COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE

INTERIM SUPPLEMENTAL REQUESTS FOR FY 2015-16

DEPARTMENT OF HUMAN SERVICES

(Behavioral Health Services only)

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

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Prioritized Interim Supplemental Requests

INTERIM SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #1 COURT ORDERED EVALUATION CASELOAD AND JAIL-BASED BED SPACE

	Request	Recommendation
Total	**$2,727,097**	**$2,727,097**
FTE	4.5	4.5
General Fund	2,727,097	2,727,097
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

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

Please note that at the end of the narrative related to this supplemental request #1, staff has included background information concerning:

- Court-ordered services concerning a defendant's competency
  - Competency evaluation
  - Competency restoration treatment
- 2012 Settlement Agreement with the Center for Legal Advocacy
- Existing jail-based competency restoration program (RISE)

Department Request: The Department requests a total of $2,727,097 General Fund and 4.5 FTE in FY 2015-16 to address continued increases in the number of court-ordered competency evaluations and restorations to competency. In 2012 the Department entered into a Settlement Agreement related to a legal challenge concerning the length of time pretrial detainees wait to receive competency evaluations and restoration treatment. The Agreement requires the Department to admit pretrial detainees to the Colorado Mental Health Institute at Pueblo

(CMHIP) for competency evaluations or for restorative treatment no later than 28 days after the individual is ready for admission, and to maintain a monthly average of 24 days or less for admission.

On August 3, 2015, the Department invoked the "Departmental Special Circumstances" provision of the Agreement. The Department is currently in negotiations with the Plaintiff to review the circumstances identified by the Department which impact CMHIP's ability to comply with the Agreement timeframes. If the parties agree that these circumstances exist and identify issues for resolution, the Department will be required to submit a proposal to address the issues. The resources requested through this supplemental are a critical component of the Department's plan. The Department does not have sufficient psychologist staff or bed space capacity to meet the demand for inpatient competency services. If the problem is not addressed, the Department is at risk of violating the terms of the Agreement and could be at risk for further legal action, including a possible contempt of court judgment.

The Department's FY 2015-16 request includes two components:

- An increase of $333,917 General Fund for CMHIP to hire additional psychologists to perform court-ordered competency evaluations. These evaluations are performed at CMHIP, in county jails, in juvenile detention facilities, or at other locations in the community if the defendant is released on bond.

- An increase of $2,393,180 General Fund to increase CMHIP's capacity to house individuals requiring inpatient competency evaluations, and to house and provide treatment for individuals requiring inpatient competency restoration. The Department currently contracts for a 22 bed jail-based restoration program; this proposal would add another 30 beds. The contracted daily rate for the existing jail-based restoration program is $307.50 per day; this compares to the FY 2015-16 inpatient daily rate at CMHIP for forensic psychiatry of $676.00 per day.

Staff Recommendation: Staff recommends that the Committee approve the request. Absent additional resources to conduct competency evaluations, to provide restoration treatment, and house defendants requiring such services, the length of time defendants wait to receive such services will continue to increase and jeopardize the Department's ability to comply with the terms of the Settlement Agreement. In addition, the Department could be at risk for further legal action due to longer waits for other types of hospital admissions. The Department's request is designed to provide more flexibility by creating bed space outside CMHIP for defendants who need either a competency evaluation or restoration treatment, and by allowing this new capacity to be used by defendants from outside the metro Denver area when appropriate. Please note that staff has included, at the end of the narrative for this request, a list of related policy issues that warrant further study and discussion.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis:

Department Request

The following table details the Department's supplemental request for FY 2015-16 by line item appropriation, as well as projected full-year costs for FY 2016-17. The two components of the request are described below.

Summary of Interim Supplemental #1 Court Ordered Evaluation Caseload and Jail-based Bed Space				
	FY 2015-16	**FTE**	**FY 2016-17**	**FTE**
Behavioral Health Services, Mental Health Institutes				
Colorado Mental Health Institute - Pueblo				
Personal Services	$257,407	3.1	$383,888	4.6
Operating Expenses	24,344		4,370	
Jail-based Competency Restoration Program	2,369,161	1.4	3,515,774	2.0
Office of Behavioral Health Subtotal	**2,650,912**	**4.5**	**3,904,032**	**6.6**
Executive Director's Office				
Health, Life, and Dental	47,563		55,490	
Short-term Disability	709		904	
S.B. 04-257 Amorization Equalization Disbursement (AED)	14,198		22,823	
S.B. 06-235 Supplemental AED	13,715		22,585	
Executive Director's Office Subtotal	**76,185**		**101,802**	
GRAND TOTAL	**$2,727,097**	**4.5**	**$4,005,835**	**6.6**

CMHIP Staff to Conduct Competency Evaluations ($333,917 and 3.1 FTE)

The Department requests $333,917 General Fund and 3.1 FTE for FY 2015-16 to address continued increases in the number of court-ordered competency evaluations. The request includes funding for 3.6 FTE Psychologists (2.4 FTE for FY 2015-16) and 1.0 FTE Administrative Assistant (0.7 FTE for FY 20151-6). The Psychologists perform the competency evaluations and prepare the reports for the court. The Administrative Assistant manages the large number of documents that accompany each court-ordered evaluation and assists with the preparation and distribution of evaluation reports.

Please note that the individual who conducts the competency evaluation of a defendant should not be the same person who provides restoration treatment, as this represents a conflict of interest and is unethical. The Department currently utilizes both psychiatrists and psychologists for evaluations, but the majority of evaluations are conducted by psychologists. In contrast, restoration services are provided by a multidisciplinary team that consists of a psychiatrist, psychologist, social worker, nursing staff, mental health clinicians, and other clinical disciplines. While the Department's proposal in this request would utilize contractor staff to provide

restoration treatment, all competency evaluations (both prior to and after the provision of restoration treatment) would continue to be conducted by state staff[1].

Jail-Based Restoration and Evaluation Program ($2,393,180 and 1.4 FTE)
The Department requests $2,393,180 General Fund and 1.4 FTE for FY 2015-16 to address the increased need to house individuals requiring restoration treatment or competency evaluations. The Department proposes to contract for an additional 30 jail-based beds that would be available for defendants in all 64 counties.

The Department will be required to publish a request for proposal (RFP) and procure a vendor for these services. Similar to the RISE program operation, this request includes funding for 1.0 FTE Program Manager (0.7 FTE for FY 2015-16) and 1.0 FTE Administrative Assistant (0.7 FTE for FY 2015-16). The Program Manager (a Psychologist) reviews patient files to determine eligibility for the program, and acts as a liaison between CMHIP and the contract vendor. The Administrative Assistant is required to manage the paperwork between the jails, CMHIP, and the contract vendor.

The Department provided the following estimated time frames for expansion of the jail-based program:
- Procurement process: September 2015- October 2015
- Contract negotiation: October 2015
- Hiring of state FTE: October 2015
- Start-up time for vendor: November 2015
- Estimated start date for expanded program: December 2015

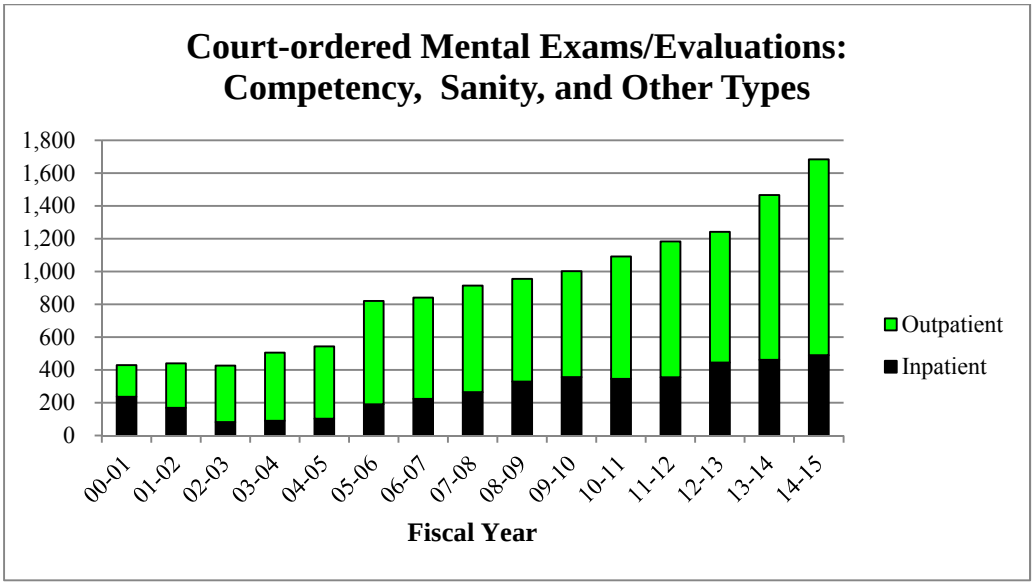
The Department calculated the size of the proposed program based on an analysis of the projected number of court orders and referrals and the average length of stay for individuals requiring competency evaluations or restoration treatment in each setting (a jail-based program or CMHIP). The Department estimates that an additional 17.7 beds would be required for FY 2015-16, growing to 35.6 beds in FY 2016-17.

The Department initiated discussions with both the Denver and Arapahoe county sheriffs' offices to determine whether either facility is interested in serving as a location for the proposed expansion program. Denver Sheriff Elias Diggins has expressed interest and the Department scheduled a follow-up meeting to include Denver Health and Hospital Authority (with whom the Sheriff's Department contracts for the provision of medical and behavioral health services).

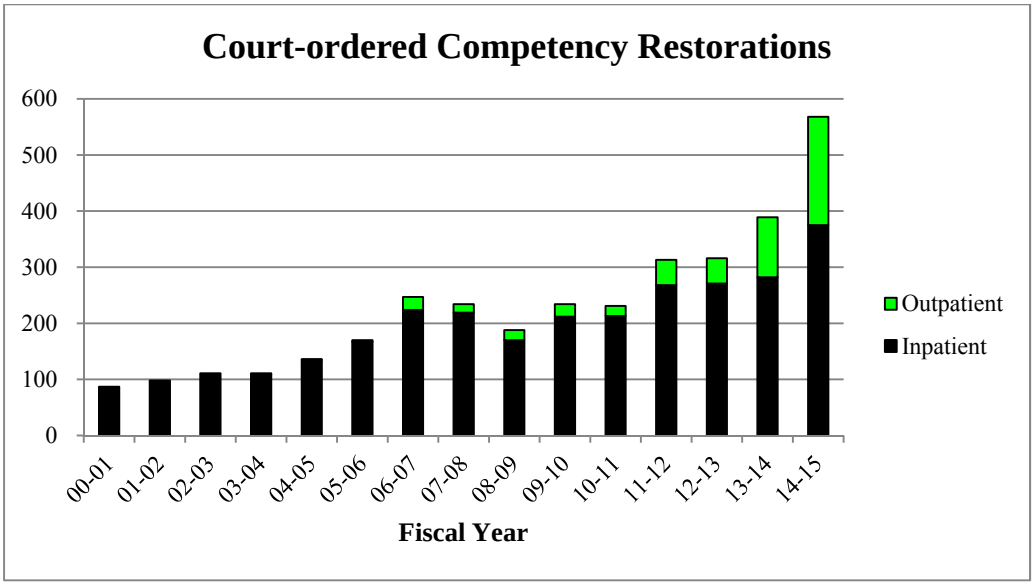
[1] Please note that the Department is evaluating whether these state staff need to be employees of CMHIP or whether the Department could utilize contract staff. The Department has initiated preliminary discussions with the Colorado Behavioral Healthcare Council to assess the willingness of its members to provide both competency evaluation and restoration treatment for this population.

Staff Recommendation

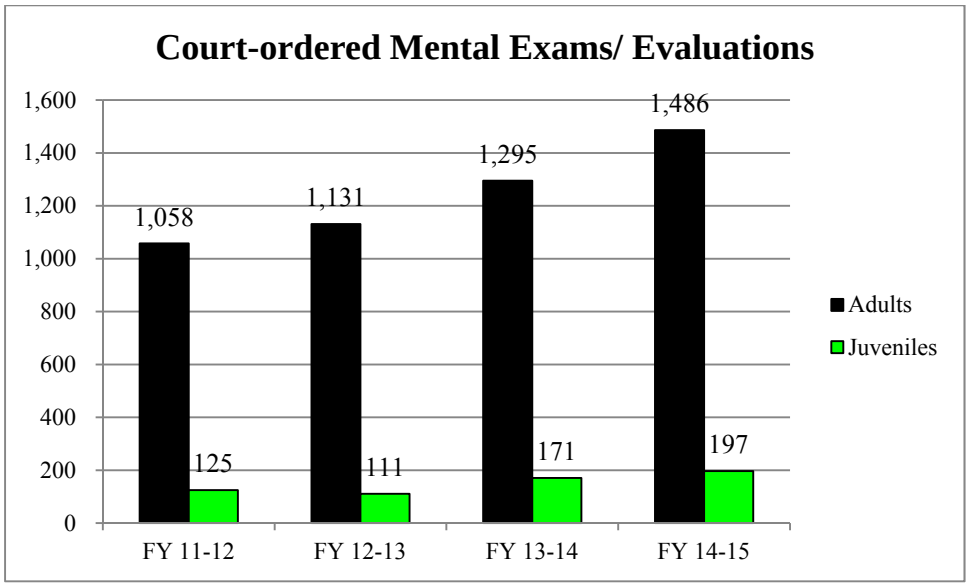
Staff recommends approving the request. The Department provided data that clearly demonstrates that the number of court-ordered mental exams and evaluations (of all types, not just competency) have increased significantly over the last 15 years. The following chart illustrates the steady increase in court-ordered mental exams and evaluations since FY 2000-01, broken out between inpatient and outpatient settings. The percent of evaluation orders that are inpatient has ranged from 17.8 percent (FY 2003-04) to 55.0 percent (FY 2000-01); in FY 2014-15, 41.0 percent of evaluation orders were inpatient (490 of 1,194).

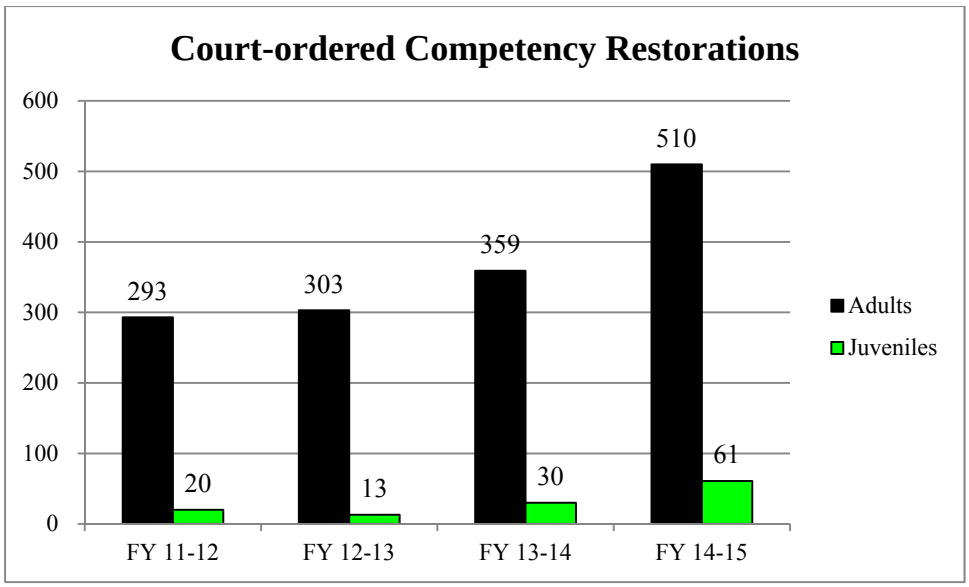


Similarly, as illustrated in the following chart, the number of court-ordered competency restorations has increased over the same period, with the most significant increases occurring in the last two fiscal years.



Additional data for the last four fiscal years reveals that recent increases have occurred for both adults and juveniles, as illustrated in the following two tables.





Despite significant increases in the number of court-ordered evaluations, the data reviewed by staff does not appear to indicate that the courts are inappropriately ordering competency evaluations.

First, a further breakdown of the number of court-ordered mental exams and evaluations and restorations by criminal charge level indicates that the majority of orders concern defendants facing higher level charges. For example, 69 percent of court-ordered mental exams and evaluations concern adults facing felony charges, and 70 percent of court ordered competency

restorations concern adults facing felonies. The following table summarizes this information for both adults and juveniles for FY 2014-15.

Breakdown of Court-ordered Mental Exams/ Evaluations and Restorations by Charge Level: FY 2014-15				
	Felony	**Misdemeanor**	**Other**	**Total**
Adults				
Exams/ Evaluations	69.0%	29.7%	1.3%	100.0%
Restorations	70.2%	29.6%	0.2%	100.0%
Juveniles				
Exams/ Evaluations	58.4%	36.5%	5.1%	100.0%
Restorations	75.4%	23.0%	1.6%	100.0%

Second, as detailed in the following table provided by the Department of Human Services, the percent of individuals for whom a competency evaluation was submitted to the court that concluded that the defendant was not competent to proceed has increased in the last five years from 43.4 percent to 51.4 percent.

Competency Evaluation Opinions					
FY	**Number of Evaluations Ordered**	**Number Completed**	**Percent Completed**	**Number Not Competent**	**Percent Not Competent**
10-11	947	824	87.0%	358	43.4%
11-12	1,036	907	87.5%	394	43.4%
12-13	1,068	913	85.5%	401	43.9%
13-14	1,293	1,114	86.2%	554	49.7%
14-15	1,533	1,316	85.8%	676	51.4%

Absent additional resources to conduct competency evaluations, to provide restoration treatment, and house defendants requiring such services, the length of time defendants wait to receive such services will continue to increase and jeopardize the Department's ability to comply with the terms of the Settlement Agreement.

Please note that in addition to its statutory obligations related to competency evaluations and restoration treatment, the Department is statutorily required to provide sanity and mental condition evaluations and exams for criminal defendants. The Mental Health Institutes are further designated to provide treatment for civil patients, particularly those in psychotic crisis. In order to adhere to the terms of the Settlement Agreement concerning competency-related services, the management team at the CMHIP meets daily to review the referral and admission lists in order to manage the competing demands for inpatient civil and forensic beds. Failure to expand the capacity to meet the increasing demand for court-ordered competency evaluations and restoration services could place the Department at risk for further legal action due to longer waits for other types of hospital admissions.

The Department's request is designed to provide more flexibility by creating bed space outside CMHIP for defendants who need either a competency evaluation or restoration treatment, and by allowing this new capacity to be used by defendants from outside the metro Denver area when appropriate.

Future policy issues to study and consider

Based on staff's analysis thus far, there are some policy issues that warrant further study and discussion:

- *Implementation of H.B. 08-1392* – Have the legislative changes adopted in 2008 achieved the stated goals of: (a) encouraging prompt judicial determination for persons undergoing competency evaluation or treatment; (b) improving the health of defendants; (c) avoiding delays in criminal cases; and (d) conserving state resources by eliminating unnecessary hospitalizations?

- *Court Discretion* – Should the courts have the discretion to order an inpatient competency evaluation under any circumstances or should this ability be restricted similar to civil commitments[2] or based on an objective clinical assessment? What processes should be employed to protect public safety while providing the most appropriate clinical setting for individuals requiring competency evaluations and restoration services? Are procedural changes required to ensure that the court is appropriately screening defendants requiring competency services when determining whether the defendant must remain in the custody of the county jail? What actions can CMHIP take to increase the availability of competency evaluation and restoration treatment in local communities?

- *Court Payments Related to Competency Services* – What is the purpose of the existing statutory provision that requires CMHIP to bill the courts for the cost of housing defendants for the purpose of conducting an inpatient competency evaluation[3]? Should the daily rate charged by CMHIP cover the full cost of housing such an individual? How can these

[2] For example, Section 27-65-105, C.R.S., authorizes a person to be taken into custody for a 72-hour treatment and evaluation if the person "appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled".

[3] This provision was enacted through H.B. 08-1392, but it mirrors pre-existing language related to sanity evaluations which remains in Section 16-8-122, C.R.S. The latter provision dates back to at least 1972.

revenues be reflected in the annual Long Bill in a manner that clearly identifies the source of funding?

- *Recidivism* – The Department provided data indicating that a large number of individuals who are referred for a competency evaluation had previously received a competency evaluation or restoration treatment. From FY 2010-11 to FY 2014-15, the percent of referrals involving individuals who had previously received competency-related services increased from 18 to 25 percent. What options should be considered to reduce this "recidivism" and ensure that individuals who are coming into the criminal justice system are receiving and engaging in appropriate mental health treatment in the community?

- *Medicaid Coverage* – What options should be considered to ensure that Medicaid-eligible individuals who are involved in the criminal justice system are able to access effective and appropriate mental health treatment in the community (*i.e.*, rather than in jail or at the Mental Health Institutes where Medicaid will not reimburse the State for expenses for individuals ages 21 through 64)?

Background Information

Court Ordered Services Concerning a Defendant's Competency

In 2008, the General Assembly passed legislation[4] to create a new procedure to address competency to proceed issues in adult criminal cases separate from not guilty by insanity issues. This act included the following legislative declaration:

> "(1) The general assembly hereby finds and declares:
>
> (a) It is in the best interest of the state to promote streamlined, effective and contemporary practices for evaluating competency to stand trial and for assisting defendants in restoration to competency;
>
> (b) The number of defendants requiring competency evaluation and restoration services to establish competency to stand trial has more than doubled since 2001;
>
> (c) This increase in demand for inpatient competency evaluations and restoration services has generated a significant backlog in county jails of defendants awaiting inpatient competency evaluation or restoration, resulting in a waiting list to receive these services; and
>
> (d) The backlog and waiting list have adversely affected the court system, district attorneys, defendants, defense attorneys, county sheriffs and jails, and have resulted in litigation against the state.
>
> (2) In order to address these issues, the general assembly finds the following legislation is necessary to encourage prompt judicial determination for persons undergoing competency evaluation or treatment, improve the health of defendants, avoid delays in criminal cases, and conserve state resources by eliminating unnecessary hospitalizations."

[4] See House Bill 08-1392.

Current law regarding these practices is outlined below.

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 proceeding[5]. The issue of competency may be raised by the court, the defense, or the prosecution. 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 proceedings[6].

The Department of Human Services is statutorily obligated to conduct a court-ordered competency evaluation and provide a report to the court. 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 has the discretion to determine the location for a competency evaluation, but the court is required to give priority to the place where the defendant is in custody. An "inpatient" evaluation is required to be conducted at CMHIP[7]. 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[8]. The Department indicates that 12 to 15 percent of competency evaluations ordered each year are not completed, either due to the charges being dropped or to new orders issued to change the evaluation location between inpatient and outpatient settings.

Following the preparation of an inpatient competency evaluation, CMHIP is required to "present to the court an accounting of the cost, evidenced by a statement thereof based upon the established per diem rate of the place of confinement". These payments totaled $370,836 in FY 2013-14. It is staff's understanding that CMHIP currently charges the court $36/day for any juvenile or adult mental health evaluations (including those unrelated to competency). This rate

[5] Section 16-8.5-101, *et seq.*, C.R.S.
[6] 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.
[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.
[8] For example, Section 16-8.5-116 (1), C.R.S., states that an individual may not be confined 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 time.

dates back to at least the mid-1970s. This rate covers only 5.3 percent of the FY 2015-16 inpatient daily rate at CMHIP for Forensic Psychiatry of $676 per day.

Restoration Treatment

If a defendant is determined to be incompetent to proceed, the court has two options[9]:

- If the defendant is released on bond, the court may require as a condition of that bond that the defendant obtain any treatment or habilitation services that are available to the defendant in the community. Statute requires, however, that there to be 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 needs[10].

Current law is silent concerning the qualifications of individuals who provide competency restoration treatment. The Department 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. 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.

[9] Section 16-8.5-111, C.R.S.

[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.

2012 Settlement Agreement with the Center for Legal Advocacy

The Center for Legal Advocacy (the Center) brought a legal action[11] against the Department of Human Services to challenge the length of time it was taking for pretrial detainees in Colorado jails to receive competency evaluations or restorative treatment. The parties resolved the claim through a settlement agreement in April 2012. The Agreement was initially effective beginning July 1, 2012, for a ten year period. However, the term of the Agreement could be periodically reduced when Department has fully complied with the terms of the Agreement in the preceding year. Based on compliance from July 2012 through June 2014, the Agreement term has been reduced by two years. The U.S. District Court for Colorado retains jurisdiction for the purpose of enforcing the terms of the Agreement for the entire duration of the Agreement and for 60 days after CMHIP provides the final monthly report.

The Agreement requires the Department to:

- admit pretrial detainees[12] to CMHIP for inpatient competency evaluations or restorative treatment no later than 28 days after he or she is ready for admission[13];
- maintain a monthly average[14] of 24 days or less for admission to CMHIP for inpatient evaluations or restorative treatment; and
- complete all outpatient competency evaluations of pretrial detainees no later than 30 days after CMHIP's receipt of a court order directing the evaluation and receipt of collateral materials.

The Department is required to provide monthly reports concerning all pretrial detainees referred to CMHIP for inpatient competency evaluations, outpatient competency evaluations, or restorative treatment.

The Agreement recognizes that to some extent the Department's ability to perform its obligations under the Agreement is based on factors beyond its control. The Agreement allows the time frame requirements to be temporarily suspended or delayed due to two types of special circumstances:

- "*Individual Special Circumstances*" means a situation that delays the offering of admission to an individual pretrial detainee, where the circumstances are not within the control of the

[11] *Center for Legal Advocacy d/b/a The Legal Center for People with Disabilities and Older People v. Reggie Bicha, in his official capacity as Executive Director of the Colorado Department of Human Services, and Teresa A. Bernal, in her official capacity as Interim Superintendent of the Colorado Mental Health Institute at Pueblo*, Case No. 11-cv-02285-BNB (D. Colo.).

[12] "Pretrial detainee" means a person who is being held in the custody of a county jail, and whom a court has ordered to undergo an outpatient evaluation in the county jail, an inpatient evaluation at CMHIP, or restorative treatment at CMHIP. Persons serving a sentence in the Department of Corrections, juveniles, and persons on bond are excluded from the Agreement.

[13] "Ready for admission date" means the date on which CMHIP has received the court order for admission to CMHIP, and, in the case of a court-ordered competency evaluation, CMHIP has received the collateral materials required for the evaluation. "Collateral materials" are the police incident reports for the offense and the charging documents.

[14] "Monthly average" means the average timeframe for admission for all pretrial detainees within that calendar month who (1) were admitted to CMHIP for inpatient competency evaluations or restorative treatment; or (2) have an outpatient competency evaluation performed at the county jail.

Department (*e.g.*, the court, jail, or defense counsel requests that admission be delayed because they are seeking a more appropriate placement; or the inmate is not medically cleared for admission due to illness or other non-psychiatric medical need). Under such a circumstance, the Department may notify the Legal Center.

- "*Departmental Special Circumstances*" means circumstances beyond the control of the Department which impact CMHIP's ability to comply with the Agreement timeframes (*e.g.*, an unanticipated spike in referrals or a substantial and material decrease in CMHIP's budget). The parties are required to confer to review the reasons for invocation and to determine issues for resolution. The Department is then required to submit in writing a proposal to address the issues.

The parties agreed to "work together in good faith to ensure the cooperation of other interested groups such as the State Judiciary, District Attorneys, Public Defenders, and County Sheriffs in the successful implementation of this Agreement".

The annual reports prepared by the Center for Legal Advocacy for FY 2012-13 and FY 2013-14 indicate that the Department fully complied with the required time frames. In comparison to the required monthly average for all inpatient admissions (24 days), the monthly average during these two fiscal years ranged from six to 14 days.

Jail-based Competency Restoration Program (RISE)

The Department's budget currently includes funding ($2,546,965 and 1.0 FTE) for a 22-bed jail-based restoration program for defendants who have been determined by the court to be incompetent to proceed in their criminal cases. This program was first funded in FY 2013-14 to reduce admissions to CMHIP, thus increasing the availability of beds for civil patients. The Department has contracted with GEO Care, LLC, to provide these services at the Arapahoe County Detention Facility in Centennial. The new program, also known as RISE (Restoring Individuals Safely and Effectively), treats male defendants from county jails in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld counties. This program generally serves men who:

- do not have significant medical needs identified;
- do not have significant medication compliance issues; and
- are likely to be restored in a relatively short period of time.

The contracted daily rate for FY 2015-16 is $307.50 per day. This compares to the FY 2015-16 inpatient daily rate at CMHIP for Forensic Psychiatry of $676.00 per day.

INTERIM SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #2 COMMUNITY BEHAVIORAL HEALTH SYSTEM REALIGNMENT

	Request*	Recommendation
Total	**($2,307,259)**	**$200,000**
FTE	0.0	0.0
General Fund	(2,307,259)	200,000
Cash Funds	0	0
Reappropriated Funds	0	0
Federal Funds	0	0

*The initial request reflected a reduction of $2,501,172 General Fund. The above figure reflects the Department's revised request, which includes a $193,913 decrease in the requested reduction for the Department of Human Services.

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an over expenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the over expenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the over expenditure is to be made.]	**YES, in part** **NO, in part**
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	**YES**
JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made, and thus meets the JBC's supplemental criteria. However, staff disagrees with the Department's assertion that this request meets the interim supplemental criteria of Section 24-75-111, C.R.S. The Department indicates that it has submitted this request "so that the savings identified can be realized and re-invested during FY 2015-16". The interim supplemental process is designed to allow the Controller to authorize an over expenditure of an existing appropriation when the General Assembly is not in session. One element of this request concerns an over expenditure of an existing line item appropriation (the funding for OSPB to contract for a behavioral health system study); the other element of the request concerns an anticipated reversion of an appropriation rather than an over expenditure. Thus, staff agrees in part.	

Please note that at the end of the narrative related to this supplemental request, staff has included background information concerning recent changes in funding for behavioral health programs.

Department Request: The Department requests two adjustments to FY 2015-16 appropriations:

- Reduce the General Fund appropriation to the Department of Human Services for "Services for Indigent Mentally Ill Clients" by $2,507,259 to partially reflect an anticipated reversion of the appropriation (*i.e.*, funds remaining unspent) at the end of FY 2015-16. The

Department is essentially seeking legislative approval of some proposed changes to its contracts with Community Mental Health Centers (Centers).

- Increase the General Fund appropriation to the Office of State Planning and Budgeting (OSPB) for "Personal Services" by $200,000 so that it can contract with an outside vendor to examine how funding should be distributed and aligned between two the departments (the Department of Human Services and the Department of Health Care Policy and Financing) and among service providers to best support mental health and substance use disorder services statewide.

Staff Recommendation: Staff recommends that the Committee deny the first portion of the request because it does not involve an over expenditure and is thus not consistent with the statutory authority for submitting supplemental requests during the legislative interim. Instead, staff recommends that the Committee send a letter to the Department of Human Services providing direction concerning the Department's proposed changes to its contracts with Centers. Staff has attached a draft letter for the Committee's consideration. The draft is based on the Committee approving the Department's proposal to modify these contracts to reduce the anticipated FY 2015-16 General Fund reversion by $1,350,056 (from $3,857,315 to $2,507,259). However, the Committee has the discretion to identify a lesser or greater General Fund dollar amount – up to the full $3,857,315 potential reversion (*i.e.*, eliminating the likelihood of any General Fund reversion).

Staff recommends approving the second portion of the request for $200,000 General Fund to allow the OSPB to conduct the proposed study.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis:

Department Request
The following table details the Department's supplemental request for FY 2015-16. The three components of the request are described below.

Summary of Interim Supplemental #2 Community Behavioral Health System Realignment			
Description	**Total Funds**	**General Fund**	**Federal Funds**
Community mental health savings	($4,507,259)	($3,857,315)	($649,944)
Flexible funds for community system	2,000,000	1,350,056	649,944
Subtotal: Proposed funding reduction	(2,507,259)	(2,507,259)	0
OSPB Behavioral health system study	200,000	200,000	0
Total	($2,307,259)	($2,307,259)	$0

1. Community Mental Health Savings

Appropriation for Services for Indigent Mentally Ill Clients

This line item supports contracts for the provision of mental health services for low income individuals. The Office of Behavioral Health contracts with 17 community mental health centers (Centers) and other providers across the state to provide mental health services that are not otherwise available. The majority of the funds available in this line item are used to provide funding to the 17 Centers and two specialty clinics for the purpose of providing mental health services to "medically indigent" individuals. The following table details the allocation of the General Fund and federal funds that are reflected in this line item for FY 2014-15. At the bottom of the table, staff has provided a comparison to actual expenditures to indicate what portion of available funds remained unspent at the end of FY 2014-15 ($2.5 million, including $1.6 million General Fund).

Funding Reflected in "Services for Indigent Mentally Ill Clients" Line Item: Allocations and Expenditures for FY 2014-15

Description	General Fund Appropriation	Available Federal Funds*	Total Available Funds
Funding for Medicallly Indigent	$22,609,355	$3,738,437	$26,347,792
AIM Program	6,373,325	0	6,373,325
Licensed Inpatient	1,141,866	0	1,141,866
Federal Projects for Assistance in Transition from Homelessness (PATH) Grant	0	952,089	952,089
Individual Placement and Support (IPS) Plan	0	709,726	709,726
Special Purpose	0	441,730	441,730
General Fund match funds to the Division of Vocational Rehabilitation	355,152	0	355,152
5% set aside	0	341,481	341,481
Clinics	40,904	0	40,904
WRAP	0	92,000	92,000
Supported Employment-Extended Services (Non-Medicaid and Medicaid Client)	0	61,696	61,696
Daylight Project Deaf and Hard of Hearing	0	10,985	10,985
Total Allocations	**30,520,602**	**6,348,144**	**36,868,746**
Actual Expenditures	**(28,915,676)**	**(5,412,830)**	**(34,328,506)**
Reverted Funds	**1,604,926**	**935,314**	**2,540,240**

* Other than the PATH Grant, all federal funds are from the Mental Health Services Block Grant.

Historically, the medically indigent population was defined as individuals who:
(a) have incomes below 300 percent of the federal poverty level;
(b) are uninsured for mental health benefits; and
(c) have a "serious mental illness" (adults) or a "serious emotional disturbance" (children and adolescents).

Each Center is responsible for maintaining its license (issued by the Department of Public Health and Environment) in good standing, and maintaining its designation as a mental health treatment facility that is authorized to take into custody a person who has been placed on a 72-hour hold. The Centers are required to provide mental health services to eligible individuals and families "most in need". Such mental health services may range from mental health screening and assessment to treatment to inpatient treatment. Each year, the Department contracts with each Center to pay up to a maximum amount, based on a specific number of medically indigent clients and a specific per-client rate.

As described more fully below, the Department anticipates that the amount that remains unspent could increase to $4.5 million in FY 2015-16 (including $3.9 million General Fund) based on fewer clients falling under the historic "medically indigent" definition as well as significant per-client rate reductions proposed by the Department.

Impacts of Medicaid Expansion and the ACA on the Number of and Costs of Serving Medically Indigent Clients

Senate Bill 13-200 expanded Medicaid eligibility to 133 percent of the federal poverty level for the following groups of adults: parents; caretaker relatives of children; childless adults; and adults without a dependent child in the home. As a result of this act and the implementation of the federal Affordable Care Act (ACA), many clients who were formerly served by Centers and funded through the "Services for Indigent Mentally Ill Clients" line item appropriation are now covered by Medicaid or other private insurance. Based on initial estimates of the impact of Medicaid expansion as reflected in the Legislative Council Staff fiscal note for S.B. 13-200, the General Fund portion of this DHS appropriation has been reduced by $3,654,150 (10.9 percent) to date.

Numbers of Clients

Fiscal year 2014-15 was the first full year of Medicaid expansion and ACA implementation. The number of individuals who are served by Centers and who meet the historic definition of medically indigent has declined significantly and is expected to continue to decline.

Historically, Centers have typically served many more medically indigent clients than what was funded by their contract with DHS. The following table, prepared by DHS, details recent and projected changes in the number of medically indigent clients served by Centers, and the number for which Centers are contracted to serve. It is staff's understanding that the contracted number for each Center is largely based on historic practice and the amount of funding available annually, and thus does not necessarily reflect an allocation of funding that is proportionate to the eligible population served by each Center or to the unmet need for services in each region.

Contracted Number of Indigent Clients - FY 2011-12 through FY 2015-16					
	Actual	Actual	Actual	Estimated	Projected
Description	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
Served	16,974	16,427	14,040	11,200	8,006
Contracted	9,487	9,532	9,355	8,272	7,793
Over / (Under)	7,487	6,895	4,685	2,928	213

Absent a change in the definition of which Non-Medicaid-eligible clients Centers will be reimbursed to serve, the Department anticipates that some Centers will not be able to draw down their full allocation for FY 2015-16 based on declines in the number of eligible clients.

Costs of Serving Eligible Clients
The Department pays each Center a flat amount per medically indigent client served (up to the contracted number of clients). In FY 2005-06, the Department established this "base case rate" on the estimated average cost of care for individuals with severe mental illness or severe emotional disturbance for all payer sources. This base case rate has been adjusted annually based on provider rate adjustments approved by the General Assembly. Based on this methodology, the Department paid the following case rates over the last five years:

FY 2010-11	$3,047
FY 2011-12	$3,047
FY 2012-13	$3,047
FY 2013-14	$3,108
FY 2014-15	$3,186

If the Department simply applied the 1.7 percent provider rate increase approved by the General Assembly last session, the FY 2015-16 case rate would be $3,240.

However, based on lower utilization of services, the Department proposes reducing the case rate for FY 2015-16, and differentiating the rate paid to each Center. The Department has been working with the Colorado Behavioral Healthcare Council and the Centers to determine an appropriate methodology for calculating new case rates. In order to allow these discussions to take place, the Department extended the Centers' FY 2014-15 contracts by four months, until October 31, 2015. The Department proposes implementing new contracts for the remaining eight months of FY 2015-16, utilizing lower contracted client numbers and reduced case rates. The Department is currently proposing reducing the average case rate from $3,240 to $2,579 (20.4 percent). In addition, the Department proposes establishing a minimum case rate of $2,338 to mitigate the financial impact to certain Centers, and establishing a maximum case rate of $3,240.

The combined impact of the contract changes proposed by the Department are anticipated to result in funding reductions totaling $4.5 million (including $3.8 million General Fund).

2. Flexible Funds for Community System
The Department proposes reinvesting $2.0 million of the projected savings (including $1.3 million General Fund and $0.7 million federal funds) back into Center operations. The Department indicates that these funds would be paid out to Centers on a "cost reimbursement

basis to cover one-time systemic and capacity needs of Centers as they transition to full implementation of Medicaid expansion". The Department lists the following types of costs that would be covered:

- Unreimbursed Alternative Treatment Unit costs
- Staff training costs associated with evidence based practices
- Client transportation costs
- Unreimbursed psychiatric services
- Other gaps in services that are not fully funded through other sources and will assist clients or Centers to successfully transition to the new service delivery system provided under the Affordable Care Act

The Department proposes only making these funds available to 11 Centers "that have reported at least a $200,000 reduction in who they project to serve in FY 2015-16 with the traditional indigent definition". The Department provided the following table illustrating this calculation (staff added associated county names and yellow highlighting to identify the 11 counties).

Staff is unable to explain the basis for the $2,000,000 proposed amount available for reinvestment, or the $200,000 threshold defining the 11 eligible Centers. Staff makes the following observations:

- A flat dollar amount threshold may not reflect the relative impact for each Center. On average, the projected reductions reflected in the "Difference" column represent a 21.7 percent reduction statewide. There are two Centers that would be excluded from accessing the reinvestment funds (Solvista and Midwestern) that are anticipated to experience an equal or greater relative impact (26.6 percent and 20.6 percent, respectively) than one of the 11 selected Centers (Arapahoe/Douglas, which has a projected reduction of 20.6 percent).

- The recent study conducted by the Western Interstate Commission on Higher Education (WICHE) for the Department of Human Services, "Needs Analysis: Current Status, Strategic Positioning, and Future Planning", indicates that the western counties of the state and Larimer county (identified as "region 1" for purposes of that study) appear to have the lowest penetration rates for behavioral health services [see the section beginning on page 162]. However, only three of the four Centers that serve this region would be eligible for reinvestment funds (Midwestern is excluded).

- Conversely, the 11 selected Centers include three of the four Centers that serve the southern and southeastern portion of the state, a region that the WICHE study indicates may be better served relative to other regions in the state, especially in the area of mental health services.

- The Department's analysis does not appear to take into account the offsetting changes in the amounts Centers receive from behavioral health organizations (BHOs) for services provided to Medicaid-eligible clients.

Department of Human Services Calculation of 11 Centers Eligible for Flexible Funds					
CMHC Name	**Rates Proposed Under OBH's Plan (vs. the current case rate w/inflation of $3,240 per**	**Projected Current Definition Indigents Expecting to Serve in FY '16 CBHC Proposal**	**Resulting Amount to be Earned From the Base OBH Contract in FY '16**	**15 Historical**	**Difference**
Arapahoe/Douglas	$ 2,338	500	$ 1,169,000	$ 1,471,932	$ 302,932
Asian Pacific	$ 2,338	29	$ 67,802	$ 73,278	$ 5,476
AspenPointe (El Paso, Teller, and Park counties)	$ 3,240	550	$ 1,782,089	$ 2,488,266	$ 706,177
Aurora	$ 2,574	425	$ 1,093,950	$ 1,121,472	$ 27,522
Centennial (10 counties in NE)	$ 2,338	262	$ 612,556	$ 1,095,984	$ 483,428
Mind Springs (10 counties in NW, including Mesa)	$ 2,338	360	$ 841,680	$ 1,618,488	$ 776,808
Community Reach (Adams county)	$ 2,338	492	$ 1,150,296	$ 1,605,744	$ 455,448
Jefferson	$ 2,338	1,075	$ 2,513,350	$ 2,641,194	$ 127,844
MHCD (Denver county)	$ 3,240	1,607	$ 5,206,940	$ 5,119,902	$ (87,038)
Mental Health Partners (Boulder and Broomfield counties)	$ 3,240	507	$ 946,127	$ 927,126	$ (19,001)
Midwestern (Montrose, Gunnison, Delta, San Miguel, Ouray, and Hinsdale counties)	$ 2,338	239	$ 558,782	$ 704,106	$ 145,324
North Range (Weld county)	$ 2,338	575	$ 1,344,350	$ 1,902,042	$ 557,692
San Luis Valley	$ 2,338	155	$ 362,390	$ 697,734	$ 335,344
Servicios De La Raza	$ 2,534	50	$ 126,700	$ 130,626	$ 3,926
Southeast (6 counties)	$ 3,119	50	$ 155,957	$ 630,828	$ 474,871
Axis (5 counties in SW)	$ 2,597	280	$ 727,160	$ 930,312	$ 203,152
Spanish Peaks (Pueblo, Huerfano and Las Animas counties)	$ 2,338	320	$ 748,160	$ 1,197,936	$ 449,776
Touchstone (Larimer county)	$ 2,338	340	$ 794,920	$ 1,392,282	$ 597,362
Solvista (Lake, Chaffee, Fremont, and Custer counties)	$ 2,338	190	$ 444,220	$ 605,340	$ 161,120
Totals	$ 2,589	8,006	20,646,429	26,354,592	5,708,163

If the purpose of the proposal is to allow Centers more time to make operational changes that are necessary in response to Medicaid expansion, the limitation on which Centers may access such funds seems unwarranted. If this is a short-term solution, a simpler approach may be to establish a minimum and maximum level of funding for each Center for FY 2015-16, thereby reducing uncertainty and allowing Centers to focus on making appropriate operational and capacity changes.

In addition, with a goal of gathering more comprehensive and accurate information about the unmet needs in each community, staff suggests that the Department consider modifying the definition of "medically indigent" (at least for the remainder of FY 2015-16), to include uninsured individuals who have a mental disorder consistent with the current Medicaid covered diagnosis (while continuing to require Centers to prioritize those individuals with the most serious mental health needs). This would allow the Department to gather data from each Center, including those Centers that are expected to continue to serve more medically indigent clients than their contract allows, to determine the number of uninsured individuals and their level of need. This data would facilitate the Administration's goal of quantifying the impact of Medicaid expansion, and inform future policy decisions about what behavioral health services the State intends to fund for the non-Medicaid eligible population.

Finally, given the delay in finalizing the revised contract and the proposed purpose of reinvesting the savings, it seems prudent to minimize the administrative burden placed on Centers that need access to these flexible funds. Perhaps rather than a cost-reimbursement process the Department could require each Center to report and describe actual expenditures of such funds.

3. Behavioral Health System Study

The Department requests $200,000 General Fund to conduct a study to examine how funding should be distributed and aligned across the two Departments (DHS and HCPF) and among providers in order to best support these mental health services across the state. The study will be contracted through the Office of State Planning and Budgeting, with coordination from both departments. The study will examine the following impacts related to the implementation of the ACA and Medicaid expansion:

- impacts of state-level financing changes on the behavioral health system, and what elements of the mental health and substance use disorder treatment systems are not funded through Medicaid or private insurance;
- impact of individuals rolling on and off Medicaid;
- impacts of insured, uninsured, and underinsured populations on behavioral health care providers; and
- strategies and best practices in other DHS program areas (including the Office of Children, Youth, and Families; the Office of Economic Security, and the Office of Early Childhood) to make full use of available Medicaid funding and determine how state funds can be leveraged to fund those behavioral health-related services not covered by Medicaid.

The Department requests roll-forward authority for these funds should there be any unforeseen delays in implementing the timeline below. The Department provided the following timeline for the study:

RFP Timeline

- Prepare RFP October-November 2015
- Post RFP December 2015
- Review and Score RFP January 2016
- Protest Period February 2016
- Negotiate and Finalize Contract March2016

Contract Work Timeline

- Meeting with OSPB, HCPF, and DHS April2016
- Field Work April-May 2016
- Finalize and Submit Report June 2016

As indicated above, the results of the proposed study would not be available until after the 2016 legislative session.

Staff Recommendation

Section 24-75-111, C.R.S., establishes a process for the Joint Budget Committee to authorize the State Controller to allow an agency to spend more funds than allowed by an appropriation if "necessary due to unforeseen circumstances arising while the General Assembly is not meeting in regular or special session". The Department asserts that this request meets the criteria for an interim supplemental request because it "is the result of an in-depth, comprehensive review and analysis of information that was not available during the development of the Governor's November 1, 2014, or January 1, 2015, FY 2015-16 budget request", and the Department has submitted this request "so that the savings identified can be realized and re-invested during FY 2015-16". **Staff recommends that the Committee deny the first portion of the request because it does not involve an over expenditures and is thus not consistent with the statutory authority for submitting supplemental requests during the legislative interim**.

However, staff recognizes that this request was designed to alert members of the General Assembly about a potential policy change that needs to be implemented before the 2016 legislative session and that will impact the expenditure of state funds. Staff supports the intent of the Department's request, but **suggests that the Committee provide a response to the proposal through a letter to the Department of Human Services** rather than through a letter to the State Controller identifying a specific reduction in an appropriation. Staff has attached a draft of a letter for the Committee's consideration. The letter is intended to accomplish the following:

- Clearly indicate that the Committee is supportive of the Department's plan to make changes to its contracts with Community Mental Health Centers for FY 2015-16 in light of the impact of Medicaid expansion on the existing contract terms;
- Identify the amount of "savings" that the Committee is comfortable with the Department "reinvesting" in the current year to ensure that all Centers can maintain operations through the current fiscal year;
- Encourage the Department to continue working collaboratively with the Colorado Behavioral Healthcare Council and its members to resolve contracting details concerning the definition of medically indigent clients and the appropriate case rate for the defined client population; and

- Provide specific direction to the Department about what aspects of the proposed plan the Committee believes should be reconsidered or changed.

Staff recommends approving the second portion of the request for $200,000 General Fund to allow the OSPB to conduct the proposed study. It appears that the collaborative work to date between the Department and providers has clarified many of the impacts of Medicaid expansion on Centers, and produced some helpful data about the potential numbers of clients that Centers will be serving. However, given the existing inequities in the allocation of DHS funding to Centers, staff believes that it is important to gather a more comprehensive data set for both mental health and substance use disorder services to better quantify:

- the fixed costs of operating a Center that is capable of responding to a community's behavioral health needs in times of crisis (*e.g.*, a natural disaster or a school shooting incident), and how those costs differ by region;
- what portion of those fixed costs are covered through Medicaid, private insurance, or other available funding such as the crisis response system contracts;
- the costs associated with identifying and billing appropriate payer sources and assisting clients with acquisition of other essential benefits (*e.g.*, housing and transportation);
- the types, numbers, and behavioral health needs of individuals who remain uninsured in various communities; and
- the types of services that are essential and or cost-effective but are not covered by Medicaid.

The WICHE study attempted to quantify the percentage of the population in various regions receiving mental health or substance use disorder services in order to estimate the unmet need in each region. The authors were unable to develop complete population in need estimates due to an inability to analyze client-level data for both DHS and HCPF (and thus an unduplicated count of clients receiving behavioral health services). Staff is hopeful that with the involvement of OSPB and the benefit of more experience with Medicaid expansion, the proposed study will overcome this barrier.

Staff also sees the value in utilizing a vendor that can bring an objective analysis and perhaps a fresh perspective on options for reforming the State's approaches to funding behavioral health services and contracting with service providers.

Background Information

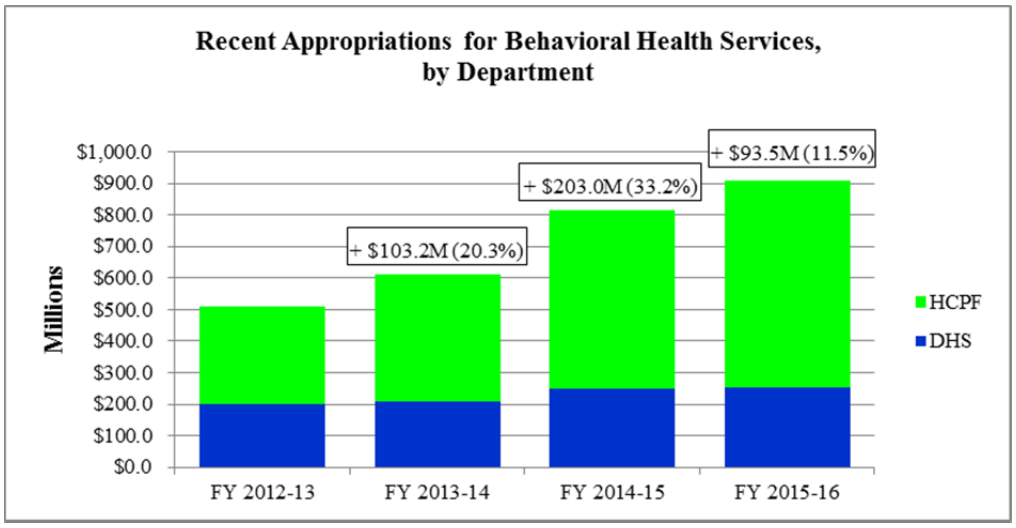
Recent Changes in Funding for Behavioral Health Programs

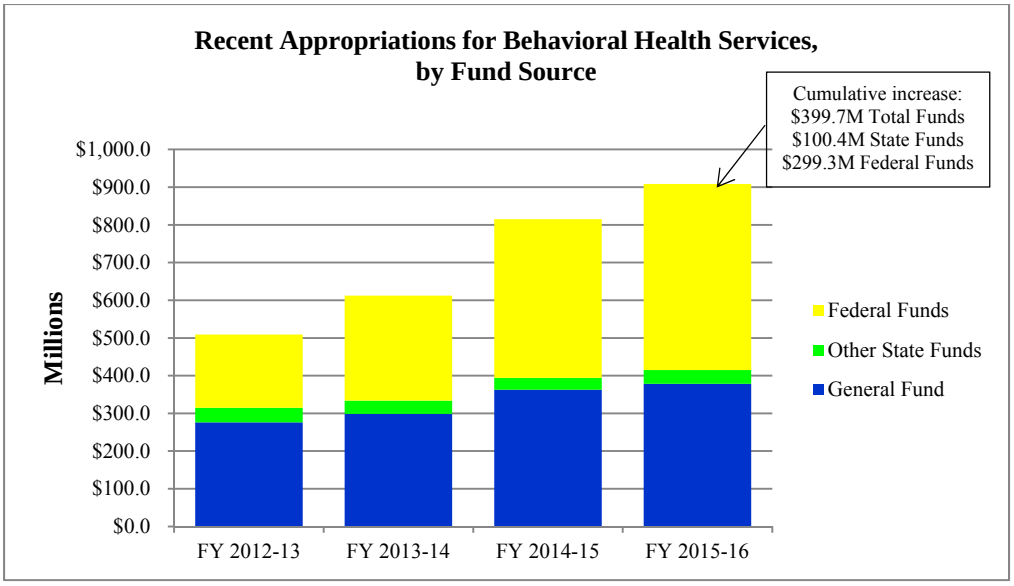
The General Assembly appropriates funding to both DHS and HCPF for the provision of behavioral health services. Behavioral health services for Medicaid clients are funded through and administered by HCPF. The DHS administers funds for the provision of behavioral health services to indigent individuals who are not eligible for Medicaid, and the provision of services that are not covered by Medicaid.

Since FY 2012-13, total funding for behavioral health services provided through HCPF and DHS has increased by more than 75 percent. This is primarily due to two factors: (a) the expansion of Medicaid eligibility (S.B. 13-200) beginning January 1, 2014; and (b) the implementation of a

behavioral health crisis response system as authorized by S.B. 13-266. The table below details changes in appropriations for behavioral health services from FY 2012-13 to FY 2015-16, by department and fund source. The two charts that follow illustrate the changes in funding over the last four fiscal years by department and by fund source.

Changes in Appropriations for Behavioral Health Programs: FY 2012-13 to FY 2015-16	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2012-13 Appropriation						
Department of Human Services (DHS), Behavioral Health Services	$199,187,581	$131,233,922	$18,014,147	$14,503,520	$35,435,992	1,230.0
Department of Health Care Policy and Financing (DHCPF), Behavioral Health Community Programs	309,763,794	140,890,374	13,937,752	0	154,935,668	0.0
TOTAL	**$508,951,375**	**$272,124,296**	**$31,951,899**	**$14,503,520**	**$190,371,660**	**1,230.0**
FY 2015-16 Appropriation						
DHS, Behavioral Health Services	$254,178,268	$183,638,257	$16,715,045	$18,560,075	$35,264,891	1,281.1
HCPF, Behavioral Health Community Programs	654,435,622	191,031,785	9,111,432	0	454,292,405	0.0
TOTAL	**$908,613,890**	**$374,670,042**	**$25,826,477**	**$18,560,075**	**$489,557,296**	**1,281.1**
DHS: Increase/(Decrease)	$54,990,687	$52,404,335	($1,299,102)	$4,056,555	($171,101)	51.1
Percentage Change	27.6%	39.9%	(7.2%)	28.0%	(0.5%)	4.2%
HCPF: Increase/(Decrease)	$344,671,828	$50,141,411	($4,826,320)	$0	$299,356,737	0.0
Percentage Change	111.3%	35.6%	(34.6%)	n/a	193.2%	n/a
TOTAL: Increase/(Decrease)	**$399,662,515**	**$102,545,746**	**($6,125,422)**	**$4,056,555**	**$299,185,636**	**51.1**
Percentage Change	78.5%	37.7%	(19.2%)	28.0%	157.2%	4.2%




Recent Appropriations for Behavioral Health Services, by Fund Source
Cumulative increase:
$399.7M Total Funds
$100.4M State Funds
$299.3M Federal Funds
Millions
$1,000.0
$900.0
$800.0
$700.0
$600.0
$500.0
$400.0
$300.0
$200.0
$100.0
$0.0
FY 2012-13
FY 2013-14
FY 2014-15
FY 2015-16
Federal Funds
Other State Funds
General Fund

	FY 2014-15 Appropriation	FY 2015-16 Appropriation	Fiscal Year 2015-16 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF HUMAN SERVICES					
Executive Director - Reggie Bicha					
Interim Supplemental #1 - Court Ordered Evaluation Caseload and Jail-based Bed Space					
(1) Executive Director's Office					
(A) General Administration					
Health, Life, and Dental	$29,878,414	$33,990,113	$47,563	$47,563	$34,037,676
General Fund	16,716,310	21,590,760	47,563	47,563	21,638,323
Cash Funds	656,675	647,045	0	0	647,045
Reappropriated Funds	8,651,612	7,515,684	0	0	7,515,684
Federal Funds	3,853,817	4,236,624	0	0	4,236,624
Short-term Disability	483,061	492,114	709	709	492,823
General Fund	309,283	318,746	709	709	319,455
Cash Funds	9,749	11,054	0	0	11,054
Reappropriated Funds	91,502	92,824	0	0	92,824
Federal Funds	72,527	69,490	0	0	69,490
S.B. 04-257 Amortization Equalization Disbursement	9,025,063	10,152,863	14,198	14,198	10,167,061
General Fund	5,782,949	6,585,233	14,198	14,198	6,599,431
Cash Funds	178,449	222,977	0	0	222,977
Reappropriated Funds	1,735,859	1,941,356	0	0	1,941,356
Federal Funds	1,327,806	1,403,297	0	0	1,403,297

	FY 2014-15 Appropriation	FY 2015-16 Appropriation	Fiscal Year 2015-16 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
S.B. 06-235 Supplemental Amortization Equalization Disbursement	8,462,750	9,797,755	13,715	13,715	9,811,470
General Fund	5,423,268	6,351,748	13,715	13,715	6,365,463
Cash Funds	167,296	215,376	0	0	215,376
Reappropriated Funds	1,627,368	1,875,174	0	0	1,875,174
Federal Funds	1,244,818	1,355,457	0	0	1,355,457
(8) Behavioral Health Services					
(E) Mental Health Institutes					
(2) Mental Health Institute - Pueblo					
Personal Services	$67,999,185	$68,148,302	$257,407	$257,407	$68,405,709
FTE	990.5	977.5	3.1	3.1	980.6
General Fund	57,802,395	58,172,152	257,407	257,407	58,429,559
Cash Funds	4,157,888	3,954,220	0	0	3,954,220
Reappropriated Funds	6,038,902	6,021,930	0	0	6,021,930
Federal Funds	0	0	0	0	0
Operating Expenses	$5,388,368	$5,479,546	$24,344	$24,344	$5,503,890
General Fund	2,859,502	2,778,434	24,344	24,344	2,802,778
Cash Funds	403,435	399,247	0	0	399,247
Reappropriated Funds	2,125,431	2,301,865	0	0	2,301,865
Federal Funds	0	0	0	0	0

	FY 2014-15 Appropriation	FY 2015-16 Appropriation	Fiscal Year 2015-16 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
Jail-based Competency Restoration Program	$2,505,495	$2,546,965	$2,369,161	$2,369,161	$4,916,126
FTE	1.0	1.0	1.4	1.4	2.4
General Fund	2,505,495	2,546,965	2,369,161	2,369,161	4,916,126
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Total for Supplemental #1	$123,742,336	$130,607,658	$2,727,097	$2,727,097	$133,334,755
FTE	991.5	978.5	4.5	4.5	983.0
General Fund	91,399,202	98,344,038	2,727,097	2,727,097	101,071,135
Cash Funds	5,573,492	5,449,919	0	0	5,449,919
Reappropriated Funds	20,270,674	19,748,833	0	0	19,748,833
Federal Funds	6,498,968	7,064,868	0	0	7,064,868
Interim Supplemental #2 - Community Behavioral Health System Realignment					
(8) Behavioral Health Services					
(B) Mental Health Community Programs					
Services for Indigent Mentally Ill Clients	$36,916,080	$37,434,930	($2,507,259)	$0	$37,434,930
General Fund	30,520,602	31,039,452	(2,507,259)	0	31,039,452
Cash Funds	0	0	0	0	0
Reappropriated Funds	161,909	161,909	0	0	161,909
Federal Funds	6,233,569	6,233,569	0	0	6,233,569

	FY 2014-15 Appropriation	FY 2015-16 Appropriation	Fiscal Year 2015-16 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
Totals					
DEPARTMENT OF HUMAN SERVICES					
TOTALS for ALL Departmental line items	$1,884,592,242	$1,914,659,158	$219,838	$2,727,097	$1,917,386,255
FTE	4,961.2	4,970.9	4.5	4.5	4,975.4
General Fund	790,048,884	811,905,208	219,838	2,727,097	814,632,305
Cash Funds	346,379,985	348,624,954	0	0	348,624,954
Reappropriated Funds	128,339,086	131,723,226	0	0	131,723,226
Federal Funds	619,824,287	622,405,770	0	0	622,405,770

	FY 2014-15 Appropriation	FY 2015-16 Appropriation	Fiscal Year 2015-16 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
OFFICE OF THE GOVERNOR					
John Hickenlooper, Governor					
Interim Supplemental #2 - Community Behavioral Health System Realignment					
(3) Office of State Planning and Budgeting					
Personal Services	$2,085,496	$2,055,580	$200,000	$200,000	$2,255,580
FTE	19.5	19.5	0.0	0.0	19.5
General Fund	456,627	576,232	200,000	200,000	776,232
Cash Funds	176,454	0	0	0	0
Reappropriated Funds	1,452,415	1,479,348	0	0	1,479,348
Federal Funds	0	0	0	0	0
Totals					
OFFICE OF THE GOVERNOR					
TOTALS for ALL Departmental line items	$293,323,703	$270,661,393	$200,000	$200,000	$270,861,393
FTE	1,073.1	1,088.7	0.0	0.0	1,088.7
General Fund	34,983,120	41,668,200	200,000	200,000	41,868,200
Cash Funds	41,899,571	42,239,163	0	0	42,239,163
Reappropriated Funds	210,000,641	180,261,421	0	0	180,261,421
Federal Funds	6,440,371	6,492,609	0	0	6,492,609

STATE OF COLORADO

JOINT BUDGET COMMITTEE
200 East 14th Avenue, 3rd Floor
LEGISLATIVE SERVICES BUILDING
Denver, CO 80203
Telephone 303-866-2061
www.tornado.state.co.us/gov_dir/leg_dir/jbc/jbchome.htm

September 21, 2015

Mr. Robert Jaros
State Controller
Department of Personnel
1525 Sherman Street, 5th Floor
Denver, CO 80203

Dear Mr. Jaros:

The Joint Budget Committee has considered two interim supplemental requests submitted by the Department of Human Services under the provisions of H.B. 98-1331. These requests were previously approved by the Office of State Planning and Budgeting. Pursuant to Section 24-75-111 (1), C.R.S., the Committee authorizes the expenditures listed below and will sponsor supplemental appropriations bills during the 2016 legislative session that reflect these changes.

JBC Approved Adjustments to FY 2015-16 Appropriation		
Department, Division, Line Item	**Total Funds**	**General Fund**
Department of Human Services		
Executive Director's Office, General Administration		
Health, Life, and Dental	$47,563	$47,563
Short-term Disability	709	709
S.B. 04-257 Amortization Equalization Disbursement	14,198	14,198
S.B. 06-235 Supplemental Amortization Equalization Disbursement	13,715	13,715
Behavioral Health Services, Mental Health Institutes, Mental Health Institute – Pueblo		
Personal Services	257,407	257,407
Operating Expenses	24,344	24,344
Jail-based Competency Restoration Program	2,369,161	2,369,161
Subtotal: Department of Human Services	$2,727,097	$2,727,097
Governor – Lieutenant Governor – State Planning and Budgeting		
Office of State Planning and Budgeting		
Personal Services	$200,000	$200,000
Total FY 2015-16 Adjustment	**$2,927,097**	**$2,927,097**

If you have any questions or concerns, please contact Carolyn Kampman of our staff at 303-866-4959.

Sincerely,

Senator Kent Lambert, Chair
Joint Budget Committee

cc:
Mr. John Ziegler, Staff Director, Joint Budget Committee
Mr. Henry Sobanet, Director, Office of State Planning and Budgeting
Mr. Reggie Bicha, Executive Director, Department of Human Services
Ms. Sarah Sills, Director of Budget and Policy, Department of Human Services

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September 21, 2015

Mr. Reggie Bicha
Executive Director
Department of Human Services
1525 Sherman Street, 8th Floor
Denver, CO 80203

Dear Mr. Bicha:

The Joint Budget Committee has considered the Department's interim supplemental request concerning Community Behavioral Health System Realignment (ES-02). While the Committee did not approve this request for procedural reasons, it is supportive of the Department's proposal to modify its FY 2015-16 contracts with Community Mental Health Centers (Centers) to utilize up to $1,350,056 of the existing General Fund appropriation for Services for Indigent Mentally Ill Clients to assist Centers in making necessary operational and capacity changes in response to Medicaid expansion. We appreciate the Department's recent efforts to work cooperatively with the affected service providers to develop contract terms that are informed by available data, are practical, and ensure that Centers can continue to provide essential services during this transition period. This letter is intended to provide feedback to the Department in response to the proposed contract modifications. We ask that you consider the following issues as you finalize the contracts for the remainder of FY 2015-16.

- If the purpose of the proposal is to allow Centers more time to assess and react to recent changes in the Medicaid program, the limitation on which Centers may access these funds seems unwarranted. If this is a short-term solution, a simpler approach may be to establish a minimum and maximum level of funding for each Center for FY 2015-16, thereby reducing uncertainty and allowing Centers to focus on making appropriate operational and capacity changes.

- While Centers should continue to prioritize those individuals with the most serious mental health needs, the Committee supports the proposal by the Colorado Behavioral Healthcare Council to change the Department's contract definition of "medically indigent" (at least for FY 2015-16) to include indigent uninsured individuals who have a mental disorder consistent with the current Medicaid covered diagnosis. This would allow some Centers to receive reimbursement for services provided to individuals who have not yet been

categorized with the most serious mental health needs, and it may allow the Department to gather data about this population from all Centers to determine the number of uninsured individuals and their service needs. Such data could facilitate the Administration's goal of quantifying the impact of Medicaid eligibility expansion on the behavioral health system, and inform future policy decisions about what behavioral health services the State intends to fund for the non-Medicaid eligible population.

- Given the delay in finalizing the revised contract and the proposed purpose of reinvesting the savings, it seems prudent to minimize the administrative burden placed on Centers that need access to these flexible funds. Perhaps rather than a cost-reimbursement process the Department could require each Center to report and describe actual expenditures of such funds.

If you have any questions or concerns, please contact Carolyn Kampman of our staff at 303-866-4959.

Sincerely,

Senator Kent Lambert, Chair
Joint Budget Committee

cc:
Mr. John Ziegler, Staff Director, Joint Budget Committee
Mr. Henry Sobanet, Director, Office of State Planning and Budgeting
Ms. Sarah Sills, Director of Budget and Policy, Department of Human Services