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Joint Committee on Finance

Paper #323

Children's Long-Term Support Waiver Program (Health Services -- Medicaid Services)

[LFB 2017-19 Budget Summary: Page 208, #5]

CURRENT LAW

The children's long-term support (CLTS) waiver program provides Medicaid-funded home and community-based supports and services to children with significant physical and developmental disabilities and severe emotional disturbance. Funding for the program is budgeted as sum certain amounts from appropriations that support other MA benefits costs.

The Department of Health Services (DHS) provides counties with annual funding allocations to support CLTS waiver services. Base funding for the program is approximately \$76.3 million (\$32.0 million GPR and \$44.3 million FED). In addition, counties currently contribute approximately \$4.6 million annually to fund program services from state and local sources, which, like the GPR funding, is eligible for federal MA matching funds (approximately \$6.6 million).

Counties must serve eligible children on a first-come, first-serve basis with their funding allocations. Since children who qualify for the program are not entitled to receive waiver services, the state has established a waiting list for children who qualify, but are not yet enrolled in the program. Children who are waiting to receive waiver services qualify for MA state plan services, which include physician, hospital, home health, and personal care services.

In calendar year 2015, the last year for which information is available, an average of 5,745 children received waiver services each month, including approximately 695 who received intensive autism behavioral treatment services under the program.

GOVERNOR

Funding. Provide \$14,067,300 (\$5,656,000 GPR and \$8,411,300 FED) in 2017-18 and \$25,205,500 (\$10,197,400 GPR and \$15,008,100 FED) in 2018-19 to increase funding for waiver services provided under the CLTS program. The administration estimates that this funding increase, together with the statutory changes described below, and program funding adjustments that would be provided under the MA cost-to-continue item, would enable the state to eliminate the existing waiting list for CLTS services by the end of state fiscal year 2017-18.

Statutory Changes. Authorize DHS to require counties to maintain a specified level of contributions for the CLTS program. Require DHS to determine the amount of contribution that each county is required to maintain based on the county's historical expenditures for the program. This provision is intended to ensure the continuation of county support for CLTS services.

Require counties to cooperate with DHS to determine an equitable funding methodology and county contribution mechanism for contributing to CLTS program costs, and to ensure that county contributions determined by DHS are expended for the program in the counties.

Authorize DHS to contract with a county or a group of counties to deliver services under the program.

DISCUSSION POINTS

1. For the past several decades, state and federal law and policy has shifted to favor community based care over institutional care for individuals with disabilities, based on cost-effectiveness and service preferences for individuals who need services. The services provided by the CLTS program enable children to continue living with, and receive support from, their families outside of an institution. CLTS services provide greater access to educational and employment opportunities, leading to greater independence for the individuals served by the program.

2. In order to receive CLTS services, children must meet both financial and functional eligibility criteria. The functional criteria require a child to have a physical disability, developmental disability, or severe emotional disturbance, which is diagnosed medically, behaviorally, or psychologically. The impairment must be characterized by the need for individually planned and coordinated supports, treatment, or other services that permit the child to remain living in a home or community-based setting.

3. The financial eligibility criteria require that the child's income not exceed \$2,199 per month and, for individuals 18 and over, countable assets may not exceed \$2,000. When determining financial eligibility for CLTS services, the child's family's income is disregarded. However, families with income greater than or equal to 330% of the federal poverty level (\$67,386 for a family of three in 2017) are required to pay a percentage of program costs on a sliding scale based on income.

4. All children who receive CLTS waiver services are eligible for Medicaid state plan services. CLTS participants continue to receive acute and primary care services as part of the Medicaid state plan but may use the CLTS program to receive supplemental services beyond what

is covered by the state plan.

5. CLTS services are available for children from birth through age 21 statewide. In Family Care counties, children ages 18 and over who are eligible for Family Care must participate in that program or IRIS (Include, Respect, I Self-direct), rather than CLTS, to receive services.

6. Supports and services covered by CLTS include: communication aids; adaptive aids; support and service coordination; foster care and treatment foster care; counseling and therapeutic services; daily living skills training; day services; financial management; consumer education and training; home modifications; intensive in-home treatment; housing start-up and counseling; care, support, and supervision in an adult family home; consumer and family directed supports; nursing services; respite care; personal emergency response system; specialized medical and therapeutic supplies; specialized transportation; supported employment; and supportive home care.

7. Table 1 shows the amount spent on the various CLTS service categories in fiscal year 2015-16. While 2015-16 includes CLTS spending on autism services, future years will not, since autism services were gradually transitioned from the CLTS program to the Medicaid state plan, beginning in January, 2016.

TABLE 1
CLTS Program Expenditures by Category
Fiscal Year 2015-16

| <u>Service</u> | <u>Expenditures*</u> | <u>% of Total</u> |
|--------------------------------------|----------------------|-------------------|
| Respite Care | \$16,628,400 | 20.4% |
| Supportive Home Care | 3,923,100 | 4.8 |
| Housing Start-up | 20,800 | 0.0 |
| Transportation | 233,500 | 0.3 |
| Daily Living Skills Training | 6,440,500 | 7.9 |
| Adaptive Aids/Supports | 4,266,800 | 5.2 |
| Consumer Education & Training | 207,300 | 0.3 |
| Foster Care | 5,228,200 | 6.4 |
| Counseling/Therapy | 5,460,700 | 6.7 |
| Autism Services | 19,025,900 | 23.3 |
| Social Mentoring | 1,725,300 | 2.1 |
| Community Integration Services | 503,300 | 0.6 |
| Case Management/Service Coordination | 15,473,800 | 19.0 |
| Housing Counseling | 4,200 | 0.0 |
| Supported Employment | 10,800 | 0.0 |
| Financial Management Services | 826,400 | 1.0 |
| Day Services | 340,000 | 0.4 |
| Skilled Nursing | 18,400 | 0.0 |
| Other | <u>1,159,200</u> | <u>1.4</u> |
| Total | \$81,496,600 | 100.0% |

* DHS indicates that since CY16 expenditures have not been reconciled, totals are subject to change.

8. As previously indicated, children who meet the functional and financial eligibility requirements are not entitled to receive CLTS services, which means eligible children may be placed on waiting lists for CLTS services until funding becomes available. As of July, 2016, approximately 2,200 children were on waiting lists for these long-term care services.

9. Some counties have served additional children from their waiting lists by supplying the state's share of matching funds as the county match to obtain federal matching funds on CLTS services. Historically this has meant that waiting list times have varied greatly between counties, depending on each county's commitment to providing additional funding for CLTS services.

10. In 2016-17, DHS began the transition to statewide management of the CLTS waiting list in response to a notice from the federal Centers for Medicare and Medicaid Services (CMS), which stated that county control of CLTS waiting lists would no longer be allowable and that enrollment must be based statewide on time spent on the waiting list. At present, counties continue to enroll children from their own county on a first-come, first-served basis, although the waiting list is now consolidated at the state level.

11. The funding in the bill is intended to fund the difference between the available funding for the program, after the cost-to-continue adjustments and the administration's estimate of total program costs, and the funding necessary to provide services to eligible children who are on the existing waiting list for CLTS services (approximately 2,200 children).

12. Additionally, due to the proposed increase in state funding and the transition to a statewide waiting list for CLTS services the bill includes a maintenance of effort requirement for the program to avoid jeopardizing local funding for the CLTS program. Specifically, the bill would authorize DHS to require a county to maintain a specified level of contribution for the CLTS program and require DHS to determine the amount of contribution that a county must maintain based on the historical county expenditures for the program. This provision would alleviate a concern that counties would reduce funding to the program if locally funded CLTS "slots" that become available through program attrition are left unfilled because the requirement that the state must enroll children from other counties first, based on how long each child has been on the waiting list for CLTS services.

13. The bill would also require counties to cooperate with DHS to determine an equitable funding methodology and county contribution mechanism for contributing to CLTS costs, and to ensure that county contributions determined by DHS are expended for the program in the counties.

14. Finally, due to the smaller size of the CLTS program compared to the adult long-term care programs, the bill would authorize DHS to contract with a county or a group of counties to deliver services under the program. DHS indicates that allowing counties to regionalize certain administrative and case management functions may lead to reduced administrative costs, making those funds available for service provision instead.

15. Adjustments are made to the base funding for the CLTS program under the Medicaid cost-to-continue item. Most significant is a transfer in response to a federal policy change, which required DHS to begin transitioning autism behavioral treatment services, previously funded under

the CLTS program, to the Medicaid state plan in January, 2016. As part of the Medicaid cost-to-continue item, funding for CLTS waiver services is reduced by approximately \$23.3 million (all funds) annually, and increased for state plan services by a corresponding amount to reflect the transfer of these autism services.

16. Table 2 summarizes the total funding that would be available for CLTS services and reestimates the funding needed to implement the Governor's proposal, based on updated federal medical assistance percentages (FMAP) estimates and per diem rates. Specifically, the FMAPs are reestimated to be 58.71% for 2017-18 and 58.96% for 2018-19, and the per diem administrative costs are increased by \$0.10 from the estimates used in the bill.

TABLE 2

Reestimate of Governor's Recommendation

| <u>Source</u> | <u>GPR</u> | <u>FED</u> | <u>Total</u> |
|--|-------------------|-------------------|-------------------|
| 2017-18 | | | |
| Funding Available (from MA Base Reestimate) | \$22,530,000 | \$32,035,300 | \$54,565,300 |
| Expenditures | | | |
| Estimated Ongoing Program Costs -- Current Law | \$26,640,600 | \$37,880,100 | \$64,520,700 |
| Less County Funding (State Programs and County Levy) | -4,587,700 | -6,523,200 | -11,110,900 |
| Services for Children on Current Waiting List | <u>6,324,700</u> | <u>8,993,000</u> | <u>15,317,700</u> |
| Subtotal | \$28,377,600 | \$40,349,900 | \$68,727,500 |
| Funding Needed to Serve All Eligible Children | \$5,847,600 | \$8,314,600 | \$14,162,200 |
| Funding in Bill under this Item | <u>5,656,000</u> | <u>8,411,300</u> | <u>14,067,300</u> |
| Difference (Change to Bill) | \$191,600 | -\$96,700 | \$94,900 |
| | <u>GPR</u> | <u>FED</u> | <u>Total</u> |
| 2018-19 | | | |
| Funding Available (from MA Base Reestimate) | \$23,041,400 | \$33,102,400 | \$56,143,800 |
| Expenditures | | | |
| Estimated Ongoing Program Costs -- Current Law | \$26,479,300 | \$38,041,400 | \$64,520,700 |
| Less County Funding (State Programs and County Levy) | -4,582,100 | -6,582,900 | -11,165,000 |
| Services for Children on Waiting Lists | <u>11,564,200</u> | <u>16,613,600</u> | <u>28,177,800</u> |
| Subtotal | \$33,461,400 | \$48,072,100 | \$81,533,500 |
| Funding Needed to Serve All Eligible Children | \$10,420,000 | \$14,969,700 | \$25,389,700 |
| Funding in Bill under this Item | <u>10,197,400</u> | <u>15,008,100</u> | <u>25,205,500</u> |
| Difference (Change to Bill) | \$222,600 | -\$38,400 | \$184,200 |

17. The reestimate is based on an average monthly cost per child of approximately \$1,076 and a phased-in enrollment schedule, enrolling 1/12 of the children on the waiting list each month in 2017-18. By the start of 2018-19, the full waiting list would be enrolled and receiving services. Table 2 shows that, if the Committee wishes to adopt the Governor's recommendations, funding in the bill should be increased by \$94,900 (\$191,600 GPR and -\$96,700 FED) in 2017-18 and by \$184,200 (\$222,600 GPR and -\$38,400 FED) in 2018-19.

18. The Governor's proposal to serve all children who are on the current state waiting list for CLTS services would be consistent with the state's commitment to fully fund services to adults who qualify the state's MA-funded long-term care programs. In addition, the proposal would help minimize the risk of children entering out-of-home placements because families are unable to access adequate community supports, and would assist the state in complying with the recent CMS directive regarding the statewide waiting list for services. For these reasons, the Committee could approve the Governor's recommendation, with the funding reestimate [Alternative A1].

19. If the Committee does not adopt the Governor's recommendation to provide funding for services to all children on the current waiting lists, it could consider providing additional funding to reduce, but not eliminate the current CLTS waiting list. Table 3 shows the biennial cost of reducing the waiting lists by 1,000 and 1,500 children, assuming the same phased-in start dates as under the Governor's proposal [Alternatives A2a and A2b].

TABLE 3

Estimates of Biennial Funding Needed to Reduce the CLTS Waiting List by a Set Number of Slots

| <u>Waiting List Reduction</u> | <u>GPR</u> | <u>FED</u> | <u>All Funds</u> |
|-------------------------------|-------------|--------------|------------------|
| 1,000 | \$8,186,900 | \$11,719,100 | \$19,906,000 |
| 1,500 | 12,280,300 | 17,578,700 | 29,859,000 |

20. However, in light of other GPR funding commitments, the Committee may decide not to increase funding for the CLTS program to eliminate the waiting list for services. By deleting the Governor's recommendation, the Committee could reduce funding in the bill by \$14,067,300 (-\$5,656,000 GPR and -\$8,411,300 FED) in 2017-18 and \$25,205,500 (-\$10,197,400 GPR and -\$15,008,100 FED) in 2018-19 [Alternative A3].

21. Even if the Committee decides not to fund services for all children currently on the CLTS waiting list, the Committee may want to adopt the Governor's statutory changes regarding required county contributions and allowing collaborative regional systems for service delivery, as these provisions are intended to address administrative issues beyond those that may arise from expanding services to children currently on the waiting list for services [Alternative B1]. Otherwise, these provisions could be deleted the bill [Alternative B2].

22. Finally, the Committee could delete all provisions relating to this item from the bill [Alternatives A3 and B2]. However, the state would still need to comply with the requirement that children that have been waiting the longest for services be served first, based on a statewide waiting list. In order to implement this requirement, the state would likely need to adjust each county's CLTS funding allocations, resulting in some counties receiving more and others less than they had received in the past. Further, counties would be prohibited from enrolling children in the program until the highest priority children on the statewide waiting list receive services, which could result in counties not fully using their historical funding allocations and not enrolling children who qualify

for program services.

23. Act 55 included a provision that would potentially provide additional funding to support services for children who were on the CLTS waiting list, but only if budget estimates of funding retained by the state for certain MA-funded school-based services, which would otherwise be deposited to the state's general fund, exceeded budget estimates (\$42.2 million in 2015-16 and \$41.7 million in 2016).

24. If the Committee approves the Governor's recommendation to fully fund services for children currently on the CLTS waiting list, the Committee may also want to repeal this obsolete statutory reference to providing the CLTS program with any surplus funding over \$42.2 million in 2015-16 and \$41.7 million in 2016-17 generated by the state's share of MA revenues for school-based services [Alternative C1]. However, if the Committee wishes to ensure that any amounts the state receives from MA-funded school-based services in excess of the 2017-19 estimates assumed by the administration (\$36.0 million per year) are used to fund program services, it could update the current references to this potential funding source to apply to each fiscal year, beginning in 2017-18 [Alternative C2].

ALTERNATIVES

A. Program Funding

1. Adopt the Governor's recommendation to provide funding to support services to children who are currently on the waiting list for CLTS services. Increase funding in the bill by \$94,900 (\$191,600 GPR and -\$96,700 FED) in 2017-18 and by \$184,200 (\$222,600 GPR and -\$38,400 FED) in 2018-19 to reflect reestimates of the cost of implementing the Governor's proposal.

| ALT A1 | Change to | |
|--------|-------------------|------------------|
| | Base | Bill |
| GPR | \$16,267,600 | \$414,200 |
| FED | <u>23,284,300</u> | <u>- 135,100</u> |
| Total | \$39,551,900 | \$279,100 |

2. Delete the Governor's recommendation to fully fund the costs associated with providing CLTS services to all children currently on the waiting list and instead choose one of the following options to allocate funding for a specified number of the children currently on the waiting list.

a. Reduce funding in the bill by \$7,073,300 (-\$2,768,200 GPR and -\$4,305,100 FED) in 2017-18 and by \$12,293,500 (-\$4,898,300 GPR and -\$7,395,200 FED) in 2018-19 to serve 1,000 children on the current CLTS waiting list. Under this option, the change to base funding for the program would be \$6,994,000 (\$2,887,800 GPR and \$4,106,200 FED) in 2017-18 and \$12,912,000 (\$5,299,100 GPR and \$7,612,900 FED) in 2018-19.

| ALT A2a | Change to | |
|---------|-------------------|---------------------|
| | Base | Bill |
| GPR | \$8,186,900 | - \$7,666,500 |
| FED | <u>11,719,100</u> | <u>- 11,700,300</u> |
| Total | \$19,906,000 | - \$19,366,800 |

b. Reduce funding in the bill by \$3,576,300 (-\$1,324,300 GPR and -\$2,252,000 FED) in 2017-18 and by \$5,837,500 (-\$2,248,800 GPR and -\$3,588,700 FED) in 2018-19 to serve 1,500 children on the current CLTS waiting list. Under this option, the change to base funding for the program would be \$10,491,000 (\$4,331,700 GPR and \$6,159,300 FED) in 2017-18 and \$19,368,000 (\$7,948,600 GPR and \$11,419,400 FED) in 2018-19.

| ALT A2b | Change to | |
|---------|-------------------|--------------------|
| | Base | Bill |
| GPR | \$12,280,300 | - \$3,573,100 |
| FED | <u>17,578,700</u> | <u>- 5,840,700</u> |
| Total | \$29,859,000 | - \$9,413,800 |

3. Delete all additional funding that would be provided under this item to support CLTS services to children on the current waiting list.

| ALT A3 | Change to | |
|--------|-----------|---------------------|
| | Base | Bill |
| GPR | \$0 | - \$15,853,400 |
| FED | <u>0</u> | <u>- 23,419,400</u> |
| Total | \$0 | - \$39,272,800 |

B. Statutory Changes in Bill

1. Approve all of the statutory changes in the bill relating to adopting a maintenance of effort requirement for the counties, requiring the counties to cooperate with DHS to determine an equitable funding methodology and county contribution mechanism, and authorizing DHS to contract with a county or a group of counties to deliver services under the program.

2. Delete all of the statutory changes in the bill relating to the CLTS program.

C. Transfer of Surplus School Based Services Funds to CLTS Program

1. Effective December 31, 2017, repeal Act 55 provisions that specify that any funding the state retains for the provision of school based services that exceed \$42.2 million in 2015-16 and \$41.7 million in 2016-17 be transferred to the MA trust fund to fund services for children on the CLTS waiting list.

2. Update the Act 55 provision to specify that any funding the state retains for the provision of school-based services that exceed \$36.0 million in any year, beginning in 2017-18, would be used to fund services for children enrolled in the CLTS program.

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