SB 23-289

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 23-0965	**Date:**	July 11, 2023
Prime Sponsors:	Sen. Bridges; Zenzinger Rep. Bird; Sirota	**Bill Status:**	Signed into Law
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Bill Topic: **COMMUNITY FIRST CHOICE MEDICAID BENEFIT**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☒ State Diversion
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill creates the Community First Choice option. The bill increases state expenditures on an ongoing basis, and results in a temporary diversion of funds in FY 2025-26.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under SB 23-289

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-	-
Expenditures	General Fund	-	$2,398,055	($40,309,662)	($41,211,861)
	Cash Funds	$39,766	-	$1,439,870	$2,153,933
	Federal Funds	$82,773	$3,690,766	$68,973,929	$78,734,706
	Central. Approp.	-	$5,708	$87,851	$93,125
	Total Expenditures	**$122,539**	**$6,094,529**	**$30,191,988**	**$39,769,903**
	Total FTE	**-**	**0.3 FTE**	**4.7 FTE**	**5.0 FTE**
Diversion		-	-	-	-
Other Budget	GF Reserve	-	$359,708	($6,046,449)	($6,181,779)

Summary of Legislation

The bill creates the Community First Choice (CFC) option under the state Medicaid program and moves several services currently provided under the Home- and Community-Based Services (HCBS) waiver programs to the new CFC option. As a result, the Department of Health Care Policy and Financing (HCPF) can expand access to the services and receive an additional federal match of 6.0 percent for these services, which include, among other things:

- personal care;
- homemaker services;
- health maintenance activities;
- electronic monitoring services; and
- training on selecting, managing, and dismissing an attendant.

The bill specifies that the delivery of these services must be provided through in-home support services, consumer-directed services and supports, and licensed home care services, as applicable. The bill outlines eligibility for the CFC option and requires that Medicaid ensure continuity of support for eligible individuals previously receiving services. HCPF must seek federal approval for approval of the CFC option by July 1, 2025.

State Diversions

Under the bill, it is assumed that about $49 million in General Fund savings in FY 2025-26 from increased federal matching funds (described below in the State Expenditures section) will be temporarily diverted to a cash fund, rather than accrue immediately to the General Fund. The federal Center for Medicare and Medicaid Services (CMS) requires states to maintain at least the same level of state expenditures for the first twelve months of implementation programs, such as the CFC option, relative to the previous 12 months. In line with this federal guidance, HCPF will create a cash fund in FY 2025-26, when CFC option services are expected to start, in which to deposit General Fund savings that accrue from the increased federal match during the first 12 months of implementation to maintain state expenditures. HCPF will then move the revenue that has accumulated in the cash fund back to the General Fund after the 12-month period has concluded. This fiscal note assumes that both diversions will occur in FY 2025-26, with second diversion to revert the savings back into the General Funds occurring in July 2026 as an Accounting Period 13 adjustment. As such, these diversions will have no net impact on the General Fund or the cash fund. It is assumed this diversion and repayment to the General Fund will be accounted for through the annual budget process.

State Expenditures

The bill increases state expenditures HCPF by:

- $123,000 in FY 2023-24, paid from the American Rescue Plan Act (ARPA) Cash Fund and federal funds;
- $6.1 million in FY 2024-25, paid from the General Fund; and
- $30.2 million in FY 2025-26 and $39.8 million in FY 2026-27, paid from the General Fund, the Health Affordability and Sustainability (HAS) Cash Fund, and federal funds.

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Expenditures are shown in Table 2 and detailed below. After accounting for the increased federal match and other changes in costs for FY 2025-26 and 2026-27, the bill is expected to result in a net reduction in General Fund.

Table 2
Expenditures Under SB 23-289

	Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Department of Health Care Policy and Financing				
Personal Services	-	$25,655	$385,096	$406,112
Operating Expenses	-	$675	$6,750	$6,750
Capital Outlay Costs	-	$13,340	$33,350	$33,350
System Changes	$41,625	$1,076,698	$68,551	$102,731
Contractor Costs	-	-	$3,424,007	$3,550,219
Wellness Benefit	$80,914	$4,972,453	$7,647,974	$8,167,260
CFC Services	-	-	$18,538,409	$27,410,355
Increased Federal Match	-	-	$49,248,106	$52,120,409
Reduced General Fund Obligation	-	-	($49,248,106)	($52,120,409)
Centrally Appropriated Costs[1]	-	$5,708	$87,851	$93,125
Total	**$122,539**	**$6,094,529**	**$30,191,988**	**$39,769,902**
General Fund	-	*$2,398,055*	*($40,309,662)*	*($41,211,861)*
Cash Funds	*$39,766*	-	*$1,439,870*	*$2,153,933*
Federal Funds	*$82,773*	*$3,690,766*	*$68,973,929*	*$78,734,706*
Centrally Appropriated	-	*$5,708*	*$87,851*	*$93,125*
Total FTE	**-**	**0.3 FTE**	**4.7 FTE**	**5.0 FTE**

[1] Centrally appropriated costs are not included in the bill's appropriation.

Department of Health Care Policy and Financing. Starting in FY 2023-24, HCPF requires funds for system changes and to provide its members with transition services. Starting in FY 2025-26, HCPF requires funds to implement the CFC and will see General Fund savings resulting from the increased federal match.

- **System changes.** Starting in FY 2023-24, HCPF requires funds for system changes to implement the CFC.

- **Wellness benefit.** Starting in FY 2023-24, HCPF will provide members with consultation services to navigate their benefit options. This is federally required to implement the CFC.

- **CFC services.** By providing CFC services under the state plan rather than under an HCBS waiver, utilization is expected to increase on net. Starting in FY 2025-26, HCPF will have increased costs to provide CFC services and requires 5.0 FTE to manage the program. Standard operating and capital outlay costs are included. These costs are prorated to account for the General Fund pay date shift.

- **Increased federal match and General Fund savings.** Starting in FY 2025-26, by providing covered services under the state plan instead of under the HCBS waiver HCPF is eligible for an additional 6 percent federal match. This will result in a reduction of $49 million General Fund in FY 2025-26, and a corresponding increase in federal funds. General Fund savings will be partially offset after accounting for increased utilization.

- **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 shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase, then decrease, the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill was signed into law by the Governor and took effect on May 25, 2023, except that Sections 2 through 17 take effect July 1, 2025.

State Appropriations

No appropriation is required. Funding to begin the process outlined in the bill is included in the FY 2023-24 Long Bill.

State and Local Government Contacts

Health Care Policy and Financing　　　　Information Technology