



COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

February 27, 2020

The Honorable Daneya Esgar, Chair
Joint Budget Committee
200 East 14th Avenue, Third Floor
Denver, CO 80203

Dear Representative Esgar:

In accordance with House Bill 19-1210, Concerning the Repeal of the Prohibitions on a Local Government Establishing Minimum Wage Laws within its Jurisdiction, the Department is required to report to the Joint Budget Committee pursuant to section 8-6-101(9), C.R.S.:

(9) (a) The executive director of the department of labor and employment shall notify the executive director of the department of health care policy and financing if a local government enacts a minimum wage that exceeds the statewide minimum wage.

(b) If the executive director of the department of health care policy and financing receives notice pursuant to subsection (9)(a) of this section, the executive director shall, as soon as practicable, submit a report to the joint budget committee with recommendations about whether provider rates, with the exception of rates for an eligible nursing facility provider as defined in section 25.5-6-201 (15.5), need to be increased to accommodate the local government's minimum wage increase and if establishing a fund to pass through those increases to facilities in the jurisdiction of the local government that has raised the minimum wage is necessary.

The Department received this notification from the Department of Labor and Employment on February 5, 2020. The Department recommends that the JBC consider adjusting rates for four categories of services within the Home and Community-Based Services (HCBS) program for the City and County of Denver as a result of the minimum wage increases. These services include: Personal Care, Homemaker, Health Maintenance Activities, and Residential Habilitation.



Background

Prior to outlining a determination on the sufficiency of provider rates, we wanted to speak to the work we are currently doing to address larger concerns around Departmental rate policy, access to care, and rural sustainability.

The Department employs a variety of methods for tracking adequacy of rates and access, and routinely monitors ongoing concerns and tracks specific issues that are raised by stakeholders. Recently, the Department has undertaken efforts to recruit providers that are in adjacent service areas or that historically provided services to people with a different disability type to expand their service footprint to further meet the needs of rural communities. Additionally, the Department has updated the reimbursement methodology for long-term services and supports case management agencies. To better address the unique fiscal challenges of providing case management in rural and frontier regions, the proposed rates include geographic considerations for the first time. The Department intends to conduct additional analysis on both rural and urban sustainability across services to better understand, and offer corresponding policy changes to reflect, unique differences that providers and members experience throughout Colorado.

The Department reviewed Home and Community-Based Services (HCBS) rates in year two of the first five-year rate review cycle. While the Department found that Colorado's rates for these services was between 81 and 141 percent of the comparison states, it did also outline a lack of multiple providers in rural and frontier counties. Colorado's HCBS rates are determined using the following measures:

The Home and Community Based Service (HCBS) waivers utilize a Fee-for-Service (FFS) rate methodology. The Department's adopted rate methodology incorporates the following four (4) factors:

1. Indirect and Direct Care Requirements: Includes wage expectations for care workers based on the Colorado mean wage for each position, average hours for each position, full-time equivalency required for the delivery of services, and necessary staffing ratios. Wages are determined by the Bureau of Labor Statistics for each position. Communication and inquiries with stakeholders, providers, and clients aid in this determination.
2. Facility Expense Expectations: Incorporates the facility type using existing facility type property records listing square footage and actual cost. Facility expenses also include estimated repair and maintenance costs, utility expenses, phone, and internet expenses. Repair and maintenance prices, utility pricing, and any additional unique pricing is determined through public inquiry, research, and corresponding analysis.



3. Administrative Expense Expectations: Identification of computer, software, office supply costs, and the total number of employees to determine administrative and operating costs per employee.
4. Capital Overhead Expense Expectations: Identifies and incorporates additional capital expenses such as medical equipment, supplies, and IT equipment directly related to providing the service to Medicaid clients.

HCBS will be reviewed again by the Department in year one of the second five-year rate review cycle; evaluation will begin in 2020, and results will be published in the Department’s May 1, 2021 Medicaid Provider Rate Review Analysis Report. This upcoming report will pay attention to regional access and adequacy of rates.

Impact of Denver Minimum Wage Changes

The minimum wage changes within the City and County of Denver raise potential concerns around how providers will to continue to render services to Colorado’s most vulnerable populations with a high percentage of a fixed-cost reimbursement rate going towards wages. The ability for providers to maintain operation wherein the fee they collect remains static raises concerns about ongoing viability and client access to care. For example, the following table illustrates how much of each rate must be used for wages within Denver for Personal Care:

Personal Care in the Elderly, Blind, and Disabled Waiver (\$19.92/hr)

<i>Year</i>	<i>Denver Hourly Wage</i>	<i>Percentage of Fixed Rate</i>
2019	\$11.10	55.72%
2020	\$12.85	64.51%
2021	\$14.77	74.15%
2022	\$15.87	79.67%

The capacity for providers to continue to render services with these margins without accounting for administrative overhead, requirements on technology, training, and transportation, as well as supplies, facility expenses, and licensing fees is unknown. For example, in year 2 of the increase (to \$14.77/hour), our current projections and analysis show this is nearly two dollars above the current Bureau of Labor Statistics Colorado mean wage of \$12.97 for Direct Support Professionals. In year 3, the wage disparity between the mean wage and the proposed Denver minimum wage extends to three dollars above our rate’s direct service provider’s wage and far exceeds our current federally approved rate methodology.



Below is a table showing the estimated impact of incorporating Denver’s minimum wage increases for CY 2021 and CY 2022 into the rate setting methodology for Personal Care, Homemaker, Health Maintenance Activities, and Residential Habilitation for providers in the City and County of Denver.

Estimated Impact - City and County of Denver	FY 2020-21	FY 2021-22	FY 2022-23
Personal Care	\$3,526,412	\$8,594,588	\$10,401,808
Homemaker	\$695,663	\$1,707,558	\$2,079,665
Health Maintenance	\$145,757	\$325,379	\$309,688
Consumer Directed Attendant Support Services ¹	\$123,903	\$300,464	\$730,458
Residential Habilitation	\$890,208	\$2,486,291	\$3,249,366
Total Estimated Impact	\$5,381,943	\$13,569,722	\$16,770,985
General Fund	\$2,690,972	\$6,784,861	\$8,385,493
Federal Funds	\$2,690,971	\$6,784,861	\$8,385,492

¹ Consumer Directed Attendant Support Services includes personal care, homemaker, and health maintenance, as delivered through that program.

Impact to Other Geographic Locations

It is unclear how the minimum wage change will impact other areas of the state, particularly the counties immediately adjacent to Denver and rural communities. The rising wage and strong economy disproportionately impact rural providers, who more acutely find a lack of qualified individuals for these positions in a crowded employer marketplace. The Department will monitor the impact of Denver’s wage increases to access to care statewide.

Need for a Cash Fund

Section 8-6-101(9)(b), C.R.S., requires the Department to provide a recommendation as to “...if establishing a fund to pass through [rate] increases to facilities... is necessary.” The Department does not recommend the creation of a cash fund. Should the General Assembly decide to appropriate new funding for the purpose of increasing provider rates, the Department recommends that the General Assembly continue to appropriate funding directly from the General Fund and usual cash fund sources (notably the Healthcare Affordability and Sustainability Fee Cash Fund) as it would for any other provider rate increase.

Should the General Assembly decide to create a cash fund, there are several questions that would need to be resolved through legislation about the cash fund’s operations. Notably, a cash fund must be created in statute, and so requires additional approval from the General Assembly and the Governor. Once the cash fund is created, the General Assembly would need to consider other technical considerations regarding the cash fund. For example, a new cash fund would likely not have a dedicated revenue source, and so funding would need to be transferred into the new fund from the General Fund and other cash funds. The General Assembly would need a mechanism to transfer funding between fund sources each year.



Additionally, the enabling statute may need to determine the disposition of any unused funding at the end of the year and specify a procedure for what to do if the cost of rate increases exceeds projections and available funding is inadequate, such as if there is a rapid increase in caseload.

For these reasons, the Department does not recommend the creation of a new cash fund. Even without a cash fund, the Department would be able to provide detailed reporting about the cost and utilization of rate increases through standard reporting mechanisms. Should the General Assembly want additional reporting about the disposition of rate increases, the Department believes that the usual channels, such as a legislative request for information or formal questions through the annual Joint Budget Committee hearing process, will provide the necessary information without requiring statutory changes. Please do not hesitate to reach out with any additional questions. We look forward to continuing this critical conversation.

Sincerely,



Kim Bimestefer
Executive Director, Department of Health Care Policy and Financing

CC:

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Representative Julie McCluskie, Joint Budget Committee
Representative Kim Ransom, Joint Budget Committee
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