County Feedback on the JBC's CCCAP Bill 3-23-18

- General feedback: -We were expecting language in statute on an annual budget request that would work toward the goal of incrementally achieving parity between the proportion of eligible CCAP families served (13-14%) and the rate of child care usage by the general population (27%). That is not in the bill. We believe it's crucial to include language rather than just verbal indications.
- Page 2 line 1 makes the new CCCAP allocation go into effect on July 1, 2018. It will be impossible for CDHS to have rules developed on all the factors listed in lines 13-17 by then, especially if it goes through the SubPAC/PAC process. So that means county allocation for 18-19 will only be based on the percent of kids in their county eligible for CCCAP times the appropriate reimbursement rate for each county.
- RATE SETTING:
    - Page 2, lines 4-11: on rate setting: Counties would like to see either the ability to opt out of rates reinstated or language to clarify that an increase in the state-established rates will only be implemented if there is adequate appropriation requested in conjunction with a rate increase.
    - On page 2, line 4, after DEPARTMENT add the following: ", IN CONSULTATION WITH COUNTIES,"
    - It seems as though the process by which rates are set is struck from the bill.
- ALLOCATION:
    - Page 3, lines 1-7: How do the adjusted calculations that state board can make based on the listed factors relate to a base rate? There is no establishment or definition of a "base" allocation for each county.
        - We assume that Vance's intent is # of children X $market rate = base rate. If it is, it should be clearly articulated in the bill so that there is no question on how this is determined and that each year, that is the starting point for the allocation. This is such a drastic change, that that clarification may help counties get on board.
    - Page 3, lines 1 -7: Is the base allocation adjusted for tiered reimbursement (quality), age, and type of care? We believe it should be. During implementation, we will need to make sure that the "appropriate reimbursement rate" varies by age group, quality, and care-type. For example, care for infants and toddlers is more expensive than school-age care (as the market rate study has always shown and will continue to show). So in calculating a county's block grant, the number of eligible children will vary by age group and the rates for those age groups will vary.
    - It is not clear if a county can have different rate sets based on geographical areas within one county. Boulder, for instance, currently has three geographical rate sets due to the wide differences in market rates between the City of Boulder, Longmont and the eastern part of the county. Would something like this still be allowed? Some clarification here would be helpful.
    - Page 3, line 8 - 2)(a) the "Adjustment" to the "base" by CDHS/State Board. I believe Vance's assumption is that the Rules Promulgated would follow the current rule creation process of S-PAC/PAC (giving Counties the opportunity to discuss and develop), if that were clarified, again, it might help counties get on board and lower the concern on this piece.

- Page 3, lines 8-21: This bill gives unilateral authority to CDHS and the Human Services Board in establishing the criteria for being granted an "exception:" to the JBC Analyst's general allocation formula. To whom do we go, as counties, if we desire to challenge the State's determination? Where are our appeal rights if we believe this has happened? We believe that there should be a separation from the Executive Branch to the Legislative Branch to provide a fair and impartial appeal.
    - Suggested Amendment: We are recommending that counties have a right to appeal a State decision in this matter to the Joint Budget Committee directly.
    - On page 3, Line 18-21, strike the current (b) and add the following: (b) THE AMOUNT OF EACH COUNTY'S BLOCK GRANT DETERMINED BY SUBSECTION (1) OF THIS SECTION SHALL BE CALCULATED FOR EACH STATE FISCAL YEAR SUCCEEDING STATE FISCAL YEAR 2018-19, BASED ON THE MOST CURRENT DATA AVAILABLE AT THE TIME OF CALCULATION, ACCORDING TO THE RULES PROMULGATED PURSUANT TO SUBSECTION (2)(a) OF THS SECTION. ANY ADJUSTMENT TO THE AMOUNT ALLOCATED TO EACH COUNTY AFTER THE ANNUAL CALCULATION HAS BEEN PERFORMED, DUE TO AN ADJUSTMENT OF THE TOTAL APPROPRIATION AMOUNT, MUST BE BASED ON THE SAME DATA AS THAT WHICH WAS USED FOR THE CALCULATION ORIGINALLY MADE FOR THAT STATE FISCAL YEAR.
- On page 3, at line 21 add the following: (c) A COUNTY DEPARTMENT OF HUMAN SERVICES MAY APPEAL TO THE JOINT BUDGET COMMITTEE OF THE COLORADO LEGISLATURE A DETERMINATION BY THE STATE DEPARTMENT REGARDING THE STATE DEPARTMENT'S APPROVAL OR DENIAL OF A COUNTY'S RIGHT TO ADJUSTMENT BASED ON THE FACTORS IDENTIFIED IN SUBSECTION (2)(a) OF THIS SECTION.

- Page 3, line 24 (this is elsewhere in the doc too): What is part 8 listed here? (3) THE MONEY IN A COUNTY BLOCK GRANT ALLOCATED TO A COUNTY PURSUANT TO THIS SECTION MUST ONLY BE USED FOR THE PROVISION OF CHILD CARE SERVICES UNDER RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS PART 8.
- Page 4, line 17: Maintenance of effort language: In order to align with current law, the sentence should end with ",reflected as a percentage."
- Exit level questions:
    - <u>Page 6, line 1 through Page 7, line 20:</u> The way this subsection (2) is written, would it preclude a family that enters the program at 185% from earning an income above that level to be deemed ineligible? Federal CCDF requires that the exit eligibility be higher than the entry eligibility and be set at 85% of SMI <u>or</u> some income <u>above</u> the income level at which the state says can families become initially level. Or does this get addressed in the 12 month transition period? If it does, the income level at which a family is denied must still be higher than the income that made them eligible in first place to be in compliance with federal regulations.
        - I worry that this is written too narrowly in the bill and that it could seem that a family that was at 185% of FPL when deemed initially eligible comes in for their 12-month redetermination that if they are at 186% of FPL, they would be

deemed ineligible. I believe that is a violation of the **two-tiered eligibility thresholds** as required by federal regulations.

- Page 6 again: Section 3 – 26-2-805 (2)(a)
  - The way I read this section in that a county could NOT have a waitlist and serve folks above the 185% level, regardless of how it is paid for. This means that if someone entered the program at say 165% of FPL and after 12 months they are at 200% of FPL, during the redetermination process they would be moved off the program if there is a waitlist for folks below 185. I do not think this is what we want to be doing from a program and outcomes standpoint. One of the central themes to the program is to empower families in building income.
  - I understand what Vance is trying to do here, but this approach will create a massive cliff effect in the program. This is where perhaps we need to allow for county flexibility on the exit eligibility threshold.
  - Possible revisions to the proposed language are below. Note I do think there are a number of areas where the entrance and exit eligibility language needs to be addressed. This is really brainstorming at this point.
    - (2) (a) The A county may provide child care assistance for any 7 family whose income meets EXCEEDS the requirements of subsection (1) 8 of this section but does not exceed the maximum federal level for 9 eligibility for services of eighty-five percent of the state median income 10 for a family of the same size IF:
      - 11 (I) A COUNTY'S ENTRANCE ELIGILILITY TO THE PROGRAM IS SET AT 185% OF FPL AND IS SERVING ALL FAMILIES WHOSE INCOME LEVEL IS BELOW THAT 12 REQUIREMENT; AND
      - 13 (II) USES ONLY LOCAL MONEY TO SERVE SUCH FAMILIES.
- Page 6 lines 2-5: there is confusion over this language: SUBJECT TO AVAILABLE APPROPRIATIONS, THE STATE BOARD MAY ADJUST THE PERCENTAGE OF THE FEDERAL POVERTY LEVEL USED TO DETERMINE CHILD CARE ASSISTANCE ELIGIBILITY BY PROMULGATING A RULE. What is meant by this?
- **Page 6, lines 6-13: Counties cannot serve families above 185% of FPL, but are currently doing so. Since the bill goes into effect July 1, 2018.
  - What is the noticing / continuation plan for families who are above the 185% who are now being covered with CCCAP funds but will, in the future, be county only dollars? If a county chooses not to use county only do those families remain on for a period of time?
- <u>Page 6, line 11:</u> Should Subsection (2) on Page 6, line 11 read "all eligible families" rather than "all families"? And is it families that apply or are eligible locally (i.e., what if there are families that don't apply/don't want CCCAP but are eligible at this income level)?
  - <u>Suggested language: All eligible families who have applied</u>
- Page 6 Lines 6 - 13: The language in lines 11 and 12 is not clear as to what "that requirement" refers to. Is it the 185% FPL or the county's higher income eligibility

level? How will counties know if it is serving all families below that level - does that refer to that none of those families are waitlisted?
    - Pg. 6 line 13: Vance indicated to us that if there were unspent CCCAP funds in the state, those could be used by a county to serve families over 185%FPL
    - Page 6 lines 14-19: Concerns about state board setting the exit level:
        - This should be a county decision, not State Board, OR if it is to remain a State Board amount, that amount needs to be identified in statute so that it is clear and transparent regarding the intent of the maximum eligibility amount.
- Page 7 lines 3-14: The timeframes in this section are confusing….needs clarification:
    - (d) Except as provided for in paragraph (e) of this subsection (2)(e) OF THIS SECTION, the county shall continue to provide the current CCCAP subsidy to a participant, person, or family who has lost eligibility pursuant to this subsection (2) for a period of no NOT less than ninety days TWELVE MONTHS from the time of notification to allow the participant, person, or family to make appropriate alternative arrangements for child care. Additionally, the county is strongly encouraged to continue to provide child care assistance for a period of six months from the time of notification. During the six-month TWELVE-MONTH period, the county shall work with the participant, person, or family to provide a gradual transition off child care assistance provided pursuant to this subsection (2).
        - Page 7 lines 3-8: There is confusion in this section around 12-months or 6 months (see line 10 versus line 7), the duration of the gradual transition, and whether or not the 12 months includes the gradual transition or if there is also an additional 6 months of transition. There seems to be some contrary statement. Based on this section it makes me wonder if counties really have a choice about closing a case when a family is no longer eligible.
    - On page 7, line 7, strike "TWELVE" and replace with "SIX"
    - On page 7, line 11, strike "TWELVE" and replace with "SIX"
        - It appears this may be federal rule.
- Page 8, line 12:
    - This section should not be struck since we have had issues with shorter authorization periods than eligibility periods which interferes with continuity of care. The authorizations have been shorter than the eligibility periods in a way that has interfered with the goal of 12-months of care (i.e., you're eligible all year, but I will only give you three month authorizations at a time).
- Page 9, lines 6-8: There's confusion over what these two items are?
    - 6 (III) AN INSTANCE OF NONTEMPORARY JOB LOSS FOR LESS THAN NINETY DAYS; OR
    - 8 (IV) A TEMPORARY BREAK IN ELIGIBLE ACTIVITY.
    - On page 9, line 7, after the word "DAYS", add the following, "TO ALLOW FOR JOB SEARCH ACTIVITIES"
    - On page 9, line 8, Strike "A TEMPORARY BREAK IN ELIGIBLE ACTIVITY" –
        - If not, this needs to be defined. What qualifies as a temporary break and for how long? Unless we are talking about educational breaks, this should be very limited. Someone should not be getting childcare if sitting at home, not looking for jobs)
    - It appears that this may be required by federal rule.