



Board Summary Report

Date: June 7, 2018

To: Board of County Commissioners

Through: Cheryl Ternes, Human Services Department Director

Subject: Colorado Works (CW) and Colorado Childcare Assistance (CCCAP) Memorandum of Understanding between Arapahoe County and Colorado Department of Human Services Division (CDHS).

Recommendation

As reviewed and discussed in Study Session on June 25, 2018, the Arapahoe County Department of Human Services is requesting signature of the Chairman of the Board of County Commissioners to sign the Colorado Works (CW) and Colorado Childcare Assistance (CCCAP) Memorandum of Understanding (MOU). This MOU is between Arapahoe County and the Colorado State Department of Human Services (CDHS) for Fiscal Years, 2018- 2019, 2019-2020 and 2020-2021 (three years) and identifies the County's duties and responsibilities in implementing these programs.

Background and Discussion

Colorado Revised Statute (C.R.S.) 26-15-715 requires the Colorado Department of Human Services (CDHS) to enter into an annual performance contract with each county to identify its duties and responsibilities in implementing the Colorado Works/TANF Program and the Colorado Child Care Assistance Program (CCCAP).

County Commissioners, County Attorneys and County Human Services Directors have been meeting with CDHS officials over the past year and a half to reach an agreement on the language for the Colorado Works/CCCAP MOU. The agreement has been reached and the MOU is ready for BoCC signature.

The two main areas of focus that were negotiated resulting in a final mutually agreed upon MOU were how any potential federal sanction of failing to meet the Temporary Assistance for Needy Families (TANF) work participation rate (WPR) or the CCCAP payment error rate would be distributed by CDHS to county departments and whether a county may be sanctioned if they fail to meet a state rule that "conflicts with or exceeds" the requirements of federal regulation.

The following language changes in the MOU were agreed upon:
Paragraph 8 (b) and (c):

- a.) A sanction should not be imposed on the County for failing to adhere to a state regulation that conflicts with federal law.
- b.) The County will not be sanctioned or required to follow a remediation plan if:
 - (i.) The County can demonstrate by a preponderance of evidence that CDHS provided inaccurate guidance, training or data with regards to performance under this MOU; and
 - (ii.) That the County's reliance on this information is the proximate cause for the imposed sanctions. If the County can only demonstrate that it is the proximate cause for part of the sanction, the County will not be held liable for that portion of the sanction.

Paragraph 9 (a) (ii):

If the County's remediation does not rectify the performance problem, CDHS may determine the appropriate level of sanction. CDHS shall take into consideration as a mitigating factor any violation of a state regulation that exceeds or conflicts with the requirements of the federal law. CDHS will provide the County, one-hundred eighty (180) days written notice of the proposed sanction before imposing any sanction. This notification will include the rationale of imposing the sanction, as well as, all associated documentation, a calculation of the proposed sanction, and an indication of what constitutes a remedy or correction that will allow the County to avert the sanction, if any remedy or correction is possible. Upon receiving such notice, the County has sixty (60) days to contest, explain or offer evidence of mitigating factors, before CDHS imposes the sanction.

The revised MOU is streamlined and concise allowing counties to focus on designing their own processes while achieving required outcomes. Counties can elect to add performance goals if they choose to do so now or anytime during the term of the MOU. We will not be adding any performance goals at this time.

Fiscal Impact

None

Alternatives

None

Reviewed by

Michael Valentine, Deputy County Attorney

Bob Prevost, Deputy Director, Human Services