

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2020-21 & FY 2021-22

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING (Behavioral Health, Indigent Care, and Other Medical Services)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

DEPARTMENT OVERVIEW

The Department helps pay medical and long-term care expenses for low-income and vulnerable populations. To assist with these costs the Department receives significant federal matching funds, but must adhere to federal rules regarding program eligibility, benefits, and other features, as a condition of accepting the federal money. The major programs administered by the Department include:

- **Medicaid** – serves people with low income and people needing long-term care
- **Children's Basic Health Plan** – provides a low-cost insurance option for children and pregnant women with income slightly higher than the Medicaid eligibility criteria
- **Colorado Indigent Care Program** – defrays a portion of the costs to providers of uncompensated and under-compensated care for people with low income, if the provider agrees to program requirements for discounting charges to patients on a sliding scale based on income
- **Old Age Pension Health and Medical Program** – serves elderly people with low income who qualify for a state pension but do not qualify for Medicaid or Medicare.

The Department also performs functions related to improving the health care delivery system, including advising the General Assembly and the Governor, distributing tobacco tax funds through the Primary Care and Preventive Care Grant Program, financing Public School Health Services, and housing the Commission on Family Medicine Residency Training Programs.

SUMMARY: FY 2020-21 APPROPRIATION AND RECOMMENDATION

REQUEST/RECOMMENDATION DESCRIPTIONS

S21 OVEREXPENDITURES: The Department requests and the JBC staff recommends the release of restrictions on the FY 2021-22 appropriations imposed by the State Controller due to over-expenditures in prior years. Because of the entitlement nature of the Medicaid program, statute (Section 24-75-109, C.R.S.) allows the Department to overexpend Medicaid line items, except administrative line items, as long as the overexpenditures are consistent with the statutory purposes of the Medicaid program. However, the State Controller restricts the current fiscal year's appropriation until the General Assembly approves a supplemental for the prior year overexpenditures. Releasing the overexpenditure restriction requires increasing the FY 2020-21 appropriation by \$784,169 total funds, including \$206,066 General Fund.

SUMMARY: FY 2021-22 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING: RECOMMENDED CHANGES FOR FY 2021-22						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION						
S.B. 21-205 (Long Bill)	\$13,259,364,597	\$3,424,327,111	\$1,551,766,954	\$97,905,609	\$8,185,364,923	581.9
Other Legislation	20,429,443	(77,611,385)	43,716,468	(10,231,185)	64,555,545	19.5
CURRENT FY 2021-22 APPROPRIATION:	\$13,279,794,040	\$3,346,715,726	\$1,595,483,422	\$87,674,424	\$8,249,920,468	601.4
RECOMMENDED CHANGES						
Current FY 2021-22 Appropriation	\$13,279,794,040	3,346,715,726	\$1,595,483,422	\$87,674,424	\$8,249,920,468	601.4
S2 Behavioral Health	100,335,065	14,033,780	8,724,673	0	77,576,612	0.0
S3 Child Health Plan Plus	(8,778,202)	(5,351,109)	2,254,146	0	(5,681,239)	0.0
S4 Medicare Modernization Act	3,803,082	3,803,082	0	0	0	0.0
S11 Federal match non forecast lines	0	(1,675,346)	(3,822,764)	(6,975)	5,505,085	0.0
S12 Safety Net Provider Payments	(30,838,397)	0	(36,633,036)	0	5,794,639	0.0
S16 Implementation delay HB 21-1166 behavioral health crisis response training	0	0	0	0	0	0.0
S18 Implementation delay SB 21-009 reproductive health	(1,822,095)	(1,822,095)	0	0	0	0.0
S19 Urban Indian Health Organizations	0	0	0	0	0	0.0
RECOMMENDED FY 2021-22 APPROPRIATION:	\$13,342,493,493	\$3,355,704,038	\$1,566,006,441	\$87,667,449	\$8,333,115,565	601.4
RECOMMENDED INCREASE/(DECREASE)	\$62,699,453	\$8,988,312	(\$29,476,981)	(\$6,975)	\$83,195,097	0.0
Percentage Change	0.5%	0.3%	(1.8%)	(0.0%)	1.0%	0.0%
FY 2021-22 EXECUTIVE REQUEST	\$13,342,564,318	\$3,355,764,576	\$1,566,006,441	\$87,667,449	\$8,333,125,852	601.4
Request Above/(Below) Recommendation	\$70,825	\$60,538	\$0	\$0	\$10,287	0.0

REQUEST/RECOMMENDATION DESCRIPTIONS

R2 BEHAVIORAL HEALTH PROGRAMS: The Department requests and staff recommends an increase of \$100.3 million total funds, including an increase of \$14.0 million General Fund, for projected changes in caseload, per capita expenditures, and fund sources for behavioral health services.

R3 CHILD HEALTH PLAN PLUS: The Department requests and staff recommends a decrease of \$8.8 million total funds, including a decrease of \$5.4 million General Fund, for projected changes in caseload, per capita expenditures, and fund sources for the Children's Basic Health Plan.

R4 MEDICARE MODERNIZATION ACT: The Department requests an increase of \$3.8 million General Fund for the projected state obligation, pursuant to the federal Medicare Modernization Act, to pay the federal government in lieu of the state covering prescription drugs for people dually eligible for Medicaid and Medicare.

S11 FEDERAL MATCH NON-FORECAST LINES: The Department requests and staff recommends a net \$0 change, including a decrease of \$1,685,633 General Fund, to account for the impact on non-forecast line items of the extension of a temporary increase in the federal match rate for Medicaid.

S12 SAFETY NET PROVIDER PAYMENTS: The Department requests and staff recommends a net reduction of \$30,838,397 total funds for the Safety Net Provider Payments line item, including a reduction of \$36,633,036 cash funds from the Healthcare Affordability and Sustainability (HAS) Fee and an increase of \$5,794,639 federal funds, to align the appropriation with the expected Disproportionate Share Hospital (DSH) supplemental payment.

S16 IMPLEMENTATION DELAY H.B. 21-1166 BEHAVIORAL HEALTH CRISIS RESPONSE: The Department requests but staff does not recommend rollforward authority for \$203,040 General Fund to implement H.B. 21-1166 (Young & Will/Ginal) that requires statewide training on a comprehensive care coordination and treatment model for providers serving people with intellectual and developmental disabilities and co-occurring behavioral health needs. Instead, staff recommends (1) adjusting funding next year when more information is available about the timing of payments and (2) that the JBC consider sponsoring legislation to change the implementation deadlines in statute.

S18 IMPLEMENTATION DELAY S.B. 21-009: The Department requests and the JBC staff recommends a decrease of \$1,822,095 General Fund for reproductive health benefits for people ineligible for Medicaid due to citizenship or immigration status. However, in addition to changing the funding, the staff recommendation includes a bill to change the statutory implementation deadline.

S19 URBAN INDIAN HEALTH: The Department requests but the JBC Staff does not recommend short-duration state-only payments to Urban Indian Health Organizations equal to the estimated General Fund savings from a provision of the American Rescue Plan Act that temporarily grants a 100 percent federal match for services to Medicaid clients by Urban Indian Health Organizations. The Department request would provide \$118,850 General Fund over FY 2021-22 and FY 2022-23. The request does not meet the JBC's supplemental criteria and would be best implemented through an orbital bill, if the JBC is interested in providing funding.

PRIORITIZED SUPPLEMENTAL REQUESTS

S2 BEHAVIORAL HEALTH

	REQUEST	RECOMMENDATION
TOTAL	\$100,335,065	\$100,335,065
General Fund	14,033,780	14,033,780
Cash Funds	8,724,673	8,724,673
Federal Funds	77,576,612	77,576,612

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of new data that was not available when the original appropriation was made regarding actual enrollment and expenditures.

DEPARTMENT REQUEST

The Department requests a net increase of \$100.3 million total funds, including \$14.0 million General Fund, based on a new projection of enrollment and expenditures under current law. Behavioral health services, which include both mental health and substance use-related services, are provided to Medicaid clients through a statewide managed care or "capitated" program. The Department contracts with "regional accountable entities" (RAEs) to provide or arrange for behavioral health services for clients enrolled with each RAE¹. Each RAE receives a pre-determined monthly amount for each Medicaid client who is eligible for behavioral health services and enrolled with the RAE. The "per-member-per-month" rates paid to each RAE are unique for each Medicaid eligibility category in each geographic region. These rates are periodically adjusted based on clients' actual utilization of behavioral health services and the associated expenditures. The forecast used for the original FY 2021-22 appropriation incorporated trend data through December 2020 while the latest forecast used for this supplemental request incorporates data through June 2021. The Department will submit a new forecast in February that uses data through December 2021. If that February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

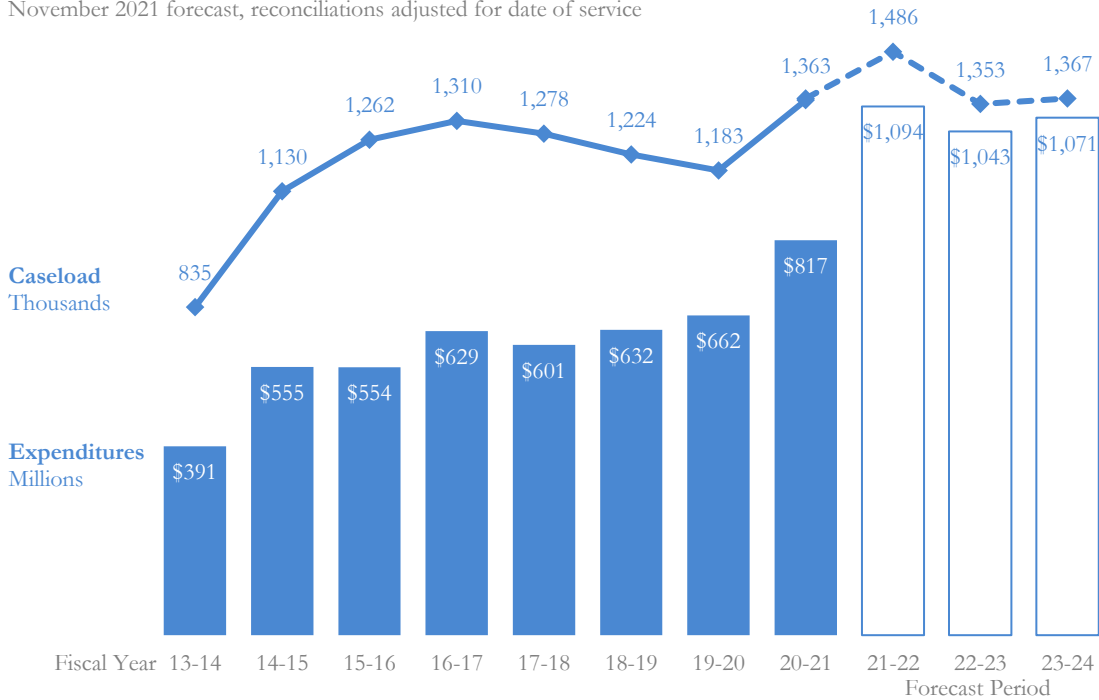
FORECAST SUMMARY

The chart below summarizes the Department's forecast of enrollment and expenditures.

¹ Clients are attributed to RAEs based on the location of their primary care provider, rather than their own address.

Behavioral Health Capitation Payments and Caseload

November 2021 forecast, reconciliations adjusted for date of service



The table below shows the major contributors to the change from the FY 21-22 appropriation to the Department's November 2021 forecast for FY 21-22. It does not show differences from FY 20-21 expenditures.

FY 2021-22 Behavioral Health Enrollment/Utilization Trends				
	TOTAL FUNDS	GENERAL FUND	OTHER STATE	FEDERAL FUNDS
FY 2021-22 Appropriation	\$890,228,973	\$204,590,739	\$58,768,332	\$626,869,902
Enrollment	12,105,543	(1,686,138)	1,125,591	12,666,090
Per capita	71,354,935	7,448,283	8,426,333	55,480,319
Substance Use Disorder capacity	16,874,587	8,271,635	(827,251)	9,430,203
TOTAL	\$990,564,038	\$218,624,519	\$67,493,005	\$704,446,514
Increase/(Decrease)	100,335,065	14,033,780	8,724,673	77,576,612
Percentage Change	11.3%	6.9%	14.8%	12.4%

ENROLLMENT

The state pays predetermined amounts per member per month to the Regional Accountable Entities (RAEs) for behavioral health services for Medicaid clients. With a higher enrollment forecast, especially for expansion adults, the number of per member payments increases. For more information on the enrollment forecast, see the supplemental recommendations for Medical Services Premiums.

PER CAPITA

The actual per member per month rates for FY 2021-22 came in much higher than the projection used for the appropriation. This is attributable to a greater portion of the Medicaid population utilizing behavioral health services. The quantity of services per utilizer remained relatively similar.

SUBSTANCE USE DISORDER CAPACITY

The Department expected a ramp up of capacity for the substance use disorder benefit as providers signed up for Medicaid and new providers entered the market. The speed of uptake is exceeding expectations, causing the Department to increase the projection for FY 2021-22.

STAFF RECOMMENDATION

Staff recommends approval of the request. The new forecast uses more recent data than the forecast used for the original appropriation. All of the expenditures contained in the supplemental are for programs authorized in current law. If the February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

S3 CHILD HEALTH PLAN PLUS

	REQUEST	RECOMMENDATION
TOTAL	(\$8,778,202)	(\$8,778,202)
General Fund	(5,351,109)	(5,351,109)
Cash Funds	2,254,146	2,254,146
Federal Funds	(5,681,239)	(5,681,239)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of new **data that was not available** when the original appropriation was made regarding actual enrollment and expenditures.

DEPARTMENT REQUEST

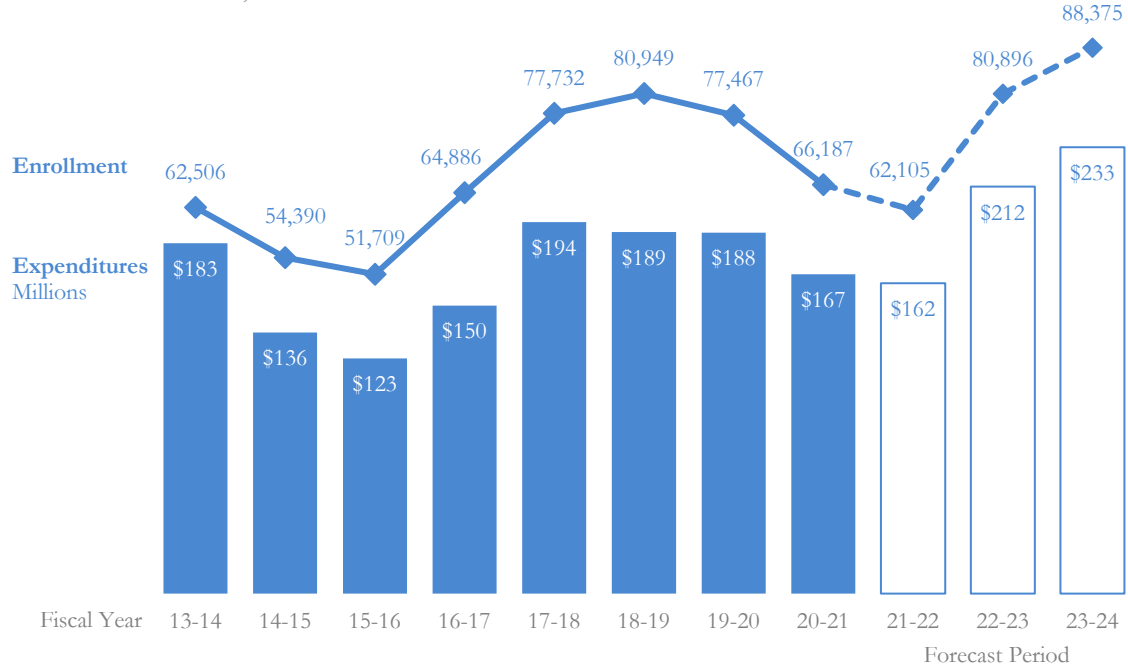
The Department requests a net decrease of \$8.8 million total funds, including a decrease of \$5.4 million General Fund, based on a new projection of enrollment and expenditures under current law. The Children’s Basic Health Plan pays for physical health services for eligible children and pregnant women and for dental services for children. The forecast used for the original FY 2021-22 appropriation incorporated trend data through December 2020 while the latest forecast used for this supplemental request incorporates data through June 2021. The Department will submit a new forecast in February that uses data through December 2021. If that February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

FORECAST SUMMARY

The chart below summarizes the Department's forecast of enrollment and expenditures.

Children's Basic Health Plan (CHP+) Enrollment and Expenditures

November 2021 forecast, without reconciliations



The table below shows the major contributors to the change from the FY 21-22 appropriation to the Department's November 2021 forecast for FY 21-22. It does not show differences from FY 20-21 expenditures.

FY 2021-22 Children's Basic Health Plan Enrollment/Utilization Trends				
	TOTAL FUNDS	GENERAL FUND	OTHER STATE	FEDERAL FUNDS
FY 2021-22 Appropriation	\$170,754,875	\$21,059,365	\$35,628,900	\$114,066,610
Enrollment	(15,883,351)	(6,441,622)	1,012,038	(10,453,767)
Per capita	3,126,012	249,841	776,429	2,099,742
Reconciliations	3,979,137	840,672	465,679	2,672,786
TOTAL	\$161,976,673	\$15,708,256	\$37,883,046	\$108,385,371
Increase/(Decrease)	(8,778,202)	(5,351,109)	2,254,146	(5,681,239)
Percentage Change	-5.1%	-25.4%	6.3%	-5.0%

ENROLLMENT

The Department lowered the enrollment projection as members transitioning from CHP+ to Medicaid outpace new enrollments in CHP+. Due to the federal freeze on disenrollment from Medicaid, children and pregnant adults are not churning from Medicaid to CHP+.

PER CAPITA

Actual managed care rates were slightly higher than the forecast used for the appropriation.

RECONCILIATIONS

The Department updated the forecast of reconciliations for a system issue that caused overpayment in FY 20-21 that will be recouped in FY 21-22.

STAFF RECOMMENDATION

Staff recommends approval of the request. The new forecast uses more recent data than the forecast used for the original appropriation. If the February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

S4 MEDICARE MODERNIZATION ACT

	REQUEST	RECOMMENDATION
TOTAL	\$3,803,082	\$3,803,082
General Fund	3,803,082	3,803,082

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of new data that was not available when the original appropriation was made regarding actual enrollment and expenditures.

DEPARTMENT REQUEST

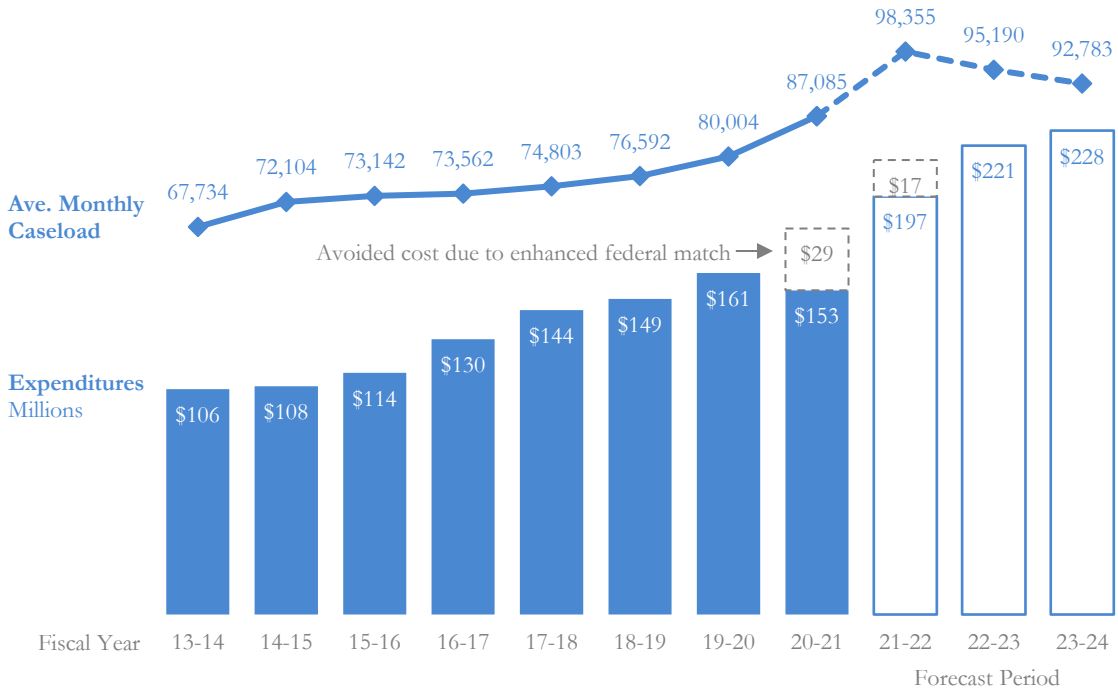
The Department requests an increase of \$3.8 million General Fund based on a new projection of enrollment and expenditures under current law. In 2006 Medicare took over responsibility for these drug benefits, but to defray federal costs the federal legislation required states to make an annual payment based on a percentage of what states would have paid in Medicaid, as estimated by a federal formula. Growth in the enrollment of people dually eligible for Medicare and Medicaid and changes in the cost of pharmaceuticals drive expenditures.

The enhanced federal match through the federal Families First Coronavirus Response Act reduced the state obligation under the Medicare Modernization Act. The Department estimates Colorado is saving \$29.0 million General Fund in FY 2020-21, including a credit of \$6.7 million for payments in FY 2019-20 and an expected \$22.5 million for invoices in FY 2020-21. The Department projected additional savings of \$17.2 in FY 2021-22.

The forecast used for the original FY 2021-22 appropriation incorporated trend data through December 2020 while the latest forecast used for this supplemental request incorporates data through June 2021. The Department will submit a new forecast in February that uses data through December 2021. If that February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

Medicare Modernization Act Caseload and Expenditures

November 2021 forecast



STAFF RECOMMENDATION

Staff recommends approval of the request. The new forecast uses more recent data than the forecast used for the original appropriation. The obligation to the federal government is calculated based on a federal formula over which the General Assembly has no control. If the February forecast is significantly different than the forecast used for this supplemental, then the JBC staff may recommend a supplemental add-on to the Long Bill.

S11 FEDERAL MATCH NON-FORECAST LINES

	REQUEST	RECOMMENDATION
TOTAL	\$0	\$0
General Fund	(1,685,633)	(1,685,633)
Cash Funds	(3,822,764)	(3,822,764)
Reappropriated Funds	(6,975)	(6,975)
Federal Funds	5,515,372	5,515,372

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made regarding the applicable federal match rate.

DEPARTMENT REQUEST

The Department requests a net \$0 change, including a decrease of \$1,685,633 General Fund, to account for the impact on non-forecast line items of the extension of a temporary increase in the federal match rate for Medicaid. The temporary increase is available through the end of the fiscal quarter when the federal public health emergency expires. The federal public health emergency was extended through January 15, 2022, so the Department will receive the enhanced federal match through at least March 31, 2022. It is possible the federal public health emergency will be extended again before the supplemental bills are introduced. Also, there were provisions in Build Back Better that would have extended the enhanced federal match with a scheduled phase down.

This request is only related to the non-forecast line items. The fiscal impacts on the lines items where the Department provides a forecast are included in the forecast.

STAFF RECOMMENDATION

Staff recommends approval of the request. The FY 2021-22 appropriation assumed the enhanced match would end December 31, 2021. The Department did not know the federal public health emergency would be extended, allowing the enhanced federal match for at least an additional quarter through March 31, 2022.

S12 SAFETY NET PROVIDER PAYMENTS

	REQUEST	RECOMMENDATION
TOTAL	(\$30,838,397)	(\$30,838,397)
Cash Funds	(36,633,036)	(36,633,036)
Federal Funds	5,794,639	5,794,639

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of a **technical error** in calculating the original appropriation and **new data that was not available** when the original appropriation was made.

DEPARTMENT REQUEST

The Department requests a net reduction of \$30,838,397 total funds for the Safety Net Provider Payments line item, including a reduction of \$36,633,036 cash funds from the Healthcare Affordability and Sustainability (HAS) Fee and an increase of \$5,794,639 federal funds, to align the appropriation with the expected Disproportionate Share Hospital (DSH) supplemental payment.

Each state receives a Disproportionate Share Hospital allotment from the federal government to help offset the costs to hospitals that serve a large number of uninsured and underinsured clients. Colorado uses the DSH allotment for the Colorado Indigent Care Program (CICP). Hospitals participating in CICP agree to charge low-income uninsured patients on a sliding scale based on income. The funding is allocated through a formula based on uninsured hospital costs.

For the FY 2021-22 appropriation the JBC approved a true up to the expected DSH allotment, but the true up included some screw ups, including both math errors and miscommunications between the Department and the JBC staff. In addition, the federal American Rescue Plan Act changed the

way the DSH allotment is calculated and the Department received new federal guidance on the timing of enhanced matching funds for DSH. The combination of technical errors and new data results in the need for another correction to the appropriation.

STAFF RECOMMENDATION

Staff recommends the requested change to true up the appropriation to the expected federal DSH allotment.

S16 IMPLEMENTATION DELAY H.B. 21-1166 BEHAVIORAL HEALTH CRISIS RESPONSE TRAINING

	REQUEST	RECOMMENDATION
TOTAL	\$0	\$0
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of an **unforeseen contingency**. The Department did not anticipate that nobody would apply to provide the training required by H.B. 21-1166.

DEPARTMENT REQUEST

The Department requests rollforward authority for \$203,040 General Fund to implement H.B. 21-1166 (Young & Will/Ginal) that requires statewide training on a comprehensive care coordination and treatment model for providers serving people with intellectual and developmental disabilities and co-occurring behavioral health needs. The bill stipulated that on or before January 1, 2022, the Department obtain a vendor to provide the training, on or before March 1, 2022, regional service agencies nominate up to 20 providers statewide to receive the training, and by March 30, 2023, the participating providers complete the training. To comply with this schedule, the Department issued a solicitation for a vendor from September 27, 2021 through October 6, 2021. Nobody responded to the initial solicitation. As a result, the Department anticipates expenditures will be delayed and the Department will not be able to meet the statutory deadlines in the bill.

The Department will reissue the solicitation, but there is enough uncertainty about what the revised timing of payments will be to the vendor that the Department requests rollforward authority for the funds, rather than revised appropriations to move the money between fiscal years. The original bill appropriated \$67,680 General Fund in FY 2021-22 and the Legislative Council Staff Fiscal Note anticipated a need for another \$135,360 General Fund in FY 2022-23. The Department requests rollforward authority until FY 2023-24 for the full \$203,040 General Fund over the two years.

STAFF RECOMMENDATION

Staff does not recommend roll forward authority. It seems unlikely the Department will spend the full \$67,680 appropriated in FY 2021-22, but the amount appropriated is small enough that it is not significantly impacting the available funds for other purposes. Any portion of the \$67,680 not spent to implement H.B. 21-1166 will just revert at the end of the fiscal year and be available for future

appropriations. As for truing up FY 2022-23 and FY 2023-24, the amounts in these fiscal years can be adjusted through a supplemental and appropriation next year, once the timing of the training and expenditures is known.

Although the JBC staff is not recommending roll forward authority, staff recommends the Committee consider sponsoring legislation to replace the specific dates in statute with language to the effect of as soon as feasible. It weakens the meaning of statutory deadlines if the Department does not adhere to them. Also, it is not transparent to anyone reading the statute. In this case, the Department's inability to meet the deadlines in statute is due to circumstances beyond the Department's control. While best practice would change the statutory deadlines, there is probably little risk of liability if the JBC decides not to change the law. This is training, rather than a benefit to clients, and the training is only to a portion of providers statewide, so there is no expectation that every provider needs this training to safely deliver services.

S18 IMPLEMENTATION DELAY S.B. 21-009 REPRODUCTIVE HEALTH

	REQUEST	RECOMMENDATION
TOTAL	(\$1,822,095)	(\$1,822,095)
General Fund	(1,822,095)	(1,822,095)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC staff and the Department agree that this request is the result of **data that was not available** when the original appropriation was made about the backlog of other required changes to the Colorado Benefits Management System.

DEPARTMENT REQUEST

The Department requests a decrease of \$1,822,095 General Fund for reproductive health benefits for people ineligible for Medicaid due to citizenship or immigration status. The Department was unable to implement the new program, authorized by S.B. 21-009 (Juaquez Lewis/Caraveo), by the date required in the bill of January 1, 2022.

To implement the reproductive health program the Department needs to make changes to information technology systems, including the Colorado Benefits Management System and Medicaid Management Information System, and these changes were delayed due to a backlog of other needed changes related to federal requirements during and following the federal public health emergency. For the duration of the federal public health emergency the Department cannot reduce benefits for anyone in Medicaid due to a change in income or family status. Once the federal public health emergency ends, the Department will need to follow federal procedures to redetermine eligibility for people who have been locked in to benefits. The Department received \$1,335,388 to make information technology system modifications to implement S.B. 21-009, but there is a finite amount of staff time available to make the programming changes and standing up additional staff would also take time. There are also limits on when and how many changes can be made at once to minimize system downtime and ensure quality. The Department prioritized making the system changes related to the federal public health

emergency over implementing a new program. However, the Department is still trying to start the new program as soon as possible and projects the new benefits will be in place by July 1, 2022.

The request does not propose reducing any of the appropriations in S.B. 21-009 for administration or computer programming, since that work will still be done in FY 2021-22. It is only the cost for benefits that is being pushed out to FY 2022-23.

The original fiscal note for S.B. 21-009 assumed savings, beginning in FY 2022-23, associated with fewer births in Medicaid. The target population of S.B. 21-009 is not eligible for Medicaid, but upon pregnancy they become eligible, so to the extent S.B. 21-009 reduces pregnancies it will reduce Medicaid costs. With the delay in implementing S.B. 21-009, the Department expects the estimated savings will be delayed, too. In the February forecast the Department plans to reduce the FY 2022-23 projected savings by approximately \$1.0 million total funds, including roughly \$500,000 General Fund, for the delay in implementing S.B. 21-009.

STAFF RECOMMENDATION

Staff recommends that the Committee sponsor legislation to change the implementation deadline in statute and adjust the funding as requested. A supplemental bill must be written to current law and under current law the reproductive health program is scheduled to be in place, so it would not make sense to reduce the appropriation without changing the law. Also, it is problematic that the law says the reproductive health program should be in place but the Department is not yet providing it. There are people who are supposed to receive the benefit who are not yet receiving services.

It appears the Department is making good faith efforts to implement the program, but there are practical limitations on how quickly system changes can be completed. Maybe the Department could and should have foreseen these challenges when estimating costs for the fiscal note, but the system requirements to implement the federal public health emergency have been evolving and it is understandable that the Department underestimated the workload. With a projected delay of six months for the new reproductive health program, it does not appear there is anything the General Assembly could do with resources to speed the implementation. Maybe with a longer delay the General Assembly could buy a faster implementation, but it would be hard to stand up programming resources in six months to get the work done any more quickly merely by throwing money at the issue.

S19 URBAN INDIAN HEALTH

	REQUEST	RECOMMENDATION
TOTAL	\$70,825	\$0
General Fund	70,825	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **No**

[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.]

Explanation: The Department argues that this request is the result of **data that was not available** for the original appropriation about the enhanced federal match provided through the American Rescue Plan Act (ARPA). Although

ARPA became law in March 2021, when the General Assembly was still in session, the Department did not receive federal guidance on the particular provision related to the federal match for Urban Indian Health Organizations until August 30, 2021. The problem with the request vis-à-vis the JBC's supplemental criteria is not the change in the federal match rate but the proposed allocation of the savings for a new purpose that is not specifically authorized in current law. Creating a new state-only payment to a provider goes beyond the JBC's normal supplemental criteria.

DEPARTMENT REQUEST

The Department proposes short-duration state-only payments to Urban Indian Health Organizations equal to the estimated General Fund savings from a provision of the American Rescue Plan Act that temporarily grants a 100 percent federal match for services to Medicaid clients by Urban Indian Health Organizations. The enhanced federal match is available for 8 quarters retroactive to April 2021. There is nothing in federal law requiring the General Fund savings be passed through to Urban Indian Health Organizations. Denver Indian Health and Family Services is the only Urban Indian Health Organization in Colorado. The General Fund savings is accounted for in the Medical Services Premiums forecast (S1/R1 Medical Services Premiums) and this request is to spend the General Fund savings.

S19 URBAN INDIAN HEALTH	
FISCAL YEAR	GENERAL FUND
FY 2021-22	\$70,825
FY 2022-23	48,025
Cumulative Total	\$118,850

The proposed funding is intended to: (1) address current gaps in clinical operations and guarantee long-term sustainability for the providers; and (2) address health care disparities that are exasperated by the pandemic, including lower vaccination rates in under-resourced communities. In arguing for the need to support Urban Indian Health Organizations, the Department cites a 2016 report² by the Urban Indian Health Institute that found an uninsured rate of 19.7 percent for American Indians and Alaska Natives (AI/AN) in Urban Indian Organization service areas, compared to an uninsured rate of 6.0 percent for non-Hispanic white counterparts. This speaks to the need for subsidized health services for the population and the financial vulnerability of the organizations that serve them with limited insurance payments.

STAFF RECOMMENDATION

Staff does not recommend the request. The proposed creation of a new state-only payment to Urban Indian Health Organizations that is not specifically authorized in statute goes beyond the JBC's normal supplemental criteria.

If the JBC wants to fund a state-only payment to Urban Indian Health Organizations, then the JBC staff recommends the JBC sponsor a bill authorizing a payment. The General Assembly grants significant flexibility to the Department to implement Medicaid, including the ability to make rules to comply with federal Medicaid guidelines, the appropriation of most Medicaid funds in a single line item, and the granting of overexpenditure authority for Medicaid payments. To protect the General Assembly's control over the funds provided to the Department, the JBC has historically adopted a narrow interpretation of the Department's authority to make payments outside Medicaid that do not

² <https://www.uihi.org/urban-indian-health/urban-indian-health-organization-profiles/>

receive a federal match, generally requiring that the Department have specific statutory authority for such payments.

An alternative approach to providing General Fund for a state-only payment would be to provide federal stimulus money. Then the authorization and payment could be included as one part of a larger federal stimulus bill, rather than running a separate JBC bill for \$118,850 in time-limited payments. The proposed purpose of the funding is definitely pandemic-related. This approach would also separate the amount of the payment from an arbitrary level established by a calculation of the savings from the federal match and instead allow discussion of the proper level of funding based on the need. The request indicates Denver Indian Health and Family Services has been, "an exemplary example of vaccine equity outreach," and maybe that is a way to deliver funding to this particular provider.

S21 OVEREXPENDITURES

	REQUEST	RECOMMENDATION
TOTAL	\$784,169	\$887,397
General Fund	206,066	206,066
Cash Funds	578,103	681,331

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: The request is the result of **data that was not available** when the original appropriation was made regarding actual expenditures for Medicaid and the Children's Basic Health Plan.

DEPARTMENT REQUEST

The Department requests \$784,169 total funds, including \$206,066 General Fund, in FY 2020-21 to release restrictions on the FY 2021-22 appropriations imposed by the State Controller due to over-expenditures in prior years.

Because of the entitlement nature of the Medicaid program, statute (Section 24-75-109, C.R.S.) allows the Department to overexpend Medicaid line items, except administrative line items, as long as the overexpenditures are consistent with the statutory purposes of the Medicaid program. However, the State Controller restricts the current fiscal year's appropriation until the General Assembly approves a supplemental for the prior year overexpenditures. This restriction allows the JBC an opportunity to review the reasons for overexpenditures and to decide if the overexpenditures could have been avoided with better management of the appropriation or if the overexpenditures occurred as a result of an unforeseen event or forecast error. Mechanically, the release of the restrictions on the FY 2021-22 appropriations is accomplished by amending the FY 2020-21 appropriations.

There is similar statutory authority for the Department to overexpend the Children's Basic Health Plan, but General Fund overexpenditures for this program are capped at \$250,000 per year. Cash fund overexpenditures would be limited by the amount of money available in the relevant fund (most likely the Children's Basic Health Plan Trust Fund or the Healthcare Affordability and Sustainability Fee Cash Fund).

STAFF RECOMMENDATION

Staff recommends releasing the restrictions. The staff recommendation is slightly higher than the Department's request, because the Department requested cash funds based on the net difference in all cash fund sources. The Department overspent some cash funds and underspent others. When releasing an overexpenditure restriction the General Assembly does not typically reduce appropriations for underspent funds. It only increases appropriations for overspent funds. The table below summarizes the recommended release of overexpenditure restrictions by line item and fund source.

RECOMMENDED CHANGES TO FY 19-20 TO RELEASE OVEREXPENDITURE RESTRICTIONS IN FY 20-21			
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS (HAS FEE)
Behavioral Health Capitation Payments	\$150,021	\$0	\$150,021
Behavioral Health Fee-for-service Payments	257,021	206,066	50,955
Children's Basic Health Plan	480,355	0	480,355
Total	\$887,397	\$206,066	\$681,331

All the overexpenditures were for forecast errors of less than \$1.0 million each and in total.

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Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
Kim Bimestefer, Executive Director

S2 Behavioral Health

(3) BEHAVIORAL HEALTH COMMUNITY PROGRAMS

Behavioral Health Capitation Payments	<u>811,992,425</u>	<u>983,572,421</u>	<u>98,634,489</u>	<u>98,634,489</u>	<u>1,082,206,910</u>
General Fund	173,123,597	201,125,147	13,853,982	13,853,982	214,979,129
Cash Funds	52,718,658	53,700,870	8,922,611	8,922,611	62,623,481
Reappropriated Funds	0	0	0	0	0
Federal Funds	586,150,170	728,746,404	75,857,896	75,857,896	804,604,300
Behavioral Health Fee-for-service Payments	<u>14,851,894</u>	<u>15,151,534</u>	<u>1,700,576</u>	<u>1,700,576</u>	<u>16,852,110</u>
General Fund	2,692,858	2,923,821	179,798	179,798	3,103,619
Cash Funds	989,215	1,037,775	(197,938)	(197,938)	839,837
Reappropriated Funds	0	0	0	0	0
Federal Funds	11,169,821	11,189,938	1,718,716	1,718,716	12,908,654
Total for S2 Behavioral Health	826,844,319	998,723,955	100,335,065	100,335,065	1,099,059,020
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	175,816,455	204,048,968	14,033,780	14,033,780	218,082,748
Cash Funds	53,707,873	54,738,645	8,724,673	8,724,673	63,463,318
Reappropriated Funds	0	0	0	0	0
Federal Funds	597,319,991	739,936,342	77,576,612	77,576,612	817,512,954

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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S3 Child Health Plan Plus

(4) INDIGENT CARE PROGRAM

Children's Basic Health Plan Medical and Dental Costs	<u>166,658,064</u>	<u>170,754,875</u>	<u>(8,778,202)</u>	<u>(8,778,202)</u>	<u>161,976,673</u>
General Fund	2,761,239	20,639,364	(5,351,109)	(5,351,109)	15,288,255
General Fund Exempt	390,989	420,001	0	0	420,001
Cash Funds	44,010,133	35,628,900	2,254,146	2,254,146	37,883,046
Reappropriated Funds	0	0	0	0	0
Federal Funds	119,495,703	114,066,610	(5,681,239)	(5,681,239)	108,385,371

Total for S3 Child Health Plan Plus	166,658,064	170,754,875	(8,778,202)	(8,778,202)	161,976,673
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	2,761,239	20,639,364	(5,351,109)	(5,351,109)	15,288,255
General Fund Exempt	390,989	420,001	0	0	420,001
Cash Funds	44,010,133	35,628,900	2,254,146	2,254,146	37,883,046
Reappropriated Funds	0	0	0	0	0
Federal Funds	119,495,703	114,066,610	(5,681,239)	(5,681,239)	108,385,371

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
S4 Medicare Modernization Act					
(5) OTHER MEDICAL SERVICES					
Medicare Modernization Act State Contribution					
Payment	<u>151,204,900</u>	<u>193,398,121</u>	<u>3,803,082</u>	<u>3,803,082</u>	<u>197,201,203</u>
General Fund	151,204,900	193,398,121	3,803,082	3,803,082	197,201,203
Total for S4 Medicare Modernization Act	151,204,900	193,398,121	3,803,082	3,803,082	197,201,203
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	151,204,900	193,398,121	3,803,082	3,803,082	197,201,203

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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S11 Federal match non forecast lines

(4) INDIGENT CARE PROGRAM

Pediatric Specialty Hospital	<u>10,764,010</u>	<u>10,764,010</u>	<u>0</u>	<u>0</u>	<u>10,764,010</u>
General Fund	4,714,636	5,048,321	(166,842)	(166,842)	4,881,479
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	6,049,374	5,715,689	166,842	166,842	5,882,531

(5) OTHER MEDICAL SERVICES

Commission on Family Medicine Residency Training					
Programs	<u>7,130,420</u>	<u>9,400,725</u>	<u>0</u>	<u>0</u>	<u>9,400,725</u>
General Fund	3,123,124	4,197,890	(138,736)	(138,736)	4,059,154
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	211,050	(6,975)	(6,975)	204,075
Federal Funds	4,007,296	4,991,785	145,711	145,711	5,137,496
Public School Health Services	<u>127,813,978</u>	<u>167,386,604</u>	<u>0</u>	<u>0</u>	<u>167,386,604</u>
General Fund	0	0	0	0	0
Cash Funds	57,869,729	79,454,838	(3,822,764)	(3,822,764)	75,632,074
Reappropriated Funds	0	0	0	0	0
Federal Funds	69,944,249	87,931,766	3,822,764	3,822,764	91,754,530

(7) DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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(C) Division of Child Welfare - Medicaid Funding

Child Welfare Services	<u>7,137,554</u>	<u>13,421,808</u>	<u>0</u>	<u>0</u>	<u>13,421,808</u>
General Fund	3,119,657	6,294,828	(208,038)	(208,038)	6,086,790
Federal Funds	4,017,897	7,126,980	208,038	208,038	7,335,018

(7) DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS

(D) Office of Early Childhood - Medicaid Funding

Division of Community and Family Support, Early

Intervention Services	<u>3,773,176</u>	<u>7,968,022</u>	<u>0</u>	<u>0</u>	<u>7,968,022</u>
General Fund	1,652,646	3,737,003	(123,505)	(123,505)	3,613,498
Federal Funds	2,120,530	4,231,019	123,505	123,505	4,354,524

(7) DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS

(F) Office of Behavioral Health Services - Medicaid Funding

High Risk Pregnant Women Program	<u>548,822</u>	<u>1,865,775</u>	<u>0</u>	<u>0</u>	<u>1,865,775</u>
General Fund	240,384	875,048	(28,919)	(28,919)	846,129
Federal Funds	308,438	990,727	28,919	28,919	1,019,646
Children and Youth Mental Health Treatment Act	<u>0</u>	<u>128,478</u>	<u>0</u>	<u>0</u>	<u>128,478</u>
General Fund	0	60,256	(1,991)	(1,991)	58,265
Federal Funds	0	68,222	1,991	1,991	70,213
Mental Health Institutes	<u>8,327,402</u>	<u>8,219,072</u>	<u>0</u>	<u>0</u>	<u>8,219,072</u>
General Fund	3,542,789	3,854,745	(127,395)	(127,395)	3,727,350
Federal Funds	4,784,613	4,364,327	127,395	127,395	4,491,722

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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(7) DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS

(G) Services for People with Disabilities - Medicaid Funding

Regional Centers	<u>62,827,375</u>	<u>54,771,068</u>	<u>0</u>	<u>0</u>	<u>54,771,068</u>
General Fund	24,574,207	23,798,727	(848,951)	(848,951)	22,949,776
Cash Funds	1,888,903	1,888,903	0	0	1,888,903
Federal Funds	36,364,265	29,083,438	848,951	848,951	29,932,389
Regional Center Depreciation and Annual Adjustments	<u>691,725</u>	<u>691,725</u>	<u>0</u>	<u>0</u>	<u>691,725</u>
General Fund	302,976	324,420	(10,722)	(10,722)	313,698
Federal Funds	388,749	367,305	10,722	10,722	378,027

(7) DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS

(I) Division of Youth Services - Medicaid Funding

Division of Youth Services - Medicaid Funding	<u>993,140</u>	<u>1,161,560</u>	<u>0</u>	<u>0</u>	<u>1,161,560</u>
General Fund	454,521	557,302	(30,534)	(20,247)	537,055
Federal Funds	538,619	604,258	30,534	20,247	624,505

Total for S11 Federal match non forecast lines	230,007,602	275,778,847	0	0	275,778,847
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	41,724,940	48,748,540	(1,685,633)	(1,675,346)	47,073,194
Cash Funds	59,758,632	81,343,741	(3,822,764)	(3,822,764)	77,520,977
Reappropriated Funds	0	211,050	(6,975)	(6,975)	204,075
Federal Funds	128,524,030	145,475,516	5,515,372	5,505,085	150,980,601

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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
S12 Safety Net Provider Payments					
(4) INDIGENT CARE PROGRAM					
Safety Net Provider Payments	<u>135,548,026</u>	<u>257,909,481</u>	<u>(30,838,397)</u>	<u>(30,838,397)</u>	<u>227,071,084</u>
General Fund	0	0	0	0	0
Cash Funds	67,774,013	119,466,874	(36,633,036)	(36,633,036)	82,833,838
Reappropriated Funds	0	0	0	0	0
Federal Funds	67,774,013	138,442,607	5,794,639	5,794,639	144,237,246
Total for S12 Safety Net Provider Payments	135,548,026	257,909,481	(30,838,397)	(30,838,397)	227,071,084
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	0	0	0
Cash Funds	67,774,013	119,466,874	(36,633,036)	(36,633,036)	82,833,838
Reappropriated Funds	0	0	0	0	0
Federal Funds	67,774,013	138,442,607	5,794,639	5,794,639	144,237,246

JBC Staff Supplemental Recommendations - FY 2021-22
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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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S16 Implementation delay HB 21-1166 behavioral health crisis response training

(1) EXECUTIVE DIRECTOR'S OFFICE

(A) General Administration

General Professional Services and Special Projects	8,992,784	20,770,683	0	0	20,770,683
General Fund	2,368,910	6,740,590	0	0	6,740,590
Cash Funds	1,227,887	3,257,637	0	0	3,257,637
Reappropriated Funds	150,000	150,000	0	0	150,000
Federal Funds	5,245,987	10,622,456	0	0	10,622,456

Total for S16 Implementation delay HB 21-1166 behavioral health crisis response training	8,992,784	20,770,683	0	0	20,770,683
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	2,368,910	6,740,590	0	0	6,740,590
Cash Funds	1,227,887	3,257,637	0	0	3,257,637
Reappropriated Funds	150,000	150,000	0	0	150,000
Federal Funds	5,245,987	10,622,456	0	0	10,622,456

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
S18 Implementation delay SB 21-009 reproductive health					
(5) OTHER MEDICAL SERVICES					
Reproductive Health Care for Individuals Not Eligible for Medicaid	<u>0</u>	<u>1,822,095</u>	<u>(1,822,095)</u>	<u>(1,822,095)</u>	<u>0</u>
General Fund	0	1,822,095	(1,822,095)	(1,822,095)	0
Total for S18 Implementation delay SB 21-009 reproductive health	0	1,822,095	(1,822,095)	(1,822,095)	0
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	1,822,095	(1,822,095)	(1,822,095)	0

JBC Staff Supplemental Recommendations - FY 2021-22
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	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
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S19 Urban Indian Health Organizations

(5) OTHER MEDICAL SERVICES

Urban Indian Health Organizations State Only

Payments	<u>0</u>	<u>0</u>	<u>70,825</u>	<u>0</u>	<u>0</u>
General Fund	0	0	70,825	0	0

Total for S19 Urban Indian Health Organizations	0	0	70,825	0	0
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	70,825	0	0

Totals Excluding Pending Items					
HEALTH CARE POLICY AND FINANCING					
TOTALS for ALL Departmental line items	11,401,509,001	13,279,794,040	62,770,278	62,699,453	13,342,493,493
<i>FTE</i>	<u>607.8</u>	<u>601.4</u>	<u>0.0</u>	<u>0.0</u>	<u>601.4</u>
General Fund	2,678,736,069	2,481,011,526	9,048,850	8,988,312	2,489,999,838
General Fund Exempt	390,989	865,704,200	0	0	865,704,200
Cash Funds	1,581,672,946	1,595,483,422	(29,476,981)	(29,476,981)	1,566,006,441
Reappropriated Funds	43,025,959	87,674,424	(6,975)	(6,975)	87,667,449
Federal Funds	7,097,683,038	8,249,920,468	83,205,384	83,195,097	8,333,115,565