

**JBC STAFF FISCAL ANALYSIS (REVISED)**  
**HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING A COORDINATED SYSTEM OF PAYMENT FOR EARLY INTERVENTION SERVICES FOR CHILDREN ELIGIBLE FOR BENEFITS UNDER PART C OF THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", AND, IN CONNECTION THEREWITH, REQUIRING THE DEPARTMENT OF HUMAN SERVICES TO DEVELOP A COORDINATED PAYMENT SYSTEM, REQUIRING COVERAGE OF EARLY INTERVENTION SERVICES BY PUBLIC MEDICAL ASSISTANCE AND PRIVATE HEALTH INSURANCE, AND MAKING AN APPROPRIATION.

Prime Sponsors:     Senator Shaffer  
                          Representative Todd

JBC Analyst:     Amanda Bickel  
Phone:            303-866-2061  
Date Prepared:   May 1, 2007

**Summary of Amendments Made to the Bill After the 04/26/07 Legislative Council Staff Revised Fiscal Note was Prepared (Amended by the House Health and Human Services Committee 04/26/07)**

- Modifies the definition of early intervention services, as it applies to public medical assistance programs administered by the Department of Health Care Policy and Financing, to specify that early intervention services means those services defined as early intervention services by the Department of Human Services that are determined, through negotiation between the Departments of Health Care Policy and Financing and Human Services to be medically necessary under medical assistance and cost-effective. Requires the two departments to submit to the Joint Budget Committee, as part of each department's annual budget request, a proposal for the scope of such services, including the costs of such coverage and whether the payment of such costs is cost-effective.
- Clarifies that early intervention services, as defined for purposes of public medical assistance programs administered by the Department of Health Care Policy and Financing, shall not include assistive technology. Specifies that this exclusion shall not apply to durable medical equipment *that is otherwise covered under the Children's Basic Health Plan*.
- Requires early intervention brokers to negotiate for the payment of early intervention services provided to eligible children *to the extent permissible under federal law*, and strikes language requiring brokers to negotiate *rates* for early intervention services.
- If a private health insurance carrier negotiates to make payments of benefits for an eligible child to the Department of Human Services in trust, requires that within sixty days after the Department determines that a child is no longer eligible for services, the Department notify the carrier. Any moneys deposited in the trust fund on behalf of an eligible child that are not expended on behalf of the child before the child becomes ineligible shall be returned to the carrier that made the payments in trust.

- Requires the Department of Human Services to provide a report at least annually and no later than March 1, 2009 and March 1 of each year thereafter, to each private health insurance carrier that has made payments of benefits for an eligible child to the Department in trust. The report is to specify the total amount of benefits paid for each eligible child during the prior calendar year and the services provided.
- Authorizes the Department of Human Services to annually adjust the \$5,725 cap on private insurance coverage for early intervention services based on the consumer price index for the Denver-Boulder-Greeley metropolitan statistical area *for the state fiscal year that ends in the preceding calendar year.*
- Clarifies, that, for services that are not subject to the \$5,725 cap on private insurance coverage because the services are provided to a child who is not participating in Part C or are not provided pursuant to an IFSP, services shall be covered at the level specified in Section 10-16-104 (1.7) (b), C.R.S., which requires coverage benefits to be no less than twenty therapy visits per year each for physical therapy, occupational therapy, and speech therapy.
- Clarifies that the bill's provisions with respect to private insurance coverage shall not apply to limited benefit health insurance, *as defined by the Insurance Commissioner by rule.*
- Requires the Department of Human Services, Division for Developmental Disabilities to notify an insurance carrier that a child is no longer eligible for early intervention service coverage within sixty days after determining that the child is no longer eligible for such coverage.
- Specifies that Section 4 of the bill, which includes conforming amendments to law regarding small group sickness and accident insurance, is effective January 1, 2008, rather than July 1, 2007.

**JBC Staff Concurrence with Legislative Council Staff Fiscal Note**

Concurs

Does Not Concur

Updated Analysis

**Reason for the Non-Concurrence / Update**

The House Health and Human Services Committee report dated April 26, 2007 changes the fiscal impact of the bill because it clarifies the definition of early intervention services to be covered by public medical assistance and the exclusion of assistive technology from such coverage. The table below updates the Legislative Council Staff Revised Fiscal Note dated April 26, 2007.

<b>Fiscal Impact Summary</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>
<b>State Revenue</b>		
Cash Funds - Early Intervention Services Trust Fund	\$ 2,862,500	\$ 2,862,500
<b>Transfers and Diversions</b>		
General Fund Diversion to Division of Insurance Cash Fund	(\$6,188)	(\$6,188)
<b>State Expenditures</b>		
<b>Total</b>	<u>\$ 2,995,091</u>	<u>\$ 3,012,584</u>
Cash Funds		
Early Intervention Services Trust Fund (Administrative)	53,920	49,415
Division of Insurance Cash Fund	6,188	6,188
Cash Funds Exempt		
Early Intervention Services Trust Fund (Custodial Funds)	2,808,580	2,813,085
Short-term Innovative Health Program Grant Fund	31,423	29,783
Supplemental Tobacco Litigation Settlement Account in CBHP Trust	22,307	29,515
Federal Funds	72,850	84,598
<b>FTE Position Change</b>	2.0 FTE	2.0 FTE
<b>Effective Date:</b> July 1, 2007, with changes to insurance coverage effective January 1, 2008.		

The revised fiscal impact is based on a change to expenditures in the Department of Health Care Policy and Financing. Overall Department of Health Care Policy and Financing costs are reflected in the table below, once this change is incorporated.

**Bill Impact to CBHP and the Department of Health Care Policy and Financing**

Cost Components	FY 2007-08	FY 2008-09
Children's Basic Health Plan Expenses		
CBHP Administrative Costs (network changes, actuarial costs)	\$4,000	\$0
CBHP Full Coverage of Therapies (Physical, Occupational, and Speech)	<u>59,734</u>	<u>84,330</u>
<b>Sub-total</b>	<b><u>\$63,734</u></b>	<b><u>\$84,330</u></b>
Supplemental Tobacco Litigation Account of CBHP*	22,307	29,515
Federal Funds	41,427	54,815
Medicaid Program Administrative Expenses		
Personnel and Operating Expenses (1.0 FTE) - <b>Sub-total</b>	<b><u>\$62,846</u></b>	<b><u>\$59,567</u></b>
Short-term Innovative Health Program Grant Fund*	31,423	29,784
Federal Funds	31,423	29,783
<b>Grand Total</b>	<b><u>\$126,580</u></b>	<b><u>\$143,897</u></b>
<b>Tobacco Litigation Settlement Funds*</b>	<b>\$53,730</b>	<b>\$59,299</b>
<b>Federal Funds</b>	<b>\$72,850</b>	<b>\$84,598</b>

\*The Supplemental Tobacco Litigation Account of the Children's Basic Health Plan and the Short-term Innovative Health Program Grant Fund were both created by Senate Bill 07-97 and derive from Tobacco Litigation Settlement moneys.

Finally, the table below reflects the percentage of the Short-term Innovative Health Program Grant Fund required to fund this bill, as amended. Note that this includes direct appropriations from the Innovative Health Program Grant Fund *and transfers* from the Innovative Health Program Grant Fund to the Supplemental Account of the CHP Trust Fund, with further appropriation from the Supplemental Account of the CHP Trust Fund to the Department of Health Care Policy and Financing.

	Amount from Innovative Health Program Grant Fund to Health Care Policy and Financing programs and the CHP Trust Fund	Percentage of Short- term Innovative Health Program Grant Fund
<u>FY 2007-08</u>		
Executive Director's Office (appropriation)	\$31,423	3.1%
Children's Basic Health Plan Trust Fund (transfer)	<u>22,307</u>	<u>2.2%</u>
Total	\$53,730	5.4%
<u>FY 2008-09 and subsequent years</u>		
Executive Director's Office (appropriation)	\$29,784	1.4%
Children's Basic Health Plan Trust Fund (transfer)	<u>29,515</u>	<u>1.4%</u>
Total	\$59,299	2.8%

**Amendments/Appropriation Status**

Staff has prepared an amendment (**J.005**) that amends the appropriations clause currently in the bill to be consistent with fiscal impact of the bill as amended by the House Health and Human Services Committee. If this amendment is adopted, the bill will make the following appropriations for FY 2007-08:

- Appropriates \$31,423 cash funds exempt from the Short-term Innovative Health Program Grant Fund and 1.0 FTE to the Department of Health Care Policy and Financing, Executive Director's Office and indicates the expectation that matching federal funds of \$31,423 will also be received associated with this appropriation.
- Appropriates \$59,734 to the Department of Health Care Policy and Financing for Children's Basic Health Plan Premium Costs, including \$20,907 from the Children's Basic Health Plan Trust and \$38,827 federal funds.
- Appropriates \$4,000 to the Department of Health Care Policy and Financing for Children's Basic Health Plan Administration, including \$1,400 from the Children's Basic Health Plan Trust and \$2,600 federal funds.
- Appropriates \$53,920 cash funds from the Early Intervention Services Trust Fund and 1.0

FTE to the Department of Human Services, Office of Operations and indicates, for informational purposes, the expectation that \$2,808,580 cash funds exempt custodial funds from the Early Intervention Services Trust Fund will be received by the Department for early intervention services (reflects funds provided by insurance companies).

- Appropriates \$6,188 cash funds from the Division of Insurance Cash Fund to the Department of Regulatory Agencies, Division of Insurance.

In addition to the modifications outlined above, the amendment includes the following changes:

- Modifies portions of the bill that allocates funds from the Short-term Innovative Health Programs Grant Fund to be consistent with the amounts reflected in the appropriations clause. This includes adjustments to reflect the expectation that \$1.0 million total will be available in the Short-term Innovative Health Programs Grant Fund for FY 2007-08.
- Reduces the FY 2007-08 appropriation in Senate Bill 07-97 from the Short-term Innovative Health Programs Grant Fund to the Department of Public Health and Environment by the \$53,730 required for this bill.
- Corrects the statutory citation for the Short-term Innovative Health Programs Grant Fund and a typographical error in the appropriations clause.

### **Sponsor Amendments**

Staff is aware of one sponsor amendment. Amendment **L.011** eliminates provisions that authorize funding for the bill from the Short-term Innovative Health Program Grant Fund, created by S.B. 07-97, for FY 2010-11 and future years. As indicated in the JBC Staff Analysis dated April 27, 2007, the bill currently requires appropriations and transfers of \$59,299 from the Short-term Innovative Health Program Grant Fund created by S.B. 07-97 for FY 2008-09 and each fiscal year thereafter. **If sponsor amendment L.011 is adopted, funding from the Short-term Innovative Health Program Grant Fund will be limited to FY 2007-08, FY 2008-09 and FY 2009-10.** The amendment does not change the amount or source of funding required or available for FY 2007-08, FY 2008-09, or 2009-10.

If sponsor amendment L.011 is adopted, staff anticipates that for fiscal years FY 2010-11 and subsequent years, an appropriation of \$59,299 from the General Fund will be required to support the provisions of the bill.

This amendment also makes a technical clarification to language in the bill.

**The Committee may adopt sponsor amendment L.011 and staff amendment J.005, or may adopt one without the other.**

**Points to Consider**

1. If sponsor amendment L.011 is adopted, a General Fund appropriation of \$59,299 is anticipated to be required beginning in FY 2010-11 to fund the provisions of the bill.
  
2. *Senate Bill 07-97*: Senate Bill 07-97 reallocated a portion of the tobacco settlement money received by the State pursuant to the Master Settlement Agreement that was previously allocated to the Tobacco Litigation Settlement Trust Fund and the General Fund. Among other provisions, the bill created a new Short-term Innovative Health Programs Grant Fund (Grant Fund), to receive six percent of Tobacco Settlement moneys previously credited to the General Fund, as well as amounts not used by other programs funded under the bill. Currently, H.B. 07-1359 (Accelerate Use of Strategic Contribution Fund Moneys) would modify funds available for the Short-term Innovative Health Programs Grant Fund. The Legislative Council Staff Fiscal Note for H.B. 07-1359 dated April 18, 2007 indicates that \$1.0 million will be available in the Grant Fund in FY 2007-08 if H.B. 07-1359 is enacted in its present form. The Grant Fund is currently estimated to receive \$1.0 million in FY 2007-08 and over \$2.1 million in FY 2008-09 and FY 2009-10.
  - a) The program created by S.B. 07-4 would be in effect indefinitely. If sponsor amendment L.011 *is not* adopted, funding from the Short-term Innovative Health Programs Grant Fund for this program would be in effect indefinitely. If sponsor amendment L.011 *is* adopted, funding would be provided for FY 2007-08, FY 2008-09, and FY 2009-10. Total tobacco settlement revenue for FY 2007-08 and future years remains uncertain. If settlement revenues are not received at the level anticipated, moneys from this source may not be available in FY 2007-08 and future years authorized by the bill. If these funds are not available, will General Fund be provided to cover the costs?
  
  - b) Other bills also draw from the Short-term Innovative Health Programs Grant Fund. The table below reflects bills currently drawing from this source, and associated amounts required for FY 2007-08. As shown, if all bills currently going through the process are adopted in their present forms, appropriations from the Short-term Innovative Health Programs Grant Fund will be **within** the \$1.0 million anticipated to be available in FY 2007-08 if H.B. 07-1359 is enacted in its present form. If J.005 is adopted, appropriations from this source will be further reduced, and appropriations from the Short-term Innovative Health Programs Grant Fund for FY

2007-08 would total \$908,945.

<b>Appropriations Clauses of Bills in the Legislative Process that Draw from the S.B. 07-97 Short-term Innovative Health Programs Grant Fund</b>			
<b>Bill Number</b>	<b>Bill Short Title, Sponsors, and Status</b>	<b>Amount from Short-term Innovative Health Programs Grant Fund</b>	
		<b>FY 2007-08</b>	<b>FY 2008-09</b>
HB 07-1057	Juvenile Justice Family Advocate Program (Stafford/Windels - House concurred w/Senate amendments)	\$172,715	\$221,717
HB 07-1064	Find/Save Programs Cognitively Disabled (Mitchell V./Sandoval - Passed Senate Appropriations)	125,000	125,000
HB 07-1335	Supplemental Low-Income State Employee Benefits (McGihon/Romer - Passed Senate Third Reading)	160,000	0
HB 07-1346	Prepaid Inpatient Health Plans MCOs (Buescher/Tapia -Passed Senate Approp)	37,500	0
SB 07-004	Early Intervention Services Coordinated Payment* (Shaffer/Todd -In House Approp)	113,305	143,616
SB 07-146	Veterans Mental Health Services Pilot (Morse/Rice - Passed House Approp)	300,000	300,000
SB 07-232	Health Pro Loan Repayment Program (Romer/Massey - Passed House Appropriations)	60,000	60,000
	<b>Total</b>	<b>\$968,520</b>	<b>\$850,333</b>

\*A JBC staff amendment for S.B. 07-004 for House Appropriations would further reduce the amount currently in the appropriations clause to \$53,730 from this source in FY 2007-08. An estimated \$59,299 from this source would be required in FY 2008-09 and future years.