MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the Joint Budget Committee
FROM	Eric Kurtz, JBC Staff (303-866-4952)
DATE	January 23, 2023
SUBJECT	Supplemental Comeback Department of Early Childhood S2 Early Intervention & workforce support

During consideration of the supplemental requests from the Department of Early Childhood, the JBC decided to table a decision until a later date on *S2 Early Intervention & workforce support*. Most of the publicly stated concerns were related to the component of the request proposing to spend $4.0 million General Fund for investment in the early intervention workforce. JBC members raised questions about the lack of explanation from the Department for how it would spend the money and evidence to suggest the proposed strategies will be effective.

Below is a copy of the original staff write up on the request for consideration by the JBC.

S2 EARLY INTERVENTION & WORKFORCE SUPPORT

	REQUEST	RECOMMENDATION[1]
TOTAL	**($1,655,219)**	**($1,349,308)**
General Fund	(1,655,219)	(1,782,681)
Cash Funds	0	73,500
Reappropriated Funds	0	230,836
Federal Funds	0	129,037

[1] This total includes changes to the Department of Health Care Policy and Financing, and so it will not match totals in the numbers pages for only the Department of Early Childhood.

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 related to the timeline for developing the eligibility rule, increased service utilization, a smaller eligibility expansion than anticipated, and workforce shortages.

Department Request

The Department requests a net reduction for the Early Intervention program of $1,655,219 General Fund in FY 2022-23 based on a delay in expanding the eligibility criteria, increases in service utilization per child, a smaller expansion of eligibility criteria than assumed in the appropriation, and a proposed investment in the early intervention workforce.

BACKGROUND

The Early Intervention program provides therapies to children birth through two years of age with a developmental delay or disability diagnosis, certain risk factors for developmental delays, or a parent or caretaker who has a developmental disability. The intervention services are designed to enhance child development in 15 allowable areas of service that include cognition, speech, communication, physical development, motor development, vision, hearing, social and emotional development, and self-help skills. Research suggests the services are effective in reducing developmental delays and preparing children for success in school. To maintain eligibility for certain federal grants under the federal Individuals with Disabilities Education Act (IDEA), the state must provide these services to all eligible infants and toddlers whose families seek them. However, there is some room while still meeting the federal requirements for the Department to adjust the eligibility criteria and the scope of services in order to stay within the appropriation.

In FY 2020-21 and then again in FY 2021-22 the General Assembly reduced funding for the program in response to both declining revenues and enrollment during the pandemic. To keep projected expenditures within the appropriation, in FY 2020-21 the Department adopted rules reducing eligibility to children demonstrating a 33 percent delay rather than a 25 percent delay in development. The Department expected this policy change to reduce enrollment by 2,200, but the actual impact is difficult to identify and confirm separate from pandemic-related influences on enrollment. In FY 2022-23 the General Assembly added $8,673,412 General Fund with the intent of returning eligibility to the pre-pandemic levels.

UNIMPLEMENTED ELIGIBILITY EXPANSION

The FY 2022-23 appropriation assumed the Department would restore the pre-pandemic eligibility criteria effective July 1, 2022. Due to the time required for stakeholder engagement, rulemaking, and federal approval the Department did not expand eligibility until January 1, 2023.

INCREASED SERVICE UTILIZATION

The Department is seeing a 7.9 percent increase in average hours of direct services utilized per child in the Early Intervention program. Pursuant to federal guidance, the Department must make all the services the state decides to cover available to eligible families and then families decide what to utilize with the advice of the case manager and service team. Some of the increases in utilization the program is experiencing might be attributable to higher acuity due to the more restrictive eligibility criteria and/or to the impacts on healthy child development of COVID and the associated family stress and isolation. To the extent these are drivers of the increase in utilization, then utilization may return to previous levels over time. The increase in utilization causes an increase in cost for the program that needs to be funded.

The Department estimates the increase in utilization translates to a 3.2 percent increase in the average cost per child from $8,023 to $8,282, or a $259 increase per child. Only the direct services components of the average cost per child are impacted by the increase in utilization and other components are unaffected. The increase in the average cost per child is not a rate increase per unit of service but a reflection of additional units of service consumed.

SMALLER ELIGIBILITY EXPANSION

Based on stakeholder feedback, the Department arrived at a rule with a smaller increase in eligibility than assumed in the appropriation. The new rule maintains eligibility for children with a 33 percent delay in one area and adds eligibility for children with a 25 percent delay in two areas (rather than one). The Department estimates this partial restoration of eligibility will add eligibility for 884 children versus the 2,200 children assumed in the FY 2022-23 appropriation. According to the Department, the rule is informed by the concerns of stakeholders that the providers cannot absorb 2,200 additional children due to workforce shortages.

If providers cannot offer all covered services to all children deemed eligible, then it becomes problematic for the state to maintain eligibility for certain federal grants under the federal Individuals with Disabilities Education Act (IDEA). Waitlists are prohibited in the federal guidance because the whole purpose of Early Intervention is to reach children in a narrow developmental window when research shows that services are particularly effective and impactful and in a time gap between when needs are identified and when education-based services become available. To prevent promising services that providers might not be able to deliver, the Department choose more restrictive eligibility criteria.

INVESTMENT IN WORKFORCE

The Department proposes using $4.0 million General Fund in FY 2022-23 and $3.5 million General Fund in FY 2023-24 and on-going for workforce strategies to help address the severe shortages identified by providers as a barrier to full restoration of the pre-pandemic eligibility criteria. The Department says it will convene a stakeholder group to determine the strategies and draw on lessons learned about what works from recent similar efforts involving the child care workforce that were funded with federal stimulus money. The Department indicated that strategies used in the current year might include retention bonuses. Strategies going forward might include rate increases and/or education incentives.

Staff Recommendation

Staff recommends a reduction of $1.3 million total funds, including a reduction $1.8 million General Fund in FY 2022-23.

Staff found a number of concerns with the Department's method for estimating the cost of the eligibility expansion. For example, the Department requested funding for additional eligible children beginning in January 2023 and assumed the children would remain eligible for an average of 12 months, but then the Department failed to request additional funding in FY 2023-24 for the remaining months of service before the children cycled off the program. As another example, the request describes the average monthly enrollment as 8,646 and uses this to calculate the cost of the increased service utilization. However, supplementary documentation submitted by the Department shows the calculation of the cost per child used an average monthly enrollment of 7,509. The difference of 1,137 children is most likely due to measurements of different time periods, such as fiscal year versus calendar year vs year-to-date vs point-in-time. However, the data is not labeled in the request or the supplementary documentation, so the JBC staff is uncertain. If the average monthly enrollment is 8,646, then the cost per child should have been lower. If the average monthly enrollment is 7,509, then the increase in the cost per child should have been multiplied by a smaller enrollment.

The JBC staff recommendation attempts to correct the logic inconsistencies in the request, but the JBC staff's confidence in the resulting revised forecast is still low. Many of the calculations rely on assumptions from the Department that the JBC staff cannot verify. Furthermore, it is possible that the JBC staff did not fully understand some of the assumptions and misapplied them. This is the best estimate the JBC staff could prepare in the time available. It is possible that with additional time before figure setting the JBC staff might get new information from the Department that would cause a revision to the out-year cost estimates.

This is an area of the budget where the Department could benefit from more development, standardization, and documentation of their methodology for forecasting costs. Hopefully, the additional budget and fiscal resources that have been appropriated and requested will afford the Department the necessary staff time to refine their forecast method. The stakes feel higher for the Early Intervention program because the policy goal is to serve all eligible children and then figure out the necessary funds, in contrast to most of the Department's programs that start with a budgeted amount and then figure out how many children can be served. The General Assembly expects periodic (not necessarily every year) adjustments to the funding for Early Intervention based on caseload and utilization. A reliable and repeatable method for estimating these costs that could be measured and refined over time to improve accuracy would be ideal.

The table below summarizes the staff recommendation by fiscal year.

S2/BA2/R4 Early Intervention					
	Total Funds	General Fund	CF - Private Insurance	RF - Medicaid	Federal Funds
FY 2022-23					
Early Childhood					
Unimplemented eligibility expansion	($8,673,412)	($8,673,412)	$0	$0	$0
Increased service utilization	1,944,831	1,944,831	0	0	0
Smaller eligibility expansion	1,148,437	844,101	73,500	230,836	0
Investment in workforce	4,000,000	4,000,000	0	0	0
Subtotal - Early Childhood	($1,580,144)	($1,884,480)	$73,500	$230,836	$0
Health Care Policy and Financing					
Transfer to Early Childhood	$230,836	$101,799	$0	$0	$129,037
FY 22-23 TOTAL - All Departments	**($1,349,308)**	**($1,782,681)**	**$73,500**	**$230,836**	**$129,037**
FY 2023-24					
Early Childhood					
Unimplemented eligibility expansion	($8,673,412)	($8,673,412)	$0	$0	$0
Increased service utilization	1,944,831	1,944,831	0	0	0
Smaller eligibility expansion	6,617,318	4,863,729	423,508	1,330,081	0
Investment in workforce	3,500,000	3,500,000	0	0	0
Subtotal - Early Childhood	$3,388,737	$1,635,148	$423,508	$1,330,081	$0
Health Care Policy and Financing					
Transfer to Early Childhood	$1,330,081	$651,740	$0	$0	$678,341
FY 23-24 TOTAL - All Departments	**$4,718,818**	**$2,286,888**	**$423,508**	**$1,330,081**	**$678,341**
FY 2024-25					
Early Childhood					
Unimplemented eligibility expansion	($8,673,412)	($8,673,412)	$0	$0	$0
Increased service utilization	1,944,831	1,944,831	0	0	0
Smaller eligibility expansion	7,321,288	5,381,147	468,562	1,471,579	0
Investment in workforce	3,500,000	3,500,000	0	0	0
Subtotal - Early Childhood	$4,092,707	$2,152,566	$468,562	$1,471,579	$0
Health Care Policy and Financing					
Transfer to Early Childhood	$1,471,579	$735,790	$0	$0	$735,789
FY 24-25 TOTAL - All Departments	**$5,564,286**	**$2,888,356**	**$468,562**	**$1,471,579**	**$735,789**

UNIMPLEMENTED ELIGIBILITY EXPANSION

This adjustment removes the amount that was appropriated by the General Assembly to restore eligibility to the pre-pandemic levels. Last year the JBC staff had similar issues to those described above with trying to figure out the Department's forecast of the cost for additional children.

Ultimately, the amount recommended by the JBC staff and approved by the General Assembly was based on what was cut during the pandemic, with the assumption that restoring the funds that were cut would be sufficient to restore eligibility. This methodology didn't account for any potential changes in cost per child since the original eligibility criteria was in place.

It is worth noting that the purported savings of $8.7 from not implementing the eligibility expansion intended by the General Assembly to serve an estimated 2,200 children is barely more than the current fully annualized estimated cost of $7.3 million to serve 884 children. This is true in both the revised staff estimate and the Department's original request for serving the 884 children. The Department has not provided a satisfactory explanation for why. The request talks generically about increased costs for salaries, benefits, and operating inflation. It also mentions Developmental Intervention services that are considered educational rather than medical and therefore not covered by Medicaid and a decline in the percentage of children covered by private insurance. However, the request does not quantify the contributions of these factors and does not appear to account for them in forecasting the cost of serving 884 children, unless these factors are somehow baked into the Department's calculation of the average cost per child in a way that is not transparent to the JBC staff. The only inflationary adjustment explicitly accounted for in the Department's estimate is the increased service utilization per child described below. It could be that the original reductions by the General Assembly during the pandemic did not accurately correspond to the savings associated with the expected reduction in eligibility. Those reductions were based on estimates by the Department that might have been just as flawed as the request this year to serve 884 children.

INCREASED SERVICE UTILIZATION

As described under the Request section, this is an adjustment to account for the 7.9 percent increase in average hours of direct services utilized per child in the Early Intervention program. The staff recommendation is for $1,944,831 General Fund compared to the Department's request for $2,239,314 General Fund. The difference is attributable to the JBC staff multiplying the $259 increase in cost per child by the same estimated average monthly enrollment of 7,509 used by the Department to estimate the cost per child, rather than the average monthly enrollment reported in the request of 8,646.

SMALLER ELIGIBILITY EXPANSION

This is the estimated increase in costs to serve the Department's projected additional projected 884 children as a result of expanding eligibility to children with a 33 percent delay in one functional area or a 25 percent delay in two or more functional areas. There are several reasons the staff recommendation differs from the request, but primarily due to:

- Including the compounding impact of the increased service utilization when estimating the cost per child
- Including the full 12 months of costs for each cohort of additional children when there are remaining costs in the next fiscal year
- Spreading a portion of the costs to Medicaid and private insurance and using a lower overall estimate of costs covered by these sources based on actuals
- Applying the applicable federal match rate to determine the share of Medicaid costs covered by the General Fund

The Department's estimate of the fully annualized cost was $4.9 million General Fund compared to the JBC staff's estimate of $6.1 million.

INVESTMENT IN WORKFORCE

This is the amount the Department requested be reinvested into strategies to bolster the workforce. The JBC staff was at a loss for what to recommend. On the one hand, the General Assembly's original goal was to restore eligibility to the pre-pandemic levels and if workforce shortages are the barrier to accomplishing that goal, then it makes sense to put money into strategies intended to grow the workforce. On the other hand, the Department has not yet presented a coherent plan for how it will spend the money, or any evidence to suggest that the proposed strategies will be effective. In the end, the JBC staff decided to recommend the request by a very narrow margin based on the acuity and urgency of the workforce shortage described by the Department. Another consideration was that approving the request provides some flexible funds in the line item in case the staff estimate of the cost with the new eligibility criteria is not accurate.