

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUESTS FOR  
FY 2013-14**

**DEPARTMENT OF HUMAN SERVICES**

**(Behavioral Health Services only)**

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

**Prepared By:  
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June 20, 2014**

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## Interim Supplemental Requests

### INTERIM SUPPLEMENTAL REQUEST (ONE OF TWO SUBMITTED BY DEPARTMENT) MENTAL HEALTH INSTITUTES SPENDING AUTHORITY

	Request	Recommendation
<b>Total</b>	<b><u>\$1,148,682</u></b>	<b><u>\$1,148,682</u></b>
FTE	0.0	0.0
General Fund	(58,609)	(58,609)
Cash Funds	1,207,291	1,207,291
Federal Funds	0	0
<i>Net General Fund</i>	<i>(58,609)</i>	<i>(58,609)</i>

\*Net General Fund equals the General Fund appropriation to the Department of Human Services plus the General Fund appropriation component of moneys reappropriated to the Department of Human Services by the Department of Health Care Policy and Financing.

<p><b>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?</b> [The Controller may authorize an over expenditure 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 over expenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the over expenditure is to be made.]</p>	<b>YES</b>
<p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [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>	<b>YES</b>
<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 requests adjustments to appropriations for the mental health institutes for FY 2013-14 to align appropriations with projected fiscal year-end revenues and expenditures. These adjustments require a total increase of \$1,148,682 (1.2 percent), including an increase of \$1,207,291 cash funds (from prior year Medicare and Medicaid cost settlements.) and a decrease of \$58,609 General Fund.

**Staff Recommendation:** Staff recommends that the Committee approve the request to ensure that both institutes have sufficient revenues to cover FY 2013-14 operational expenses and maintain the quality of care required by patients at the institutes. *The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.*

## **Staff Analysis:**

### **Background Information**

The Department administers and operates two mental health institutes providing inpatient hospitalization for individuals with serious mental illness. The two institutes provide comprehensive psychiatric, psychological, rehabilitation, and therapeutic care to up to 545 patients:

- The *Colorado Mental Health Institute at Pueblo* (CMHIP) operates a total of 451 beds. First, 307 "forensic" beds are used to serve two populations: (a) individuals with pending criminal charges who require evaluations of competency to stand trial or who require services to restore competency; and (b) individuals who have been found to be not guilty by reason of insanity. Second, 144 "civil" beds are used to serve adults, adolescents, dually diagnosed adults (*i.e.*, diagnoses of a mental illness and a substance use disorder), and geriatric patients. These patients are referred for admission by the community mental health centers, county departments of social services, or the Division of Youth Corrections. Civil patients include individuals who have sought treatment voluntarily and individuals who have been committed involuntarily by the court.
- The *Colorado Mental Health Institute at Fort Logan* (CMHIFL), located in southwest Denver, operates 94 civil beds for adults.

The mental health institutes at Fort Logan and Pueblo receive revenues from various sources, including: patient payments (typically from disability benefits); Medicare; Medicaid; commercial insurance (*e.g.*, Blue Cross, Kaiser); and other state agencies (*e.g.*, the Departments of Corrections and Education) to cover operational expenses. The Department typically submits one or more supplemental requests each year to adjust revenue sources and appropriations based on the patient mix, any changes to Medicare and Medicaid reimbursements, and unanticipated changes in operational expenses.

The institutes serve as the state "safety net" provider of inpatient psychiatric services, predominately treating indigent, Medicaid-eligible, and Medicare-eligible individuals. However, both institutes are considered institutions for mental disease ("IMD") under federal law because they have more than 16 beds and are primarily engaged in providing diagnosis, treatment, or care of persons with mental health disorders, including medical attention, nursing care, and related services. Under the "IMD exclusion", Medicaid will not reimburse the State for the inpatient hospitalization of adults ages 21 through 64 at the institutes. While Medicaid will pay for community mental health treatment services for an eligible adult within this age range, when the same adult is admitted to an institute the cost of his or her care is transferred entirely to the General Fund. In addition, for Medicaid-eligible patients outside this age range (*i.e.*, under age 21 or over age 64), there is a 45-day Medicaid inpatient psychiatric benefit limit. If one of these patients remains at an institute for longer than 45 days, the costs of care shift to the General Fund.

**FY 2013-14 Appropriation Adjustment To Date**

For FY 2013-14, the General Assembly has approved adjustments totaling \$1,365,637 to date (an increase of 1.4 percent). These adjustments have primarily covered higher than anticipated expenditures for contract medical staff, contract medical services, catastrophic medical expenses, and related ancillary services for institute patients. These adjustments have also reflected lower than anticipated Medicare revenues and higher than anticipated Medicaid revenues. The following table details adjustments approved to date as well as those recently requested.

<b>FY 2013-14 Appropriation Adjustments to Date for Mental Health Institutes</b>					
	<b>SB 13-230 (FY 2013-14 Long Bill)</b>	<b>HB 14-1238 (Supplemental)</b>	<b>HB 14-1336 (FY 2014-15 Long Bill)</b>	<b>June 2014 Request</b>	<b>Total</b>
<b>Total</b>	\$95,371,595	\$1,329,390	\$36,247	\$1,148,682	\$97,885,914
FTE	<u>1,175.4</u>	<u>0.0</u>	<u>0.3</u>	<u>0.0</u>	<u>1,175.7</u>
General Fund	78,503,406	3,197,422	0	(58,609)	81,642,219
Cash Funds	9,613,275	(2,091,431)	0	1,207,291	8,729,135
Reappropriated Funds	7,254,914	223,399	36,247	0	7,514,560

**June 2014 Supplemental Request**

The Department requests an increase of \$1,148,682 (1.2 percent) for the mental health institutes for FY 2013-14. The components of the request are detailed in the following table and described below.

<b>June 2014 Supplemental Request for Mental Health Institutes</b>			
<b>Line Item</b>	<b>Fort Logan</b>	<b>Pueblo</b>	<b>Total</b>
Personal Services:			
Contract Psychiatric Evaluations	\$0	\$125,370	\$125,370
Regular Part-time, Overtime, and Temporary Wages	<u>0</u>	<u>278,619</u>	<u>278,619</u>
Subtotal: Personal Services	0	403,989	403,989
Operating Expenses	119,754	466,920	586,674
Pharmaceuticals	(106,063)	264,082	158,019
<b>Total Requested Change</b>	<b>\$13,691</b>	<b>\$1,134,991</b>	<b>\$1,148,682</b>

**Personal Services**

The Personal Services line item appropriation for each institute covers employee compensation, as well as contractual expenses for medical and other services that are not performed by institute employees.

*Contract Evaluations (increase of \$125,370).* The CMHIP utilizes contract psychiatrists to provide sanity and competency evaluations. The contract psychiatrists have a high level of experience and credentials and perform primary and secondary evaluations as ordered by the

court.<sup>1</sup> In FY 2012-13, the CMHIP paid for 36 evaluations at an average cost of \$256 per hour. For FY 2013-14, the CMHIP budgeted \$80,100 for contract evaluations. The CMHIP spent \$91,225 in the first 10 months of the fiscal year for ten evaluations at an average cost of \$350 per hour; the CMHIP anticipates requiring another \$114,245 for the last two months of the fiscal year (a total of \$205,470). The Department thus requests an increase of \$125,370.

**Staff recommends approving this portion of the request to ensure that the CMHIP can conduct all court-ordered sanity and competency evaluations in a timely manner.**

*Regular Part-time, Overtime, and Temporary Wages (increase of \$278,619).* Both institutes utilize regular part-time positions as a part of a normal staffing pattern. At CMHIP, regular part-time staff are mostly "pool staff" who cover the variable nursing shift needs. Pool staff can work a few hours a week or a full 40 hours a week, depending on need. The need for temporary staff can vary depending on: the number of staff vacancies; the number of patients who require one-to-one (1:1) supervision; the number of sick/vacation/holiday days taken by institute employees; the number of patient transports required; the number of institute employees who are on modified duty (due to an injury on the job); and staff training requirements. Overtime is used as a last resort, and is mainly incurred by the nursing disciplines in order to provide adequate coverage on the units.

The CMHIP establishes a staffing level for each shift and unit to provide basic coverage (*i.e.*, providing routine nursing services such as groups, activities, medications, treatments, wellness checks, hygiene, and medical/psychiatric care) based on the population served, the number of patients, and the behavioral and physical condition of patients. The basic staffing level may then be increased when a physician orders 1:1 observation for one or more patients due to: a patient being highly suicidal; a patient's significant medical issues; patient behaviors that might lead to a medical issue; or other safety concerns. The Department's goal is to achieve 100 percent coverage for each shift. To date in FY 2013-14, the CMHIP has achieved an average of 95.7 percent of the established staffing level for basic coverage, and 74.5 percent of the additional staffing need required based on patient acuity.

The CMHIP budgeted \$4,586,000 for regular part-time, temporary, and overtime wages for FY 2013-14. The Department spent \$4,058,777 for this purpose in the first 10 months of the fiscal year, and it anticipates requiring another \$805,844 for the last two months of the fiscal year (a total of \$4,864,621). The Department thus requests an increase of \$278,619. Monthly expenses for part-time, temporary, and overtime wages have ranged from \$261,177 to \$566,103; the

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<sup>1</sup> Pursuant to Sections 16-8-103 and 16-8-103.5, C.R.S., if counsel for a defendant believes that a plea of not guilty by reason of insanity or an assertion of the affirmative defense of impaired mental condition should be entered on behalf of the defendant but the defendant disagrees, the court is required to "conduct such investigation as it deems proper, which may include the appointment of psychiatrists or forensic psychologists to assist in examining the defendant and advising the court".

Pursuant to Section 16-8-106, C.R.S., when a plea of not guilty by reason of insanity is accepted, the court is required to commit the defendant for a sanity evaluation.

Pursuant to Section 16-8-5-103, C.R.S., if the question of a defendant's mental competency to proceed with a criminal proceeding and one party objects to the court's preliminary finding concerning competency, or if the court determines that it has insufficient information to make a preliminary finding, the court is required to order that the defendant be evaluated for competency.

*JBC Staff Interim Supplemental Recommendations: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

Department expects to incur an average of \$402,922 per month in the last two months of the fiscal year. The Department indicates that the anticipated over expenditure is primarily due to an increased number of patients who require 1:1 supervision.

The following table provides recent data concerning the need for 1:1 supervision for CMHIP patients, as well as the percent of the established staffing levels that have been met for both basic coverage and the additional need based on patient acuity.

	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14
<b>CMHIP Patients Requiring 1:1 Supervision:</b>											
Number of daily occurrences	305	304	353	364	377	351	413	326	415	293	152
Average number of patients per day requiring 1:1 supervision	9.8	9.8	11.8	11.7	12.6	11.3	13.3	11.6	13.4	9.8	4.9
Average daily attendance	393.2	391.6	393.4	387.3	397.0	392.4	399.6	410.6	412.7	411.9	407.1
Percent of patients requiring 1:1 supervision	2.5%	2.5%	3.0%	3.0%	3.2%	2.9%	3.3%	2.8%	3.2%	2.4%	1.2%
<b>Percent of CMHIP Staffing Levels Met:</b>											
Basic Coverage	98.4%	92.5%	94.6%	97.9%	96.7%	93.7%	96.4%	92.4%	95.1%	97.9%	97.4%
Additional coverage based on patient acuity	80.0%	71.7%	71.8%	87.0%	79.4%	74.2%	71.5%	67.8%	67.9%	75.8%	73.2%

**Staff recommends approving this portion of the request to cover the costs of providing safe staffing levels based on patient needs.**

Operating Expenses (increase of \$586,674)

The Operating Expenses line item appropriation for each institute covers the general operating expenses of each institute, including: food; medical/laboratory supplies; custodial and laundry supplies; telephone and IT expenses; office equipment; and maintenance. The Department indicates that the institutes have experienced overall operating and utilization increases in general business areas (e.g., communication services, computer leases, software maintenance, and equipment repair), client care and subsistence (e.g., patient supplies, prosthetics, hearing aids, etc.), and food. While such increases can normally be managed in the course of the fiscal year, unforeseen expenditures for high cost repairs, security modifications, and patient equipment has exacerbated the problem this year. For example, the CMHIP has had to repair furniture, doors, windows, and fixtures due to damage caused by aggressive and violent patient behavior. The CMHIP was also required to install a new security gate in the forensic unit and two geriatric beds with alarms for patient safety.

Monthly operating expenses for both institutes have ranged from \$419,267 to \$680,885; the Department expects to incur an average of \$605,071 per month in the last two months of the fiscal year.

The CMHIP has a unique budget challenge (which has been addressed through the FY 2014-15 appropriation) because it has had to absorb more than \$400,000 in raw food costs related to the provision of meals to correctional facilities on the Pueblo campus due to a lack of any inflationary increase over a nine-year period.

**Staff recommends approving this portion of the request to cover higher than anticipated operating expenses required to make security improvements at CMHIP and to repair and modify patient rooms and equipment at both institutes.**

Pharmaceuticals (increase of \$158,019)

The Pharmaceuticals line item appropriation for each institute covers the cost of purchasing medications for institute patients, including psychiatric medications, over-the-counter medications, and medications for specific medical conditions. The Department indicates that pharmaceutical expenses are difficult to forecast due to changing patient needs, variability in prescription drug prices, and changes in the availability of generic medications.

Last January the General Assembly approved a requested \$927,796 reduction in the appropriations for pharmaceuticals, including an increase of \$115,499 for CMHIP and a reduction of \$1,043,295 for CMHIP. These adjustments were primarily based on changes in the availability of certain generic medications and discounts for certain drugs.

The Department is now requesting a partial restoration of funding to cover increased costs at CMHIP due to changes in the patient mix and the loss of discounts on certain drugs. Monthly pharmaceutical expenses have ranged from \$274,119 to \$429,281; the Department expects to incur an average of \$367,881 per month in the last two months of the fiscal year.

**Staff recommends approving this portion of the request to cover anticipated pharmaceutical expenses.**

Source of Cash Funds

The institutes receive notifications of estimated Medicare and Medicaid cost settlement paybacks (revenue to be received) throughout the fiscal year. These revenues must be expended within the fiscal year they are received. The Department has received \$1,207,291 to date in FY 2013-14, and all of this revenue was received after January 2014. The Department thus proposes a \$1,207,291 increase in cash funds appropriations, and a small reduction in General Fund appropriations based on the difference between available cash revenues and the institutes' anticipated over expenditures.

**Staff recommends approving the proposed fund source adjustments to ensure that Medicare and Medicaid cost settlement paybacks will be expended within the fiscal year.**

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	FY 2012-13	FY 2013-14	Fiscal Year 2013-14 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

**DEPARTMENT OF HUMAN SERVICES**  
**Executive Director - Reggie Bicha**

**One of Two Interim Supplementals - Mental Health Institutes Spending Authority**

*(8) Behavioral Health Services*

*(C) Mental Health Institutes*

Mental Health Institute - Ft. Logan

Operating Expenses	<u>1,041,385</u>	<u>1,080,718</u>	<u>119,754</u>	<u>119,754</u>	<u>1,200,472</u>
General Fund	882,102	921,435	106,063	106,063	1,027,498
Cash Funds	123,601	123,601	13,691	13,691	137,292
Reappropriated Funds	35,682	35,682	0	0	35,682

Mental Health Institute - Ft. Logan

Pharmaceuticals	<u>805,441</u>	<u>1,270,526</u>	<u>(106,063)</u>	<u>(106,063)</u>	<u>1,164,463</u>
General Fund	667,543	1,132,627	(106,063)	(106,063)	1,026,564
Cash Funds	107,007	107,007	0	0	107,007
Reappropriated Funds	30,891	30,892	0	0	30,892

Mental Health Institute - Pueblo Personal

Services	65,591,227	65,979,090	403,989	403,989	66,383,079
FTE	<u>954.7</u>	<u>955.7</u>	<u>0.0</u>	<u>0.0</u>	<u>955.7</u>
General Fund	53,694,988	54,878,957	0	0	54,878,957
Cash Funds	6,745,490	4,640,594	403,989	403,989	5,044,583
Reappropriated Funds	5,150,749	6,459,539	0	0	6,459,539

	FY 2012-13	FY 2013-14	Fiscal Year 2013-14 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Mental Health Institute - Pueblo Operating Expenses	<u>4,858,475</u>	<u>4,907,943</u>	<u>466,920</u>	<u>466,920</u>	<u>5,374,863</u>
General Fund	2,647,509	4,012,426	(58,609)	(58,609)	3,953,817
Cash Funds	403,362	403,362	525,529	525,529	928,891
Reappropriated Funds	1,807,604	492,155	0	0	492,155
Mental Health Institute - Pueblo Pharmaceuticals	<u>2,930,675</u>	<u>2,986,026</u>	<u>264,082</u>	<u>264,082</u>	<u>3,250,108</u>
General Fund	2,321,479	2,342,337	0	0	2,342,337
Cash Funds	297,405	297,405	264,082	264,082	561,487
Reappropriated Funds	311,791	346,284	0	0	346,284
<b>Total for MHI Spending Authority Supplemental</b>	75,227,203	76,224,303	1,148,682	1,148,682	77,372,985
FTE	<u>954.7</u>	<u>955.7</u>	<u>0.0</u>	<u>0.0</u>	<u>955.7</u>
General Fund	60,213,621	63,287,782	(58,609)	(58,609)	63,229,173
Cash Funds	7,676,865	5,571,969	1,207,291	1,207,291	6,779,260
Reappropriated Funds	7,336,717	7,364,552	0	0	7,364,552

	FY 2012-13	FY 2013-14	Fiscal Year 2013-14 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>Totals</b>					
DEPARTMENT OF HUMAN SERVICES					
TOTALS for ALL Departmental line items	1,973,827,981	2,187,196,360	1,665,257	N.A.	N.A.
FTE	<u>4,192.5</u>	<u>4,879.0</u>	<u>0.0</u>	<u>N.A.</u>	<u>N.A.</u>
General Fund	642,920,871	719,197,941	(58,609)	N.A.	N.A.
Cash Funds	341,644,206	358,243,248	1,723,866	N.A.	N.A.
Reappropriated Funds	441,136,150	497,587,819	0	N.A.	N.A.
Federal Funds	548,126,754	612,167,352	0	N.A.	N.A.

Key:

"N.A." = Not Applicable or Not Available