

JOINT BUDGET COMMITTEE



STAFF BUDGET BRIEFING FY 2022-23

DEPARTMENT OF HUMAN SERVICES

(Office of Behavioral Health and Related Line Items)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
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CONTENTS

Department Overview	1
Department Budget: Recent Appropriations	2
Department Budget: Graphic Overview	3
General Factors Driving the Budget.....	5
Summary: FY 2021-22 Appropriation & FY 2022-23 Request.....	9
Update on Forensic Services and Competency.....	14
Summary.....	14
Recommendation.....	14
Discussion.....	15
Behavioral Health Workforce Challenges.....	22
Summary.....	22
Recommendation.....	22
Discussion.....	22
Behavioral Health Administration	26
Summary.....	26
Recommendation.....	26
Discussion.....	26
Appendix A Numbers Pages (Digital Only).....	A-1
Appendix B Footnotes and Information Requests	B-1
Appendix C Department Annual Performance Report	C-1

ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2020 and 2021 legislative sessions that had a fiscal impact on this department are available in Appendix A of the annual Appropriations Report: https://leg.colorado.gov/sites/default/files/fy21-22apprept_0.pdf

The online version of the briefing document, which includes the Numbers Pages, may be found by searching the budget documents on the General Assembly's website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budget documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

DEPARTMENT OF HUMAN SERVICES

DEPARTMENT OVERVIEW

The Department of Human Services is responsible for the administration and supervision of most non-medical public assistance and welfare activities of the State, including financial and nutritional assistance programs, child protection services, behavioral health services, and programs for older Coloradans. The Department is also responsible for inspecting and licensing childcare facilities, and for the care and treatment of individuals with mental health disorders, individuals with intellectual or developmental disabilities, and youth and young adults who are involved in the juvenile justice system. These services are provided in collaboration with county governments, not-for-profit community-based providers, and other agencies. The Department provides direct services through the operation of mental health institutes, regional centers for persons with intellectual and developmental disabilities, and institutions for juvenile and young adult offenders. This staff budget briefing document concerns the Department's Office of Behavioral Health.

OFFICE OF BEHAVIORAL HEALTH

The Office of Behavioral Health is responsible for policy development, service provision and coordination, program monitoring and evaluation, and administrative oversight of the state's public behavioral health system. Funding in this section supports community-based prevention, treatment, and recovery support services for people with mental health and substance use disorders. This includes services for people with low incomes who are not eligible for Medicaid, as well as services for Medicaid-eligible clients that are not covered by the Medicaid program¹.

The Office contracts with 17 community mental health centers (Centers) across the state to provide mental health services that are not otherwise available. Each Center is responsible for providing a set of core services, ranging from public education to inpatient services. The Office also contracts with four managed service organizations (MSOs) for the provision of substance use disorder treatment services that are not otherwise available. MSOs subcontract with local treatment providers across the state to deliver these services. In addition, the Department administers funding for programs that integrate mental health and substance use-related services. While the majority of community-based behavioral health funding is allocated to Centers and MSOs, the Department also contracts with other organizations to provide specific types of services or services targeting specific populations.

The Office also administers and operates two Mental Health Institutes that provide inpatient hospitalization for individuals with serious mental health disorders. One Institute is located in Pueblo and the other is located on the Fort Logan campus in Denver. The Institutes serve three populations:

- individuals with pending criminal charges who require evaluations of competency to stand trial and services to restore competency;
- individuals who have been found not guilty by reason of insanity; and
- adults and adolescents who are referred for admission by Centers, the Department's Division of Youth Services, and other health providers.

¹ Most mental health disorder and substance use disorder services for Medicaid-eligible clients are funded through the Department of Health Care Policy and Financing.

DEPARTMENT BUDGET: RECENT APPROPRIATIONS

DEPARTMENT OF HUMAN SERVICES

FUNDING SOURCE	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 *
General Fund	\$1,028,050,155	\$1,034,930,086	\$1,108,252,446	\$1,115,834,328
Cash Funds	445,987,547	421,832,773	548,063,145	459,032,988
Reappropriated Funds	211,209,030	209,414,386	228,925,941	220,243,425
Federal Funds	695,177,789	709,092,573	1,072,397,223	751,772,173
TOTAL FUNDS	\$2,380,424,521	\$2,375,269,818	\$2,957,638,755	\$2,546,882,914
Full Time Equiv. Staff	5,134.2	5,181.3	5,194.4	5,295.2

*Requested appropriation.

Funding for the Department of Human Services in FY 2021-22 consists of 37.5 percent General Fund, 18.5 percent cash funds, 7.7 percent reappropriated funds, and 36.3 percent federal funds.

OFFICE OF BEHAVIORAL HEALTH

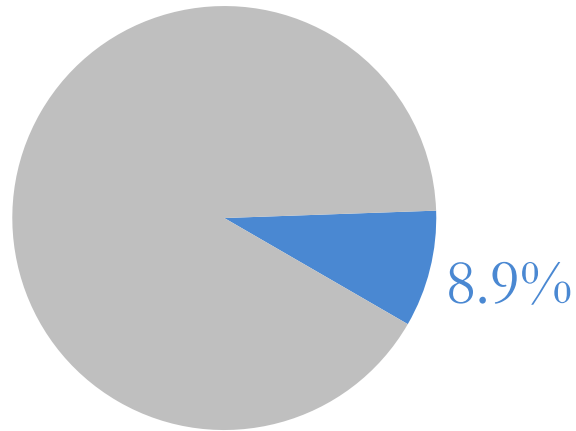
FUNDING SOURCE	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23 *
General Fund	\$256,621,436	\$255,694,282	\$284,668,739	\$298,673,180
Cash Funds	55,419,234	48,341,550	155,862,750	73,653,562
Reappropriated Funds	26,342,796	25,722,102	26,334,705	26,628,417
Federal Funds	42,169,969	42,361,118	42,433,562	42,696,728
TOTAL FUNDS	\$380,553,435	\$372,119,052	\$509,299,756	\$441,651,887
Full Time Equiv. Staff	1,426.4	1,470.8	1,486.2	1,562.6

*Requested appropriation.

Funding for the Office of Behavioral Health in FY 2021-22 consists of 55.9 percent General Fund, 30.6 percent cash funds, 5.2 percent reappropriated funds, and 8.3 percent federal funds.

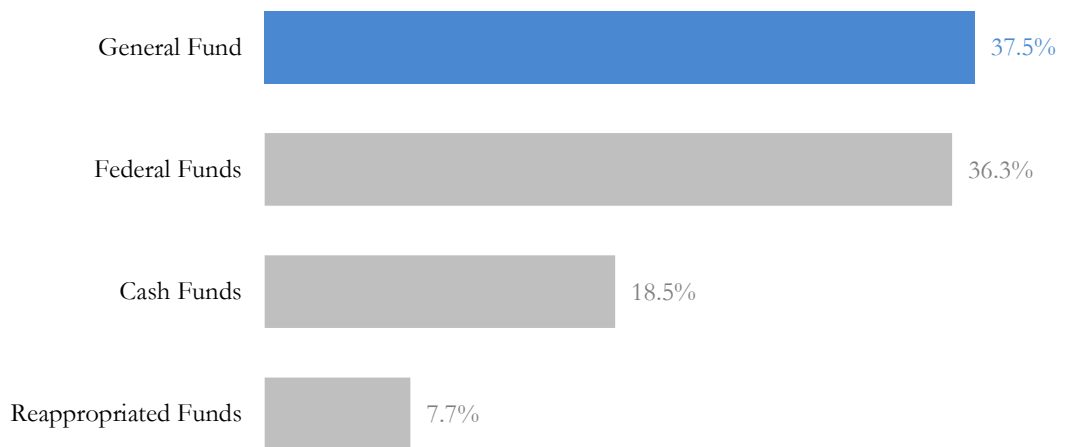
DEPARTMENT BUDGET: GRAPHIC OVERVIEW

Department's Share of Statewide General Fund



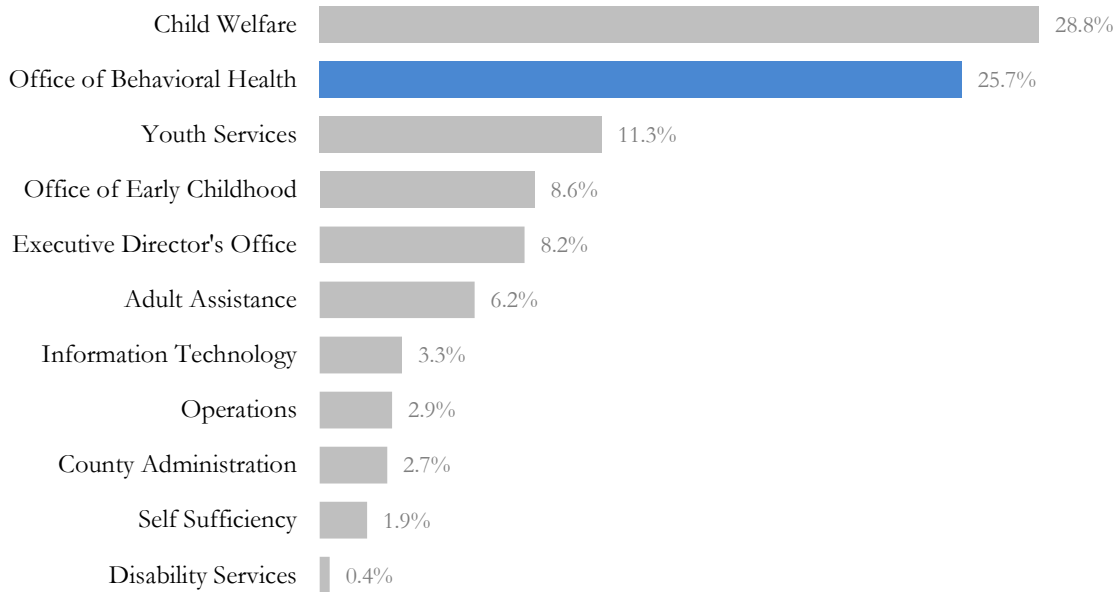
Based on the FY 2021-22 appropriation.

Department Funding Sources



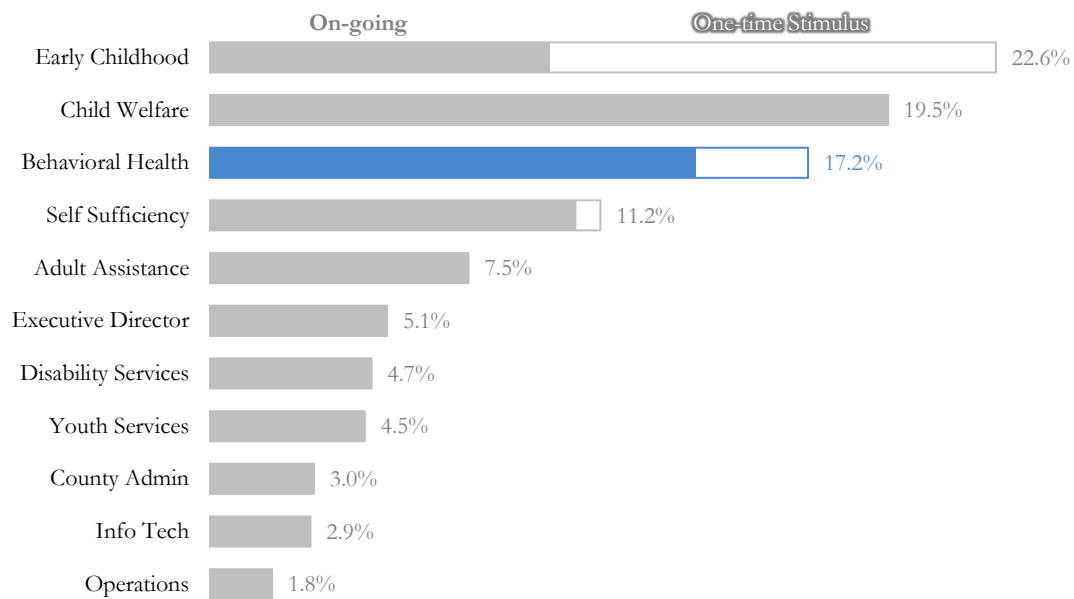
Based on the FY 2021-22 appropriation.

Distribution of General Fund by Division



Based on the FY 2021-22 appropriation.

Distribution of Total Funds by Division



Based on the FY 2021-22 appropriation.

GENERAL FACTORS DRIVING THE BUDGET

OFFICE OF BEHAVIORAL HEALTH

The Office of Behavioral Health administers funding for community-based prevention, crisis response, treatment, and recovery support services for people with mental health and substance use disorders (referred to as “behavioral health” services). The Department also operates the state's Mental Health Institutes, which provide inpatient psychiatric hospitalization for individuals with mental health disorders.

COMMUNITY-BASED PROGRAMS AND SERVICES

The Office of Behavioral Health contracts with 17 community mental health centers (centers) across the state to provide mental health services that are not otherwise available. Each center is responsible for providing a set of core services, ranging from public education to inpatient services. The Office also contracts with four managed service organizations (MSOs) for the provision of substance use disorder treatment and detoxification services that are not otherwise available. MSOs subcontract with local treatment providers across the state to deliver these services. Finally, the Office also contracts with other organizations to provide certain types of treatment services or services targeting specific populations.

Most mental health and substance use disorder services for Medicaid-eligible clients are funded through the Department of Health Care Policy and Financing. Unlike the Medicaid program, behavioral health services provided through this department are not an entitlement. Thus, the number of individuals receiving services and the level of service provided is largely driven by the level of state and federal funds available each year. The General Assembly periodically adjusts funding for the centers, MSOs, and other community providers to account for inflationary changes and to ensure that programs are viable over the long-term. The rate changes are generally consistent with the common policy adopted by the Joint Budget Committee for a variety of community providers.

The General Assembly also appropriates additional funds for the provision of specific services or services targeting specific populations (e.g., alternative placements for people who would otherwise require hospitalization at a mental health institute, school-based behavioral health services for children, and services for juvenile and adult offenders).

General Fund appropriations provided more than half of the available funds in FY 2020-21. However, the FY 2021-22 appropriation included a one-time influx of \$89.8 million cash funds from the Behavioral and Mental Health Cash Fund, which originated as federal stimulus funds in the American Rescue Plan Act (appropriated in S.B. 21-137). Those funds are available for expenditure through FY 2022-23. Other significant sources of state funds include: the Marijuana Tax Cash Fund (MTCF), transfers from the Judicial Department from the Correctional Treatment Cash Fund, the Persistent Drunk Driver Cash Fund, and Medicaid funds transferred from the Department of Health Care Policy and Financing. Federal funds are primarily from the Mental Health Services Block Grant and the Substance Abuse Prevention and Treatment Block Grant.

The following chart depicts funding available for community-based behavioral health services since FY 2012-13.

Community-based behavioral health funding has increased since FY 2012-13, with an influx of one-time funding from the BMH Fund in FY 2020-21.



MENTAL HEALTH INSTITUTES AND FORENSIC SERVICES

The Department administers and operates two mental health institutes that provide inpatient hospitalization for individuals with serious mental health disorders. The institutes are located in Pueblo and on the Fort Logan campus in southwest Denver and serve three populations within two categories of resources.

- “Forensic” beds include services for:
 - Individuals with pending criminal charges who require evaluations of competency to stand trial and services to restore competency.
 - Individuals who have been found not guilty by reason of insanity.
- “Civil” beds include services for:
 - Adults and adolescents who are referred for admission by community mental health centers, local hospitals, or the Department's Division of Youth Services.

In addition to forensic beds at the institutes, the Department contracts with two vendors for *jail based* programs for individuals requiring competency evaluations or restoration services.

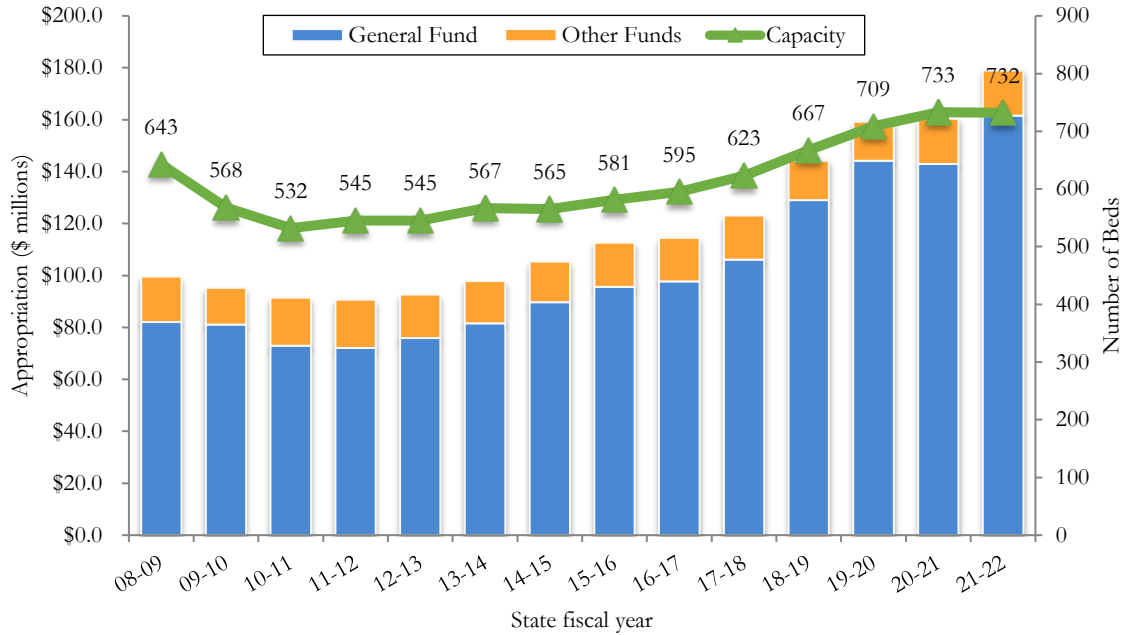
- The Restoring Individuals Safely and Effectively (RISE) Program is currently operated by Correct Care, LLC, at the detention facilities in Arapahoe and Boulder counties. Originally funded in FY 2013-14 for 22 beds, RISE expanded to support 114 beds by FY 2020-21. For FY 2021-22, the Department reports that the RISE program is supporting 92 beds (a decrease of 22 beds below FY 2020-21).
- The Department is supporting an additional 12 beds at the Denver Restoration Treatment Unit (DRTU) at the Denver Detention Center.

Finally, the General Assembly approved a request in March 2018 to allow the Office to expand inpatient psychiatric bed capacity by contracting with one or more private hospitals. In FY 2020-21, the Department contracted for a total of 10 beds in private hospitals. For FY 2021-22, the Department reports a total of 18 contracted beds in private hospitals (including 8 funded with state funds and 10 supported by Consent Decree fines).

The Institutes are primarily supported by General Fund appropriations. Other sources of revenue include: patient revenues (including federal Medicaid funds transferred from the Department of Health Care Policy and Financing and federal Medicare funds), funds transferred from the Department of Corrections (DOC) for food services provided to DOC facilities on the Pueblo campus, and marijuana tax revenues that support certified addiction counselors at both Institutes. Funding for the institutes is affected by capacity, personnel costs, and operational costs (including medication expenses and the cost of purchasing medical services from local hospitals and medical providers). In FY 2018-19, the General Assembly provided \$13.0 million to increase salaries for all direct care job classifications at both institutes as part of an effort to improve employee recruitment and retention.

Total capacity has fluctuated with economic conditions (see chart below). Total capacity of the institutes declined in FY 2003-04 during an economic downturn, increased gradually through FY 2008-09, and then declined again through the closure of certain units during the recession driven by the 2008 financial crisis. However the General Assembly subsequently reversed this decline in capacity by providing funding for the Department to: 1) add contract bed capacity through the RISE Program and private hospitals; 2) expand by 20 the number of beds at the Pueblo Institute designed to serve long-term patients who are preparing to re-enter the community, thereby freeing up 20 existing adult beds in various units; and 3) relocate some existing programs and utilize vacant units at the Pueblo Institute to add 42 adult civil beds. The following chart depicts recent changes in the Institutes' funding and bed capacity. Capacity figures reflect both civil and forensic beds, including the RISE Program, funded private psychiatric beds, and the Denver Restoration Unit.

Funding and potential capacity decreased from FY 2008-09 to FY 2010-11 but have increased since then.



In addition to appropriations reflected in the chart above, the General Assembly has appropriated funding for capital construction projects that will increase capacity in future years. This includes a \$5.4 million appropriation in FY 2017-18 for the construction of a new 24-bed high security forensic unit that became operational in FY 2020-21, and a \$17.8 million appropriation in FY 2019-20 to renovate two buildings at Fort Logan and add 44 beds that are anticipated to be operational in October 2022 (FY 2022-23). The Department FY 2022-23 request R2 seeks an increase of \$10.3 million General Fund and 78.3 FTE to provide the funding to operate the additional beds.

SUMMARY: FY 2021-22 APPROPRIATION & FY 2022-23 REQUEST

DEPARTMENT OF HUMAN SERVICES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION:						
S.B. 21-205 (Long Bill)	405,740,502	276,932,485	60,039,750	26,334,705	42,433,562	1,481.2
Other legislation	103,559,254	7,736,254	95,823,000	0	0	5.0
TOTAL	\$509,299,756	\$284,668,739	\$155,862,750	\$26,334,705	\$42,433,562	1,486.2
FY 2022-23 REQUESTED APPROPRIATION:						
FY 2021-22 Appropriation	\$509,299,756	284,668,739	\$155,862,750	\$26,334,705	\$42,433,562	1,486.2
R1 Food service and housekeeping coordinated compensation	562,762	500,320	23,799	38,643	0	0.0
R2 CMHIFL 44 bed operating budget	10,318,585	10,318,585	0	0	0	78.3
R5 Community provider rate increase	2,011,838	1,396,318	510,195	105,325	0	0.0
R6 Facilities management operating	42,486	0	23,089	9,558	9,839	0.0
R9 Improving involuntary mental health treatment	181,433	181,433	0	0	0	1.0
R11 CBH criminal justice Long Bill line consolidation	0	0	0	0	0	(0.0)
R12 Community behavioral health technical corrections	0	0	0	0	0	0.0
R13 MHI forensic technical Long Bill corrections	125,000	125,000	0	0	0	0.0
Annualize prior year budget actions	3,028,508	2,721,853	81,923	27,089	197,643	0.1
Indirect cost assessments	249,810	0	134,410	59,716	55,684	0.0
Non-prioritized requests	53,381	0	0	53,381	0	0.0
Annualize prior year legislation	(81,908,075)	1,074,529	(82,982,604)	0	0	0.5
TOTAL	\$443,965,484	\$300,986,777	\$73,653,562	\$26,628,417	\$42,696,728	1,566.1
INCREASE/(DECREASE)	(\$65,334,272)	\$16,318,038	(\$82,209,188)	\$293,712	\$263,166	79.9
Percentage Change	(12.8%)	5.7%	(52.7%)	1.1%	0.6%	5.4%

R1 FOOD SERVICES AND HOUSEKEEPING COORDINATED COMPENSATION: The request includes an increase of \$562,762 total funds, including \$500,320 General Fund, in the Office of Behavioral Health for salary increases for all food services and housekeeping classified positions. Department-wide, the request proposes an increase of \$2.0 million total funds, including \$1.0 million General Fund. For the Office of Behavioral Health, the request includes \$491,531 total funds (\$434,354 General Fund) for the Mental Health Institute at Pueblo and \$71,231 total funds (\$65,966 General Fund) for the Mental Health Institute at Fort Logan. The requested amounts for this division are all ongoing in FY 2023-24 and subsequent years. *For additional information on request R1, see the 12/1/2021 JBC Staff briefing for the Department of Human Services, Executive Director's Office.*

R2 CMHIFL 44 BED OPERATING BUDGET: The request includes an increase of \$10.3 million General Fund and 78.3 FTE for costs to operate 44 new forensic psychiatric beds at the Colorado Mental Health Institute at Fort Logan (CHMIFL). As the request for FY 2022-23 does not cover the entire fiscal year, the Department reports that costs would increase to \$12.4 million General Fund and 104.3 FTE in FY 2023-24 and subsequent years. The General Assembly approved an appropriation of \$17.8 million in capital construction funding in FY 2019-20 to renovate two existing units at Fort

Logan to provide the additional beds for inpatient competency services and address the waitlist for competency services. According to the Department, that capital construction request, as approved by the General Assembly, assumed that operating the units would require approximately \$13.0 million per year. The Department indicates that the request would increase funding for an evidence-informed program as defined in S.B. 21-284 (Evidence-based evaluation for budget).

Modeled on the forensic services staffing ratios at the Mental Health Institute at Pueblo, the request includes the FTE and associated costs reflected in the following table.

R2 - CMHIFL 44 BED OPERATING BUDGET				
	FY 2022-23 REQUEST		FY 2023-24 IMPACT	
	GENERAL FUND	FTE	GENERAL FUND	FTE
OBH, CMHIFL Personal Services				
Nursing	\$2,747,184	36.5	\$3,621,290	48.0
Contract medical (psychiatry, medical, nurse practitioner)	822,107	3.3	\$986,528	4.0
Psychology	727,500	6.8	962,999	9.0
Security	536,772	8.6	700,217	11.2
Administrative/Other	444,452	5.9	624,868	8.2
Social Work	297,315	3.8	391,662	5.0
Therapy	288,111	3.8	380,007	5.0
Medical	227,096	2.8	311,331	3.9
Dietary	108,004	2.1	154,293	3.0
Pharmacy	104,937	0.7	149,911	1.0
Dental	39,358	0.5	73,793	0.9
Patient Armed Transport	67,500		90,000	
Subtotal, CMHIFL Personal Services	\$6,410,337	74.8	\$8,446,899	99.2
OBH, CMHIFL Operating Expenses				
Ongoing programmatic operating expenses	\$490,247		\$641,794	
Operating expenses for FTE	373,378		82,840	
One-time start-up operating expenses	300,403		0	
Electronic health records licenses	147,500		81,000	
Subtotal, CMHIFL Operating Expenses	\$1,311,528		\$805,634	
OBH, CMHIFL Pharmaceuticals	\$283,123		\$378,534	
Office of Operations				
Personal Services	\$240,428	3.5	\$349,316	5.1
Operating expenses	\$119,381		\$40,925	
Utilities	\$67,913		\$81,496	
Subtotal, Office of Operations	\$427,722	3.5	\$471,737	5.1
Executive Director's Office				
Centrally appropriated line items	\$1,885,875	0.0	\$2,304,974	0.0
Total, Request R2 General Fund	\$10,318,585	78.3	\$12,407,778	104.3

R5 COMMUNITY PROVIDER RATE INCREASE: The request includes a common policy 1.0 percent increase in community provider rates. For this division, the request equates to \$2.0 million total funds, including \$1.4 million General Fund. *Community provider rates will be addressed in more detail during the common policy presentation in January.*

R6 FACILITIES MANAGEMENT OPERATING: The request includes an adjustment to indirect cost assessments for the Office of Behavioral Health in conjunction with an inflationary increase for the Office of Operations. *For more information see the 12/1/2021 briefing for the Office of Operations.*

R9 IMPROVING INVOLUNTARY MENTAL HEALTH TREATMENT: The request includes an increase of \$181,433 General Fund and 1.0 FTE for FY 2022-23 to provide statewide technical assistance and

training to mental health professionals related to involuntary mental health holds and treatment. After eliminating one-time costs proposed for the first year, the request anticipates an ongoing need for \$133,883 General Fund and 1.0 FTE in FY 2023-24 and subsequent years. The Department intends to standardize and clarify the appropriate use of involuntary mental health holds, including involuntary transportation holds, through both rulemaking and statewide training efforts for “intervening professionals” such as law enforcement officers, first responders, nurses, psychologists, physicians, social workers, therapists, and counselors. The Department expects most training to be delivered through online platforms, with trainings created for specific audiences/intervening professionals. While request R9 indicates that the request requires legislation, the Department reports that it has now determined that legislation is not necessary and that the Department has authority to implement the training under current law.

R11 CBH CRIMINAL JUSTICE LONG BILL LINE CONSOLIDATION: The request proposes to consolidate two existing Long Bill line items (Criminal Justice Diversion Programs and Jail Based Behavioral Health Services) into a single line item.

- The current Criminal Justice Diversion Programs line item supports two different types of programs intended to divert individuals away from the criminal justice system: (1) the co-responders program supports partnerships between law enforcement and behavioral health agencies where behavioral health professionals often respond to behavioral health-related calls with law enforcement to address behavioral health issues; and (2) the Law Enforcement Assisted Diversion (LEAD) program that supports partnerships between law enforcement, district attorneys’ offices, sheriffs, treatment providers, and other stakeholders to divert individuals with substance abuse issues (often after arrest but before booking). For FY 2021-22, the line item has a total appropriation of \$7.4 million total funds, including \$1.6 million General Fund and \$5.8 million cash funds from the Marijuana Tax Cash Fund, and 2.3 FTE.
- The Jail Based Behavioral Health Services line item supports contracts with county sheriffs’ departments to support behavioral health services in jails. Services include screening and treatment of substance use, mental health, and co-occurring disorders. The Department contracts with sheriffs to administer the funds, and the sheriffs’ departments work with local community providers to provide services within the jail and free or low cost services in the community upon release. For FY 2021-22, the line item has an appropriation of \$19.7 million total funds, including \$7.4 million General Fund, \$5.0 million in one-time funding from the Behavioral and Mental Health cash fund (originating as federal COVID-relief funds), and \$7.3 million reappropriated funds transferred from the Judicial Branch from the Correctional Treatment Cash Fund.

The Department is proposing to consolidate the line items to increase the flexibility of the use of funds in response to changes in local demand for specific types of programs. Both line items have experienced reversions in recent years and the Department anticipates that the increased flexibility will reduce reversions.

R12 COMMUNITY BEHAVIORAL HEALTH TECHNICAL CORRECTIONS: The request includes three changes in Community Behavioral Health (with no changes in total funding) that the Department has framed as technical corrections, including:

- Move \$1,470,000 General Fund currently appropriated to the Treatment and Detoxification Programs line item to the Jail Based Behavioral Health Services line item. Originally appropriated in S.B. 19-008 (Substance Use Disorder Treatment in the Criminal Justice System), the funds

support medication-assisted treatment (MAT) in jail settings. The Department is proposing to consolidate that funding with all of the other jail based services.

- Move \$264,596 cash funds from the Persistent Drunk Driver Cash Fund from the Treatment and Detoxification Programs line item to the Community Prevention and Treatment line item. According to the Department, this originated as a technical error during the drafting of the FY 2020-21 Long Bill, and the Department is asking to correct that error for FY 2022-23.
- Strike “Pilot” from the Behavioral Health Crisis Response System Secure Transportation Pilot Programs line item in order to align with the program name in statute. The Department is also proposing to expand those services beyond the regions originally considered in the pilot program, with no increase in funding.

R13 MHI FORENSIC TECHNICAL LONG BILL CORRECTIONS: The request proposes five changes to appropriations related to forensic behavioral health services (again with no changes in total funding) that the Department has framed as technical corrections, including:

- Move \$164,804 General Fund and 2.0 FTE out of the Community Behavioral Health Administration Personal Services line item to two different line items: \$166,704 and 2.0 FTE to the Forensic Services Outpatient Competency Restoration Program; and \$1,900 to the Community Behavioral Health Administration Operating Expenses line item. According to the Department, the changes would correct technical errors in the existing appropriations and align funding and FTE with actual usage.
- Move \$125,000 General Fund from the Office of Information Technology Services, Electronic health Record and Pharmacy System line item to the Colorado Mental Health Institute at Pueblo, Personal Services line item to reflect the actual use of the funds.
- Move \$600,000 General Fund from the Mental Health Institutes, Contract Medical Services line item to the Mental health Institutes, Pharmaceuticals line item based on necessary costs for pharmaceuticals and to reduce the need for transfers that the Department has made in recent years (moving surplus funds from Contract Medical Services to cover shortfalls in the Pharmaceuticals line item).
- Create a new Forensic Support Team line item within Forensic Services (in the Mental Health Institutes) and move \$1,495,996 General Fund and 19.0 FTE from the existing Forensic Services Court Services line item to the newly created line item. The Department argues that the change will improve transparency and budgetary management associated with Court Services.
- Move a total of \$1,156,300 General Fund from the Mental Health Institute at Pueblo Personal Services line item to be split between the Forensic Services Court Services (\$595,300) and the Forensic Services Forensic Community Based Services line item (\$561,000). The Department indicates that the proposal would reflect costs for contract physicians in the correct line items.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The request includes a net increase of \$3.0 million total funds, including \$2.7 million General Fund, and 0.1 FTE to reflect the FY 2022-23 impact of prior year budget actions, as summarized in the following table.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Annualize prior year salary survey	\$3,312,681	\$3,006,931	\$81,451	\$26,790	\$197,509	0.0
FY 21-22 R2 Family first prevention and services act	94,922	94,922	0	0	0	0.1
FY 19-20 R21 Salesforce	905	0	472	299	134	0.0

ANNUALIZE PRIOR YEAR BUDGET ACTIONS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 21-22 Medicaid match public health emergency	0	0	0	0	0	0.0
FY 21-22 R1 Expanded behavioral health crisis services for children and youth	(380,000)	(380,000)	0	0	0	0.0
TOTAL	\$3,028,508	\$2,721,853	\$81,923	\$27,089	\$197,643	0.1

INDIRECT COST ASSESSMENTS: The request includes an increase in the Office of Behavioral Health's indirect cost assessments.

NON-PRIORITIZED REQUESTS: The request includes an increase \$53,381 reappropriated funds (originating from the Department of Corrections) for the Mental Health Institute at Pueblo associated with a Department of Corrections request for food service cost adjustments. *For more information see the 12/2/2021 briefing for the Department of Corrections.*

ANNUALIZE PRIOR YEAR LEGISLATION: The request includes a net decrease of \$81.9 million total funds to reflect the FY 2022-23 impact of bills passed in previous sessions, as summarized in the following table. The reduction is driven by the elimination of one-time funding provided in S.B. 21-137 (Behavioral health recovery act).

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SB 21-154 988 Suicide prevention lifeline network	\$6,103,581	\$0	\$6,103,581	\$0	\$0	0.1
SB 21-129 Veteran suicide prevention pilot	1,260,000	1,260,000	0	0	0	0.0
HB 21-1021 Peer support specialists BH	16,929	14,529	2,400	0	0	0.2
HB 21-1276 Prevention of substance use disorders	9,039	0	9,039	0	0	0.2
SB 21-137 Behavioral health recovery act	(89,297,624)	(200,000)	(89,097,624)	0	0	0.0
TOTAL	(\$81,908,075)	\$1,074,529	(\$82,982,604)	\$0	\$0	0.5

UPDATE ON FORENSIC SERVICES AND COMPETENCY

For over a decade, the Department of Human Services and the General Assembly have been working to address issues related to competency evaluation and restoration services. A 2019 consent decree sets requirements for the timing of evaluation and restoration services. In spite of the State's significant investments, the waitlist for competency services is at an all-time high, forcing additional time in jail for individuals awaiting services and additional costs to the State in fines and fees under the consent decree. This issue brief provides an update on the status of competency services and potential costs for FY 2022-23 associated with the consent decree.

SUMMARY

- The Department of Human Services (DHS) is responsible for evaluating the competency of individuals charged with a crime and for providing competency restoration services when an individual is determined to be incompetent to proceed to trial. The Colorado Mental Health Institute at Pueblo (CMHIP) provides these services unless the Court authorizes these services to be provided in another setting such as in jail or in the community.
- In 2011, Disability Law Colorado brought legal action against the Department of Human Services to challenge the length of time pretrial detainees wait in Colorado jails to receive competency evaluations or competency restoration services. This legal action resulted in the current consent decree, entered into in March 2019.
- For over a decade, the Department of Human Services and the General Assembly have been working to address issues related to competency evaluation and restoration services, with repeated investments to expand capacity for those services at the Mental Health Institutes, in jail-based programs, and in the community.
- In spite of those investments, the waitlist for competency services has been at an all-time high in the fall of 2021, and the system is operating below its funded capacity, including 95 beds at CMHIP that are currently unusable because of staffing shortages and unit closures. In the current year, the Department is using both fines paid under the consent decree and federal stimulus funds (from the American Rescue Plan Act of 2021) to contract for a total of 74 additional private beds for competency services.
- Lack of compliance with the terms of the Consent Decree resulted in \$10.0 million in fines in FY 2019-20. Fines were reduced in FY 2020-21 and FY 2021-22 because of external circumstances related to COVID-19. However, staff and the Department anticipate that the State will incur more than \$10.0 million in fines and consent decree costs in FY 2022-23.

RECOMMENDATION

Staff recommends that the Committee discuss the status of competency services with the Department at the upcoming hearing. Specifically, staff recommends that the Committee ask the Department to address:

- The drivers of the growing waitlist for competency services and likely budgetary implications of the lack of compliance with the Consent Decree.
- Its plan to staff the Mental Health Institute at Pueblo and reopen the closed units.
- The anticipated impact of operating the 44 additional beds at Fort Logan as proposed in request R2 on competency services and compliance with the consent decree.
- Its ongoing efforts to work cooperatively with local behavioral healthcare providers and stakeholders within the criminal justice system to implement community-based competency restoration education services that are integrated with locally available behavioral health services as required by S.B. 17-012.
- Any additional options that could allow the State to achieve compliance with the consent decree and provide competency services in a timely manner.

DISCUSSION

For over a decade, the Department of Human Services and the General Assembly have been working to address issues related to competency evaluation and restoration services. Previous JBC Staff briefings have provided significant historical context and detail on this topic, including the General Assembly's many efforts through funding and legislation to address competency issues.²

This issue brief does not seek to repeat that historical context. Rather, this issue brief seeks to provide an update on the status of competency services and the Consent Decree with Disability Law Colorado in FY 2021-22 and looking toward FY 2022-23.

BACKGROUND

The Department of Human Services (DHS) is responsible for evaluating the competency of individuals charged with a crime and for providing competency restoration services when an individual is determined to be incompetent to proceed to trial. The Colorado Mental Health Institute at Pueblo (CMHIP) provides these services unless the Court authorizes these services to be provided in another setting such as in jail or in the community.

COMPETENCY EVALUATION

The court may order a psychiatric evaluation to determine whether an individual with pending criminal charges (the defendant) is competent to proceed at a particular stage of the criminal proceeding³. The issue of competency may be raised by the court, the defense, the prosecution, or the State Board of Parole. A defendant is determined to be "incompetent to proceed" if he or she has a mental disability or developmental disability that: (1) prevents him or her from having sufficient present ability to consult with the defense attorney with a reasonable degree of rational understanding in order to assist in the defense; or (2) prevents him or her from having a rational and factual understanding of the criminal proceedings⁴.

² For detailed discussions from prior years, see the issue briefs beginning on page 12 of the FY 2019-20 briefing (available at https://leg.colorado.gov/sites/default/files/fy2019-20_humbrf4.pdf) and on page 13 of the FY 2020-21 briefing (available at https://leg.colorado.gov/sites/default/files/fy2020-21_humbrf3.pdf).

³ Section 16-8.5-101, et seq., C.R.S.

⁴ It is staff's understanding that there is a long-standing legal recognition that a criminal trial of an incompetent defendant violates the defendant's right to due process of law and the right to have assistance of counsel for his defense.

Please note that the standard for competency is lower than the standard imposed for a sanity evaluation, in part because it only measures the defendant's "present" ability rather than the defendant's mental status at the time of the crime. The competency status of a defendant can change at any time based on factors such as whether they are taking their medication consistently.

The Department of Human Services is statutorily obligated to conduct a court-ordered competency evaluation and provide a report to the court⁵. The evaluation can be conducted by or under the direction of the Department by a licensed physician who is a psychiatrist or a licensed psychologist. A competency evaluator is required to have some training in forensic competency assessments, or be in forensic training and practicing under the supervision of a psychiatrist or licensed psychologist who has forensic expertise.

The court is required to release the defendant on bond if the defendant is otherwise eligible for bond, and the court is required to order that the evaluation be conducted on an outpatient basis or at the place where the defendant is in custody. The court may, however, order the defendant placed in the custody of CMHIP to conduct an evaluation under certain circumstances⁶. The Department refers to evaluations that occur at CMHIP, within the Restoring Individuals Safely and Effectively (RISE) Program, or in private inpatient psychiatric beds as "inpatient" evaluations⁷. An "outpatient" evaluation is also conducted by CMHIP staff or CMHIP contractors, but the evaluation is done at the county jail, prison, or juvenile detention facility where the defendant is in custody, or at another location in the community if the defendant is released on bond.

Not all competency evaluation orders result in the completion of a competency report to the court, as the competency examination order may be subsequently withdrawn by the court for a variety of reasons (e.g., the charges were dropped or new orders were issued to change the evaluation location between inpatient and outpatient settings).

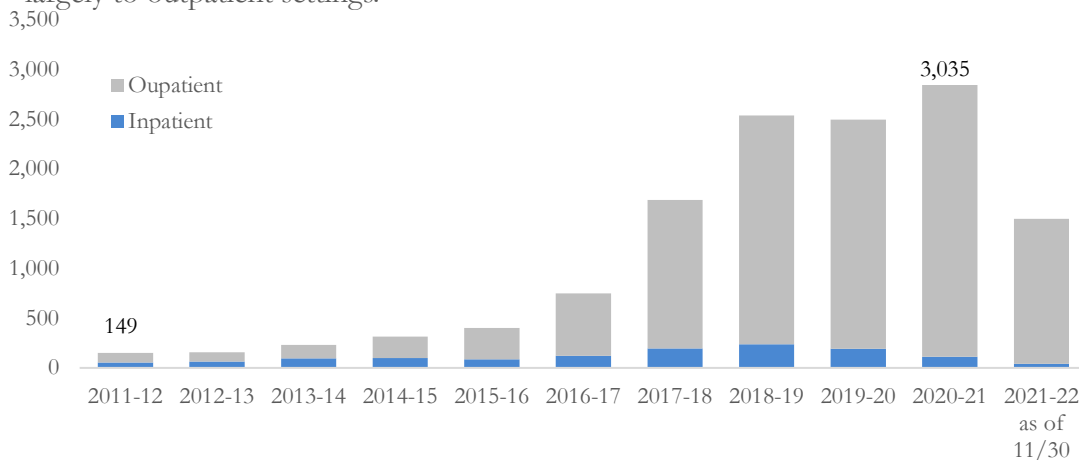
The number of court ordered competency evaluations has grown dramatically in recent years, from 149 in FY 2011-2 to 3,035 in FY 2020-21 (see the chart on the following page). Staff notes that the vast majority of the evaluations are now provided in an outpatient setting, most often in jail (rather than transferring to CMHIP for the evaluations).

⁵ Please note that while H.B. 18-1109 created a process for the State Board of Parole to refer a case to the sentencing trial court for a finding of competency, the Department of Human Services is not responsible for conducting the competency evaluation and is not required to take custody of an offender for competency restoration services.

⁶ See the description of H.B. 16-1410 in Appendix E for details about the circumstances under which the court may order the defendant placed in the custody of CMHIP for the evaluation.

⁷ Please note that there are a few individuals who are routed for admission and treatment at the Colorado Mental Health Institute at Fort Logan.

The number of court ordered competency evaluations has grown dramatically in the past 10 years, although the exams have shifted largely to outpatient settings.



COMPETENCY RESTORATION SERVICES

If a defendant is determined competent to proceed, the court orders that the suspended proceeding continue (or, if a mistrial has been declared, the court resets the case for trial). If a defendant is determined to be incompetent to proceed, the court has two options⁸:

- If the defendant is on bond or summons, the court is required to consider whether restoration to competency should occur on an outpatient and out-of-custody basis. The court may require, as a condition of bond, that the defendant obtain any treatment or habilitation services that are available to the defendant in the community (such as inpatient or outpatient treatment at a community mental health center⁹). However, statute establishes a presumption that the incompetency of the defendant will inhibit the ability of the defendant to ensure his or her presence for trial.
- If the court finds the defendant is not eligible for release from custody, the court may commit the defendant to the custody of the Department so that the defendant can receive restoration to competency services on an inpatient basis.

It is staff's understanding that services that are provided to restore an individual's competency may differ from those provided to a patient with a different legal standing (e.g., an involuntary civil commitment), and may not necessarily address all of a patient's symptoms or mental health needs¹⁰.

The Department currently utilizes a multidisciplinary team consisting a psychiatrist, psychologist, social worker, nursing staff, mental health clinicians, and other clinical disciplines. Once the defendant's multidisciplinary treatment team determines that competency has been restored, the Department conducts a competency evaluation. If the Department evaluator agrees, the Department prepares a report to the court; the court determines whether the defendant is restored to competency.

⁸ Section 16-8.5-111, C.R.S.

⁹ Section 16-8.5-111, C.R.S., states that the court is not authorized to order community mental health centers or other providers to provide treatment for persons not otherwise eligible for these services.

¹⁰ In a 2003 decision [*Sell v. United States*, 539 U.S. 166 (2003)], the U.S. Supreme Court imposed limits on the right of a lower court to order the forcible administration of antipsychotic medication to a criminal defendant who had been determined to be incompetent to stand trial for the sole purpose of making them competent and able to be tried.

At such time as the Department recommends to the court that the defendant is restored to competency, the defendant may be returned to custody of the county jail or to previous bond status and the case proceeds. The court is required to credit any time the defendant spent in confinement.

An individual may not be confined for purposes of receiving competency restoration treatment for a period in excess of the maximum term of confinement that could be imposed for the offenses with which the defendant is charged, less any earned time¹¹. The court is required to review the case at least every three months with regard to the probability that the defendant will eventually be restored to competency and the need for continued confinement.

If the court finds that there is substantial probability that the defendant will not be restored to competency within the foreseeable future, the court may order the release of the defendant from commitment through one or more of the following options¹²:

- Upon motion of the district attorney or the defense, the court may terminate the proceeding.
- The court may order release of the defendant on bond with conditions.
- The court or a party may commence a civil proceeding for involuntary commitment if the defendant meets the requirements for such commitment¹³.
- The court or a party may initiate an action to restrict the rights of an individual with a developmental disability who is eligible for services¹⁴.

Senate Bill 17-012 established the Department's Office of Behavioral Health (OBH) as the agency responsible for the oversight of competency restoration education and coordination of services for both juveniles and adults.

Similar to the trend in evaluations, the number of court ordered restoration services has also increased dramatically in the past 10 years. The following chart illustrates changes in the number of court-ordered competency *restorations* since FY 2011-12, with the most significant increases occurring in the last four fiscal years. The chart breaks out the setting in which the restoration treatment was provided (inpatient includes both CMHIP and the RISE program). While the number of court orders that allow competency restoration to happen on an outpatient basis has increased, the majority (56.0 percent) were still required to be conducted on an inpatient basis in FY 2020-21.

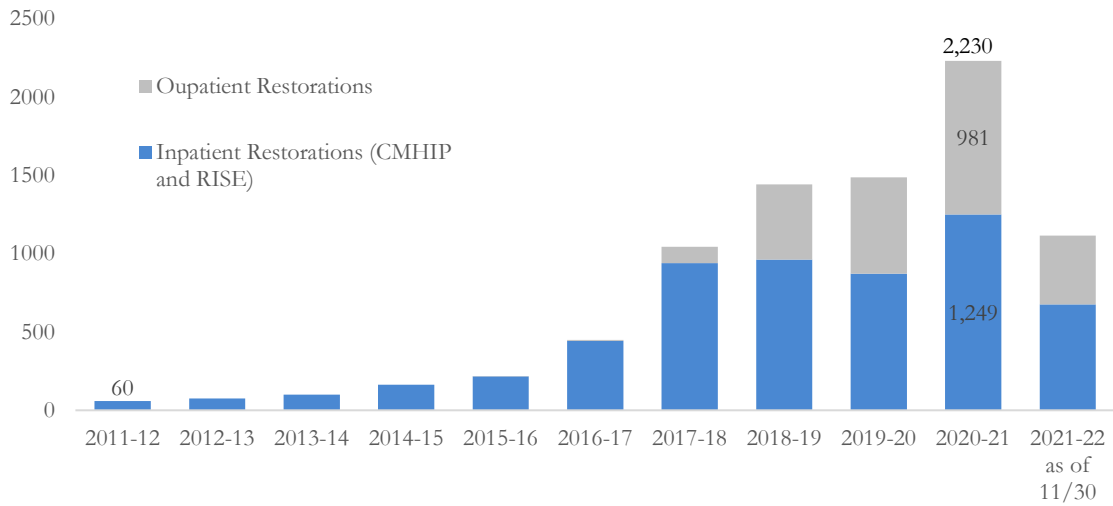
¹¹ Section 16-8.5-116 (1), C.R.S.

¹² Section 16-8.5 116 (2), C.R.S.

¹³ Article 65 of Title 27, C.R.S.

¹⁴ Article 10.5 of Title 27, C.R.S.

The number of court ordered restorations has also grown dramatically since FY 2011-12.



INCREASING FUNDED CAPACITY – BUT STILL NOT MEETING DEMAND

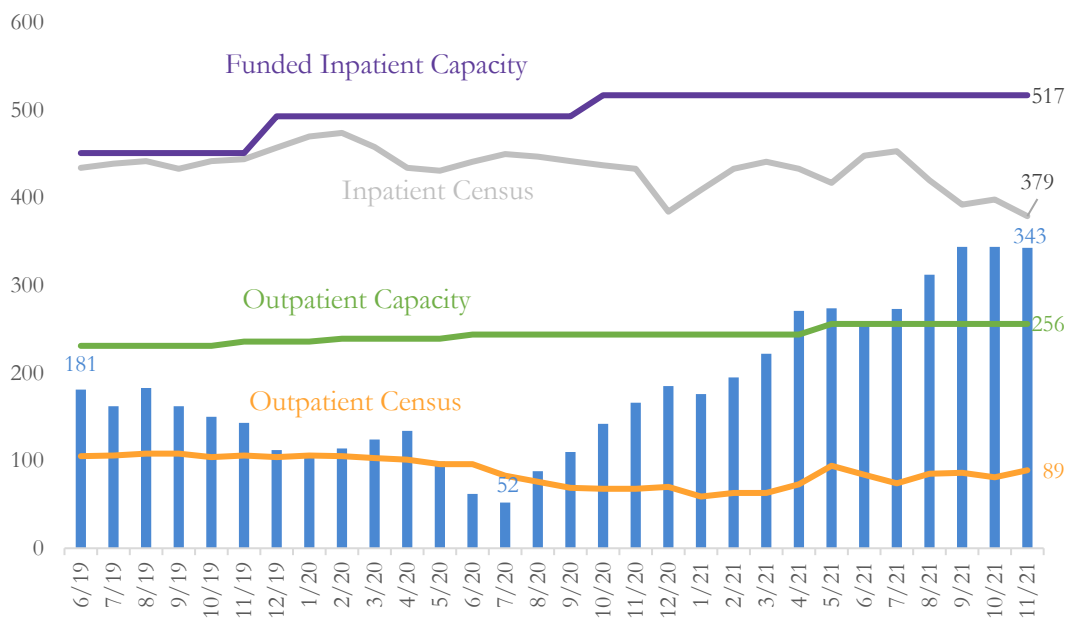
The General Assembly has taken repeated actions to increase capacity for competency services at both CMHIP and at RISE, with total inpatient capacity (including the Institutes and RISE) increasing from 289 beds in FY 2012-13 to 517 funded beds in the FY 2021-22 appropriation.

- Those changes have included adding units at CMHIP and shifting existing capacity from civil beds to forensic beds, increasing forensic capacity but decreasing the beds and services that would otherwise have been available for civil patients. However, staff notes that the “funded capacity” at CMHIP is currently an illusion. While the FY 2021-22 appropriation assumes that CMHIP should have 516 total beds available (including 270 forensic beds and 94 civil beds), staffing shortages have forced the complete closure of three units and partial closure of two additional units, reducing CMHIP’s actual capacity by 95 beds. The census as of December 6, 2021 is 364 occupied beds. At present, the Institute’s adolescent beds are the only beds that are accessible to the public. The other civil patients all started as forensic patients but their status shifted to civil during their stay at CHMIP.
- The RISE program has also grown, from 22 beds in the initial appropriation to 114 by FY 2020-21. In FY 2021-22, the Department has adjusted the contract to account for a bed guarantee of 92 beds to account for the program’s beds that are actually utilized and an increased bed rate from the Arapahoe County Sheriff’s Department. The contract has an upper limit of 114 beds.
- In addition, the Department has General Fund appropriations to cover 8 additional private psychiatric beds. In the current year, the Department is also using a temporary allocation from the Consent Decree fines (as authorized by the Fines Committee) to cover an *additional* 12 private beds at a newly established Denver Restoration Unit. The Fines Committee approved the use of the consent decree funds on a time-limited basis during the pandemic, and those funds are not from the Department’s appropriations. According to the Department, those changes were necessary because increased levels of acuity were not appropriate for the available RISE beds.
- Recognizing the shortfall and growing waitlist for competency services (discussed below), the Governor’s Office has also allocated \$19.7 million in federal stimulus funds from the American Rescue Plan Act of 2021 to contract for an additional 64 competency beds in private hospitals in the current year.

In spite of increasing investments in capacity for inpatient competency services, the Department has experienced a significant increase in the waitlist for competency services since July 2020. The chart on the following page attempts to summarize the major relevant variables.

- As shown by the blue bars in the chart, the waitlist has grown from a low of 52 individuals awaiting services in June 2020 to more than 340 individuals as of the end of November 2021 (the waitlist bars reflect the actual waitlist as of the last day of each month since June 2019).
- As shown by the various lines on the chart, the actual census appears to fall well below the funded capacity for both inpatient and outpatient services for much of the period shown, with a larger gap since the waitlist started growing in 2020.

After making progress through July 2020, the [competency waitlist \(bars\)](#) has grown to 343 individuals as of 11/30/21, while the system is operating at less than full capacity.



IMPLICATIONS FOR THE CONSENT DECREE AND APPROPRIATIONS

In March 2019, DHS reached an agreement with the plaintiffs in a federal lawsuit concerning the length of time that pre-trial detainees wait for court-ordered competency services. The parties filed the agreement in federal court in the form of a consent decree. The consent decree resolves the lawsuit and replaces the previous Settlement Agreement. The consent decree will be legally binding and judicially enforceable through December 1, 2025 (unless the Department sustains a two-year period of compliance, in which case the Consent Decree is terminated). Until the consent decree is terminated, DHS' compliance will be overseen by the Court and a Special Master (Groundswell Services, Inc., and its team of forensic mental health experts).

The consent decree requires CDHS to take a number of actions (for detail on the broader requirements of the decree, please see the FY 2020-21 JBC Staff Briefing Document for the Office of Behavioral Health).¹⁵ Directly relevant to this discussion, the consent decree **establishes a new set**

¹⁵ See discussion beginning on page 21 at: https://leg.colorado.gov/sites/default/files/fy2020-21_humbrf3.pdf

of timeframes for competency evaluation and restoration services and reduces those timeframes over time.

- For competency evaluations, the consent decree requires CDHS to offer admission for inpatient competency evaluations within 21 days as of June 1, 2019, and within 14 days as of July 1, 2020. For competency evaluations conducted in a county jail, DHS is required to complete the evaluation within 28 days as of June 1, 2019, and within 21 days as of July 1, 2020¹⁶.
- For competency restoration services, CDHS must offer inpatient treatment with seven days to pretrial detainees who have been ordered to receive inpatient restoration treatment and who: (1) appear to have a mental health disorder that results in the individual being a danger to others or to him or herself, or to be gravely disabled; or (2) have a mental health disorder and delaying hospitalization beyond seven days would cause harm to the individual or to others. For other pretrial detainees who have been ordered to receive inpatient competency restoration treatment, the consent decree establishes maximum timeframes for DHS to offer admission that start at 56 days as of June 1, 2019, and progressively decrease over time to 28 days by July 1, 2021.

In addition, the consent decree establishes fines for each day that a pretrial detainee waits for services beyond those specified timeframes.

- The fines range from \$100 to \$500 per detainee per day, and the consent decree capped the total amount of fines at \$10.0 million for FY 2019-20. That cap increases based on inflation in subsequent years, however, and the Department and JBC Staff anticipate that the State will owe more than \$10.0 million in FY 2022-23.
- Actual fines and costs paid for the consent decree were lower in FY 2020-21 (\$2.0 million) based on impacts associated with COVID-19. Similarly, it is staff's understanding that the cap on fines and associated costs for FY 2021-22 aligns with the current year appropriation of \$6.0 million General Fund.
- However, for FY 2022-23, it is staff's understanding that the cap will increase above \$10.0 million based on inflationary increases since 2020. The Department currently estimates that fines and fees could be between \$10.6 million and \$11.0 million in FY 2022-23. At this time the Department has not requested any increase in funding associated with the consent decree.

Staff recommends discussing the outlook for competency proceedings with the Department at the upcoming hearing. Based on the available information, it appears likely that the consent decree fines and fees will reach the anticipated cap, even with the anticipated increase in capacity associated with request R2 and the Governor's use of federal funds to contract for private beds.

¹⁶ These timeframes apply to the following 20 counties: Adams; Alamosa; Arapahoe; Boulder; Broomfield; Crowley; Custer; Denver; Douglas; El Paso; Elbert; Fremont; Huerfano; Jefferson; Larimer; Mesa; Otero; Pueblo; Teller; and Weld. The remaining counties are subject to longer timeframes associated with a "hold and wait" process that requires the sheriff to transport the individual to nearest county where services are available, with longer applicable timeframes.

BEHAVIORAL HEALTH WORKFORCE CHALLENGES

Behavioral health service providers, including both state facilities such as the Mental Health Institute at Pueblo (CMHIP) and other safety net providers such as the community mental health centers, are facing significant workforce challenges. With approximately 324 vacant positions as of November 30, 2021 (representing a 26.1 percent vacancy rate), CMHIP is not operating at capacity because it is currently unable to staff several of the facility's units, leaving 95 beds vacant and unavailable. According to the Colorado Behavioral Health Council, as of November 2, 2021, the State's community mental health centers (CMHCs) had a total of 1,092 vacant positions (including 859 clinical), representing 16.3 percent of the total CMHC workforce (and 16.2 percent of clinical positions).

SUMMARY

- Like many employers, the State's behavioral healthcare system is facing significant staffing shortages.
- CMHIP currently has approximately 324 vacant positions, a vacancy rate of 26.1 percent. According to the Department, those vacancies have forced the complete closure of three units and the partial closure of two additional units, rendering 95 beds (18.4 percent of the Institute's potential capacity) unusable. Reduced capacity at CMHIP has consequences for both patient services and the State's ability to comply with the consent decree for forensic competency services as discussed in the previous issue brief.
- Many community mental health centers also face serious staffing shortfalls, with more than 1,000 vacancies statewide based on survey data from October 2021, creating potential challenges to patients attempting to access care. Clinical positions account for approximately 80 percent of those vacancies. The Colorado Behavioral Healthcare Council has proposed a one-time expenditure of \$50.0 million to address workforce challenges through the Behavioral Health Transformational Task Force as well as a targeted provider rate increase for behavioral healthcare providers.

RECOMMENDATION

Staff recommends that the Committee discuss the field's workforce challenges with the Department at the upcoming hearing. Staff recommends that the discussions include both the impact of staffing challenges at CMHIP on the State's ability to achieve compliance with the consent decree and the impact of staffing challenges in the community mental health centers (and potentially throughout the system of behavioral health providers) on behavioral health services statewide.

DISCUSSION

The current (and widespread) challenges in hiring and retaining employees are also affecting Colorado's behavioral health care system. This issue brief focuses on two illustrative examples: the staffing shortages at CMHIP (state employees) and at the community mental health centers (private, non-profit providers). Both components of the system are facing significant staff shortages among both clinical and non-clinical staff. Those shortages have implications for both services and, particularly in the case of CMHIP, for the state budget.

MENTAL HEALTH INSTITUTE AT PUEBLO (CMHIP)

According to the Department, as of November 30, 2021, CMHIP had 323.9 vacant FTE, representing 26.1 percent of the Institute's 1,239.2 budgeted positions for FY 2021-22.¹⁷ It is staff's understanding that health care providers statewide (and nationwide) are facing particularly acute shortages of nurses. The same is true at CMHIP.

- CMHIP has approximately 237 vacant nursing positions (a 34.5 percent vacancy rate), making up more than two-thirds of the Institute's total vacancies.
- Other job classes with *vacancy rates* above 20 percent (though the number of positions is well below the nurse vacancies) include: rehabilitation services (3 vacancies and 31.6 percent), hospital police (7.5 vacancies and 29.4 percent), occupational therapy (2 vacancies and 28.6 percent), recreation therapy (3.0 vacancies and 31.6 percent), psychology (8 vacancies and 21.9 percent), and social services (8.5 vacancies and 20.7 percent).

According to the Department, the vacancies at CMHIP have forced the complete closure of three units and the partial (half) closure of two additional units, leaving a total of 95 beds vacant and unavailable. Given the challenges facing the Department with the consent decree (see previous issue brief) and the important role of CMHIP providing competency services as the State works to achieve compliance with the Consent Decree, the ongoing closure of those units will presumably contribute to increasing fines if the State is unable to achieve compliance.

Similar to the situation with community mental health centers discussed below, it is staff's understanding that several factors may contribute to the ongoing staffing challenges at CMHIP, including:

- A "shallower" labor pool simply because of the location of the Institute and the smaller population size in Pueblo.
- Increasing levels of competition among employers in both health care (such as competing with private hospitals for nursing staff) and for positions that are not direct care (including, for example, food services). Competition may come in the form of pay, other benefits, flexible work environments, different stress levels, etc.
- The staffing shortages may also contribute to a cycle of increasing hours for remaining staff, resulting burnout, and additional departures.

Staff recommends that the Committee discuss the staffing challenges at CMHIP with the Department at the upcoming hearing, the implications for compliance with the consent decree and patients in need of CMHIP's services, and the Department's plans to address those shortages.

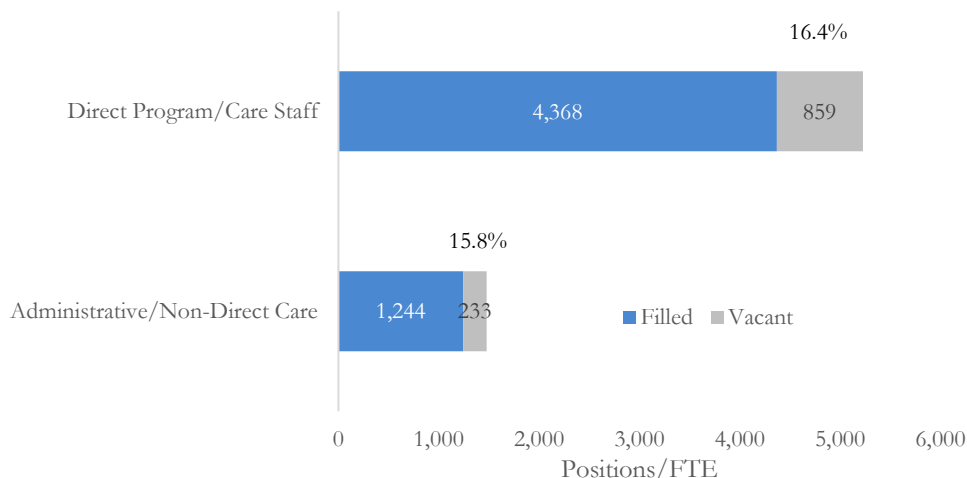
COMMUNITY MENTAL HEALTH CENTERS (CMHCs)

According to data provided by the Colorado Behavioral Healthcare Council (CBHC), the State's network of community mental health centers is also facing critical staffing shortages, and staff notes CMHCs have cited workforce challenges as the highest priority concern in nearly all of staff's discussions with the centers this fall. As shown in the following chart, the CMHCs reported 1,092

¹⁷ The FY 2021-22 *appropriation* reflects 1,058.9 FTE for CMHIP. The Department's vacancy data are based on positions which are not directly equivalent to the appropriated FTE. Their reported vacancies would represent 30.6 percent of the appropriated FTE count.

vacancies as of November 2, 2021, including 859 direct care positions (16.4 percent vacancy rate) and 233 administrative or non-direct care positions (15.8 percent).

Community mental health centers also face large vacancy rates as of November 2, 2021.



According to the CBHC, the shortages are affecting access to care, with the community mental health centers reporting reduced monthly appointment hours (reductions ranging between 2,400 and 10,000 hours) for all services.

In discussions with staff, the centers have mentioned several drivers for the current staffing shortages, including:

- Increased competition with other practices, including expanding tele-health practices such as online apps that may provide more flexibility and higher pay to treat lower acuity patients.
- Increasing departures for private practice, driven both by burnout and changes in the overall system that facilitate the transition to private practice (such as companies that will take on administrative tasks and paperwork that previously deterred going into private practice).
- Frustration with administrative workloads that take away from the time to actually serve patients.
- The CBHC has also cited inflationary impacts, decreases in purchasing power, and salary inequities compared to either other practices or similar state employees as drivers.

CBHC WORKFORCE PROPOSALS

Staff is aware of two proposals from the CBHC and community mental health centers attempting to address the centers' workforce challenges.

First, through the Behavioral Health Transformation Task Force process, the CBHC proposed to use \$50.0 million in one-time funding to extend flexible funding provided through H.B. 20-1411 (COVID-19 Funds Allocation for Behavioral Health) and S.B. 21-137 (Behavioral Health Recovery Act). The proposal would extend funding for: payroll premiums, hazard pay and retention expenses, monthly bonuses for Critical Services Direct Care staff, paid sick leave, paid leave for mandatory quarantines and to cover temporary staff during quarantines, and telehealth-enabling tools.

- Staff assumes that any action on the proposal for one-time funding will take place through the Task Force. However, staff notes that the existing COVID-19 funding from both bills is in effect now. While extending the current funding may help mitigate *additional* staffing challenges, the existing funding does not appear to have addressed the current shortages facing the centers.

Second, the CBHC has discussed a targeted provider rate increase for behavioral healthcare providers (specifically a 5.0 percent rate increase at an estimated cost of \$10.5 million General Fund, including \$4.2 million in the Office of Behavioral Health and \$6.3 million in the department of Health Care Policy and Financing), citing declining purchasing power and salary disparities.

- Staff recognizes the increasing pressure on providers, caused by both longstanding inflationary pressures and the current economic and workforce challenges. Given the widespread nature of the economic challenges facing virtually all providers (behavioral health and others), staff is not currently in a position to justify a targeted provider rate increase specific to behavioral health.

BEHAVIORAL HEALTH ADMINISTRATION

House Bill 21-1097 (Establish Behavioral Health Administration) charges the Department of Human Services, in collaboration with the Department of Health Care Policy and Financing (HCPF), the Division of Insurance (DOI, within the Department of Regulatory Agencies), and the Department of Public Health and Environment (CDPHE) to create a new Behavioral Health Administration (BHA) to improve behavioral healthcare. The bill requires the Department to develop a plan for the creation of the BHA by November 1, 2021, and requires the establishment of the BHA with specified duties by July 1, 2022. This issue brief discusses the Departments' November 1, 2021, plan for the creation of the BHA.

SUMMARY

- House Bill 21-1097 requires the Department of Human Services (CDHS), in collaboration with HCPF, the DOI, and CDPHE, to create a new Behavioral Health Administration (BHA) to improve behavioral healthcare in Colorado. The bill requires the Department to develop a plan for the creation of the BHA by November 1, 2021, requires the establishment of the BHA with specified duties by July 1, 2022, and requires the BHA to be fully formed by July 1, 2024. The BHA will be housed within CDHS until at least 2024.
- The goal of the BHA is to improve behavioral healthcare through improved coordination among the various state and local partners involved in behavioral health, data collection, oversight, and standardization. The current plan involves limited movement of programs between agencies and instead focuses on improved coordination, simplification of payment and processes for providers as well as consumers, and improved data collection and measurement to inform system changes.
- The Governor's FY 2022-23 budget request includes a placeholder of \$10.0 million General Fund associated with behavioral health. According to the Department, that amount includes \$3.0 million directly related to the BHA and \$7.0 million associated with efforts to improve the behavioral health safety net pursuant to S.B. 19-222. At this time, staff is uncertain whether to expect legislative proposals or January 2022 budget amendments for those amounts.
- The November 1, 2021, plan also anticipates legislation during the 2022 Session to clarify the design and responsibilities of the BHA and the various partner agencies.

RECOMMENDATION

Staff recommends discussing the Department's plans for the BHA, including the known budgetary implications (either for CDHS or for movements of programs between agencies) at the Department's upcoming hearing. In addition, the Committee may wish to ask about stakeholder engagement throughout the planning process.

DISCUSSION

House Bill 21-1097 (Establish Behavioral Health Administration) requires CDHS to create the BHA in collaboration with HCPF (which is a major payer for behavioral healthcare through Medicaid), the

Division of Insurance (which oversees commercial insurance), and CDPHE. The bill requires the Department to develop a plan for the creation of the BHA by November 1, 2021,¹⁸ and requires the establishment of the BHA with specified duties by July 1, 2022. The new agency will be housed within CDHS until at least 2024 and is expected to be fully implemented by that time. The intent is to make the BHA the statewide leader in behavioral healthcare, reduce fragmentation and unnecessary complexity in the system, and to improve services statewide.

ROLE OF THE BHA

While CDHS and HCPF account for the majority of state level funding for behavioral health, the inventory informing the BHA plan identified more than 100 programs spread across 9 different state departments (at least 14 state agencies) and totaling more than \$1.5 billion in total funds.¹⁹ That count does not include programs operated by local governments or other partners.

In contrast to the plan for the Department of Early Childhood (also a topic for the 2022 Session), the plan for the BHA does not involve large scale movements of programs between agencies. Instead, the plan focuses on placing responsibility for leadership and coordination with the BHA but leaving nearly all of the existing programs in place in their current departments, at least for the time being.

- The current plan proposes to move a variety of prevention-related programs and activities from the Office of Behavioral Health (OBH) to CDPHE based on the prevention responsibilities and expertise housed within CDPHE.
- Conversely, the plan proposes to move the licensing of Behavioral Health Entities from CDPHE to the BHA to centralize all licensing of behavioral health providers within the BHA. Inspection duties will remain within CDPHE with responsibilities identified through formal agreement between the two agencies.
- Both of those moves will require legislation.

Other than those limited moves, the current plan for the BHA focuses on the BHA providing leadership, coordination, and standardization across the existing programs. Key efforts identified in the plan include:

- Improved data collection and analysis to identify gaps in services and improve services and outcomes.
- Developing standards for quality of behavioral healthcare, including clinical quality, data sharing, and reporting of outcome measures.
- Improving and simplifying access to care for consumers and administration and payment for providers, including the development of a single payment system for all services that use public funding and the use of a “master contract” that would apply to all state agencies paying for behavioral health services.
- Working to expand and diversify the behavioral health workforce, particularly in light of current shortages both in Colorado and nationally.
- Working with county and local governments on planning and shared funding efforts to meet regional and community needs, with a particular focus on the needs of rural areas of the State.
- Support all consumers with complaints through a grievance and appeals process.

¹⁸ The report is available at: <https://drive.google.com/file/d/13H2jGAApljrItLdeljywwB4PvjDNcv6-/view>

¹⁹ The departments include: CDHS, HCPF, CDHPE, Corrections, Education, Judicial, Labor and Employment, and Public Safety.

GOVERNANCE STRUCTURE

As noted above, the BHA will be housed within CDHS, at least until 2024. In terms of leadership, the plan calls for the BHA to be led by a Commissioner, with assistance and advice from an advisory council representing a broad spectrum of stakeholders in behavioral health. While the Commissioner and the BHA will be within CDHS, the plan calls for the Commissioner to be a member of the Governor's cabinet and operate as a peer of the executive directors of the other departments. The Advisory Council will both support the BHA and Commissioner in their duties and provide an additional layer of accountability and reporting to the General Assembly.

As discussed below, the plan anticipates legislation in the 2022 Session to provide additional detail and guidance regarding the structure, duties, and responsibilities of the BHA, the Commissioner, and the Advisory Council (including workgroups that will support the Advisory Council).

NEAR TERM FUNDING

The plan includes a phased approach for the establishment of the BHA.

Phase I FY 2021-22 (estimated need for 13.0 FTE and \$1.2 million): The plan expects the State to begin to build the infrastructure of the BHA in the current year, including a national search to hire the BHA Commissioner as well as support staff to ensure that core functions such as human resources and financial systems are in place before the end of the year. The plan also includes proposing the authorizing legislation anticipated for the 2022 Session as well as developing the process to form the Advisory Council and moving forward with many of the responsibilities of the BHA.

The Committee should note that H.B. 21-1097 did not include an appropriation. Thus, staff assumes that an appropriation will be necessary to move forward with the expectations for the current year (either through a supplemental or through other legislation in the 2022 Session).

Phase II FY 2022-23 (estimated need for 33.0 FTE and \$2.4 million, an increase of 20.0 FTE and \$1.2 million above FY 2021-22): With the initial staff in place as of July 1, 2022, the plan would add staff and resources to build out more of the BHA infrastructure in FY 2022-23. Key goals include:

- Establishing the Advisory Council.
- Move 91.0 FTE and \$8.6 million currently in Community Behavioral Health (in OBH) into the BHA.
- Implementing the realignment of any programs designated to move between agencies for FY 2022-23 (including moving prevention programs from CDHS to CDPHE and licensing from CDPHE to the BHA).
- Develop and implement the master contract with selected state agencies.
- Begin training and capacity building efforts for providers.
- Continue conversations with Tribal Nations regarding needs, data sharing, care coordination, and reporting.
- Improved interagency agreements, data collection.

Staff notes that the Governor's FY 2022-23 budget includes a "placeholder" for \$3.0 million General Fund associated with the BHA (along with \$7.0 million that the Department has indicated is associated with improving the behavioral safety net in association with S.B. 19-222). At this time, staff does not

know whether that placeholder will be associated with legislation or a potential January 2022 budget amendment.

Phase III FY 2023-24 (estimated need for an *additional* 40.0 FTE and \$3.4 million, for a total of 164.0 FTE and \$14.4 million including the base funding and FTE from FY 2022-23): The plan calls for the BHA to be fully staffed and implemented in FY 2023-24.

The following table summarizes the plan’s projected funding needs for FY 2021-22 through FY 2023-24.

ANTICIPATED BHA FUNDING AND STAFFING - FY 2021-22 THROUGH FY 2023-24						
	FY 2021-22	FY 2022-23			FY 2023-24	
	NEW FTE	NEW FTE	MOVE FROM COMM. BEHAV. HEALTH	TOTAL FY 2022-23	NEW FTE	TOTAL FY 2023-24
FTE	13.0	20.0	91.0	124.0	40.0	164.0
Funding (Assumed General Fund)	\$1,200,000	\$1,200,000	\$8,600,000	\$11,000,000	\$3,400,000	\$14,400,000

2022 SESSION LEGISLATION

The plan for the BHA anticipates legislation in the 2022 Session to:

- Clarify the BHA’s responsibilities.
- Define the governance structure, including the roles of the Commissioner, the various state agencies, the advisory council, and the council’s workgroups.
- Outline annual reporting responsibilities.
- Provide funding updates and guidelines.
- Define the grievances and appeals process and the role of the BHA.
- Outline the requirements for formal agreements with other state agencies.
- Authorize and define the master contract to be used by state agencies with behavioral health responsibilities.
- Clean up and conform existing statute to align with BHA.

POINTS TO CONSIDER

Staff notes that the proposed plan appears to be a unique model, both within Colorado and, as staff understands it, nationally. Staff understands many of the “pros” to leaving most of the programs in place in their current agencies (e.g., aligning with other internal expertise in those agencies and avoiding the challenges of extracting “behavioral health” services from the programs in which they are embedded such as housing programs). However, staff also notes that there is inherent risk in the concept that the BHA within CDHS (or even as a stand-alone agency) will be able to direct services and behavior in other agencies or departments.

Given the model, where the BHA would be charged with leading without direct control or lines of authority, it would appear that universal “buy-in” will be particularly important, as will maintaining the BHA’s access to data and reporting that could show gaps and problems in the services administered by the BHA as well as all of the other partners. Without strong buy-in across all of the relevant agencies, staff is skeptical of the BHA’s ability to influence behavior in those other agencies.

Staff is aware of concerns from stakeholders that the proposed model will simply add another layer of bureaucracy without driving the level of change and transparency that the General Assembly and other stakeholders desire from the BHA, including ensuring that services are available for the most vulnerable consumers. Staff recommends that the Committee discuss those concerns with the Department at the upcoming hearing.

APPENDIX A
NUMBERS PAGES
(DIGITAL ONLY)

Appendix A details actual expenditures for the last two state fiscal years, the appropriation for the current fiscal year, and the requested appropriation for next fiscal year. This information is listed by line item and fund source. *Appendix A is only available in the online version of this document.*

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
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DEPARTMENT OF HUMAN SERVICES Michelle Barnes, Executive Director

(8) OFFICE OF BEHAVIORAL HEALTH

The Office of Behavioral Health is responsible for policy development, service provision and coordination, program monitoring and evaluation, and administrative oversight of the State's public behavioral health system. Funding in this section supports community-based mental health and substance use disorder services that are not otherwise available. Funding in this section also supports the administration and operation of the State's two mental health institutes. This section is primarily supported by General Fund, the Marijuana Tax Cash Fund, the federal Substance Abuse Prevention and Treatment Block Grant, transfers from the Department of Health Care Policy and Financing (originating as General Fund and federal Medicaid funds), the federal Mental Health Services Block Grant, transfers from the Judicial Branch (originating as General Fund and drug offender surcharge revenues), and patient revenues.

(A) Community Behavioral Health Administration

Funding in this section supports staff who administer community-based mental health and substance use disorder services. This section is primarily supported by the federal Substance Abuse Prevention and Treatment Block Grant, General Fund, the federal Mental Health Services Block Grant, transfers from the Judicial Branch for the Alcohol and Drug Driving Safety Program, transfers from the Department of Health Care Policy and Financing (that originate as General Fund and federal Medicaid funds), and the Marijuana Tax Cash Fund.

Personal Services	<u>9,393,587</u>	<u>9,598,490</u>	<u>8,699,444</u>	<u>9,022,204</u> *
FTE	85.9	85.1	85.1	84.6
General Fund	2,307,978	2,227,029	2,653,423	2,694,903
Cash Funds	455,824	623,089	1,744,837	1,801,818
Reappropriated Funds	783,378	1,118,740	802,250	829,040
Federal Funds	5,846,407	5,629,632	3,498,934	3,696,443
Operating Expenses	<u>408,113</u>	<u>376,055</u>	<u>368,715</u>	<u>364,137</u> *
General Fund	47,143	51,847	50,160	45,582
Cash Funds	66,453	42,501	87,668	87,668
Reappropriated Funds	11,418	9,353	12,226	12,226
Federal Funds	283,099	272,354	218,661	218,661

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
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SUBTOTAL - (A) Community Behavioral Health					
Administration	9,801,700	9,974,545	9,068,159	9,386,341	3.5%
<i>FTE</i>	<u>85.9</u>	<u>85.1</u>	<u>85.1</u>	<u>84.6</u>	<u>(0.6%)</u>
General Fund	2,355,121	2,278,876	2,703,583	2,740,485	1.4%
Cash Funds	522,277	665,590	1,832,505	1,889,486	3.1%
Reappropriated Funds	794,796	1,128,093	814,476	841,266	3.3%
Federal Funds	6,129,506	5,901,986	3,717,595	3,915,104	5.3%

(B) Community-based Mental Health Services

This section provides funding to support mental health services that are not otherwise available. Most of the services funded through this section are delivered through Colorado's 17 community mental health centers. This section is primarily supported by General Fund, the federal Mental Health Services Block Grant, and the Marijuana Tax Cash Fund.

Mental Health Community Programs	<u>42,917,418</u>	<u>40,912,987</u>	<u>41,544,501</u>	<u>36,575,050</u> *
General Fund	<u>27,584,997</u>	<u>27,370,658</u>	<u>28,054,924</u>	<u>28,335,473</u>
Cash Funds	0	0	5,250,000	0
Reappropriated Funds	0	0	0	0
Federal Funds	15,332,421	13,542,329	8,239,577	8,239,577
ACT Programs and Other Alternatives to the MHIs	<u>16,889,426</u>	<u>15,721,007</u>	<u>17,139,032</u>	<u>17,310,422</u> *
General Fund	<u>16,889,426</u>	<u>15,721,007</u>	<u>17,139,032</u>	<u>17,310,422</u>
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Mental Health Services for Juvenile and Adult Offenders	<u>5,604,786</u>	<u>4,653,735</u>	<u>5,795,078</u>	<u>5,853,029</u>	*
General Fund	0	0	0	0	
Cash Funds	5,604,786	4,653,735	5,795,078	5,853,029	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Children and Youth Mental Health Treatment Act	<u>2,962,390</u>	<u>2,929,083</u>	<u>3,130,788</u>	<u>3,162,097</u>	*
General Fund	2,544,663	2,516,052	2,578,953	2,604,743	
Cash Funds	417,727	413,031	423,357	427,591	
Reappropriated Funds	0	0	128,478	129,763	
Federal Funds	0	0	0	0	
Family First Prevention Services Act	<u>0</u>	<u>0</u>	<u>631,309</u>	<u>631,309</u>	
General Fund	0	0	631,309	631,309	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Behavioral Health Vouchers	<u>0</u>	<u>0</u>	<u>50,000</u>	<u>50,500</u>	*
General Fund	0	0	50,000	50,500	
Involuntary Mental Health Care and Treatment	<u>0</u>	<u>0</u>	<u>0</u>	<u>50,000</u>	*
General Fund	0	0	0	50,000	
Veteran Suicide Prevention Pilot Program	<u>0</u>	<u>0</u>	<u>1,660,000</u>	<u>2,936,600</u>	*
General Fund	0	0	1,660,000	2,936,600	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
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SUBTOTAL - (B) Community-based Mental Health					
Services	68,374,020	64,216,812	69,950,708	66,569,007	(4.8%)
<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	47,019,086	45,607,717	50,114,218	51,919,047	3.6%
Cash Funds	6,022,513	5,066,766	11,468,435	6,280,620	(45.2%)
Reappropriated Funds	0	0	128,478	129,763	1.0%
Federal Funds	15,332,421	13,542,329	8,239,577	8,239,577	0.0%

(C) Substance Use Treatment and Prevention Services

This section provides funding to support community-based substance use-related services that are not otherwise available. Most of the funding in this section is administered by "managed service organizations" (MSOs). These organizations subcontract with local treatment providers to serve indigent individuals within a specified region. This section is primarily supported by the federal Substance Abuse Prevention and Treatment Block Grant, the Marijuana Tax Cash Fund, General Fund, the Persistent Drunk Driver Cash Fund, transfers from the Department of Health Care Policy and Financing (which originate as General Fund and federal Medicaid funds), and transfers from the Judicial Branch (which originate as General Fund and drug offender surcharge revenue).

Treatment and Detoxification Programs	<u>59,878,485</u>	<u>47,832,440</u>	<u>40,641,682</u>	<u>39,427,989</u> *
FTE	0.0	2.1	2.1	2.1
General Fund	12,928,000	12,204,598	14,795,588	13,127,588
Cash Funds	2,089,448	4,152,146	6,652,627	7,106,934
Reappropriated Funds	0	0	0	0
Federal Funds	44,861,037	31,475,696	19,193,467	19,193,467
 Increasing Access to Effective Substance Use Disorder Services	<u>16,175,557</u>	<u>13,822,640</u>	<u>25,806,622</u>	<u>15,964,688</u> *
General Fund	0	13,822,640	0	0
Cash Funds	16,175,557	0	25,806,622	15,964,688
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Prevention Contracts	<u>6,259,140</u>	<u>5,078,788</u>	<u>6,418,993</u>	<u>6,419,361</u>	*
General Fund	27,695	35,930	36,828	37,196	
Cash Funds	484,234	23,508	51,149	51,149	
Reappropriated Funds	0	0	0	0	
Federal Funds	5,747,211	5,019,350	6,331,016	6,331,016	
Community Prevention and Treatment Programs	<u>2,379,633</u>	<u>1,859,611</u>	<u>6,168,558</u>	<u>6,444,096</u>	*
FTE	0.0	0.0	0.0	0.0	
General Fund	9,800	10,087	10,339	10,339	
Cash Funds	2,369,833	1,849,524	2,770,401	3,045,939	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	3,387,818	3,387,818	
Housing Assistance for Individuals with a Substance use Disorder	<u>0</u>	<u>0</u>	<u>4,000,000</u>	<u>4,040,000</u>	*
FTE	0.0	0.0	1.0	1.0	
General Fund	0	0	4,000,000	4,040,000	
Offender Services	<u>4,514,851</u>	<u>3,656,118</u>	<u>4,602,018</u>	<u>4,648,038</u>	*
FTE	0.0	0.0	0.0	0.0	
General Fund	3,061,082	2,176,513	3,096,845	3,127,813	
Cash Funds	0	0	0	0	
Reappropriated Funds	1,453,769	1,479,605	1,505,173	1,520,225	
Federal Funds	0	0	0	0	
Recovery Residence Certification Program	<u>0</u>	<u>0</u>	<u>200,000</u>	<u>202,000</u>	*
General Fund	0	0	200,000	202,000	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
High Risk Pregnant Women Program	<u>0</u>	<u>1,183,268</u>	<u>1,865,775</u>	<u>1,884,432</u> *	
General Fund	0	0	0	0	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	1,183,268	1,865,775	1,884,432	
Federal Funds	0	0	0	0	
Gambling Addiction Counseling Services	<u>49,997</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	49,997	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
SUBTOTAL -	89,257,663	73,432,865	89,703,648	79,030,604	(11.9%)
<i>FTE</i>	<u>0.0</u>	<u>2.1</u>	<u>3.1</u>	<u>3.1</u>	0.0%
General Fund	16,026,577	28,249,768	22,139,600	20,544,936	(7.2%)
Cash Funds	21,169,069	6,025,178	35,280,799	26,168,710	(25.8%)
Reappropriated Funds	1,453,769	2,662,873	3,370,948	3,404,657	1.0%
Federal Funds	50,608,248	36,495,046	28,912,301	28,912,301	0.0%
SUBTOTAL - (C) Substance Use Treatment and Prevention Services	89,257,663	73,432,865	89,703,648	79,030,604	(11.9%)
<i>FTE</i>	<u>0.0</u>	<u>2.1</u>	<u>3.1</u>	<u>3.1</u>	0.0%
General Fund	16,026,577	28,249,768	22,139,600	20,544,936	(7.2%)
Cash Funds	21,169,069	6,025,178	35,280,799	26,168,710	(25.8%)
Reappropriated Funds	1,453,769	2,662,873	3,370,948	3,404,657	1.0%
Federal Funds	50,608,248	36,495,046	28,912,301	28,912,301	0.0%

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
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(D) Integrated Behavioral Health Services

This section provides funding for: a statewide behavioral health crisis response system; behavioral health services for individuals with co-occurring mental health and substance use disorders; behavioral health services and supports for individuals transitioning from the mental health institutes to the community; and community-based mental health and substance use disorder services for individuals involved in the criminal justice system and other specialized populations. This section is supported by General Fund, the Marijuana Tax Cash Fund, and transfers from the Judicial Branch (which originate as General Fund and drug offender surcharge revenue).

Crisis Response System - Walk-in, Stabilization, Mobile,

Residential, and Respite Services	<u>28,079,269</u>	<u>27,673,982</u>	<u>29,426,188</u>	<u>29,220,222</u> *
General Fund	24,081,881	23,841,061	25,369,839	25,123,310
Cash Funds	3,997,388	3,832,921	4,056,349	4,096,912
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Behavioral Health Crisis Response System Secure

Transportation Pilot Programs	<u>546,639</u>	<u>0</u>	<u>554,839</u>	<u>554,839</u>
General Fund	0	0	0	0
Cash Funds	546,639	0	554,839	554,839
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Crisis Response System - Telephone Hotline

General Fund	<u>3,698,556</u>	<u>3,503,226</u>	<u>3,933,577</u>	<u>3,969,485</u> *
General Fund	3,538,410	3,503,226	3,590,807	3,626,715
Cash Funds	160,146	0	342,770	342,770
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Crisis Response System - Marketing	<u>588,377</u>	<u>0</u>	<u>600,000</u>	<u>600,000</u>	
General Fund	588,377	0	600,000	600,000	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Community Transition Services	<u>6,211,134</u>	<u>6,460,012</u>	<u>7,914,874</u>	<u>7,443,069</u>	*
General Fund	6,211,134	6,460,012	7,414,874	7,443,069	
Cash Funds	0	0	500,000	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Criminal Justice Diversion Programs	<u>5,253,026</u>	<u>6,596,133</u>	<u>7,363,860</u>	<u>62,859</u>	*
FTE	2.1	2.3	2.3	0.0	
General Fund	659,074	1,019,331	1,590,927	0	
Cash Funds	4,593,952	5,576,802	5,772,933	62,859	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Jail-based Behavioral Health Services	<u>9,112,250</u>	<u>13,046,565</u>	<u>19,653,000</u>	<u>23,703,416</u>	2.3 *
General Fund	3,491,651	6,006,513	7,370,295	10,577,447	
Cash Funds	0	0	5,000,000	5,772,933	
Reappropriated Funds	5,620,599	7,040,052	7,282,705	7,353,036	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Circle Program and Other Rural Treatment Programs for					
People with Co-occurring Disorders	<u>8,220,050</u>	<u>6,235,984</u>	<u>8,326,221</u>	<u>8,383,527</u> *	
General Fund	3,090,019	0	595,608	595,608	
Cash Funds	3,130,031	4,235,984	5,730,613	5,787,919	
Reappropriated Funds	2,000,000	2,000,000	2,000,000	2,000,000	
Federal Funds	0	0	0	0	
Recovery Support Services Grant program	<u>0</u>	<u>0</u>	<u>1,600,000</u>	<u>1,616,000</u> *	
FTE	0.0	0.0	1.0	1.0	
General Fund	0	0	1,600,000	1,616,000	
Pilot Program for Residential Placement of Children and Youth with High Acuity Physical, Mental Health, or Behavioral Health Needs	<u>0</u>	<u>0</u>	<u>5,000,000</u>	<u>0</u>	
Cash Funds	0	0	5,000,000	0	
988 Crisis Hotline	<u>0</u>	<u>0</u>	<u>5,687,692</u>	<u>11,848,150</u> *	
FTE	0.0	0.0	1.9	2.0	
Cash Funds	0	0	5,687,692	11,848,150	
SB 137 Federal Stimulus Funds	<u>0</u>	<u>0</u>	<u>64,000,000</u>	<u>0</u>	
Cash Funds	0	0	64,000,000	0	
Medication Consistency and Health Information Exchange	<u>1,069,077</u>	<u>380,700</u>	<u>760,700</u>	<u>760,700</u>	
General Fund	0	0	0	0	
Cash Funds	1,069,077	380,700	760,700	760,700	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
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SUBTOTAL - (D) Integrated Behavioral Health					
Services	62,778,378	63,896,602	154,820,951	88,162,267	(43.1%)
<i>FTE</i>	<u>2.1</u>	<u>2.3</u>	<u>5.2</u>	<u>5.3</u>	1.9%
General Fund	41,660,546	40,830,143	48,132,350	49,582,149	3.0%
Cash Funds	13,497,233	14,026,407	97,405,896	29,227,082	(70.0%)
Reappropriated Funds	7,620,599	9,040,052	9,282,705	9,353,036	0.8%
Federal Funds	0	0	0	0	0.0%

(E) Mental Health Institutes

The Department administers and operates two mental health institutes providing inpatient hospitalization for individuals with serious mental illness. The mental health institutes provide comprehensive psychiatric, psychological, rehabilitation, and therapeutic care. This section is primarily supported by General Fund, transfers from the Department of Health Care Policy and Financing (which originate as General Fund and federal Medicaid funds), patient revenues, transfers from the Department of Corrections (DOC) for food services provided by the mental health institute to DOC facilities located on the Pueblo campus, and the Marijuana Tax Cash Fund.

(1) Mental Health Institute - Ft. Logan

Personal Services	<u>16,099,022</u>	<u>21,816,796</u>	<u>23,487,985</u>	<u>30,534,392</u> *
FTE	216.2	216.2	216.2	291.0
General Fund	14,372,363	20,148,750	21,751,757	28,780,796
Cash Funds	1,699,980	1,642,370	1,642,140	1,659,223
Reappropriated Funds	26,679	25,676	94,088	94,373
Federal Funds	0	0	0	0
 Contract Medical Services	 <u>815,297</u>	 <u>596,058</u>	 <u>815,297</u>	 <u>815,897</u> *
General Fund	815,297	596,058	815,297	815,897
Cash Funds	0	0	0	0
Reappropriated Funds	0	0	0	0
Federal Funds	0	0	0	0

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Operating Expenses	<u>1,327,663</u>	<u>1,169,178</u>	<u>1,066,793</u>	<u>2,378,321</u> *	
General Fund	1,190,278	1,054,416	925,278	2,236,806	
Cash Funds	114,762	114,762	117,612	117,612	
Reappropriated Funds	22,623	0	23,903	23,903	
Federal Funds	0	0	0	0	
Capital Outlay	<u>112,916</u>	<u>107,948</u>	<u>112,916</u>	<u>112,916</u>	
General Fund	112,916	107,948	112,916	112,916	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Pharmaceuticals	<u>1,368,888</u>	<u>1,223,761</u>	<u>1,328,473</u>	<u>1,611,596</u> *	
General Fund	1,274,852	1,129,725	1,211,865	1,494,988	
Cash Funds	94,036	94,036	94,036	94,036	
Reappropriated Funds	0	0	22,572	22,572	
Federal Funds	0	0	0	0	
SUBTOTAL -	19,723,786	24,913,741	26,811,464	35,453,122	32.2%
<i>FTE</i>	<u>216.2</u>	<u>216.2</u>	<u>216.2</u>	<u>291.0</u>	<u>34.6%</u>
General Fund	17,765,706	23,036,897	24,817,113	33,441,403	34.8%
Cash Funds	1,908,778	1,851,168	1,853,788	1,870,871	0.9%
Reappropriated Funds	49,302	25,676	140,563	140,848	0.2%
Federal Funds	0	0	0	0	0.0%

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
(2) Mental Health Institute - Pueblo					
Personal Services	<u>195,036,712</u>	<u>87,231,761</u>	<u>97,177,601</u>	<u>99,060,633</u>	*
FTE	1,026.3	1,056.2	1,056.2	1,056.2	
General Fund	88,436,626	76,400,255	85,768,247	87,575,426	
Cash Funds	95,569,159	3,755,180	3,755,180	3,792,675	
Reappropriated Funds	3,376,753	7,076,326	7,654,174	7,692,532	
Federal Funds	7,654,174	0	0	0	
Contract Medical Services	<u>2,684,664</u>	<u>2,033,942</u>	<u>3,384,664</u>	<u>2,786,464</u>	*
General Fund	2,684,664	2,033,942	3,384,664	2,786,464	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Operating Expenses	<u>7,137,397</u>	<u>7,196,400</u>	<u>7,966,424</u>	<u>8,019,805</u>	*
General Fund	3,708,889	3,763,142	4,385,551	4,385,551	
Cash Funds	395,155	399,905	399,905	399,905	
Reappropriated Funds	3,033,353	3,033,353	3,180,968	3,234,349	
Federal Funds	0	0	0	0	
Capital Outlay	<u>324,068</u>	<u>324,815</u>	<u>324,068</u>	<u>324,068</u>	
General Fund	324,068	324,815	324,068	324,068	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Pharmaceuticals	<u>4,336,782</u>	<u>4,711,043</u>	<u>4,114,182</u>	<u>4,714,182</u> *	
General Fund	4,103,660	4,477,561	3,880,700	4,480,700	
Cash Funds	195,861	195,861	195,861	195,861	
Reappropriated Funds	37,261	37,621	37,621	37,621	
Federal Funds	0	0	0	0	
Educational Programs	<u>216,554</u>	<u>122,846</u>	<u>236,402</u>	<u>236,402</u>	
FTE	2.7	2.7	2.7	2.7	
General Fund	31,094	31,094	31,094	31,094	
Cash Funds	0	0	0	0	
Reappropriated Funds	136,190	64,510	205,308	205,308	
Federal Funds	49,270	27,242	0	0	
SUBTOTAL -	209,736,177	101,620,807	113,203,341	115,141,554	1.7%
<i>FTE</i>	<u>1029.0</u>	<u>1058.9</u>	<u>1058.9</u>	<u>1058.9</u>	(0.0%)
General Fund	99,289,001	87,030,809	97,774,324	99,583,303	1.9%
Cash Funds	96,160,175	4,350,946	4,350,946	4,388,441	0.9%
Reappropriated Funds	6,583,557	10,211,810	11,078,071	11,169,810	0.8%
Federal Funds	7,703,444	27,242	0	0	0.0%

(3) Forensic Services

Forensic Services Administration	<u>233,099</u>	<u>253,209</u>	<u>1,060,688</u>	<u>1,081,922</u>	
FTE	13.9	13.9	13.9	13.9	
General Fund	233,099	253,209	1,060,688	1,081,922	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Forensic Support Team	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,495,996</u>	*
FTE	0.0	0.0	0.0	19.0	
General Fund	0	0	0	1,495,996	
Court Services	<u>5,507,420</u>	<u>8,392,309</u>	<u>7,669,525</u>	<u>6,974,778</u>	*
FTE	52.6	77.1	77.1	58.1	
General Fund	5,507,420	8,392,309	7,669,525	6,974,778	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Forensic Community-based Services	<u>2,169,557</u>	<u>2,087,731</u>	<u>3,466,819</u>	<u>4,087,690</u>	*
FTE	20.4	20.4	20.4	20.4	
General Fund	2,169,557	2,087,731	3,466,819	4,087,690	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Jail-based Competency Restoration Program	<u>13,537,982</u>	<u>1,244,900</u>	<u>13,753,286</u>	<u>13,904,438</u>	*
FTE	4.3	4.3	4.3	4.3	
General Fund	13,537,982	1,244,900	13,753,286	13,904,438	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
Purchased Psychiatric Bed Capacity	<u>2,368,304</u>	<u>3,238,130</u>	<u>3,335,351</u>	<u>3,412,250</u> *	
FTE	1.0	1.0	1.0	1.0	
General Fund	2,368,304	3,238,130	3,335,351	3,412,250	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
Outpatient Competency Restoration Program	<u>1,322,304</u>	<u>3,195,138</u>	<u>3,701,882</u>	<u>3,904,783</u> *	
FTE	1.0	1.0	1.0	3.0	
General Fund	1,322,304	3,195,138	3,701,882	3,904,783	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	
SUBTOTAL -	25,138,666	18,411,417	32,987,551	34,861,857	5.7%
<i>FTE</i>	<u>93.2</u>	<u>117.7</u>	<u>117.7</u>	<u>119.7</u>	1.7%
General Fund	25,138,666	18,411,417	32,987,551	34,861,857	5.7%
Cash Funds	0	0	0	0	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%
(4) Consent Decree Fines and Costs					
Consent Decree Fines and Costs	<u>9,534,841</u>	<u>2,028,823</u>	<u>6,000,000</u>	<u>6,000,000</u>	
General Fund	9,534,841	2,028,823	6,000,000	6,000,000	
Cash Funds	0	0	0	0	
Reappropriated Funds	0	0	0	0	
Federal Funds	0	0	0	0	

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
SUBTOTAL -	9,534,841	2,028,823	6,000,000	6,000,000	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	9,534,841	2,028,823	6,000,000	6,000,000	0.0%
Cash Funds	0	0	0	0	0.0%
Reappropriated Funds	0	0	0	0	0.0%
Federal Funds	0	0	0	0	0.0%
SUBTOTAL - (E) Mental Health Institutes	264,133,470	146,974,788	179,002,356	191,456,533	7.0%
<i>FTE</i>	<u>1,338.4</u>	<u>1,392.8</u>	<u>1,392.8</u>	<u>1,469.6</u>	<u>5.5%</u>
General Fund	151,728,214	130,507,946	161,578,988	173,886,563	7.6%
Cash Funds	98,068,953	6,202,114	6,204,734	6,259,312	0.9%
Reappropriated Funds	6,632,859	10,237,486	11,218,634	11,310,658	0.8%
Federal Funds	7,703,444	27,242	0	0	0.0%
(F) Indirect Cost Assessment					
Indirect Cost Assessment	<u>8,179,526</u>	<u>7,066,222</u>	<u>6,753,934</u>	<u>7,047,135</u> *	
General Fund	0	0	0	0	
Cash Funds	5,822,972	6,055,221	3,670,381	3,828,352	
Reappropriated Funds	1,370,519	92,907	1,519,464	1,589,037	
Federal Funds	986,035	918,094	1,564,089	1,629,746	
SUBTOTAL - (F) Indirect Cost Assessment	8,179,526	7,066,222	6,753,934	7,047,135	4.3%
<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	0.0%
Cash Funds	5,822,972	6,055,221	3,670,381	3,828,352	4.3%
Reappropriated Funds	1,370,519	92,907	1,519,464	1,589,037	4.6%
Federal Funds	986,035	918,094	1,564,089	1,629,746	4.2%

Appendix A: Numbers Pages

	FY 2019-20 Actual	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2022-23 Request	Request vs. Appropriation
TOTAL - (8) Office of Behavioral Health	502,524,757	365,561,834	509,299,756	441,651,887	(13.3%)
<i>FTE</i>	<u>1,426.4</u>	<u>1,482.3</u>	<u>1,486.2</u>	<u>1,562.6</u>	<u>5.1%</u>
General Fund	258,789,544	247,474,450	284,668,739	298,673,180	4.9%
Cash Funds	145,103,017	38,041,276	155,862,750	73,653,562	(52.7%)
Reappropriated Funds	17,872,542	23,161,411	26,334,705	26,628,417	1.1%
Federal Funds	80,759,654	56,884,697	42,433,562	42,696,728	0.6%
TOTAL - Department of Human Services	502,524,757	365,561,834	509,299,756	441,651,887	(13.3%)
<i>FTE</i>	<u>1,426.4</u>	<u>1,482.3</u>	<u>1,486.2</u>	<u>1,562.6</u>	<u>5.1%</u>
General Fund	258,789,544	247,474,450	284,668,739	298,673,180	4.9%
Cash Funds	145,103,017	38,041,276	155,862,750	73,653,562	(52.7%)
Reappropriated Funds	17,872,542	23,161,411	26,334,705	26,628,417	1.1%
Federal Funds	80,759,654	56,884,697	42,433,562	42,696,728	0.6%

Note: An asterisk (*) indicates that the FY 2022-23 request for a line item is affected by one or more decision items.

APPENDIX B FOOTNOTES AND INFORMATION REQUESTS

UPDATE ON LONG BILL FOOTNOTES

The General Assembly includes footnotes in the annual Long Bill to: (a) set forth purposes, conditions, or limitations on an item of appropriation; (b) explain assumptions used in determining a specific amount of an appropriation; or (c) express legislative intent relating to any appropriation. Footnotes to the 2021 Long Bill (S.B. 21-205) can be found at the end of each departmental section of the bill at <https://leg.colorado.gov/bills/SB21-205>. The Long Bill footnotes relevant to this document are listed below.

- 47 Department of Human Services, Office of Behavioral Health, Community-based Mental Health Services, Assertive Community Treatment Programs and Other Alternatives to the Mental Health Institutes -- It is the General Assembly's intent that \$534,932 of this General Fund appropriation be allocated to at least one community mental health center in western Colorado for the purpose of providing behavioral health services for individuals who seek intensive behavioral health care from a community mental health center or an emergency department of a rural, frontier, or regional medical center and who may be diagnosed with physical health conditions that may be exacerbated by co-occurring mental health conditions.

COMMENT: This footnote was first included in the FY 2016-17 Long Bill (though subsequently adjusted) in connection with a \$500,000 General Fund increase in the appropriation for “Services for Indigent Mentally Ill Clients” to expand access to inpatient psychiatric care for individuals who are diagnosed with physical health conditions that are exacerbated by co-occurring mental health problems. This footnote was included to specify the General Assembly's intent in making the appropriation. The Department used a request for proposal process and awarded the funds to Mind Springs Health. The General Assembly amended the footnote mid-year (through S.B. 17-163) after staff became aware that the funding was unlikely to be spent based on procurement-related delays and footnote language that did not reflect the manner in which the services are being provided. Several appropriations in the behavioral health section of the Department’s Long Bill appropriations were reorganized in FY 2017-18. As a result, this footnote now references the relevant funding in the “Assertive Community Treatment Programs and Other Alternatives to the Mental Health Institutes” line item.

The appropriation has been increased and modified as follows:

- *FY 2017-18:* The General Assembly increased this appropriation by \$7,009 General Fund consistent with the statewide policy concerning community provider rates.
- *FY 2018-19:* The General Assembly increased this appropriation by \$5,070 General Fund consistent with the statewide policy concerning community provider rates.
- *FY 2019-20:* The General Assembly increased this appropriation by \$5,121 General Fund consistent with the statewide policy concerning community provider rates.

- *FY 2020-21*: The General Assembly increased the appropriation reflected in the footnote by \$9,827 General Fund. The Department was not in compliance with the footnote due to budget balancing reductions that impacted this line item.
- *FY 2021-22*: The General Assembly increased this appropriation by \$7,905 General Fund consistent with the statewide policy concerning community provider rates. The Department reports that it is in compliance with this footnote for FY 2021-22.

48 Department of Human Services, Office of Behavioral Health, Substance Use Treatment and Prevention Services, Treatment and Detoxification Programs -- It is the General Assembly's intent that this appropriation be used to provide services and to expand access to residential treatment services for individuals with substance use disorders, including initial expenses necessary to establish, license, and begin operating one or more programs that provide these services, such as building renovations, furnishing, and equipment.

COMMENT: This footnote added to the FY 2021-22 Long Bill to indicate the intent of the General Assembly with respect to this appropriation. The Department reports that it is compliant with this footnote.

49 Department of Human Services, Office of Behavioral Health, Integrated Behavioral Health Services, Circle Program and Other Rural Treatment Programs for People with Co-occurring Disorders -- It is the General Assembly's intent that this appropriation be used to: support the community-based Circle Program; support the provision of a full continuum of co-occurring behavioral health treatment services in southern Colorado and the Arkansas Valley; and expand access to residential treatment services in one or more rural areas of Colorado for individuals with co-occurring mental health and substance use disorders. It is also the General Assembly's intent that the appropriation may be used to provide services and to cover initial expenses necessary to establish, license, and begin operating one or more programs that provide these services, such as building renovations, furnishing, and equipment.

COMMENT: This footnote was modified for the FY 2019-20 Long Bill, in coordination with the consolidation of two line items that support treatment for individuals with co-occurring mental health and substance use disorders: "Community-based Circle Program" and "Rural Co-occurring Disorder Services." There were two existing footnotes that expressed legislative intent concerning the line items; this footnote consolidated those to express similar intent. Additionally, the Department indicated that it was seeking legislative clarification that it is authorized to fund services in other co-occurring treatment facilities in other regions of the State while new facilities are being established. This footnote is intended to address that issue. The Department reports that it is compliant with this footnote.

50 Department of Human Services, Office of Behavioral Health, Mental Health Institutes -- In addition to the transfer authority provided in Section 24-75-108, C.R.S., the Department is authorized to transfer up to 5.0 percent of the total appropriations in this subsection among line items in this subsection.

COMMENT: This footnote was first included in the FY 2014-15 Long Bill. The FY 2014-15 Long Bill included two format changes to maintain a transparent delineation of expenditures at the mental health institutes while allowing the Department more flexibility to manage these

appropriations and minimize the number mid-year appropriation adjustments. First, funding for outside medical expenses was removed from the Personal Services line items for each Institute and placed in a two new line item appropriations for "Contract Medical Services" – one for each Institute. Second, the above footnote was added to allow the Department to transfer up to 10 percent of the total appropriations in the Mental Health Institutes subsection of the Long Bill, starting in FY 2014-15. The footnote was modified in FY 2019-20 to reduce the allowable transfer authority from 10.0 percent to 5.0 percent.

The Department reports that it is in compliance with this footnote.

- 51 Department of Human Services, Office of Behavioral Health, Mental Health Institutes, Mental Health Institute at Ft. Logan, Personal Services; and Mental Health Institute at Pueblo, Personal Services -- It is the General Assembly's intent that \$1,148,010 of these appropriations be used to increase salaries for contract medical personnel in a manner that appropriately considers relevant factors such as certifications and experience.

COMMENT: This footnote was first included in the FY 2019-20 Long Bill. Staff recommended the inclusion of this footnote as part of the Department's request to increase funding for contract medical personnel.

When the Department cannot fill a vacancy quickly, it solicits outside staffing agencies to provide interim coverage. The Institutes contract with the University of Colorado at Denver (UCD) School of Medicine for medical providers, including psychiatrists, internal medicine physicians, nurse practitioners, and physician assistants. The Department requested \$1,127,667 General Fund for FY 2019-20 to increase salaries for medical staff at the Institutes over the next two years. The appropriation that supports the contracts is adjusted annually whenever the JBC approves a community provider rate increase. However, these community provider rate increases have not been sufficient for the Department to recruit and retain medical staff, mainly because current contract physician salaries are below market. Thus, the Department periodically requests additional funding to increase the base salaries.

The Department made a similar funding request in 2014, when five of the 19 full-time psychiatrist positions at the Institutes were vacant (two of seven at CMHIFL and three of 12 at CMHIP). The Department requested an increase of \$448,580 General Fund to increase psychiatrist salaries to an average of \$175,000. At that time, psychiatrist salaries ranged from \$154,000 to \$170,000, while the starting salary at the Department of Corrections (DOC) was \$174,000. The Department indicated that psychiatrists with comparable certifications and experience generally earned between \$175,000 and \$210,000. The Department's request was intended to address salary compression and make salaries more competitive with those paid by DOC and the broader market in Colorado. The Institutes planned to increase starting salaries of new hires and the salaries of existing psychiatrists to amounts comparable with other state agencies and community providers, based on certification and experience. This request was approved.

This footnote was recommended in order to encourage the Department to continue the practice of establishing individual salaries based on certification and experience.

This footnote was mistakenly recommended for continuation and inclusion in the FY 2020-21 Long Bill even though the second year of the salary increase was not provided that year because of a budget balancing action in response to COVID-19. However, it was intentionally included in the FY 2021-22 Long Bill as the second (and final) year of the salary increase was, in fact, appropriated in FY 2021-22. Staff does not anticipate recommending continuation of the footnote for FY 2022-23.

UPDATE ON LONG BILL REQUESTS FOR INFORMATION

The Joint Budget Committee annually submits requests for information to executive departments and the judicial branch via letters to the Governor, other elected officials, and the Chief Justice. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as an Appendix in the annual Appropriations Report (Appendix H in the FY 2021-22 Report):

https://leg.colorado.gov/sites/default/files/fy21-22apprept_0.pdf

There were no requests for information directly relevant to this document for FY 2021-22.

APPENDIX C

DEPARTMENT ANNUAL PERFORMANCE REPORT

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of Human Services is required to publish an **Annual Performance Report** for the *previous state fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2022-23 budget request, the FY 2020-21 Annual Performance Report and the FY 2021-22 Performance Plan can be found at the following link:

<https://www.colorado.gov/pacific/performancemanagement/department-performance-plans>