

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Robin J. Smart, JBC Staff (303-866-4955)
DATE February 4, 2021
SUBJECT Concerning rate increases for day programming services for individuals with intellectual and developmental disabilities

On January 26, 2021, the Joint Budget Committee (JBC) approved the JBC staff recommendation to draft legislation directing the Department of Health Care Policy and Financing to make supplemental payments to day programming providers for individuals with intellectual and developmental disabilities (IDD). At that time, the JBC also considered the option of increased rates for providers.

SUPPLEMENTAL PAYMENTS

LLS 21-0778 (Concerning supplemental payments to qualified home- and community-based services providers of day programming for individuals with intellectual and developmental disabilities (IDD), and, in connection therewith, making an appropriation) does the following:

- Defines the day programming services as adult day care services, day habilitation services, nonemergency medical transportation; and supported employment services;
- Requires that an eligible provider:
 - Be continuously enrolled in the Medical Assistance Program and provide day programming services from October 1, 2019 through May 31, 2021;
 - Show a reduction in the number of day programming services provided during the period of and as a result of the COVID-19 declared public health emergency.
- Defines the mechanism through which the supplemental payments to providers are calculated; and
- Requires payment to be made to providers by May 31, 2021.

The total fiscal impact of the bill is \$14.5 million General Fund. There is no federal Medicaid match available for supplemental payments to providers.

INCREASING RATES

During consideration of staff's recommendation for legislation, the JBC also considered the option of increasing rates for day programming services during the period of January 1 through March 31, 2021. Rate increases are allowable under current statute and are eligible for federal Medicaid match. Staff's concern with this approach was that the rate increases may not have improved the situation of some providers if utilization remained low. In addition, in order to utilize the \$14.5 million General Fund, the three months of increased rates would have been over 50 percent – the maximum amount the Centers for Medicare and Medicaid Services (CMS) would have allowed.

Subsequent the JBC's request for a bill draft, the Department contacted CMS to determine the maximum rate increase possible and was provided an alternate solution that:

- Keeps rate increases below the maximum allowable percentage,
- Allows for the opportunity to utilize the \$14.5 million General Fund for IDD day programming services, and
- Ensures a federal match of \$18.6 million at the enhanced FMAP rate of 56.2 percent.

This alternative is a retroactive rate increase of 27.4 percent beginning July 18, 2020 and continuing through June 30, 2021 for the same day programming services identified in LLS 21-0778:

- Adult day services,
- Day habilitation services,
- Nonemergency medical transportation, and
- Supported employment.

Applied to the base expenditures, the fiscal impact of the rate increases is \$33.1 million total funds.

RETROACTIVE INCREASE AND ONGOING EXPENSE (7/18/20 THROUGH 6/30/21)						
SERVICE	BASE EXPENDITURE	ENHANCED RATE	TOTAL FUNDS	GENERAL FUND	FEDERAL FUNDS	FMAP
Adult day	\$16,788,257	27.4%	\$4,600,142	\$2,014,862	\$2,585,280	56.2%
Day habilitation	63,393,506	27.4%	17,370,422	7,608,245	9,762,177	56.2%
Supported employment	22,621,157	27.4%	6,198,412	2,714,904	3,483,508	56.2%
Non-medical transportation	18,014,155	27.4%	4,936,049	2,161,989	2,774,060	56.2%
Total	\$120,817,075	n/a	\$33,105,025	\$14,500,000	\$18,605,025	n/a

JBC STAFF RECOMMENDATION

Given the opportunities made available through this new alternative, JBC staff recommends that the JBC remove from the supplemental package the special bill directing supplemental payments to providers and, instead, approve the retroactive and ongoing increase of rates for IDD day program providers for services identified above. Because the Department has the authority under current law to adjust rates, appropriations can be made in the Department’s supplemental bill. Recommendations for incremental adjustments, include:

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING DAY PROGRAMMING SERVICES FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FY 2020-21 SUPPLEMENTAL BILL LINE ITEM ADJUSTMENTS						
LINE ITEM	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	
Adult Comprehensive Waiver Services	\$20,090,009	\$8,799,423	\$0	\$0	\$11,290,586	
Adult Supported Living Waiver Services	6,309,155	2,763,410	0	0	3,545,745	
Medical Services Premiums	6,705,861	2,937,167	0	0	3,768,694	
TOTAL ADJUSTMENT	\$33,105,025	\$14,500,000	\$0	\$0	\$18,605,025	

In order to address the issue of utilization, JBC staff recommends that this approval include direction to the Department that rates be further adjusted, if necessary, to fully utilize the \$33.1 million total funds if it is determined that funds will be under-utilized during the remainder of the 2020-21 state fiscal year.

Finally, JBC staff requests permission to make adjustments to fund splits in the line item adjustments, if necessary.



MEMORANDUM

TO: Joint Budget Committee
CC: Robin Smart, JBC Staff
FROM: Department of Health Care Policy and Financing
DATE: February 3, 2021
RE: Day Program Funding Proposal

Through their own interest and additional advocacy from Robin Smart, the Joint Budget Committee (JBC) has recognized the significant impact the COVID-19 pandemic has had on Day Program providers. The Department has examined this request and has worked to thoughtfully consider the opportunity created with this additional funding to assist in the sustainability of these critical services. The Department is truly grateful for the proactive consideration and attention brought to this issue and provides the following to simply maximize the opportunity.

To that end, the Department believes that the most fiscally appropriate approach would be to authorize this money under existing Department Home and Community-Based Service appropriations. This would allow the Department to get an additional \$18.6m for a total of \$33.1m in funding to this struggling community providers. Additionally, with this approach, the Department would be able to expand targeted funding to other provider types who render similar services falling under the 'Day Program' array.

Further, under the current proposal, the Department is unsure of the time it would take in order to get a general fund only payment out to impacted providers. Unless there were zero requirement for fiscal oversight from the Department, it would require the creation of separate processes and funding lines including provider agreements, legal attestation of receivership and payment, surveyorship for health, safety, and welfare of the client, and many other necessary structures.

Outlined below is the Department option for the implementation of this funding should the JBC allow the Department to seek a federal match and include all day program providers. This option would allow for the Department to operationalize payment and oversight far more expeditiously than any other option.



Retroactive Rate Increase and Ongoing Increase(s)

The JBC could direct the Department through the supplemental process to enact rate increases that would be retroactive and ongoing. In this option (see figure 1.1) we propose increasing the rates for Day Habilitation, Supported Employment, Adult Day Services, and Non-Medical Transportation back to the end of the retainer payments (July 17, 2020) and continue through June 30, 2021. With the proposed increase of 27.4% coupled with the Q3 FY20-21 increase of 10% we are likely making these providers near to, or whole, in regard to lost revenue. Not only could the Department implement this quickly, but it would be retroactive to the end of the retainer payment period. In essence providers would receive an increase of 27.4% from the period of 7/18/20 to 6/30/21. Additionally, if the JBC were to agree, we would also watch this appropriation closely, and if directed, adjust the increase to fully utilize the \$33.1m made available. This action would fully ensure the weight of the \$33.1m impact.

The Department believes this option best meets the intent of the original proposal, more than doubles the financial impact, and provides the quickest timeline for getting this support to these critical community partners.

Figure 1.1

Retroactive Increase and Ongoing Increase (Time Period: 7/18/20 to 6/30/21)					
Service/Benefit Type	Base Expenditure	Proposed Enhanced Rate %	TF Estimated Impact	GF Estimated Impact	FMAP
Adult Day	\$16,788,257	27.40%	\$4,600,142	\$2,014,862	56.20%
Day Habilitation	\$63,393,506	27.40%	\$17,370,422	\$7,608,245	56.20%
Supported Employment	\$22,621,157	27.40%	\$6,198,412	\$2,714,904	56.20%
NMT	\$18,014,155	27.40%	\$4,936,049	\$2,161,989	56.20%
Total	\$120,817,075	N/A	\$33,105,025	\$14,500,000	N/A

