

DEPARTMENT OF HUMAN SERVICES
(Division of Child Welfare, Division of Child Care, Division of Youth Corrections)
FY 2012-13 JOINT BUDGET COMMITTEE HEARING AGENDA

Tuesday, December 13, 2011
1:30 pm – 5:00 pm

1:30-2:00 **INTRODUCTIONS AND OPENING COMMENTS**

2:00-2:40 **TREATMENT SERVICES FOR YOUTH INVOLVED IN THE CHILD WELFARE AND YOUTH CORRECTIONS SYSTEMS**

[Note: The Department of Health Care Policy and Financing was also invited to attend this portion of the hearing]

1. Provide your perspective on the current multiple funding streams that support treatment services for youth involved in the child welfare and youth corrections systems.
 - a. How does the current system affect what services are available?

Response:

The vast majority of children who receive child welfare or youth correction services get the services that they need. Only a small number of children and youth with multiple mental health presentations and complex needs challenge the current system.

The current funding system for child welfare treatment services has several positive attributes, including providing the county the ability to use Core and Block funding flexibility. Public agencies and their service systems provide the most appropriate and least restrictive services at the right time whenever possible. The Colorado Department of Human Services (CDHS) ensures that dollars are spent to address the immediate needs of a child or youth based on the presentation of risk and other treatment needs. Services may also be impacted in the following ways:

- **Conflicting attitudes and values of the various systems regarding treatment approaches – including differences in policy, practice, availability of services, and openness to collaboration;**
- **Services can sometimes be limited based on funding limitations;**
- **For Division of Youth Corrections' (DYC) youth, services can be impacted based on a youth's status; e.g., detention (physical custody) versus commitment (legal custody); and**
- **Services can also be impacted based on geographic considerations; e.g., some services are either not available or are in short supply – particularly in rural areas of the State.**

Constraints have been identified in two areas: one, with Medicaid-funded mental health services in terms of service accessibility and coordination; and, two, from federal restrictions on Title IV-E maintenance funds for early intervention services to prevent a child or family's involvement with child welfare.

Many counties report easier accessibility to mental health services in those communities where there is history of a close working relationship between the county department and local behavioral health organization (BHO). BHO representatives and Health Care Policy and Financing (HCPF) program staff are now participating in quarterly Core Services Coordinator meetings with the goal of improving these working relationships and providing additional education to county staff about how to resolve access issues quickly when they arise.

- b. How does it affect how youth are placed (e.g., hospital, therapeutic residential facility, DYC)?

Response:

Youth in Child Welfare and Youth Corrections are provided the right services at the right time in the most appropriate setting. Local agencies have worked diligently over the last few years to improve coordinated access and expand the array of community-based services and supports for families.

Inpatient psychiatric treatment and residential mental health treatment for children with Medicaid must have prior authorization by the BHO. Authorization criteria include medical necessity, the presence of a covered mental health diagnosis, and confirmation that the child is being served in the least restrictive environment. BHOs are obligated to deny youth in the custody of the CDHS, either in the Division of Child Welfare (DCW) or DYC, who are placed by those agencies in a Psychiatric Residential Treatment Facility (PRTF). Mental health services for these youth are billed to fee-for-service Medicaid and are excluded from the Community Mental Health Services Program.

The DYC has a comprehensive continuum of placement options, ranging from intensive mental health services (both state-operated and TRCCF), to non-secure community-based transition services. Youth are placed in the most appropriate setting and provided services as necessary. While there are budgetary ramifications for the types of placements and services provided for DYC youth, a youth's treatment and security needs remain a priority when determining placement.

Ultimately, local courts have the final authority to determine where a child will be placed and under whose jurisdiction. The DYC works very closely

with judges and others from the judicial system to ensure children and youth are served appropriately to keep them, their families, and their communities safe.

- c. Is DYC being used as a placement of last resort for youth with mental illness?

Response:

Colorado has youth services located in three separate entities: the Judicial Branch, when a child is in probation; Child Welfare, when a youth is placed in the legal custody of a county department of human services; and the DYC, when a youth is committed to the legal custody of the CDHS. This trifurcation creates challenges at the case service level that each community must address. The CDHS is working to enable access to mental health and other services to address the needs of the youth when mental health issues are first assessed. Youth should not have to get worse in order to get help.

The CDHS does not currently have actual data that suggests the DYC is a placement of last resort for youth with mental illness. However, a DYC commitment is often the last resort for a youth after a number of other interventions have been attempted at the local level. Current law allows significant discretion on the part of the courts in determining the disposition of youth who are adjudicated as juvenile delinquents. As a result, youth with serious mental health issues can be, and frequently are, sentenced to the three different systems mentioned above. Despite the State's trifurcated system of serving adjudicated juvenile delinquents, there is growing evidence that Colorado's focus on earlier identification and intervention, particularly through local collaboratives such as S.B. 91-94 and H.B. 04-1451, is producing very positive results in the form of lower reliance upon out-of-home placements through both the DCW and DYC systems. As shown in the graphs below, there has been a significant reduction in out-of-home placements as well as the commitment average daily population over the last five years.

Figure 1

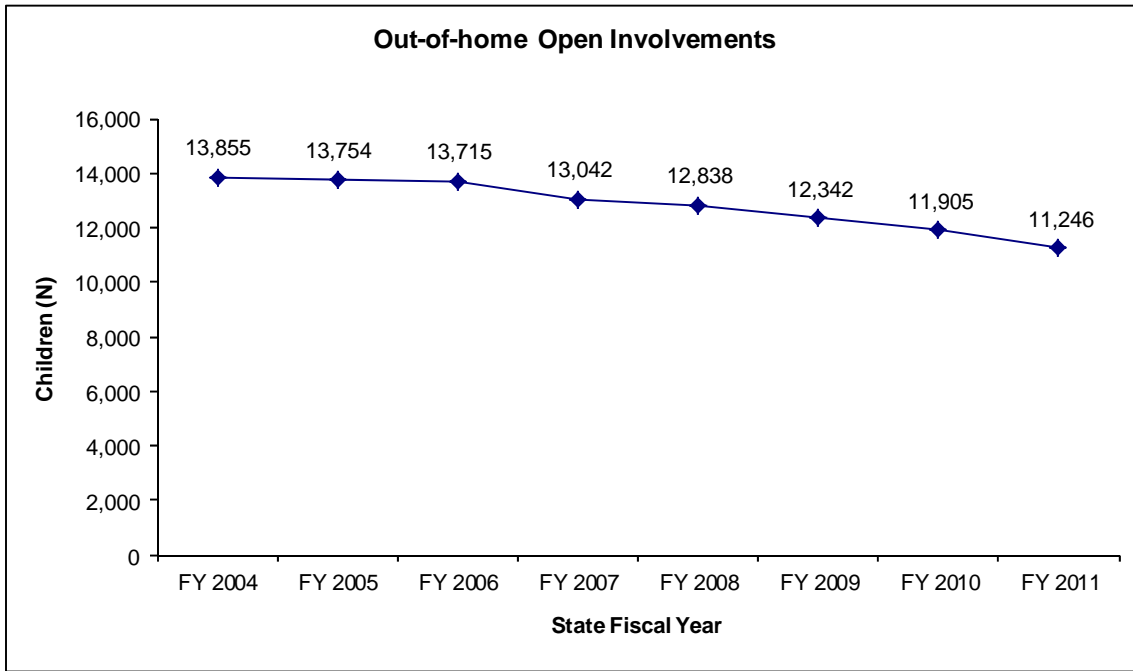
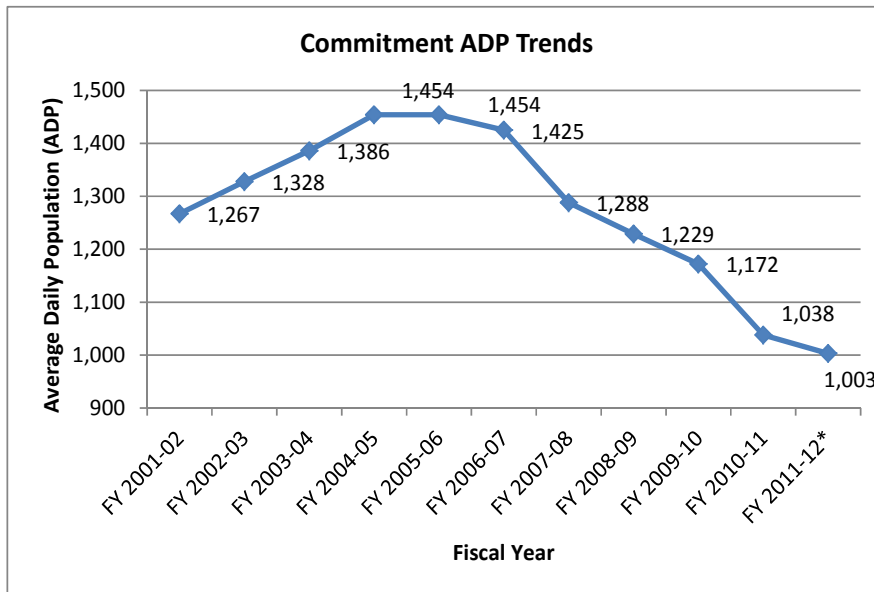


Figure 2



* YTD as of October 2011

The CDHS does believe that there are youth in both the DCW and DYC systems who have a previously undiagnosed mental illness, and for whom

earlier intervention and treatment would be the most appropriate approach, as opposed to waiting until a legal disposition places them in a position to receive services. This is why the CDHS has included in its Strategic Plan a key priority to develop a more coordinated and effective behavioral health system of care for adolescents. This will be a key area of focus for the Office of Behavioral Health and the Office of Children, Youth, and Families over the next year.

- d. To what extent is there an exposure to civil rights lawsuits if we are failing to serve kids with mental illness in the least restrictive environment (*e.g.*, if they are being committed to the Division of Youth Corrections due to insufficient treatment alternatives in the community)?

Response:

The CDHS is not aware of, nor has it been a party to any litigation, past or present, asserting the State's failure to serve youth with mental illness in the least restrictive environment.

2. How should the State tackle the problems resulting from the multiple funding streams?
- a. How do other states manage this funding? Is there a model we could use to improve our system?

Response:

Each state approaches funding according to their unique needs within federal funding restrictions and policy guidance.

Possible ideas to explore further in collaboration with other State agencies include:

- **Federal IV-E Waiver.** The IV-E Waiver option is discussed later in this document.
- **Medicaid for community-based mental health services for children, similar to the New York State's home and community-based services waiver, which allows eligible children with serious emotional disturbances to have a package of services geared towards their needs. There are similar waivers in Kansas and Indiana.**
- **Targeted Case Management, trauma assessments of all Medicaid children entering care, and mental health assessments of all children entering care. The CDHS was advised that other states are accessing Medicaid Targeted Case Management funding for children served by child welfare for activities of: referral and linkages, assessment, care planning and monitoring. Medicaid Targeted Case Management funding is available for children who are not eligible for federal Title IV-E.**

Additionally, both the CDHS and HCPF are continuing the research that began as a result of the FY 2011-12 joint legislative Request for Information #2.

- b. Do we need to change some of the current funding streams (*e.g.*, carve more or less out of mental health capitation/county departments?)

Response:

The CDHS is working to improve our funding options and flexibility. The CDHS anticipates pursuing a Title IV-E funding waiver that will result in reductions to entries into foster care while increasing safe family reunifications. The CDHS and HCPF are working together to identify funding stream changes that would enhance efficiency and service provision without negatively impacting life, health, or safety of clients of either department.

The CDHS does not support carving out funds for this purpose from county child welfare allocations. Carving funding from the counties would have a negative impact on the overall service array offered by county departments. If funds are carved out for this specific activity and the court orders the service to be delivered to the child irrespective of whether the behavioral health organization agrees to serve the child, then counties would have to provide the service within their existing reduced funds.

The Departments are working to improve and expand the availability and coordination of mental health services for children and youth by providing access to trauma and mental health assessments for any child entering out of home care.

- c. Is more state oversight or review of placements for youth with multiple needs required?

Response:

The Departments do not believe that more State oversight of county departments will resolve the issue. Expanding and enhancing the local collaborative management teams under H.B. 04-1451 and S.B. 91-94 will improve local efforts to build systems of care for families and youth. As shown previously in Figure 1, the counties have done a good job in reducing the number of children in out-of-home care of all types.

For DYC populations, state oversight and review of placement decisions would require state agency participation in decision-making at the county and judicial district. Absent that level of integration, the reviews of individual placements would likely be based on limited information.

The Office of Children, Youth, and Families and the Office of Behavioral Health are currently working together to develop a plan to better serve children and youth with mental health needs who are in the Child Welfare and DYC systems.

- d. Does the issue need further study? If so, what would be the best forum for this, *e.g.*, an existing Executive committee or task force? A new group tasked with this created by the Executive or through legislation?

Response:

The CDHS, in full partnership with the counties, has three working groups studying these funding issues. One group is focusing on increasing federal revenue of all types. Another work group is focusing on the federal IV-E waiver proposal. A third group is planning the implementation of H.B. 10-1196, which will enhance county flexibility for prevention services.

- e. Are there actions you believe the JBC or Committees of Reference could or should take to help address this problem?

Response:

The CDHS and the counties are working on several bills for the upcoming session that would benefit from your support. One of the initiatives will expand the definition of kinship, so that children will have an expanded group of caretakers who could be their permanent guardians. Also, the counties will bring forward a bill to expand Differential Response to additional counties beyond the original group of five.

- 3. Is there any current work being done on this issue that relates to the work of the JBC or the Audit Committee?

Response:

The CDHS has set the continuous improvement of the child welfare system as one of its major strategies, including the implementation of the Colorado Practice Model, a data-driven continuous quality improvement effort that leverages best and promising practices through a county peer-to-peer relationship.

- a. Are there any initiatives in this year's budget request for Human Services or Health Care Policy and Financing that address this issue?

Response:

The FY 2012-13 budget submission annualizes two prior budget actions in which General Fund was refinanced with TANF in the Child Welfare Block and Core line item appropriations.

- b. Have there been any audit findings or recommendations that identify this problem and/or recommend a solution?

Response:

Not at this time.

4. Have you determined why the Departments of Human Services and Health Care Policy and Financing have such different estimates of the number of children receiving Child Welfare Core Services who are eligible for Medicaid (one department was reflecting 35 percent; the other 64 percent)? If not, when do you expect to know this?

Response:

The Departments are currently researching the reason(s) for the difference. At this time, it is believed the numbers are different because the information accessed by each department is different. The Departments will forward a written explanation to the JBC as a follow up to this hearing within the next three weeks.

2:40-3:30 DIVISION OF CHILD WELFARE

Strategic Plan and Performance-based Goals

5. What is the basis for the “benchmarks”/targets established for FY 2012-13 child welfare performance measures?
 - a. How did you determine where to set these benchmarks?

Response:

The Department set a goal for each measure that was both challenging and achievable. Each target was created using a different methodology unique to the source of the measure.

- b. To what extent are these based on federal versus state targets?

Response:

The measures are a combination of both federal and state targets. Detail for each measure is as follows:

***b.i. Safety assessments:* The benchmark was based on a state target; there is no specific federal target for this measure.**

***b.ii. CFSR Safety measure:* The benchmark was established using a formula provided by the federal Administration for Children and Families. Utilization of this formula was required as a part of the Child and Family Services Review Performance Improvement Plan.**

***b.iii. Length of Stay:* This measure was created using the Adoption Foster Care Analysis Reporting System data reported to the Administration for Children and Families each year.**

- c. One performance measure is the percentage of time the safety assessment process for child welfare investigations was completed accurately. For the first quarter of FY 2011-12, you reported that the assessment was completed accurately just 50 percent of the time. What kinds of problems are you seeing? Why is this figure so low?

Response:

Working with the counties, the Department has realized that the current safety assessment tools needed to be improved. The Department chose this measure as a focus of our C-Stat efforts to ensure that we are improving both our performance and the tools that we are using.

- 6. How did the Department determine that 212.8 is the correct benchmark for the average number of days in out of home placement for a child age 13-21? Is there an ideal number of days for this? What constitutes a positive versus negative outcome?

Response:

There is not an ideal number of days for length of stay because each case can differ significantly according to the needs of the specific child. The 212.8 measure was established using the Adoption Foster Care Analysis Reporting System data reported to the Administration for Children and Families each year. The benchmark was established at three standard deviations lower than the average number of the days.

Generally, achieving permanency (reunification, adoption, etc.) over shorter periods of time is more desirable than a longer length of time.

- 7. With respect to the benchmark for “compliance rate on CFSR safety measure associated with protecting children”:
 - a. Why are you reflecting a performance decline between the FY 2010-11 actual (81.6%) and the FY 2011-12 benchmark (80.0%)?

Response:

Figure 3 updates information in the Department’s strategic plan information. The updated amount is a negotiated improvement goal with the Administration for Children and Families as a part of the Child and Family Services Review Performance Improvement Plan.

**Figure 3
Compliance Rate on CFSR Safety Measure Associated with
Protecting Children and Preventing Removal or Re-entry**

	FY 2010-11	FY 2011-12	FY 2012-13
Benchmark:		81.2%	81.2%
Actual:	80.0%	n/a	n/a

- b. Why would the benchmark change over time (80.0% in FY 2011-12 and 82.1% in FY 2012-13)? Shouldn't a benchmark be stable until met consistently?

Response:
See 7a.

County Child Welfare Allocations, Expenditures, Workload, and Outcomes

8. Why does the Department believe child welfare assessments and open involvements fell in FY 2010-11? Does it see this as a positive development or should this cause concern?

Response:

Please refer to Figure 4 and Figure 5, which look at multi-year trends in referrals to the child abuse hotline, assessment done on referrals that meet criteria for investigation, and the number of cases (involvements) subsequently opened for county services.

Figure 4

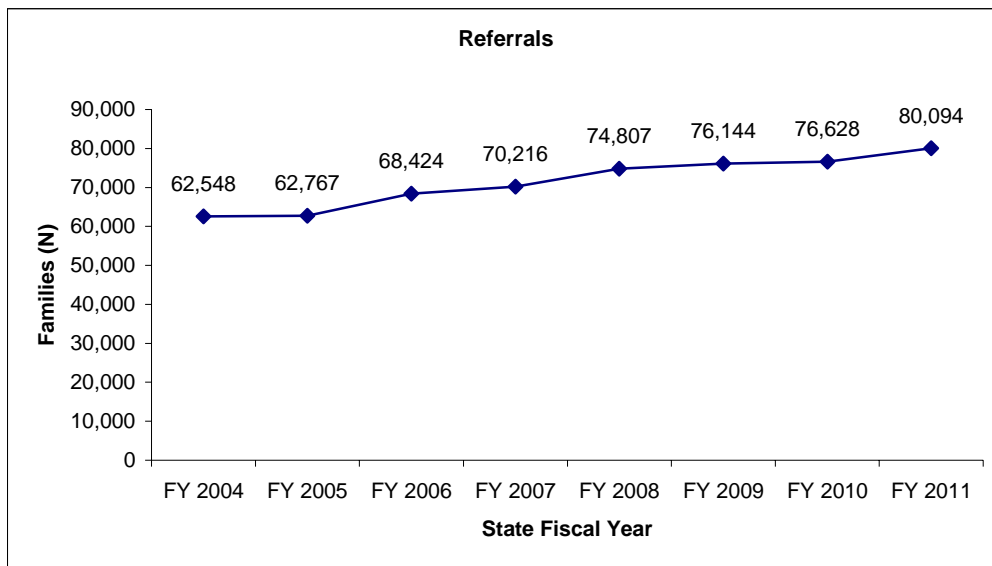
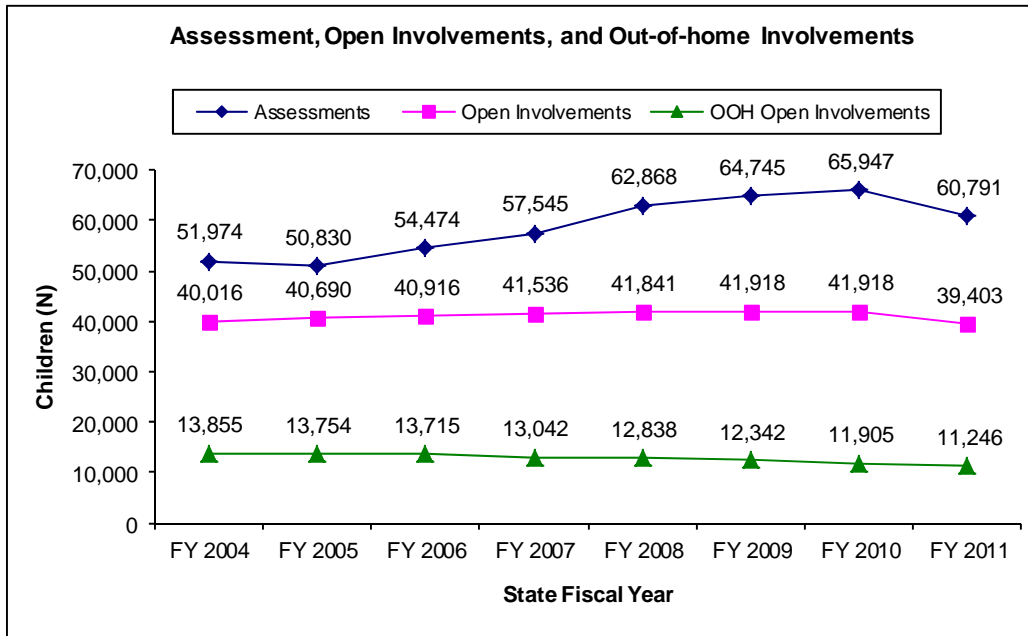


Figure 5



It is believed that efforts of the Department and the county departments have resulted in a decrease in child welfare assessments and open involvements in the past fiscal year. Those efforts include:

- The Administrative Review Division reviewed the referrals of abuse and neglect that were screened out for the fifth year in a row. This past year's performance was the best in terms of appropriate activities by the county.
- The Administrative Review Division conducted reviews of county assessment activity, and in those counties in which there may be potential issues, State Child Protection Staff joined the review and provided technical assistance and training to the county to assist with practice improvements.
- Implementation of Differential Response has led to the creation of a screening guide for hotline screening staff. State Child Protection staff provided the screening guide and screening training to non-Differential Response counties. This training encourages the hotline screening staff to collect more detailed information at the time of the call so better decisions can be made with regard to accepting the referral for assessment or screening out the referral. These steps have resulted in an increase in the number of referrals that were appropriately screened out that previously would have gone to assessment before closure.
- Some counties have reported that they are concentrating on triaging more of the assessments due to staff shortages and that this has resulted in lower involvements being opened.

The DHS sees this reduction as positive and will continue to monitor trends along with child safety outcomes to assure that any concerns are addressed.

9. How does the Department explain the declines in county spending for child welfare services? Have counties managed to reduce expenditures by figuring out a better way to do child welfare services? Have counties reduced expenditures for child welfare by shifting expenditures to other funding streams or accessing funding that is not visible in the state budget?

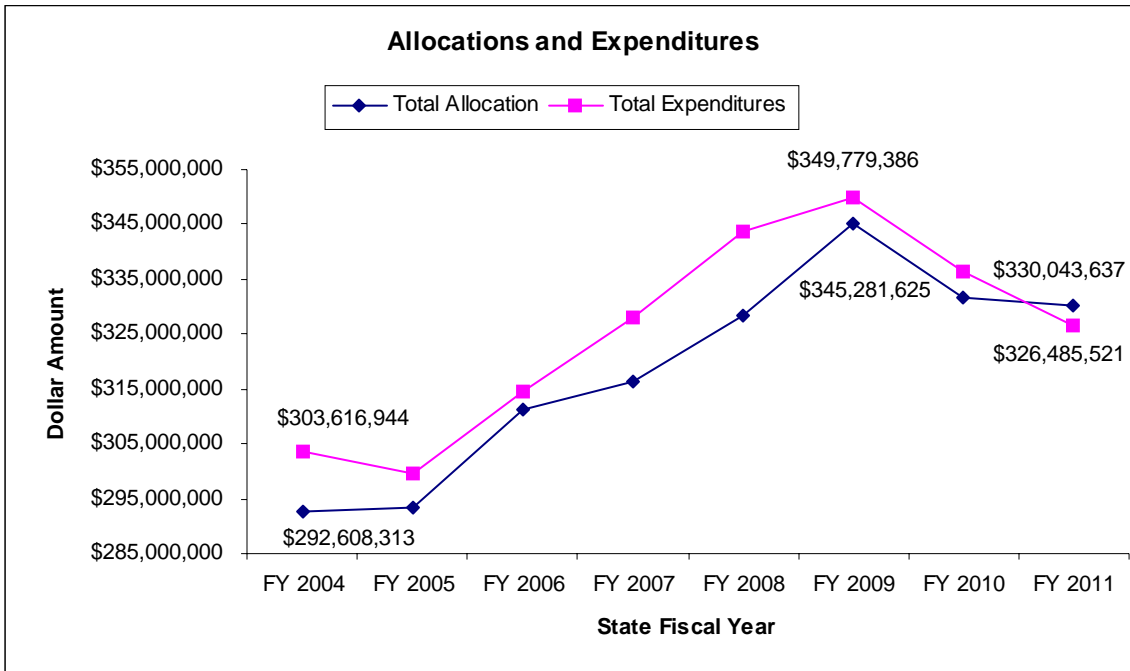
Response:

County spending for child welfare services has been on a slight decline the last two fiscal years. The largest decline in spending occurred in out-of-home (OOH) costs, which is the result of a decline in the number of children in OOH placements. Current county practice has facilitated keeping more children safely at home, thus reducing OOH placements. Also, counties are putting fewer children in high-cost institutional placements and a relatively larger number of children in family and kinship placements. This is a very positive trend. Program services and costs have not declined, due to the number of referrals and assessments that require administrative services.

Prior to final closeout, there were actually thirty-five counties that had overspent their child welfare services allocation by a total of \$12,776,709. Nearly all of these over expenditures were covered through balance of state mitigation, surplus distribution, and transfers from TANF reserves.

Counties must manage their services and programs within the allocations provided to them by the State, and therefore may make various management decisions regarding their expenditures. There are few funding streams that counties can access for their child welfare services, such as the Block allocation and TANF funding. Counties may make a decision to fund an OOH relative placement with TANF funding, thus redirecting expenditures away from child welfare. The following graph depicts county child welfare allocations and expenditures history.

Figure 6



10. What do you see happening with child welfare outcomes? Why do some outcome measures appear to be getting worse?

Response:

The Department continues to work diligently with counties and stakeholders to improve performance on key child welfare performance measures. Since 2008, the year prior to our Child and Family Services Review (CFSR), Colorado has increased the number of CFSR measures that it has met or exceeded the national standard from seven to nine. Colorado has maintained a consistent pattern in regards to the CFSR Safety Measures by exceeding the national standard on the Absence of Recurrence of Maltreatment measure and holding close to, but not meeting, the standard for the Absence of Child Abuse and/or Neglect in Foster Care.

The national child welfare outcomes, as viewed on page 15 of the 2010 Division of Child Welfare Evaluation Report, have improved over the past four years. It is important to note that a number of the national outcomes are based on exit cohort data (i.e., all children which left within the year). Exit cohort data can skew the perspective. For instance, permanency outcome C4-3 represents children that have been in care for over two years. This suggests we are measuring practices over the past three years and not just current practice. In addition, in tackling reducing length of stay, for instance, we may begin to exit “long-stayers” making the data look bad initially, but increasing better outcomes for children overall. Finally, national outcomes are dynamic. If a system decreases the timeliness of reunifying children with their families, it could increase the

re-entry into the system. Therefore, monitoring the national outcomes is a delicate balance in relation to practices.

Federal Title IV-E Revenue Waiver Option

11. Based on information currently available, does the Department believe a federal IV-E waiver would require state legislation?

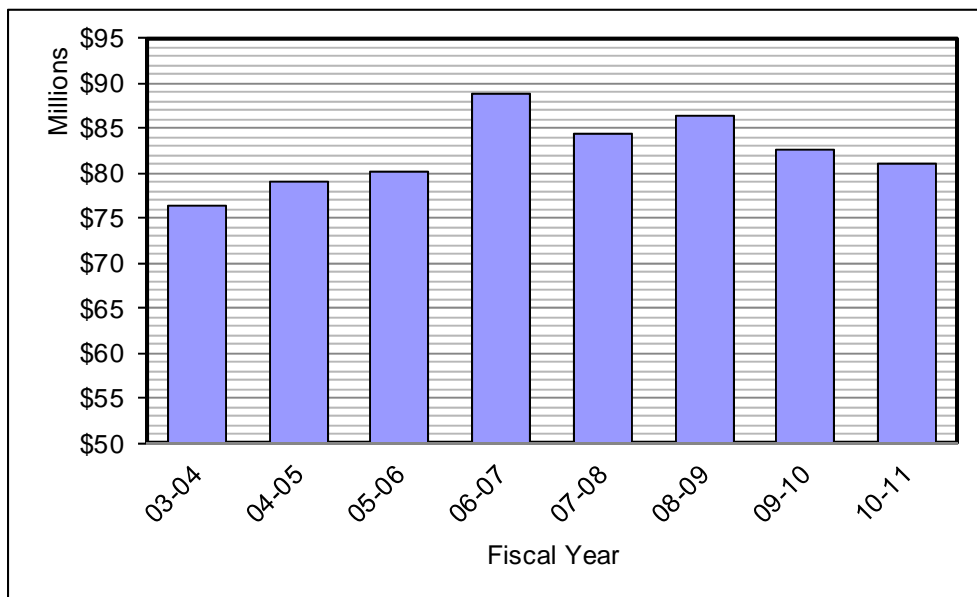
Response:

The Department has broad statutory authority to apply for a waiver if it is determined in Colorado’s interest to do so. Section 26-5-105.3, C.R.S., provides that “...the state department shall pursue as soon as possible any waivers that may be necessary to implement this article, including but not limited to waivers for Title IV-E foster care services...” There is an established workgroup that is working on this analysis, and that workgroup has included input from executive branch agencies (primarily CDHS and HCPF), counties, and the legislative branch. The federal government has not yet issued instructions on the waiver. When those instructions are received, Colorado will be in a position to make the final decision and determine the next steps in the process.

Federal Title IV-E is earned for the room and board costs of certain children in out of home placement when the court orders that reasonable efforts were made to prevent the child’s removal or that continuation in the home is contrary to the child’s welfare. Title IV-E is also available for the administrative costs and training costs associated with serving IV-E eligible children.

The following chart reflects the Department’s IV-E earnings over the past 8 years.

Figure 7



Benefits that the Department has identified that support applying for a IV-E waiver are:

- **The goals of the recent legislation align closely with practice changes Colorado is making to better serve children and their families.**
- **The flexibility the waiver offers will allow Colorado to direct the IV-E funds to areas of need such as preventing children’s involvement in Child Welfare either through prevention activities, or post permanency activities.**
- **The waiver will allow Colorado to test and evaluate practice change without fear of losing Title IV-E funds.**

12. Based on information currently available, how do you envision a waiver going forward at the county level? Would it be voluntary by county?

Response:

Colorado is likely to pursue policy changes that will enhance prevention and early intervention services, supporting safety, permanency, and well-being of children and families served by child welfare. The waiver should provide needed resources to prevent placements in costly out-of-home settings and provide home and community-based supports for families so children do not need to re-enter the child welfare system. Currently, counties are involved with the State in designing a waiver. The CDHS and county departments will cooperate on final decisions regarding what services will be identified in the waiver, and how the services will be funded. It is a collaborative process, and due to the importance of this opportunity, county involvement is imperative.

13. When will the department be able to provide initial estimates on the form and fiscal impact of a waiver; statutory changes that might be desired; and the optimal timing for both the waiver application and any statutory changes?

Response:

The Department is waiting for the waiver application instructions from the federal government in order to make a final determination on how to proceed. At this time, the Children’s Bureau has not released a time frame for state applications for the waiver, and it is anticipated that this will not occur until April 2012. In preparation for the waiver application, the aforementioned federal funding workgroup worked with a nationally recognized Title IV-E expert to evaluate Colorado’s ability to increase Title IV-E funding revenue, placing the state in the best possible position for the waiver. The Department is engaged in a fiscal analysis and policy review to prepare for the waiver application.

14. How often does a case not become Title IV-E eligible because a court has failed to make the required finding that remaining in the child’s home would be contrary to the child’s best interest? Is this an issue that should be addressed through additional judicial training?

Response:

In order to meet federal requirements for IV-E eligibility, cases must meet standards for family, legal, financial, and other circumstances. The legal findings are only one area that might keep a case from being IV-E eligible.

During calendar year 2010, there were 254 county cases (6 % of the total) statewide, and 79 cases in DYC (12% of new commitments), that did not meet the legal requirement language at the time of initial removal. The DYC and the Judicial Branch have collaboratively developed a standardized mittimus, including the needed language, which has been in use since the early 1990's. This is an area in child welfare practice that could be standardized and improved statewide. Colorado is a national leader in efforts by local courts, counties, and the Judicial Branch in creating Best Practice Courts. These courts are addressing this issue. Also, a workgroup comprised of State and County staff is currently analyzing and implementing procedures to maximize federal revenue based on a report from an outside expert.

15. Describe some of the administrative issues that, if addressed, might increase the State's Title IV-E revenue.

Response:

The Federal Financing workgroup established by the Policy Advisory Committee, comprised of State and county staff, is currently analyzing and implementing procedures to maximize federal revenue identified three administrative areas of importance that the State and counties can address to increase federal funding, specifically Title IV-E revenue: 1) an automated report used in the process of administrative cost claiming must be completed; 2) the State Automated Child Welfare Information System, Trails, must be enhanced to improve county administration processes regarding Title IV-E eligibility determinations; and 3) administrative costs should be analyzed to identify changes that would allow the State to claim additional revenue.

3:30-3:45 BREAK

3:45-4:30 DIVISION OF YOUTH CORRECTIONS

Strategic Plan and Performance-based Goals

16. Why were there no performance measures in the strategic plan for DYC? Was this an oversight?

Response:

In developing the Strategic Plan, the Department conducted numerous stakeholder feedback sessions, encompassing a wide range of perspectives from across the State. From these sessions, the Department developed six strategic initiatives, including developing a comprehensive Child Welfare outcome-focused strategy. Included in the

Department's initiative is the plan to, "undertake measures to right-size the Division of Youth Corrections to reflect both current and anticipated future demand. And finally, the department will develop an adolescent behavioral health continuum of care to help assure that youth have the best possible chances for succeeding once they reach adulthood." While specific measures for the DYC were not included in the initial Strategic Plan, the Department will be incorporating DYC measures in its exciting new C-Stat program, which will track outcomes across the Department.

DYC Population and Outcomes

17. With respect to pre-discharge and post-discharge recidivism, is the offense which results in recidivism of the same nature as what the youth was originally sentenced for? To what extent is recidivism related to "technical" or relatively minor violations?

Response:

The mission of the DYC includes the protection of public safety and building skills and competencies of youth so that they may become productive citizens. Thus, the Department believes that recidivism is a very narrow and inadequate measure of the DYC's overall program effectiveness. Because the Department tracks recidivism for a year following a youth's complete discharge from DYC's custody, recidivism is also a retrospective or "lag" measure, measuring the success of services that were delivered several years in the past. Recidivism is defined differently by many states across the country, with only one other state that defines recidivism in the same terms as Colorado. Colorado's definition is the filing of charges for a new felony or misdemeanor offense, either while a youth is still in residential placement or on parole status (pre-discharge recidivism), or within one year following discharge (post-discharge recidivism). Thus, recidivism is unrelated to technical violations or minor offenses that may be classified as "petty offenses."

The January 1, 2011, Recidivism Report, which measures a cohort of youth who discharged in FY 2008-09, contains the following recidivism rates: pre-discharge recidivism, 37.9%; and post-discharge recidivism, 38.9%. In the new recidivism report due to be released January 1, 2012, pre-discharge recidivism has decreased from 37.9% to 35.5% and post-discharge recidivism has decreased from 38.9% to 33.9%, which is the lowest level since FY 1999-00.

For the FY 2008-09 cohort, the offenses which resulted in recidivism are as follows:

Pre-discharge recidivism:

- 22.5% of new charges were for a less serious offense than the committing offense
- 42.5% of new charges were for the same severity of offense as the committing offense
- 35.0% of new charges were for a more serious offense than the committing offense

Post-discharge recidivism:

- 34.7% of new charges were for a less serious offense than the committing offense

**29.1% of new charges were for the same severity of offense as the committing offense
36.2% of new charges were for a more serious offense than the committing offense.**

In regard to pre-discharge recidivism, youth are either in a residential placement or on parole status in the community. When a youth acts out behaviorally in residential placement, every effort is made to provide individualized interventions that will create positive change. These types of incidents are typically not referred to law enforcement. When youth are in the community on parole status, the same approaches are utilized to address technical violations of parole that do not represent an imminent risk to public safety.

18. Are there other measures we should be looking at, in addition to recidivism and Colorado Juvenile Risk Assessment (CJRA) scores, to demonstrate the success/cost-effectiveness of NYC services?

Response:

In addition to recidivism, the Department believes there are measures that more fully capture the success of the Department in meeting its statutory responsibilities. Recidivism is an important measure of the long-term effectiveness of correctional systems and programs. It is, however, by its very nature far too narrow of a measure to provide a comprehensive review of the effectiveness of a complex system such as youth corrections.

The NYC is statutorily responsible for providing secure detention and commitment services that ensure the safety and well-being of youth while protecting the public safety. In addition the NYC is charged with providing rehabilitative services to committed youth and operating the State's juvenile parole system. Measurement of the NYC's effectiveness should encompass all of these mandates.

In addition to recidivism, the Department actively tracks and measures key performance indicators that demonstrate the NYC's ability to meet statutory expectations. Some of these measures will be included the DHS' upcoming C-Stat program. The measures include:

- **facility safety – for example the number of critical incidents, physical managements, injuries, and assaults;**
- **detention continuum effectiveness;**
 - **rate of re-entry for S.B. 91-94 youth one year post discharge;**
 - **rate of failure to appear for scheduled court hearings;**
- **commitment program effectiveness through achievement in:**
 - **Education – graduations, GED's, and grade level advances;**
 - **Parole – rates of parole revocation, positive and negative parole adjustment at discharge;**
 - **employment and school enrollment rates at NYC discharge; and**

- effectiveness at evidence-based practice implementation;
 - utilization of the DYC’s evidence-based practice inventory (as outlined in response to the State Auditor’s current performance audit).

The Department believes it is imperative to continue to measure reductions in risk to the community – through reductions in risk as measured by the CJRA – as a representation of best practice research in reducing recidivism.

19. Are you able to provide a cost-comparison between state-operated and privately operated DYC facilities that incorporates medical and educational costs for privately operated facilities and thus makes amounts shown comparable?

Response:

The individual needs and security level requirements of a youth are two primary factors in determining what type of placement is best suited for that youth. For example, a youth with high mental health needs will benefit more from a State-operated or TRCCF placement, as opposed to an RCCF or CPA. Within different placement categories, differences in the cost per day are to be expected based on the type and intensity of services and supervision needed. The DYC seeks to place youth in the most appropriate level of care, ensuring “the right services at the right time.”

It is important to note that rates applicable to secure State-operated facilities versus privately operated contract programs are not directly comparable. There are distinct differences in the profiles of youth, as well as types of services provided by the various programs. However, in order to aggregate the full set of costs incurred by the State across the various facility types, the Department has shown adjusted rates in the following table. The figures include the base contract per diem rate, and then include additions to reflect Department overhead, education costs (through the Colorado Department of Education, medical costs (through Medicaid) , as well as treatment costs at TRCCF programs (also through Medicaid). Costs shown for State-operated facilities include all of these cost factors, but are mostly funded through direct general appropriations to the Department.

Other differences between rate profiles should take into account that no lease costs are charged to the private operator of state-owned facilities; however, privately owned and operated programs incur capital costs. Finally, all nonprofit contract facilities have the ability to fundraise. Many take advantage of this approach for additional revenue.

DYC Rate Comparison FY 2010-11

	Committed Youth					Detained Youth	
	State Facilities	Purchased Contract Placements			Purchased *	State	
		State Owned/ Privately	Private Residential				
		RCCF	TRCCF	CPA			
Rate Components							
Supervision, Operating Expense	\$ 151.42	\$ 139.33	\$ 103.49	\$ 172.46	\$ 84.31	\$ 128.09	\$ 129.51
Overhead allocation	\$ 12.83	\$ 10.15	\$ 10.38	\$ 10.38	\$ 10.38	\$ 10.38	\$ 14.17
Assessment Process	\$ 0.94	\$ 0.94	\$ 0.94	\$ 0.94	\$ 0.94		
Medical/Clinical Treatment	\$ 32.09	\$ 1.99	\$ -	\$ -	\$ -	\$ -	\$ 11.71
Education/Vocational Programs	\$ 40.39	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Food Services	\$ 14.67	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14.67
Total Rate	\$ 252.33	\$ 152.40	\$ 114.81	\$ 183.78	\$ 95.63	\$ 138.47	\$ 170.06
Additional State Costs incurred outside DYC							
School Lunch Funding (1)	included above	\$ 4.89	\$ 0.05	\$ 4.46			included
Education (2)	included above	\$ 20.57	\$ 2.22	\$ 30.04	public school	public school	public school
Post- Secondary Education	included above	minimal	minimal	minimal	N/A	N/A	N/A
Medical Care (3)	included above	\$ 9.81	\$ 9.81	\$ 9.81	\$ 9.81	N/A	included
Treatment Services at General Fund Match	included above	N/A	N/A	\$ 19.90	N/A	N/A	N/A
Estimated Total Cost to State on Daily Rate Basis	\$ 252.33	\$ 187.67	\$ 126.89	\$ 247.99	\$ 105.44	\$ 138.47	\$ 170.06

Assumptions/ Notes:

- (1) *Estimated School Lunch Funding is provided through the Colorado Department of Education and is estimated at the same rate per youth for those providing on-grounds school. The amount in RCCF per youth is a result of very few of the total youth attending an on-grounds school (only 1%).*
- (2) *Estimated Education costs are based on the school district budget for either the specific charter school, or are based on the average per pupil revenue for facility schools. Excess costs are estimated as applicable to 60% of youth for special education needs.*
- (3) *Estimated Medical Care costs are estimated using the Medicaid costs incurred on behalf of youth at the Ridge View Youth Services Center for FY 2010-11.*

DYC Right Sizing

20. How did the Department determine that just under 40 percent of the commitment population requires a secure state-operated placement and that this is the figure it should target in “right sizing”?

Response:

In determining the most appropriate security and treatment placement for committed youth, the Department considers a variety of factors to ensure the right services at the right time. These factors include: sentence type, Commitment Classification Instrument scores, history of recommitments, history of prior out-of-home placements, history of running from placements, etc. Generally, youth are assessed as requiring secure care if they meet several of the above listed criteria. In developing its commitment re-alignment strategy, the Department thoroughly analyzed two years of commitment population profiles to arrive at the figure quoted in the JBC staff briefing. When applying the secure placement criteria to the commitment population, the Department identified a need for approximately 390 to 400 secure beds. However, under the current budget assumption of funding the DYC at 110% of State-operated designed capacity, this would require the DYC to maintain State-operated bed capacity at approximately 430 beds, resulting in an increased level of double-bunking of youth.

21. A constituent advised Representative Gerou that a judge had requested that a youth be placed at Ridge View, but the State placed the youth at Lookout. Does this occur? If so, how often does this occur? How does the Department determine in which facility to place a youth?

Response:

While the Department does not have specific data, it is rare for a district court judge or magistrate to order a specific placement when committing a youth to the Department. Once a youth is committed to the Department, placement decisions are based upon a set of factors that measure a youth’s need for a secure placement as well as their individualized treatment needs. The Department also considers the mix of youth within specific programs. Statute places the responsibility upon the DYC to thoroughly assess and evaluate youth and make a placement decision based upon the outcome of that assessment. Both statute and case law reference the Executive Branch’s responsibility to make placement decisions for youth committed to the custody of the Department.

4:30-5:00 DIVISION OF CHILD CARE

Child Care Licensing/ Strategic Plan and Performance-based Goals

22. What is the history of the rules governing daycare centers?
a. Has the number of rules increased? If so, why?

Response:

The Child Care Licensing Act was first legislated in 1963. Over time the legislature has expanded the Act to address issues identified in the child care

community and to create different types of child care licenses that are tailored to the type of care provided. Child care center licenses are one specific type of license offered. Rules have been added, modified and sometimes repealed in response to legislation, such as legislation concerning background checks of individuals providing care to children, in response to licensees that have sought rule language to ensure the expectation is clearly established and consistently enforced, and by the Department in conjunction with the child care community to improve the delivery of child care.

- b. Which, if any, of these rules are being reviewed by the Department for revision/elimination?

Response:

Under the direction of the Governor and the Executive Director, the Department performed a comprehensive review of all rules regulating child care facilities to ensure that the rules are clear, concise, current and enforceable; rules that are duplicative, unduly burdensome or inconsistent are to be eliminated. Now that the review is complete, the Division of Child Care (DCC) is developing a rulemaking package that will streamline and synthesize rule requirements, reduce undue burdens on our partners, and ensure the rules are effective, elegant, and efficient. The Department is incorporating feedback from stakeholders as it drafts the revisions and repeals and the rulemaking package will go before the State Board of Human Services in 2012. In the review of our Child Care Licensing rules, of the 461 existing rules, 23 rules were identified for repeal and 105 were identified for revision.

Additionally, the Department has already reduced rules in the year 2011. Examples of the DCC's rule reduction effort include:

- Restructuring criminal background check rules found in section 7.701 which reduced an entire page of rules from this rule section;
- Repealing the rules governing Dedicated Family Homes, which was a pilot program that concluded in 2008, reducing duplication of rules that can be found in licensing rules; and
- Reducing rules regulating Child Care Assistance Program administration.

Further, the Department is proposing to make more efficient rulemaking by enhancing general rules, rather than having topics that are shared by all licensees. For example, rules regulating smoking in or around licensed child care facilities are repeated in eleven different types of licensed child care rules, from licensed child care homes and child care centers to residential camps and specialized group facilities. We will repeal each of these eleven

rules and replace them with a single rule consistent with the state law in our general rules.

- c. How does this relate to the Division's Strategic Plan goal of reducing the number of requests for waivers to child care licensing rules?

Response:

The Department's Strategic Plan Goal to reduce the requests for waivers is related to waivers based on a licensee perceiving that a rule was misinterpreted and too stringently applied at the time of inspection. The DCC works closely with and continuously trains licensing specialists to ensure consistent application of the rules. Reviewing requests for waivers/appeals is one of many Departmental quality assurance measures to determine whether rules are being applied inconsistently by licensing specialists at the time of inspection. Uniform enforcement of the rules would reduce waiver/appeal requests on the basis that the rule was misinterpreted. The waiver/appeal requests also provide the Department with community feedback as to whether a rule, an aspect of a rule, or the rule as applied in a specific setting, is unachievable or does not advance health, safety, welfare, or quality of care. The Department then repeals or revises the rule so licensees are no longer cited for the rule violation; this in turn reduces the number of waiver requests/appeals.

23. Please explain the process for developing rules governing home-based and commercial daycare centers. How does this process ensure collaboration and involvement by stakeholders?

Response:

The current administration values the practice of partnering with stakeholders when developing rule language. Under the leadership of Governor Hickenlooper and the Executive Director, stakeholder feedback has been critical in the development of rules regulating child care facilities. Stakeholders are defined broadly and regularly include: parents, licensees, child care associations, community partners, interested individuals, and federal, state or local agencies. The Department has a highly engaging notice and comment process using online internet-based programs that allow our office to send draft rule packages out to all providers who have given our office an e-mail address. Communication includes an internet link to our draft rules packages and a meaningful way for stakeholders to type in feedback. The Department also recognizes that some stakeholders do not have internet access. These stakeholders can use phone, face to face, and mailed communication, to provide feedback. The Department relies on our community partners to assist with outreach and communication dissemination. In addition, the Department utilizes rulemaking committees that consist of Department staff, providers, and stakeholders.

For example, the Department has been drafting proposed revisions to the Child Care Center Rules. From the outset, each drafting meeting has included the following stakeholders:

- **the President of the Colorado Early Childhood Education Association, Colorado's Largest Organization of Child Care Center Providers,**
- **individual license holders;**
- **representatives of various state agencies, including the Department of Education and Public Health and Environment;**
- **Qualistar Colorado;**
- **the Clayton Institute; and**
- **Colorado Montessori Centers Organization.**

After finalizing the first draft of the proposed child care center rules, the Department went throughout the State to present the draft and receive verbal concerns, questions, and general feedback from providers. Overall, the Department presented the draft rules in 33 Colorado cities over a three-month period, during which time licensed child care providers from over 85 cities came to hear our presentation. It was during these presentations that the Department strongly encouraged the provider community to engage our internet-based notice and comment website so that each concern could be accurately received and recorded. When the notice and comment period ended in August 2011, the aforementioned group drafting the proposed rules reconvened and has been reviewing and responding to each individual comment to the proposed rule amendments in a series of half- and full-day meetings.

The State Board of Human Services requires the DCC to document its outreach efforts and relay stakeholder feedback to the State Board. Rule changes are brought to the Department by the community and to the community by the Department. Extensive stakeholder feedback through the development and promulgation of rules applies to all license types, including family child care homes and child care centers. Along with State Board requirements, the Department has proposed rules reviewed by Colorado county organizations, such as the Policy Action Committee (PAC), SubPACs, and SubPAC task groups.

24. Do the rules distinguish between home-based and commercial daycare centers? What are examples of how these two centers are distinguished? If the rules do not distinguish the two centers, why not?

Response:

Yes, the rules distinguish between home-based and child care centers' licensees. The rules for each type of licensee are separate because the criteria for successful operating as a family child care home or successfully operating as a center differ based on the

physical space in which care is provided, the number of children served, and the curriculum goals of the licensees. Some parents prefer a home-based setting for their children, which can have on average six or less children, while a child care center can have as many as 300 or more children.

25. When the Department clarifies rules or makes new rules for child care facilities, does the Department stagger implementation dates to provide the day care provider adequate time to make adjustments to their facilities in order to comply with the rule changes or new rules?

Response:

Yes, during the rule making process, the Department routinely evaluates and weighs the health and safety concerns with the impact on the business and the providers. To ensure successful implementation, the effective date of the rule is sometimes dependent upon the mandate provided in legislation and whether the rule affects immediate health, safety and welfare.

Where immediate health, safety, and welfare are not at issue, the Department works with stakeholders to allow for a period of transition that is feasible for stakeholders. For example, when educational qualification standards were heightened for employees of child care centers, licensees were provided up to three years to meet the new education requirements.

26. Is the Department changing its focus from safety to quality in child care? If so, why is the Department doing so? How does the Division see its role as distinct from that of schools (*i.e.*, pre-schools, kindergarten, etc.) with respect to the overall educational process?

Response:

No, the current administration is not changing its focus from safety to quality in child care. The Department recognizes the importance of brain development in the earliest years and the impact of quality care and its linkages to 3rd grade reading scores. As the focus of child care has changed from being a service to working parents in the 1940's, the focus has shifted to addressing the needs of children in care. In the 1960's, the nation, as a result of the Perry Preschool Study, recognized the benefits to providing a quality learning environment. The General Assembly has charged the Department to ensure health, safety, and welfare of children in child care, and quality in child care. Over time the Colorado Legislature has repeatedly tasked the Department with increasing quality in child care, such as in Senate Bill 97-174, concerning Consolidated Child Care Pilots to explore innovations in child care licensing; Senate Bill 00-019, to improve the quality of child care centers; and H.B. 11-1027, concerning the Department of Defense Quality Child Care Standards Pilot Program.

Federal funding through the Child Care Development Block Grant, requires the Department to provide quality initiatives to enhance and support the quality of child care facilities. Both the State and Federal government are continually moving toward a model of early care and education that emphasizes the connection between quality early

childhood education and 3rd grade performance evaluations of children.

The Department recognizes that the Challenge Grant and Early Childhood Leadership Commission are two of many efforts to improve quality child care. The General Assembly recognizes the importance of Early Education from birth through school age. The General Assembly, realizing the importance of this learning continuum, instituted Section 26-6.5-106, C.R.S., as follows: "School-readiness quality improvement funding shall be awarded to improve the school-readiness of children five years of age and younger who are enrolled in early care and education facilities."

Decision Item R-10: Refinance Child Care Assistance Program General Fund

27. Could the federal dollars used in the refinance be available to increase spending for child care as opposed to refinancing? Isn't a refinance in reality a cut?

Response:

Yes, an alternative to the proposed refinance could be to use the additional federal funding to increase the total funding to the Colorado Child Care Assistance Program (CCCAP). The Department has requested a refinance in order to save General Fund and keep the funding level of the CCCAP whole.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

1. Please list and briefly describe any programs that the Department administers or services that the Department provides that directly benefit public schools (*e.g.*, school based health clinics, educator preparation programs, interest-free cash flow loan program, etc.).

Response:

Due to the Department-wide review needed to fully address this question, the Department will continue researching this issue and will provide a response to the committee at the next CDHS hearing on January 10, 2012.