Payments

In order to resolve this issue, HCPF used its statutory authority[5] to over expend its FY 2017-18 appropriation for the Mental Health Institutes line item by a total of $7,387,850 to pay all existing Institute claims associated with Medicaid-eligible patients. As required by statute[6], the State Controller restricted HCPF's corresponding appropriation for FY 2018-19 by the amount of the over expenditure. As the FY 2018-19 appropriation is only $7,709,992 total funds, this restriction left HCPF with only $322,142 in spending authority for the current fiscal year. This amount was not sufficient to cover monthly Institute expenditures of approximately $800,000.

In addition, HCPF noted that the State's accounting system (CORE) requires that HCPF use a single transaction to transfer Medicaid funds to DHS. If HCPF's spending authority related to the Mental Health Institutes is insufficient to cover the amount payable to the institutes, CORE rejects the entire amount transferred. Thus, the significant restriction on HCPF's FY 2018-19 appropriation for the Institutes was preventing HCPF from being able to pay Medicaid claims for other DHS programs (e.g., the Regional Centers for People with Developmental Disabilities and the Veterans Community Living Centers).

Interim Action by JBC and the 2019 Supplemental Bill

The statutory provisions[7] that authorize the Joint Budget Committee (JBC) to approve increases in spending authority during the legislative interim do not allow the JBC to direct the State Controller to release a restriction. The only action the JBC could take in September 2018 to address the immediate problem was to authorize the State Controller to allow an over expenditure of up to $7,387,850 total

[5] See Section 24-75-109 (1)(a), C.R.S.
[6] See Section 24-75-109 (3), C.R.S.
[7] Section 24-75-111, C.R.S.

funds in FY 2018-19. This action resulted in $7,709,992 of available spending authority for FY 2018-19 because the increase authorized by the JBC was equally offset by the existing restriction.

The interim supplemental process contemplates the JBC introducing a bill to enact the appropriation change that was authorized during the interim. However, in this case, the correct way to address this situation legislatively is for the JBC to introduce a bill that increases the FY 2017-18 appropriation to HCPF by the amount of the over expenditure that has already occurred. If such a bill were to pass, the State Controller would then release the restriction on the existing FY 2018-19 appropriation.

Thus, while staff recommended that the Committee approve this request for FY 2018-19 and send a corresponding letter to the State Controller, staff informed the JBC that the 2019 supplemental bill should instead adjust the FY 2017-18 appropriation in order to make the supplemental appropriation for the fiscal year in which the over expenditure occurred. Staff discussed this issue with staff at the Office of State Planning and Budgeting, the Office of Legislative Legal Services, the State Controller's Office, HCPF, and DHS, and all parties agreed that this is an appropriate path forward.

Thus, HCPF is now officially requesting that the JBC approve a $7.4 million increase in appropriations for FY 2017-18 (the fiscal year in which the over expenditure occurred), which will allow the State Controller to release the $7.4 million restriction that was placed on the FY 2018-19 appropriation. The JBC's action in September 2018 to authorize a $7.4 million over expenditure of the FY 2018-19 appropriation will then no longer be needed. Staff recommends approving the request.

Background Information

Colorado Mental Health Institutes

The Department of Human Services (DHS) administers and operates two Mental Health Institutes that provide inpatient hospitalization for individuals with serious mental health disorders. One institute is located in Pueblo and the other is located on the Fort Logan campus in southwest Denver. The institutes serve three populations:

- Individuals with pending criminal charges who require evaluations of competency to stand trial and services to restore competency;
- Individuals who have been found not guilty by reason of insanity; and
- Adults and adolescents who are referred for admission by community mental health centers, local hospitals, or the DHS Division of Youth Services.

The resources for the first two populations are referred to as "forensic" beds, and the resources for the third population are referred to as "civil" beds. Forensic patients currently represent about two-thirds of the total population served. The FY 2018-19 appropriation supports 543 institute beds, including 94 beds at Fort Logan and 449 at Pueblo. While most beds are used to serve adult patients, the Pueblo facility has 20 beds for adolescents and 40 beds for geriatric patients.

The FY 2018-19 appropriation also provides funding for DHS to contract for an additional 124 psychiatric beds outside of the Institutes:

- 114 beds within one or more local jails for individuals requiring competency evaluations or competency restoration services; and
- 10 beds in one or more private hospitals.

The Institutes are: licensed by the Department of Public Health and Environment; certified by the federal Center for Medicare and Medicaid Services to participate in those federal two programs; and accredited by the Joint Commission, an independent, not-for-profit organization that accredits and certifies more than 20,500 health care organizations and programs in the United States.

<u>Funding for the Institutes and Restrictions on Medicaid Funding for Psychiatric Care</u>
The mental health institutes are primarily supported by General Fund appropriations (e.g., 87.8 percent of direct appropriations for the institutes for FY 2018-19 are from the General Fund). Other sources of revenue include:

- "patient revenues", which include federal Medicaid funds transferred from HCPF, and payments from commercial insurance, the federal Medicare program, and individuals;
- funds transferred from the Department of Corrections (DOC) for food services provided to DOC facilities on the Pueblo campus;
- and marijuana tax revenues that support certified addiction counselors at both Institutes.

Funding for the Institutes is affected by capacity, personnel costs, and operational costs (including medication expenses and the cost of purchasing medical services from local hospitals and medical providers).

The Institutes serve as the state "safety net" provider of inpatient psychiatric services, predominately treating indigent, Medicaid-eligible, and Medicare-eligible individuals. However, both Institutes are considered an "institutions for mental disease" (IMD) under federal law because they have more than 16 beds and are primarily engaged in providing diagnosis, treatment, or care of persons with mental health disorders, including medical attention, nursing care, and related services.

Under the "IMD exclusion", Medicaid will not reimburse the State for the inpatient hospitalization of adults ages 21 through 64 at the Institutes. While Medicaid will pay for community mental health treatment services for an eligible adult within this age range, when the same adult is admitted to an Institute the State must cover the full cost of his or her care. However, federal managed care regulations permit states to use federal Medicaid funds for capitation payment to managed care plans that cover inpatient psychiatric care for individuals ages 21 through 64 in lieu of other services covered by the State Medicaid plan. These federal payments are limited to 15 days per month.

Due to this IMD exclusion, there are two HCPF line item appropriations that provide Medicaid revenues to pay for care provided to Medicaid clients at the Mental Health Institutes:

- the "Behavioral Health Capitation Payments" line item provides Medicaid revenues that are paid to regional accountable entities (RAEs) and may then be used to pay for Mental Health Institute care for Medicaid clients ages 21 through 64; and
- the "Behavioral Health Services – Medicaid Funding" line item in the HCPF budget section that concerns Medicaid-funded programs that are administered by DHS provides Medicaid revenues to reimburse the Mental Health Institutes for care provided to Medicaid clients under age 21 or over age 64.

NON-PRIORITIZED SUPPLEMENTAL REQUESTS

REQUEST APPROVED IN SEPTEMBER 2018 CONCERNING MENTAL HEALTH INSTITUTES FY 2017-18 MEDICAID OVEREXPENDITURE

HCPF over expended its FY 2017-18 appropriation for the Behavioral Health Services – Medicaid Funding, Mental Health Institutes line item by a total of $7,387,850 to pay all existing claims associated with Medicaid-eligible patients. As required by statute, the State Controller restricted HCPF's corresponding appropriation for FY 2018-19 by the amount of the over expenditure. As the FY 2018-19 appropriation is only $7,709,992 total funds, this restriction left HCPF with only $322,142 in spending authority for the current fiscal year.

HCPF submitted an interim supplemental request in September 2018 to increase FY 2018-19 appropriations by a total of $7,387,850 (including $3,694,541 General Fund). The JBC approved this interim request to ensure that HCPF is able to make timely payments to the Department of Human Services (DHS) for the Mental Health Institutes and other Medicaid-funded programs in the early part of FY 2018-19. Subsequently, HCPF submitted a regular supplemental request (S10) to increase the FY 2017-18 appropriation by the amount of the over expenditure. Approval of this request would allow the State Controller to release the restriction on the existing FY 2018-19 appropriation.

NP S4 DHS MENTAL HEALTH INSTITUTES REVENUE ADJUSTMENT

	REQUEST	RECOMMENDATION
TOTAL	**$940,622**	**$509,080**
FTE	0.0	0.0
General Fund	470,311	254,540
Federal Funds	470,311	254,540

DEPARTMENT REQUEST: The Department of Health Care Policy and Financing (HCPF) requests an increase of $940,622 total funds for adjustments to appropriations for the Mental Health Institutes, which are operated by the Department of Human Services (DHS). The adjustments reflect updated estimates of the amount of Medicaid "fee-for-service" revenue that will be available to pay for services provided to Medicaid clients who are under age 21 or over age 64.

STAFF RECOMMENDATION: Staff recommends that the Committee incorporate the decision made on the primary supplemental request submitted by the DHS (S5). In the companion packet concerning supplemental requests submitted by the DHS Office of Behavioral Health, staff includes a recommendation to approve the increase in the appropriations of Medicaid funds that correspond to this HCPF line item. The staff recommendation for this HCPF line item is $431,542 smaller than the amount requested by HCPF because staff excludes the increase HCPF included for Medicaid funds that originate in the Behavioral Health Capitation Payments line item. When the amount of revenues regional accountable entities (RAEs) pay to the Institutes changes, DHS needs its corresponding spending authority adjusted accordingly. However, the corresponding HCPF line item, "Behavioral

Health Capitation Payments", remains unchanged regardless of how much RAEs utilize to pay for Institute care. HCPF is aware of and supports staff's recommendation.

Appendix A: Numbers Pages

	FY 2017-18 Actual	FY 2018-19 Appropriation	FY 2018-19 Requested Change	FY 2018-19 Rec'd Change	FY 2018-19 Total w/Rec'd Change

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
Kim Bimestefer, Executive Director

S2 Behavioral health community programs

(3) BEHAVIORAL HEALTH COMMUNITY PROGRAMS

	FY 2017-18 Actual	FY 2018-19 Appropriation	FY 2018-19 Requested Change	FY 2018-19 Rec'd Change	FY 2018-19 Total w/Rec'd Change
Behavioral Health Capitation Payments	512,884,063	647,499,083	(16,763,133)	(16,763,133)	630,735,950
General Fund	171,717,548	182,170,974	191,904	191,904	182,362,878
Cash Funds	21,637,199	29,656,683	(1,570,369)	(1,570,369)	28,086,314
Reappropriated Funds	0	0	0	0	0
Federal Funds	319,529,316	435,671,426	(15,384,668)	(15,384,668)	420,286,758
Behavioral Health Fee-for-service Payments	9,300,665	9,388,347	(98,955)	(98,955)	9,289,392
General Fund	2,093,383	2,266,609	(400,200)	(400,200)	1,866,409
Cash Funds	355,200	398,268	43,821	43,821	442,089
Reappropriated Funds	0	0	0	0	0
Federal Funds	6,852,082	6,723,470	257,424	257,424	6,980,894

	FY 2017-18 Actual	FY 2018-19 Appropriation	FY 2018-19 Requested Change	FY 2018-19 Rec'd Change	FY 2018-19 Total w/Rec'd Change
Total for S2 Behavioral health community programs	522,184,728	656,887,430	(16,862,088)	(16,862,088)	640,025,342
FTE	0 .0	0 .0	0 .0	0 .0	0 .0
General Fund	173,810,931	184,437,583	(208,296)	(208,296)	184,229,287
Cash Funds	21,992,399	30,054,951	(1,526,548)	(1,526,548)	28,528,403
Reappropriated Funds	0	0	0	0	0
Federal Funds	326,381,398	442,394,896	(15,127,244)	(15,127,244)	427,267,652

	FY 2017-18 Actual	FY 2018-19 Appropriation	FY 2018-19 Requested Change	FY 2018-19 Rec'd Change	FY 2018-19 Total w/Rec'd Change
Totals Excluding Pending Items					
HEALTH CARE POLICY AND FINANCING					
TOTALS for ALL Departmental line items	9,691,406,186	10,156,536,635	(16,862,088)	(16,862,088)	10,139,674,547
FTE	503.6	506.3	0 .0	0 .0	506.3
General Fund	1,986,304,082	2,111,049,093	(208,296)	(208,296)	2,110,840,797
General Fund Exempt	821,142,006	793,529,909	0	0	793,529,909
Cash Funds	1,191,157,382	1,292,022,699	(1,526,548)	(1,526,548)	1,290,496,151
Reappropriated Funds	74,041,265	84,557,891	0	0	84,557,891
Federal Funds	5,618,761,451	5,875,377,043	(15,127,244)	(15,127,244)	5,860,249,799

APPENDIX B
FY 2018-19 BEHAVIORAL HEALTH CAPITATION PAYMENTS CALCULATIONS

	ELIGIBILITY CATEGORY								
Description	Adults Age 65+ (to SSI)	Individuals With Disabilities up to age 64 (to 450% FPL)	Parents/ Caretakers (to 68% FPL); Pregnant Adults (to 200% FPL)	Parents/ Caretakers (69% to 138% FPL)*	Adults without Dependent Children (to 138% FPL)*	Children (to 147% FPL)	Individuals In/ Formerly In Foster Care (up to age 26)	Breast and Cervical Cancer Program (to 250% FPL)	Total
Weighted capitation rate (per member, per month)	$20.95	$138.23	$30.13	$15.71	$49.63	$19.86	$119.30	$30.13	
Estimated monthly caseload	47,339	91,756	198,865	71,253	343,166	489,098	22,483	154	1,264,114
Number of months rate is effective	12	12	12	12	12	12	12	12	
Total estimated capitated payments	**$11,901,025**	**$152,201,183**	**$71,901,629**	**$13,432,616**	**$204,375,943**	**$116,561,835**	**$32,186,663**	**$55,680**	**$602,616,573**
Estimated expenditures:									
Claims paid in current period	$11,886,744	$151,988,101	$71,750,636	$13,404,408	$203,762,815	$116,398,648	$32,170,570	$55,624	$601,417,546
Claims from prior periods	11,605	196,871	138,974	23,361	657,223	173,408	15,071	66	1,216,579
Estimated date of death retractions	(173,266)	(412,087)	(57,405)	(12,342)	(834,145)	(20,353)	(19,976)	(11,147)	(1,540,721)
Total expenditures after retractions	$11,725,083	$151,772,885	$71,832,205	$13,415,427	$203,585,893	$116,551,703	$32,165,665	$44,543	$601,093,404
Other payment adjustments:									
Rate change for adults without dependent children	0	0	0	(208,798)	1,155,196	0	0	0	946,398
Health insurance provider fee payment	0	0	0	0	0	0	0	0	0
Estimated incentive payments	566,574	7,246,723	3,423,229	639,402	9,734,045	5,550,912	1,532,611	2,652	28,696,148
NET EXPENDITURES	**$12,291,657**	**$159,019,608**	**$75,255,434**	**$13,846,031**	**$214,475,134**	**$122,102,615**	**$33,698,276**	**$47,195**	**$630,735,950**
Annual per capita expenditure (excluding payment adjustments)	**$247.68**	**$1,654.09**	**$361.21**	**$188.28**	**$593.26**	**$238.30**	**$1,430.67**	**$289.24**	**$475.51**

* These are new eligibility categories authorized by S.B. 13-200.