



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0896
Prime Sponsors: Sen. Gardner

Date: February 26, 2018
Bill Status: Senate Local Government
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Bill Topic: SERVICE PROVIDERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill updates definitions related to service providers of services for persons with developmental disabilities and clarifies the rules that must be followed in disputes concerning the civil liability of providers. This bill impacts state revenue and state and local government workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill defines "case management agency" and requires that case management agencies operate pursuant to both the rules of the Department of Human Services (DHS) and the Department of Health Care Policy and Financing (HCPF). This bill also adds a case management agency to the definition of a provider for the purpose of including a case management agency in the list of entities that provide services to persons with developmental disabilities.

Provider civil liability. Under current law, in order to bring a civil liability action against a provider claiming that a person with a developmental disability suffered an injury or grievance, a dispute resolution process through the DHS or a community board must be followed. This bill allows such disputes to be filed with HCPF or a case management agency.

This bill also adds HCPF to the list of departments that may make a community placement referral in which the provider is not subject to civil liability for accepting a referred person with a developmental disability.

Removal and person-centered planning. Case management agencies are authorized to remove a person with a developmental disability from any residential setting they operate or contract with, if they believe the person is at risk of abuse, neglect, exploitation, or any other mistreatment. In such cases, person-centered planning must occur prior to the removal, unless in the case of an emergency. In the case of an emergency, the person-centered planning must occur as soon as possible following the removal. Case management agencies are not liable for removing a person or for terminating a related contract if the identified risk is substantiated by an investigation pursuant to DHS or HCPF rules.

Property rights. Under current law, real property rights may not accrue for a person with a developmental disability as a result of their placement in a residential setting. This bill defines a person with a developmental disability as a tenant, which allows for the accrual of property rights.

Background

House Bill 13-1314, transferred the administration of long-term services for persons with intellectual and developmental disabilities from the DHS to HCPF, effective March 1, 2014. This transfer affected multiple services including various Medicaid Home-and Community Based Services waiver programs, family support services, and targeted case management services. This bill updates statute related to the administration of these programs by HCPF, using rules established by HCPF after this transfer.

State Revenue

To the extent that this bill reduces the number of civil liability cases brought against service providers related to the treatment, placement, or removal of a person with a developmental disability from a residential setting, cash fund revenue from civil filing fees will decrease. Because other remedies exist before a civil liability case can be filed, any revenue reduction resulting from this bill is expected to be minimal.

TABOR Refund

The bill decreases state cash fund revenue from civil filing fees subject to TABOR by a minimal amount from the current year FY 2017-18 to FY 2019-20. State revenue is not currently expected to exceed the TABOR limit and no refund is required. Therefore, the bill is not expected to impact TABOR refunds. However, refunds in future years when the state next collects a TABOR surplus will be reduced.

State Expenditures

Beginning in the current year, FY 2017-18, this bill impacts workload by a minimal amount as discussed below.

Health Care Policy and Financing. By allowing dispute resolutions to be filed with HCPF, this bill may increase HCPF workload to receive and process additional dispute resolution requests concerning services for persons with development disabilities. To the extent that allowing for the accrual of property rights for persons with developmental disabilities, increases the complexity of dispute resolutions already being filed with HCPF workload will increase. However, because HCPF already has an existing Medicaid dispute resolution appeals process, this impact is minimal and can be accomplished within existing appropriations.

Department of Human Services. By allowing for dispute resolutions to be filed with HCPF instead of DHS, this bill may decrease workload for the DHS. To the extent that allowing persons with developmental disabilities to accrue property rights increases the complexity of any dispute resolutions filed with the DHS, workload will increase. Overall these impacts are expected to be minimal and can be accomplished within existing appropriations.

Judicial Department. To the extent that this bill reduces the number of civil liability cases brought against service providers related to the treatment, placement, or removal of a person with a developmental disability from a residential setting, Judicial Department workload will decrease. To the extent that the accrual of property rights increases the complexity of civil liability cases, workload will increase. Overall, because certain administrative remedies already exist under current law and HCPF rules before any such action can be brought, it is assumed that these workload impacts will be minimal and will not require a reduction in appropriations.

Local Government.

Similar to the state, to the extent that this bill reduces the number of civil liability cases brought against service providers, Denver County Court workload will decrease by a minimal amount.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Health Care Policy and Financing
Information Technology
Public Health and Environment

Human Services
Judicial