Joint Budget Committee Staff

Memorandum

To:	Joint Budget Committee Members
From:	Emily Pope, JBC Staff (303-866-4961)
Date:	Wednesday, March 12, 2025
Subject:	Child Welfare Residential Placement Payment Transfer

Historic Policy

Currently, children in the custody of county departments of human services are enrolled in RAEs, and each RAE receives per-member-per-month payments for these individuals. However, residential treatment for foster youth are not covered by the RAE and those costs are not part of the per-member-per-month behavioral health capitation rate.

These payments are made from the "Child Welfare Services" line item in the "Transfers to Other Agencies" section of HCPF in the Long Bill. Any General Fund remaining at the end of the fiscal year is transferred to the Department of Human Services to backfill the Child Welfare Block as part of the county close process (outlined in the diagram at the end of the memo). This is often referred to as the "child welfare carve out."

The Department of Human Services reports on transfers from HCPF to DHS (or vice versa) as part of an RFI. The General Fund appropriation was $6.9 million in FY 2023-24. Of that amount, $5.7 million was transferred to DHS and was utilized to backfill the Block.

FY 2023-24 OCYF/HCPF Transfers

From	Program	Amount	Source	Purpose
DHS	Youth Services	264,019	General Fund	HCPF over-expenditure for mental health services.
HCPF	Child Welfare Services	5,727,439	General Fund	Child welfare program costs under-earned by HCPF.
Total		$5,991,458		

Updated Policy

In 2024, HCPF announced that residential treatment would move to behavioral health capitation. The change is expected to come into effect July 1, 2025. Some materials refer to ACC Phase III. After reviewing HCPF documents, staff believes that the timing of the change is intended to align with ACC Phase III, but is not part of ACC Phase III or the related Department request.[1]

It remains unclear to staff exactly how this change is incorporated into the HCPF budget request. The Child Welfare Services line item is not reduced to account for costs shifting to the RAEs, and the Behavioral Health forecast does not call out a change attributed to child welfare residential treatment specifically.

The Department indicates that they do expect that expenditures from the Child Welfare Services line item will reduce in FY 2025-26. However, a reduction was not requested for a transitional year as payments will continue to be made to pay claims for prior dates of service. The line will also continue to support medically necessary residential services not covered by the RAEs, including Autism Spectrum Disorder and IDD.

The Department does expect child welfare residential service payments to shift to Behavioral Health Capitation in FY 2025-26. Rates for FY 2025-26 are currently being set, but the February forecast assumes a 5.0 percent increase. The Department states that the $2.4 million spent on these services is covered under the forecasted rate increase.

Source of the Change

The carve out has existed since 2006, and was the result of statutory language that excluded RAEs from paying for residential services for child welfare. HCPF documents indicate that the Department became aware that the statute had changed in 2021.[2]

The Department has been working to develop a plan to come into statutory compliance since 2021, but appears to have only made counties aware of the change in 2024. Statutory incompliance puts Medicaid dollars at risk for disallowances.

The statutory change was the result of a JBC bill that the Department requested in 2018 through the Office of Community Living, H.B. 18-1328 (Redesign Residential Child Health Waiver). The bill removed statutory requirements that children be placed in foster care prior to receiving services through the HCBS-CHRP waiver, and moved the program from DHS to HCPF.

Prior to the bill, statute indicated that managed care did not include residential child care facilities (RCCF), psychiatric residential treatment facilities (PRTF), and children placed by county departments of human services in licensed or certified out-of-home placement facilities. This was the section of statute that established the “child welfare carve out.” The bill changed statute to only say that managed care does not include CHRP.

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[1] HCPF Presentation, Transition Plan for Moving Child Welfare Residential Services Under the RAEs for ACC Phase III.

[2] HCPF Policy Change and Transition Plan Regarding the Inclusion of QRTP and PRTF Services.

The Department indicates that it was not identified that this change eliminated the carve out until 2021. The bill did reduce the Child Welfare Services HCPF line item, but staff does not know if the JBC or JBC Staff was aware of the potential impact at the time.

The Department further indicates that the change and implementation timeline is also driven by the GA v. Bimestefer youth system of care lawsuit. The Department anticipates that moving child welfare residential services under the RAEs will align programs, policy, and accountability for residential and outpatient services.

The Department is of the opinion that the current carve out results in youth being placed in residential settings beyond medical necessity. Current practice resulted in the state being sued for a lack of in-home and community based services. Maintaining that system without increased investment in alternatives opens the state to legal risk.

Concerns

The change moves the placement decision from the county to the RAE. Counties have raised concerns that the change will limit access to services and decrease the funding available for child welfare. There are also many outstanding questions about the transition plan for a change anticipated to occur in less than four months.

County funding. Staff agrees that the carve out has historically provided essential funding to backfill county expenditures for child welfare, usually by millions of dollars. Staff further agrees that a reduction to this line would place pressure on county budgets for child welfare, TANF, and CCAP allocations. The Child Welfare Block is already projected to be under-allocated by $26.5 million General Fund in the current fiscal year.[3]

RAEs will only be required to authorize treatment for 30 days initially, with ongoing stay authorizations. Any placement beyond RAE determinations will be covered by counties rather than Medicaid. PRTF has an $800 daily rate, and length of stay is often several months. RAEs are only required to give counties 10 days notice that an alternative placement needs to be identified.

Services. HCPF is concerned that youth are currently remaining in residential treatment beyond medical necessity through county placements. Counties are concerned that there are not placement alternatives, or sufficient services to transition youth from PRTF to lower levels of care. The HCPF system of care includes high fidelity wraparound via intensive care coordination to support youth in-home and community.

Counties indicate that HCPF’s plan does not establish a sufficient continuum of care for high acuity youth. High fidelity wraparound is not expected to be a sufficient level of care, and counties anticipate that youth will continue to cycle through residential care without step-down

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[3] Child Welfare Block projection FY 2024-25.

services. Step-down services could include transitional out-patient, treatment foster care, and respite.

Options

Staff continues to discuss the issue with stakeholders and does not yet have a recommendation for the Committee. The Committee may sponsor legislation or take budget actions to align with any number of changes. Staff is currently considering the following options.

1. **Approve requests as recommended with no further action:** The Committee could choose to approve the Behavioral Health forecast and System of Care requests as currently recommended. Staff anticipates that this option will leave additional funding (approximately or less than $2.4 million General Fund) available to counties for Child Welfare county close.

   This option is also anticipated to limit residential treatment to medical necessity. That would avoid unnecessary institutionalization and ensure services provided aligned with patient need, if appropriate services exist. Staff remains concerned that appropriate service alternatives do not exist and counties are not sufficient funded to maintain placement after RAE determination.

2. **Reduce the HCPF Child Welfare Services line item and increase the Child Welfare Block:** This is not anticipated to affect the level of funding available for child welfare because funding can be transferred between the two departments. However, the adjustment would align appropriations with anticipated expenditures.

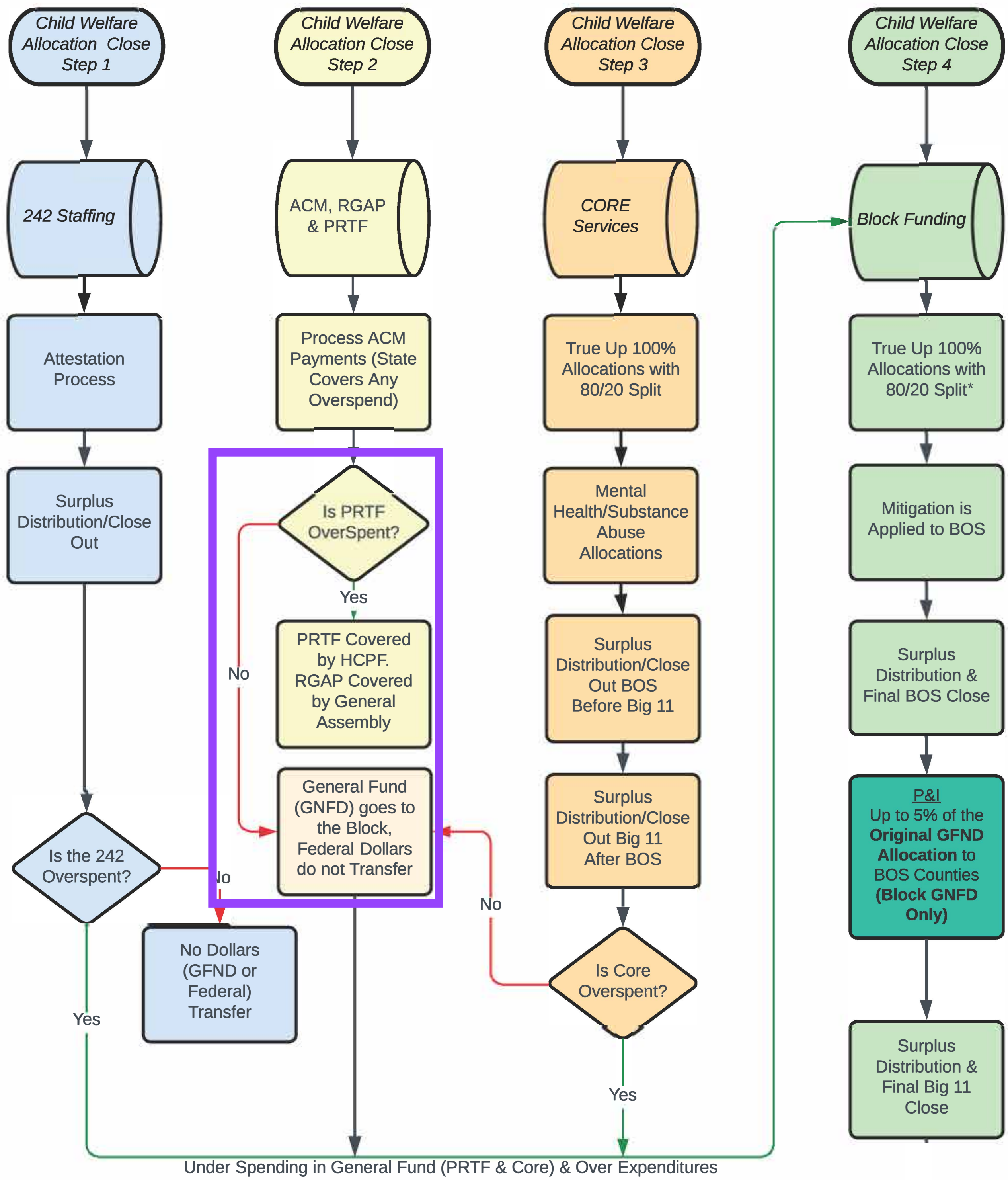
3. **Sponsor legislation to delay implementation:** Staff is concerned that the change has been rushed without developing a sufficient transition plan in partnership with counties, RAEs, and providers. Staff does agree that the State should be working toward establishing a system that provides services based on medical necessity and that the current plan is not sufficient to ensure those services are available.

   An additional year or two of implementation would allow the Department to address outstanding questions from counties and develop service alternatives. The cost of establishing additional services is currently unknown.

   The Committee could also sponsor legislation to change practice. Staff does not have specific policy or budget recommendations for alternatives at this time.

Child Welfare Closeout Flow Chart

Jamison Lee | September 1, 2023



ACM	Administrative Case Management
HCPF	Health Care Policy and Financing
P&I	Prevention and Intervention Cash Fund
PRTF	Psychiatric Residential Treatment Facilities
RGAP	Relative Guardianship
Notes:	*Move any 80/20 expenditures to 100% if the 100% allocation is underspent to fully expend the 100% allocations. Move any overspent 100% allocations to 80/20.