

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



INTERIM SUPPLEMENTAL REQUEST FOR FY 2015-16

DEPARTMENT OF HUMAN SERVICES

(Office of Self Sufficiency)

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:
Kevin Neimond, JBC Staff
June 19, 2015**

For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
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Interim Supplemental Request

CORRECTING DISALLOWED SNAP COSTS

	Request	Recommendation
Total	<u>\$963,227</u>	<u>\$963,227</u>
General Fund	963,227	963,227

<p>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p>	YES
<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [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.]</p>	YES
<p>JBC staff and the Department agree that (1) this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and (2) this request is the result of data that was not available when the original appropriation was made.</p>	

Department Request: The Department of Human Services requests an appropriation of \$963,227 General Fund for FY 2015-16 to use State moneys to finance previously implemented modifications to the Colorado Benefits Management System (CBMS). These modifications were erroneously paid for using Supplemental Nutrition Assistance Program (SNAP) federal funds from the U.S. Department of Agriculture’s Food Nutrition Services (FNS).

Staff Recommendation: Staff recommends that the Committee approve the Department’s request for an appropriation of \$963,227 General Fund for FY 2015-16 to repay FNS for the federal moneys used in error by the Department for CBMS modifications.

Staff Analysis:

Background

CBMS is the computer system used to determine a citizen's eligibility for public assistance programs like Medicaid, SNAP, Temporary Assistance for Needy Families (TANF), and many others. CBMS is developed and maintained by the State for use by county social service organizations and various medical assistance sites throughout the state. The system is managed via a partnership between the Governor’s Office of Information Technology, the Departments of

Health Care Policy and Financing and Human Services, and counties. The amount and source of funding to maintain and improve the system is based on a measure of how much each program that is supported by CBMS is consuming resources at a given time.

As it relates to the SNAP component of CBMS, the Department of Human Services indicates that FNS approval was received in November 2008 for the base value of the CBMS contract to qualify as an allowable expense for the use of SNAP moneys. The base value of the CBMS contract was pegged at \$44,354,745 at that time. Per federal regulations, any CBMS contract amendments exceeding 20.0 percent of the base value (\$8,870,949) must be approved by FNS in order to use SNAP moneys to pay for the system modifications outlined in the contract amendments. Since gaining approval for the base contract amount, the Department has executed 20 amendments for CBMS modifications.

The Issue

FNS reviewed the contract amendments and determined that the Department of Human Services had exceeded the 20.0 percent contract amendment threshold without gaining prior FNS approval on 6 of the 20 amendments between FY 2008-09 and FY 2013-14. The six amendments are deemed by FNS to carry a disallowed cost total of \$3,910,917. This fact was communicated to the Department by FNS in August 2014 after a period of approximately a year that included contracting documentation collection and analysis, as well as a review of accounting records regarding payments made for the work performed under CBMS contract amendments.

After further review and negotiation with Department leadership, FNS agreed to decrease the amount of disallowed costs from \$3,910,917 to \$953,788 (decrease of \$2,957,129) and delivered a letter to the Department on March 19, 2015 formally documenting this offer. The negotiated decrease categorizes only one of the six contact amendments that exceeded the threshold as a disallowed cost rather than all six. The payment of \$953,788 was due to FNS by April 18, 2015, per the March letter. Additionally, as part of the terms of the agreement, FNS requires the State to complete 44 CBMS projects to remedy deficiencies in the system related to the delivery of SNAP benefits. These projects must be completed by July 1, 2016 for the State to fulfill the terms of the FNS offer.

The Proposed Solution

Since the time of initial notification that problems may exist in how the six contract amendments were financed, the Department has worked to verify the disallowed costs, explore dispute options, research alternative funding sources for repayment that do not rely on General Fund moneys, and evaluate the current CBMS work plan to determine how it can be altered to complete the work required by FNS by the conclusion of FY 2015-16. The Department has also received legal representation on this issue from the Attorney General’s Office as part of the negotiation process. *Note, given the Department’s desire to negotiate an amicable and cost-effective solution to this issue, payment was not made to FNS by the April 18, 2015 due date, and has not been made as of today.*

The Department proposes the following solutions based on its findings:

- Seek an appropriation of \$963,227 General Fund (\$953,788 of disallowance costs plus \$9,439 for interest at a rate of 4.75 percent) for FY 2015-16 to fulfill the financial terms of the agreement with FNS. Moneys would be paid to FNS in early July 2015; and
- Work with the Governor’s Office of Information Technology to implement the changes to CBMS to remedy deficiencies in the system related to the delivery of SNAP benefits (as identified by FNS). Of the 44 projects identified, 26 have been completed as of today. The remaining 18 projects must be completed to fulfill the agreement with FNS. The Department is developing a plan with the Governor’s Office of Information Technology to prioritize the 18 SNAP-related projects in a manner that causes the least disruption to projects on the docket that are designed to improve system operations for other programs. The Department believes that the SNAP-related changes can be accomplished within existing appropriations for FY 2015-16, but it may decrease the number of contract hours available for other programs and other agencies that are supported by CBMS.

Note, while FNS did not address the ongoing SNAP error rates occurring throughout the state in this corrective action, the CBMS modifications negotiated as part of the proposed agreement have resulted in (or will result in) the following:

- Of the 26 projects that have already been implemented, 11 projects will impact the payment error rate, 3 projects will impact the case procedural error rate, 3 projects will impact both of the error rate types, and 9 projects will impact compliance issues; and
- Of the 18 that are outstanding, 7 projects will impact the payment error rate, 2 projects will impact the case procedural error rate, and 9 projects will impact compliance issues.

Staff Recommendation

Staff recommends that the Committee approve the Department’s request for an appropriation of \$963,227 General Fund for FY 2015-16 to repay FNS for the federal moneys used in error by the Department for CBMS modifications. Staff worked with the Department, the Human Services legal team within the Attorney General’s Office, and FNS to seek an alternative option that would result in a lesser financial consequence for the State. Unfortunately, an alternative is not available to the State. It is the opinion of the Attorney General’s Office and FNS that the regulations governing allowances for SNAP expenditures are clearly articulated. The Department of Human Services failed to adhere to the regulations. The State would be wise to accept the agreement offered by FNS and fulfill its conditions, including tendering a payment of \$963,227 General Fund and making the required CBMS modifications. Fulfilling these obligations represents a beneficial outcome when compared to the loss of the full \$3,910,917 in costs deemed disallowable by FNS.

	FY 2014-15	FY 2015-16	Fiscal Year 2015-16 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

DEPARTMENT OF HUMAN SERVICES
Executive Director - Reggie Bicha

Interim Supplemental - Restoration of Prior Year Adjustments In Child

Welfare Services

(7) Office of Self Sufficiency

(A) Administration

Personal Services	<u>1,734,173</u>	<u>2,084,105</u>	<u>963,227</u>	<u>963,227</u>	<u>3,047,332</u>
General Fund	743,965	943,897	963,227	963,227	1,907,124
Federal Funds	990,208	1,140,208	0	0	1,140,208



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard, Suite 903
Denver, Colorado 80204-3585

MAR 19 2015

Reggie Bicha
Executive Director
Colorado Department of Human Services
1575 Sherman Street
Denver, CO 80203

Dear Mr. Bicha:

The Food and Nutrition Service (FNS) Oversight Committee has approved a disallowance of Supplemental Nutrition Assistance Program (SNAP) funds due to Colorado's actions in entering into contract extensions and contract amendments without prior approval from FNS. Specifically, FNS has identified disallowed costs in the amount of \$953,787.81, representing FNS's share of Maintenance and Operations (M&O) costs between July 2013 and November 2013. The disallowed amount was determined based on actual M&O cost data provided to FNS by Colorado.

It was identified in November 2013 that CO SNAP had not been providing the Colorado Benefits Management System (CBMS) project amendments and documentation to FNS as required by FNS Handbook 901. Colorado SNAP entered into CBMS maintenance and operations (with major enhancements) option years of the project as of 7/1/2013 and did not notify FNS as required.

In addition to the above disallowance, FNS has identified a further potential liability of up to \$2.9 million which represents the remainder of the FNS share of all CBMS contract amendments with payments to date after the 20% contract amendment threshold was exceeded. There have been 22 contract amendments to date, and amendments 1-17 were not submitted to FNS as required for review and/or approval prior to execution. The cost for all amendments exceeding 20% of the base contract value without FNS approval is also subject to disallowance. Furthermore, Colorado continues to have multiple compliance issues that have yet to be resolved because the State is waiting on changes to the automated system that are designed to correct the cited deficiencies.

While the total potential liability to the State is technically the entire amount of \$3.9 million, we have determined to bill Colorado at this time for the disallowed amount of \$953,787.81. Please contact us within 30 days of receipt of this letter to make repayment arrangements.

FNS Mountain Plains Regional Office (MPRO) staff continues to work with Colorado SNAP staff to address the compliance issues. On October 23, 2014 FNS received and agreed to a proposed timeline and prioritized list of recommended changes that, when implemented, would allow Colorado to address the cited deficiencies and become compliant with contract requirements. Colorado has identified 44 system changes that must be completed in order to gain compliance with regulations. Eleven of these changes are scheduled to be implemented by March, 2015 with an additional eight scheduled to be implemented by June, 2015. The

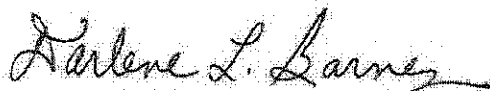
AN EQUAL OPPORTUNITY EMPLOYER

remaining itemized changes that are currently unscheduled must be implemented no later than June, 2016. Colorado must continue to work towards full implementation of these changes, as well as documenting that the actions have been completed.

FNS reserves the future right to pursue the additional potential liability of \$2.9 million unless the State successfully corrects and documents the issue as described. If the State does carry out the required corrective action, FNS does not intend to pursue any further liability in this case.

If there are any questions, you may contact Cheryl Kennedy of my staff at (303) 844-0306 or Cheryl.Kennedy@fns.usda.gov, or Mark Barner of the FNS State Systems Office at (303) 844-2510 or Mark.Barner@fns.usda.gov.

Sincerely,



DARLENE L. BARNES
Regional Administrator

cc: Levetta Love, Office of Economic Security Director, CDHS
Lena Harris-Wilson, Food and Nutrition Division Director, CDHS

Billing Agency:

MPRO - FOOD AND NUTRITION SERVICE

1244 Speer Blvd.

Suite 903

Denver, CO 802043581

Contact: Financial Management

Telephone: (303) 844-0300

Bill Number: MP01 - 11150020

Bill Date: 3/19/2015

Due Date: 4/18/2015

Payer:

CO DEPT OF HUMAN SERVICES

1575 SHERMAN STREET, 6th Floor

DENVER, CO 80203-1714

Receivable Number: RG201503000015001

Customer Account Number: 50892501000

This bill should be returned by the payer with the remittance below.

SEE INSTRUCTIONS BELOW

DESCRIPTION

AMOUNT

CUMULATIVE BILL TOTAL

953,787.81

INSTRUCTIONS

THIS IS NOT A RECEIPT

The payment due date is 30 days following the bill date indicated on this notice or the certified mail receipt date, whichever is later. Pursuant to 31 USC 3717, additional charges will be assessed on payments received after the due date, including interest accruing from the date the debt is owed. If the debt is referred to the Department of the Treasury for collection, additional administrative and penalty charges may be added, accrued from the original service date.

Online payments go to <http://www.fns.usda.gov/fns/fm.htm> and click on "Payments"

Online Technical Support: (877) 807-4135 (toll free), Customer Account Support: (703) 305-2078, Monday thru Friday 9 a.m. to 6 p.m. (eastern)

Detach Here.

Please make your payment online at <http://www.fns.usda.gov/fns/fm.htm> (click on "Payments") or mail this portion with your payment.

To ensure proper credit please write your receivable number on your check.

Bill Number: MP01 - 11150020

Receivable Number: RG201503000015001

Customer Account Number: 50892501000

Remit Info:

Mail this portion and payment to:
MPRO - FOOD AND NUTRITION SERVICE

Attention: Accounting Division

P.O. Box 979027

St. Louis, MO 631979000

Remit Telephone: (703) 305-2078

Mountain Plains Regional Office
Supporting Detail

Customer: CO DEPT OF HUMAN SERVICES
1575 SHERMAN STREET, 6th Floor
DENVER, CO 80203-1714

Bill Number: MP01 - 11150020
Bill Date: 3/19/2015
Due Date: 4/18/2015

Detail List of Charges

Treasury Symbol			
Receivable Type	Customer Ref	Document Number/Suffix	Amount
Service			
12 3 3505			
UNEARNED ADVANCES			
S2514 SNAP SAE (O)			
	FFY 2013 CBMS M&O costs disallow	RG201503000015/001	953,787.81
Subtotal Service:	S2514 SNAP SAE (O)		953,787.81
Subtotal Receivable Type:	UNEARNED ADVANCES		953,787.81
Total Treasury Symbol:	12 3 3505		953,787.81
Bill Total:			953,787.81