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FISCAL NOTE

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|-------------------------|--|------------------------|---|
| Drafting Number: | LLS 18-1222 | Date: | April 16, 2018 |
| Prime Sponsors: | Rep. Michaelson Jenet Sen. Gardner; Williams A. | Bill Status: | House Public Health Care and Human Services |
| | | Fiscal Analyst: | Clare Pramuk 303-866-2677 Clare.Pramuk@state.co.us |

Bill Topic: BEHAVIORAL HEALTH CARE OMBUDSPERSON PARITY REPORTS

Summary of Fiscal Impact:

| | |
|---|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input checked="" type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill creates the Office of the Ombudsperson for Behavioral Health Access to Care and requires that health insurance carriers report specific information to the Commissioner of Insurance on mental health parity requirements. The bill creates an ongoing increase in state expenditures.

Appropriation Summary: The bill requires an appropriation of \$130,896 to The Department of Human Services and the Department of Regulatory Agencies..

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 18-1357**

| | | FY 2018-19 | FY 2019-20 |
|---------------------|------------------------|-------------------|-------------------|
| Revenue | | - | - |
| Expenditures | General Fund | \$63,937 | \$130,552 |
| | Cash Funds | \$66,959 | \$33,856 |
| | Centrally Appropriated | \$16,433 | \$30,042 |
| | Total | \$147,329 | \$194,450 |
| | Total FTE | 1.1 FTE | 2.0 FTE |
| Diversions | General Fund | (\$73,330) | (\$40,896) |
| | Cash Funds | \$73,330 | \$40,896 |
| | Total | \$0 | \$0 |
| TABOR Refund | General Fund | - | - |

Summary of Legislation

This bill creates the Office of the Ombudsperson for Behavioral Health Access to Care in the Office of the Executive Director of the Department of Human Services (DHS). The Governor is required to designate an ombudsperson by January 1, 2019, who will be the director of the Office of the Ombudsperson. The office will be administered under the direction and supervision of DHS but will exercise its prescribed statutory power, duties, and function independently of the DHS executive director. The Commissioner of Insurance and the DHS executive director will appoint liaisons to the ombudsperson to receive reports of concerns, complaints, and potential violations. The duties of the ombudsperson include:

- resolving access and coverage issues;
- monitoring concerns, complaints, and potential violations of state or federal law;
- receiving and reporting concerns and complaints relating to inappropriate care;
- providing information to help consumers obtain behavioral health care;
- developing appropriate points of contact for referrals;
- assisting in filing appeals or complaints; and
- reporting every September 1 to the Governor, DHS executive director, the Commissioner of Insurance, and the House and Senate health committees.

The bill also requires that health insurance carriers report specific information to the Commissioner of Insurance on mental health parity requirements beginning January 1, 2019, and annually thereafter. The Commissioner of Insurance may adopt rules to implement the reporting requirements. By March 1, 2019, and annually thereafter, the commissioner will provide a written report and presentation to the General Assembly on carrier compliance with rules, the federal Mental Health Parity and Addiction Equity Act of 2008, any regulations associated with the act, or guidance related to compliance with and oversight of the act. The report is also required to include information on market conduct examinations related to mental health parity and any educational or corrective actions taken to ensure carrier compliance.

Background

The federal Mental Health Parity and Addiction Equity Act of 2008 requires that certain health insurers provide mental health or substance use disorder benefits comparable to medical and surgical benefits. These provisions are also included in Colorado law.

State Diversions

This bill diverts \$73,999 from the General Fund in FY 2018-19 and \$40,896 in FY 2019-20. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

This bill will increase expenditures by \$147,329 and 1.1 FTE in FY 2018-19 and \$194,450 and 1.9 FTE in FY 2019-20 and thereafter. These costs are shown in Table 2 and discussed below.

Table 2
Expenditures Under HB 18-1357

| Cost Components | FY 2018-19 | FY 2019-20 |
|---|-------------------|-------------------|
| Department of Human Services | | |
| Personal Services | \$53,013 | \$127,231 |
| Operating Expenses and Capital Outlay Costs | \$9,976 | \$1,425 |
| Travel | \$948 | \$1,896 |
| Centrally Appropriated Costs* | \$9,393 | \$23,002 |
| FTE – Personal Services | 0.6 FTE | 1.5 FTE |
| DHS (Subtotal) | \$73,330 | \$153,554 |
| Department of Regulatory Agencies (DORA) | | |
| Personal Services | \$33,381 | \$33,381 |
| Operating Expenses and Capital Outlay Costs | \$5,178 | \$475 |
| Training | \$10,000 | |
| Contract Market Conduct Examiners | \$18,400 | |
| Centrally Appropriated Costs* | \$7,040 | \$7,040 |
| FTE – Personal Services | 0.5 FTE | 0.5 FTE |
| DORA (Subtotal) | \$73,999 | \$40,896 |
| Total | \$147,329 | \$194,450 |
| Total FTE | 1.1 FTE | 1.9 FTE |

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Human Services. DHS will have an increase in General Fund expenditures of \$73,330 and 0.6 FTE in FY 2018-19 and \$153,554 and 1.5 FTE in FY 2019-20 and future years. In the first year, the DHS will develop job descriptions and screen applicants for recommendation to the Governor for appointment to the position of ombudsperson with an expected start date of January 2, 2019. The ombudsperson, supported by 0.5 FTE compliance specialist, will perform the tasks outlined in the bill. Personal services costs are prorated to reflect the January 2019 start date, and for the General Fund paydate shift. In addition to standard operating and capital expenses, the ombudsperson and compliance specialist are expected to travel to address issues outside the Denver metro area and have 3 overnight stays per year.

Department of Regulatory Agencies. The Division of Insurance in the Department of Regulatory Agencies will have increased expenditures of \$73,999 and 0.5 FTE in FY 2018-19 and \$40,896 and 0.5 FTE in FY 2019-20 and future years from the Division of Insurance Cash Fund. The division will conduct rulemaking involving a stakeholder process to clarify the reporting requirements for health insurers which will require 0.1 FTE.

Because the bill expands the requirements for health insurers to report on their processes for addressing parity in benefits, additional time will be required by division staff to conduct rate reviews which requires 0.2 FTE, and 0.2 FTE to review insurer reports and compile into an annual report.

Market conduct examiners in the division will require additional training at a cost of \$10,000 in FY 2018-19 only, to be able to include the review of benefit parity in examinations. Prior to the completion of training, contract examiners with experience in the Mental Health Parity and Addiction Equity Act, will conduct that portion of examinations at a cost of \$18,400 which assumes 160 hours at a rate of \$115 per hour. Once trained, the market conduct examiners can address the parity requirements within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, and supplemental employee retirement payments, are estimated to be \$16,433 in FY 2018-19 and \$30,042 in FY 2019-20.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2018-19, the bill requires the following appropriations:

- \$63,937 to the Department of Human Services from the General Fund and an allocation of 0.6 FTE; and
- \$66,959 to the Department of Regulatory Agencies from the Division of Insurance Cash Fund, and an allocation of 0.5 FTE.

State and Local Government Contacts

Health Care Policy and Financing
Information Technology
Public Health and Environment

Human Services
Law
Regulatory Agencies