

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Joint Budget Committee  
FROM Eric Kurtz, JBC Staff (303-866-4952)  
DATE March 16, 2017  
SUBJECT Health Care Policy and Financing Staff Comebacks

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- 1 **SET ASIDE FOR POSSIBLE REPAYMENT OF CHIPRA BONUS:** The JBC staff recommends a \$19.0 million General Fund set aside for a potential repayment to the federal government of bonuses the Department of Health Care Policy and Financing received through the federal Children's Health Insurance Program Reauthorization Act (CHIPRA). The bonuses were paid for meeting performance goals related to the enrollment and retention of children in Medicaid and CHP+. A September federal audit found that Colorado incorrectly included blind and disabled children when calculating its eligibility for the bonus payments. The audit identified overpayments of \$38,373,386 from federal fiscal year 2010 through 2013. The Department believes it followed the letter of the federal regulation and disputes the audit finding. Because of uncertainties about whether the Department will need to repay the funds, how much might be due after negotiations with the federal government, and when any repayment would be required, the Governor's November request included a set aside equal to roughly half of the total disputed funds. Colorado is not the only state facing a potential repayment based on the federal audit findings. No new action has been taken by the federal Centers for Medicare and Medicaid Services (CMS) since the Governor's November request.

The JBC previously voted not to include a \$25.0 million General Fund set aside proposed by the Governor for a possible repayment to the federal government due to a systems error that incorrectly identified people on transitional Medicaid as eligible for the enhanced federal match that applies to expansion populations. The logic for the JBC denying the request was that the General Assembly already budgets a General Fund reserve for risks such as an unexpected repayment to the federal government. If the JBC wants to apply similar logic to the proposed set aside for repayment of the CHIPRA bonus, then the Committee should reject the staff recommendation.

The JBC staff recommendation is to set aside at least a portion of the total potential repayments identified by the Department. If both repayments had to occur, and the costs were at the high end of the Department's estimates, it would be a significant amount for the General Fund reserve to absorb, which would reduce the amount available in the reserve to address other contingencies, such as a revenue forecast error.

Potential Repayments to the Federal Government	
	Upper Bound Estimate
Transitional Medicaid system error	\$43,362,101
CHIPRA Bonus	\$38,373,386
<b>Total Potential Repayments</b>	<b>\$81,735,487</b>
Recommended Set Aside	\$19,000,000

- 2 **TOBACCO TAX OFFSETTING GENERAL FUND:** The JBC staff recommends correcting a technical error to use an increase of \$7,750 in tobacco tax revenues to offset the need for General Fund, rather than to offset the need for cash funds from the Children's Basic Health Plan Trust as was described in the figure setting document.
- 3 **MOVE FUNDS TO CORRECT LINE ITEM:** The JBC approved \$708,339 total funds, including \$315,420 General Fund, as part of *R13 Quality of care and performance improvement projects*, but the JBC staff recommendation put the money in the General Professional Services and Special Projects line item when it should have been in the Utilization and Quality Review Contracts, Professional Services Contracts line item. The JBC staff recommends correcting the technical error. The money is to conduct member satisfaction surveys aimed at improving quality of care and to validate performance improvement projects by managed care organizations.
- 4 **ADD FUNDS FOR SUPPLEMENTAL ACTION ON OCCUPATIONAL/PHYSICAL THERAPY LIMITS:** Staff recommends adding \$2,321,083 total funds, including \$468,510 General Fund, to the amount already approved by the JBC for the Department of Health Care Policy and Financing. The increase is to account for the cost of a footnote on the supplemental bill directing the Department to seek approval from the federal Centers for Medicare and Medicaid Services to allow exceptions to a 12 hour per year cap on occupational therapy and physical therapy with prior authorization. The increased cost in FY 2017-18 that was identified in the footnote as associated with this policy change was not accounted for in the Department's February forecast, and so an additional adjustment beyond what the JBC has already approved is necessary.