

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUEST FOR FY 2010-11

DEPARTMENT OF HUMAN SERVICES

(Mental Health and Alcohol and Drug Abuse Services)

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

**Prepared By:
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January 27, 2011**

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Prioritized Supplementals

**Supplemental Request, Department Priority #7
 Direct Care Nursing Staff Shift Coverage at the Colorado Mental Health Institutes**

	Request	Recommendation
Total	<u>\$194,823</u>	<u>\$194,823</u>
General Fund	194,823	194,823

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.	

Department Request: The Department requests an increase of \$194,823 General Fund and 5.3 FTE to the FY 2010-11 appropriation for the Colorado Mental Health Institutes for direct care nursing staff shift coverage at the Colorado Mental Health Institute at Pueblo and the Colorado Mental Health Institute at Fort Logan. The Department indicates that the supplemental will allow them to address safety and security issues, deficiencies in nursing service, and provide adequate monitoring and supervision of patients. The table below summarizes the request by institute for FY 2010-11.

FY 2010-11	Fort Logan	Pueblo	Total
Total	\$60,824	\$133,999	\$194,823
FTE	<u>1.6</u>	<u>3.7</u>	<u>5.3</u>
General Fund	\$60,824	\$133,999	\$194,823

The request includes a companion budget amendment requesting \$1.5 million General Fund and 32.0 FTE for FY 2011-12. The table below summarizes the annualized budget amendment request for FY 2011-12.

FY 2011-12	Line Item
Total - General Fund	1,545,492
FTE	<u>32.0</u>
Health, Life, Dental	255,904
Short-term Disability	1,596

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FY 2011-12	Line Item
AED	28,830
SAED	23,168
Shift Differential	82,256
Fort Logan	360,100
<i>FTE</i>	<i>10.2</i>
Pueblo	793,638
<i>FTE</i>	<i>21.8</i>

Staff Recommendation: Absent General Fund revenue constraints in FY 2010-11, staff would recommend rejecting the Department's request and instead recommend an appropriation of \$432,745 General Fund and 11.8 FTE. This recommendation would not only improve the direct care nursing staff shift coverage at the Colorado Mental Health Institutes, but also raise staffing levels to a staff to patient ratio in line with the Neiberger v. Schoenmakers lawsuit settlement agreement (1.35 staff to each patient). Given current fiscal constraints, however, **staff recommends that the Committee approve the Department's request to increase the Institutes' FY 2010-11 appropriation by \$194,823 General Fund and 5.3 FTE** to improve the direct care nursing staff shift coverage at the Colorado Mental Health Institutes.

Staff Analysis:

Background

The Department of Human Services (DHS) operates two State mental health institutes providing inpatient hospitalization for individuals with serious mental illness. The facilities operate on a 24 hour-a-day, 7 day-a-week basis each day of the year. The Colorado Mental Health Institute at Fort Logan, located in southwest Denver County, is organized into two treatment divisions (adult and Therapeutic Residential Child Care Facility) with 114 total beds. The Colorado Mental Health Institute at Pueblo is organized into five treatment divisions (adolescent, adult, geriatric, co-occurring mental illness and substance abuse disorders, and forensics) with 438 total beds. 294 of the 4384 beds at Pueblo are for forensic patients placed in the legal custody of DHS by the courts for competency evaluations and restoration to competency services. The forensics treatment division also provides services to individuals found not guilty by reason of insanity. The treatment division is known as the Institute for Forensic Psychiatry.

The care, supervision, and oversight for all individuals receiving care in the Institutes is provided by direct care nursing staff. The nursing staff oversight includes all patient settings (bedroom, bathroom, treatment unit, dining room, day hall, and recreation areas) and a variety of tasks, including (but not limited to):

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- one-to-one monitoring
- facilitating therapy
- administering medication
- implementing physician orders
- assisting confused patients
- controlling psychotic behavior and fights
- restraining patients

The FY 2010-11 appropriation for Fort Logan includes 102.4 FTE considered direct care nursing staff. As of the morning of January 27, 2011, Fort Logan had a vacancy of 11.8 FTE in positions considered direct care nursing staff. The Department uses the FY 2010-11 vacancy savings associated with the 11.8 FTE to fund contract positions to ensure staffing adequacy in the treatment units.

The FY 2010-11 appropriation for Pueblo includes 410.9 FTE considered direct care nursing staff. As of the morning of January 27, 2011, Pueblo had a vacancy of 19.0 FTE in positions considered direct care nursing staff. Much like Fort Logan, the Department uses the FY 2010-11 vacancy savings associated with the 19.0 FTE to fund contract positions to ensure staffing adequacy in the treatment units.

Calculating Direct Care Nursing Staffing Need

To determine proper staffing levels of direct care nursing staff for the "24-7-365" institutes, the Department historically used payroll records. Payroll records do not represent actual coverage on the units, however, as payroll records do not capture leave information. As a result, staffing levels across the institutes consistently produce staff-to-patient ratios below the standard practice of 1.35 staff per patient (. In March 2010, DHS licensed and implemented a software package to accurately capture actual unit coverage in an effort to improve staff-to-patient ratios. The analysis of the findings indicates that the shift relief factor used by DHS to calculate direct care nursing staffing levels did not match the reality of unit coverage.

The Department has traditionally used a shift relief factor of 1.6. Shift relief factor is used to determine how many FTE are needed to staff a position at all times, as is needed for the provision of services at the institutes. In this instance, "at all times" accounts for Saturdays and Sunday, as well as vacation time, staff training, sick leave, and other activities or circumstances which require an individual to leave his or her duties.

The Department's analysis indicates that a more accurate shift relief factor for Fort Logan is 1.76 and 1.79 for Pueblo. These figures represent shift relief factors more in line with those used by the Department's Division of Youth Corrections (1.74) and the Regional Centers for Persons with Developmental Disabilities (1.85).

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Consequences of Low Staff-to-Patient Ratios

The Centers for Medicare and Medicaid Services (CMS) notified the Department in November 2010 that Pueblo is not in compliance with conditions needed to participate in the program and receive Medicaid and Medicare revenue from patients. CMS indicated that Pueblo's staffing levels severely limit its ability to render adequate care. For FY 2011-12, it is estimated that the institutes will receive \$14.3 million in revenue from Medicaid and Medicare sources.

The Department also received a report from an independent external review process firm in 2010 related to staffing levels. The report states that Pueblo is understaffed by as much as 20 percent. The report further recognizes that the shortages are related to relief for positions that must be back-filled when a staff member is sick or injured.

Current Department Actions to Mitigate Direct Nursing Staffing Shortfalls

The Department took steps to increase the level of direct care nursing staff by closing a 16 bed treatment unit in the Institute for Forensic Psychiatry on January 7, 2011. The unit was originally intended to serve as a psychiatric-medical unit for acute inpatient care. The low number of patients, however, rendered the unit cost ineffective. As a result of the closure, 27.0 FTE were redeployed to other treatment units at Pueblo to mitigate direct nursing staffing shortfalls that negatively impact staff-to-patient ratios.

Consequences if the Request is Rejected

If the Department's request for FY 2010-11 is not approved, the Department will take steps to increase staff-to-patient ratios within existing appropriations to maintain safety and compliance with CMS regulations. The steps would most certainly include the closure of additional treatment units to allow for the redeployment of staff to other units to raise staff-to-patient ratios.

As staff recommended during his briefing on the Department's FY 2011-12 budget request, the Committee should take an active role in determining the role of the Colorado Mental Health Institutes in the provision of services to individuals with severe mental illness. While on the surface it appears that the State could save money by shuttering treatment divisions or an entire institute, it must be remembered that patients at the institutes receive treatment in that setting because they have been referred there by the community mental health centers due to the acuity of their illness and the lack of suitable treatment options outside of the public psychiatric hospital treatment setting.

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JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2010-11

DEPARTMENT OF HUMAN SERVICES

**(Office of Information Technology Services and
Mental Health and Alcohol and Drug Abuse Services)**

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Staff Recommendation Does Not Represent Committee Decision**

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Prioritized Supplementals

**Supplemental Request, Department Priority #2
 Colorado Mental Health Revenue Adjustment**

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
General Fund	(2,279,529)	(2,279,529)
Cash Funds	1,308,868	1,308,868
Reappropriated Funds	970,661	970,661

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.	

Department Request: The Department requests an adjustment to the FY 2010-11 appropriation to the two Colorado Mental Health Institutes to reflect the current patient mix and changes to Medicaid and Medicare reimbursement rates. The request equals a net change of zero dollars, including a decrease of \$2.3 million General Fund and an increase of \$1.3 million cash funds and \$1.0 million reappropriated funds. The table below summarizes the request by institute.

	Fort Logan	Pueblo	Total
Total	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
General Fund	(922,398)	(1,357,131)	(2,279,529)
Cash Funds	1,064,538	244,330	1,308,868
Reappropriated Funds	(142,140)	1,112,801	970,661

Staff Recommendation: Staff recommends that the Committee approve the Department's request to refinance the Colorado Mental Health Institutes' FY 2010-11 appropriation to reflect the current patient mix and changes to Medicaid and Medicare reimbursement rates. The recommended request is budget neutral in total funds, and decreases direct General Fund appropriations to the two facilities by \$2.3 million in FY 2010-11.

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Staff Analysis: The Colorado Mental Health Institute at Fort Logan and the Colorado Mental Health Institute at Pueblo provide direct care to individuals, generating revenue from a variety of unique sources. Funding sources include, but are not limited to, Medicare, Medicaid, disability benefits, counties, school districts, other State agencies, and commercial insurance. To project the FY 2010-11 revenue sources and amounts, the Department examined earned revenue from October of 2009 to September of 2010 and used the data to request a fund source adjustment to the FY 2010-11 Long Bill. The table below details the requested increases in earned revenue.

Category	Amount	Fund Type	Cause of Adjustment
Medicare	\$1,189,000	Cash Funds	Increase in Medicare A payments for specific diagnoses, Medicare B rates for ancillary services
Patient Fees	\$582,834	Cash Funds	Increase in patient fees, commercial insurance, payments from courts, and Medicare Part D revenue from prescription drug plans
School Districts	(73,780)	Cash Funds	Decline in census at the Therapeutic Residential Childcare Facility (TRCCF) at Fort Logan
County DSS	<u>(389,186)</u>	Cash Funds	Decline in census at the TRCCF at Fort Logan for children in the custody of counties
Total Cash Funds	\$1,308,868		
Medicaid Fee-for-Service	\$1,302,222	Reappropriated Funds	Increase of 38.3% in billable Medicaid days for patients under the age of 21, primarily due to an increase in patients found incompetent to proceed
Dept of Corrections Medical Clinic	128,797	Reappropriated Funds	Increase in outpatient medical services provided at Pueblo for Department of Corrections' inmates
Dept of Corrections Meals	93,293	Reappropriated Funds	Increase in revenue for the provision of meals to DOC inmates, primarily due to an increase in the census at the La Vista facility
Division of Youth Corrections	6,955	Reappropriated Funds	Increase in usage of the TRCCF at Fort Logan by the Department
Pueblo Regional Center	(12,000)	Reappropriated Funds	Pueblo Regional Center discontinued using Pueblo as a provider of central sterile supplies and lab work
Dept of Education	(20,420)	Reappropriated Funds	Decline in census at the TRCCF at Fort Logan

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Category	Amount	Fund Type	Cause of Adjustment
TRCCF Medicaid	(143,670)	Reappropriated Funds	Decline in census at the TRCCF at Fort Logan
Medicaid Capitation	(384,516)	Reappropriated Funds	Fewer billable days as a result of decreased bed use by the Behavioral Health Organizations (BHOs)
Total Reapp. Funds	\$970,661		
Total Adjusted Earned Revenue	\$2,279,529		

As seen above, the Department forecasts that the Institutes will earn more cash funds (\$1.3 million) and reappropriated funds (\$1.0 million) in FY 2010-11 than are currently appropriated in the FY 2010-11 Long Bill. The requested revenue adjustment allows for a General Fund reduction of \$2.3 million for FY 2010-11. If the Committee does not approve staff's recommendation to accept the Department's proposal, \$2.3 million General will be reverted at the end of FY 2010-11.

**Supplemental Request, Department Priority #8
 CHATS Ongoing Support and Maintenance**

	Request	Recommendation
Total	\$194,713	\$194,713
Federal Funds	194,713	194,713

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.	

Department Request: The Department requests an increase of \$194,713 federal funds from Child Care Development Fund reserves to its FY 2010-11 appropriation in the Office of Information Technology Services (OITS) to support the Child Care Automated Tracking System (CHATS). The Department also requests an amount of \$309,730 federal funds in FY 2011-12 and FY 2012-13 for the same purpose.

Staff Recommendation: Staff recommends that the Committee approve the request to appropriate \$194,713 federal funds from Child Care Development Fund reserves to the FY

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2010-11 appropriation for the Office of Information Technology Services. Of this amount, staff recommends that the Committee reappropriate \$54,339 to the Governor's Office of Information Technology (OIT) for 6,786 hours of CHATS support and maintenance services. Additionally, **staff recommends that the Committee reduce the appropriation for the Child Care Assistance Program line item by \$309,730 federal funds in FY 2011-12** if it chooses to fund this supplemental's companion budget amendment during the figure setting process.

Staff Analysis: The Colorado Child Care Assistance Program (CCCAP) provides financial assistance to low-income families that are working, searching for employment or are in training, and families that are enrolled in the Colorado Works Program and need child care services to support their efforts toward self-sufficiency. CCCAP is administered through county departments of social services under the direction of the Department's Division of Child Care. CHATS serves the CCCAP payment processes.

In the mid 2000s, the Department completed a feasibility study to replace the existing CHATS system. The General Assembly appropriated \$8.5 million federal funds from the Child Care and Development Block Grant Act via the capital construction appropriation section contained in S.B. 07-239 (Tapia/Buescher) for this purpose. The State then went out to bid for a new CHATS. The request for proposals was intentionally released without a specific budget to ensure that a true cost for implementation would be obtained from the vendor community. Proposals were received that addressed the business requirements, as defined by the State and multiple stakeholders, but the costs exceeded the spending authority previously requested and approved.

The General Assembly approved an emergency supplemental in June of 2008 for an additional \$6.2 million federal funds to procure a contract for the development of CHATS. The option of reducing the requirements for the system to meet the original appropriation would not have provided the benefits upon which the project was approved. Furthermore, the original budget request was based on a feasibility study that was several years old at the time of project bidding. As a result, with a total budget of \$14.7 million federal funds, the new CHATS was developed.

Department staff failed to evaluate if the FTE costs for the maintenance of the system and the software license fees contained in the dated feasibility study were adequate to meet the demands of the \$14.7 million CHATS. The Department recently completed a CHATS system evaluation and determined that an additional 3.25 FTE and \$54,339 are needed for OIT's ongoing support of CHATS in FY 2010-11, as well an additional \$140,374 for software license costs in FY 2010-11.

The FY 2010-11 request assumes a need of 1,696.3 hours for web development, interface development, and business analysis at a rate of \$32.03 per hour. The rate represents the estimated cost of purchasing services from OIT at the level of an IT Professional III. OIT is able to absorb the FTE within existing appropriations, but requires funding for the FTE.

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The FY 2010-11 requested appropriation for software license costs is comprised of the packages found in the table below. Remaining current on software licenses ensures access to technical support, upgrades, and critical patches needed to optimize the operation and security of CHATS.

Software Licenses	FY 2010-11
Oracle Identity Management Tool	\$60,000
Adobe Products	39,791
Microsoft Products	31,827
IPSwitch	1,665
AutoSys	7,091
Total	\$140,374

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF HUMAN SERVICES					
Executive Director - REGGIE BICHA					
Supplemental #2 - Colorado Mental Health					
Institutes Revenue Adjustment					
<i>(8) Mental Health and Alcohol and Substance Abuse Services</i>					
<i>(C) Mental Health Institutes</i>					
Mental Health Institute - Fort Logan	23,896,703	19,882,955	0	0	19,882,955
FTE	<u>270.6</u>	<u>252.2</u>	<u>0.0</u>	<u>0.0</u>	<u>252.2</u>
General Fund	20,536,761	17,885,983	(922,398)	(922,398)	16,963,585
Cash Funds	2,919,019	1,201,092	1,064,538	1,064,538	2,265,630
Reappropriated Funds	440,923	795,880	(142,140)	(142,140)	653,740
Federal Funds	0	0	0	0	0
 Mental Health Institute - Pueblo	 69,983,188	 68,827,749	 0	 0	 68,827,749
FTE	<u>913.8</u>	<u>923.0</u>	<u>0.0</u>	<u>0.0</u>	<u>923.0</u>
General Fund	58,269,153	57,671,404	(1,357,131)	(1,357,131)	56,314,273.0
Cash Funds	5,159,092	5,617,894	244,330	244,330	5,862,224.0
Reappropriated Funds	6,554,943	5,538,451	1,112,801	1,112,801	6,651,252.0
Federal Funds	0	0	0	0	0.0

	FY 2009-10	FY 2010-11	Fiscal Year 2010-11 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Total for Supplemental #2	93,879,891	88,710,704	0	0	88,710,704
FTE	<u>1,184.4</u>	<u>1,175.2</u>	<u>0.0</u>	<u>0.0</u>	<u>1,175.2</u>
General Fund	78,805,914	75,557,387	(2,279,529)	(2,279,529)	73,277,858
Cash Funds	8,078,111	6,818,986	1,308,868	1,308,868	8,127,854
Reappropriated Funds	6,995,866	6,334,331	970,661	970,661	7,304,992
Federal Funds	0	0	0	0	0
<hr/>					
Supplemental #8 - CHATS Ongoing Support and Maintenance					
<i>(1) Office of Information Technology Services</i>					
Child Care Automated Tracking System - FF	0	1,940,669	194,713	194,713	2,135,382
<hr/>					
Totals Items					
DEPARTMENT OF HUMAN SERVICES					
Totals for ALL Departmental line items	267,231,044	274,075,957	194,713	194,713	274,270,670
FTE	<u>1,373.1</u>	<u>1,268.8</u>	<u>0.0</u>	<u>0.0</u>	<u>1,268.8</u>
General Fund	156,735,119	153,220,912	(2,279,529)	(2,279,529)	150,941,383
Cash Funds	19,041,418	17,809,917	1,308,868	1,308,868	19,118,785
Reappropriated Funds	20,972,842	22,101,828	970,661	970,661	23,072,489
Federal Funds	70,481,665	80,943,300	194,713	194,713	81,138,013

Key: N.A. = Not Applicable or Not Available