

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

STINNER: --represent the 48th District and I serve as Chair of this committee. I'd like to start off by having members do self-introductions, starting with Senator Erdman.

ERDMAN: Yeah. Steve Erdman, District 47, nine counties in the Panhandle.

CLEMENTS: Rob Clements, District 2, Cass County and eastern Lancaster.

McDONNELL: Mike McDonnell, LD 5, south Omaha.

HILKEMANN: Robert Hilkemann, District 4, west Omaha.

STINNER: John Stinner, District 48, all of Scotts Bluff County and Banner in Kimball County.

WISHART: Anna Wishart, District 27.

KOLTERMAN: Mark Kolterman, District 24.

VARGAS: Tony Vargas, District 7, downtown and south Omaha.

DORN: Myron Dorn, District 30, Gage County and part of Lancaster.

STINNER: Assisting the committee today is Tamara Hunt and to my left are our two fiscal analysts. Our page today is Jason Wendel--Wendling. On the cabinet to your right, you will find green testifiers sheets. If you are planning to testify today, please fill out and sign the, the sign-in sheet and hand it to the page when you come up to testify. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white sign-in sheets on the cabinet where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearings. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phone. Order of testimony will be the introducer, proponents, opponents, neutral, and then closing. When we hear testimony regarding agencies, we will first hear from a representative of the agency. We will then hear testimony from anyone who wishes to speak on the agency's budget request. We ask that you-- when you come up to testify that you spell your first and last name for the record before testifying. Be concise. It is my request that you limit your testimony to five minutes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come to-- come up to testify. We'll need 12 copies. If you have written testimony, but do not have 12 copies, please raise your hand now and the page can make copies for you. With that, we will begin today's hearings with Agency 25, Health and Human Services. Director, would you like to start off?

DANNETTE R. SMITH: Good afternoon, Senator Stinner, and I would like for the members to know that it includes-- the package that you're receiving includes my testimony and the testimony that will be done by Director B-- Bagley, so it includes both. Good afternoon. Let me just take a deep breath. Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Dannette R. Smith, D-a-n-n-e-t-t-e, middle initial R, last name, Smith, S-m-i-t-h, and I am the Chief Executive Officer of the Nebraska Department of Health and Human Services. The department supports the Governor's recommendation of the midbiennial budget, which includes an increase of approximately \$108 million for the biennium. I would like to thank the Appropriation Committee for their support of DHHS in the committee's preliminary budget, which contains just one variance from the Governor's recommendate-- recommended budget. The variance is a carryover from last year. DHHS is requesting additional general funds to support the increased work required to implement LB306 which includes our LIHEAP program; LB108, SNAP program; and finally, LB485, our childcare. The legislation, which became law in 2021, temporarily expands eligibility for three of these economic assistance programs. At the time, DHHS requested administrative funds to support 64 additional teammates to accommodate the expected increase in applications. DHHS receives-- received funding for just 19 positions. The department is now requesting funds to support 36 new teammate positions. Without the additional staffing, the department will not meet expectations to process applications timely. At the same time, we are experiencing high rates of overtime. The department requests programs-- the department requests program 033 appropriation of \$209,296 in fiscal year 2022 and \$837,183 in fiscal year 2023 and the corresponding financial-- federal funds and personal service limitations. I will now discuss new budget issues for 2022. The Governor's recommended budget for DHHS includes issues impacting Medicaid and child welfare budgets, as well as two cash spending authority issues. Following my testimony, Director Kevin Bagley will address the Medicaid and Long-Term Care budget. DHHS is requesting

Transcript Prepared by Clerk of the Legislature Transcribers Office

Appropriations Committee January 28, 2022

Agency 25

Rough Draft

funds for fiscal year 2022 and 2023 for two child welfare issues. First, an adjustment is needed as the department transitions case management in the eastern service area. As you know, in December of 2021, DHHS and Saint Francis Ministries mutually agreed to terminate the existing contract for case management services. Previously, DHHS paid Saint Francis administrative expenses from program 354, child welfare aid. These responsibilities are shifting to the department staff, requiring administrative expenses to be paid from the operation budget, program 033. The department requests a transfer of General Fund, General Fund appropriation from program 354 to program 033 in the amount of \$7 million in fiscal year 2022 and \$15 million in fiscal year 2023. The second child welfare issue is the result of increased-- increases in caseloads. While this increase was not unexpected, the budgetary impacts were impossible to predict when the biennial budget was developed nearly a year and a half ago. During the first several months of the pandemic, Nebraska and states all across the nation saw reports of child abuse and neglect decrease. That is because schools, churches, and other community gathering places closed during the public health emergency. Teachers and other community stakeholders who typically observe children were unable to interact with them. They were not able to see and report potential instances of abuse and neglect. Not surprisingly, as children were able to return to school and other community settings, reports to the hotline from teachers and other mandated reporters began to increase. Nebraska's increase in child welfare intake started a little before the pandemic. The lowest count in recent years came in 2018, when Nebraska ended the year with 5,006 children served. Since then, cases have been rising slowly but steadily. However, starting in February of 2021, cases grew and accelerated, likely the result of more children going back to school. By the end of 2021, children served by DHHS totaled 6,488. The number of children served increased more than 17 percent in 2021. The pandemic has affected vulnerable families in ways that put children at risk of abuse and neglect. Every day, we read about how parents are struggling with depression, exhaustion, and a result of pandemic-related illnesses: job disruption, isolation, and other challenges. Division Director Stephanie Beasley and I have discussed this dynamic extensively with peers across the country. While we cannot predict the future, we expect high caseload counts to continue over the next several years. The child welfare budget cannot withstand this growth in cases and stay within the current appropriation. To maintain services for youth and to stabilize the budget, DHHS is requesting an increase to General Funds for program 354 of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

approximately \$8 million in the fiscal year 2022 and approximately \$22 million in fiscal year 2023 and the corresponding federal funds. I will now share information about cash spending authority increases included in the Governor's recommended budget. In program 175, rural health provider incentive, incentives, we request an increase in spending authority of \$1.5 million. The increase will allow the program to spend all general funds provided for the loan repayment program, which is a matched dollar for dollar by local entities such as clinics and hospitals in rural communities. This program helps attract and retain health professionals in underserved areas by providing student loan payment assistance. In program 038, behavioral health aid, the department requests in-- requests increased spending authority of \$2 million in fiscal year 2022 and \$15 million in fiscal year 2023. Over the next 18 years, Nebraska expects to receive \$100 million from a settlement with opioid distribution companies. To date, Nebraska has received \$2.1 million, with more funding expected in the coming months. The Nebraska Attorney General is establishing a settlement advisory group to determine spending priorities and the Division of Behavioral Health will be participating in those meetings. Spending plans will be aligned with the settlement criteria, including prevention, recovery services, and first responder training. One final item included in the Governor's recommended-- recommendations involves the use of American Rescue Plan Act, ARPA, funds. The pandemic created an increase in the department's technology utilization. Ordinarily, this is an operations costs, but \$10 million for information technology is included in the ARPA funds recommended-- recommendation and not the Governor's midbiennial budget. I would like to thank Governor Ricketts for supporting many of the DHHS service providers with the announcement of \$61 million in temporary increases. This will cover January to June 2022 in response to the impact of the pandemic. These rates will be analyzed at the end of this period to reflect on the results of these increases. I appreciate the opportunity to present our midbiennium budget issues. I now invite David-- Director Bagley to discuss the Medicaid budget. Thank you.

STINNER: Any questions?

WISHART: I have a question.

STINNER: Senator Wishart.

WISHART: So I know-- well, thank you, Director, for being here and thanks for all the work that you've done throughout this pandemic

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

because I know that Department of Health and Human Services, probably more than any agency, having intense responsibility.

DANNETTE R. SMITH: Thank you.

WISHART: So thank you. In terms of Saint Francis, and I know my colleague to the right of me is sitting on the committee, but I would like to hear from you just from the appropriations perspective, what is the plan now that we've moved on from Saint Francis? Is the department going to continue to provide services to the Saint Francis clients in-house or are, are you looking to contract out again?

DANNETTE R. SMITH: Not at this time.

WISHART: OK.

DANNETTE R. SMITH: The plan is that the state has taken over those cases from Saint Francis. As you know, we started their transition in January 3 of this year. The transition is going well. I'm happy to announce that out of all of the case management staff, we've been able to retain from Saint Francis approximately 92 percent of their staff and about 94 percent of their supervisors. We've also included some of their ancillary staff and we're about at 83 percent. We have-- and this is be too much detail, Senator WIs Hart, but I'll say it anyway. We have been staffing on a daily basis to make sure that the transition is going well. I'm quite pleased with my staff and how they are bringing the new staff from Saint Francis over to the state, and it's going well for right now.

WISHART: Okay, great. And then just a follow up to that. Can you speak a little bit more to the child welfare workforce? Are you seeing with some of the increases ability to attract and retain more staff? What is your turnover rate? What are what are some of the challenges you're still experiencing, if any?

DANNETTE R. SMITH: Well, luckily we've been able to recruit and hire child welfare staff throughout the state. Is my vacancy significantly? No, but they're better than it, it has been. I have several vacancies, I should say more than several, about 30 vacancies in the Omaha area. Some of that has to do with some of the changes that we're doing with Saint Francis and then throughout the rest of the state, the western part of the state, it gets smaller. But yes, we've been able to recruit. It's a matter now of retaining what we have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

WISHART: Yeah, so speak a little bit. What are your turnover rates of--

DANNETTE R. SMITH: I don't know those numbers specifically, but I can make sure that you get them.

WISHART: OK, thank you.

STINNER: Additional questions? Senator Kolterman.

KOLTERMAN: Thank you, Senator Stinner. Thanks for being here today, Ms. Smith. On page 2 of your, your response, at the top of page 2, it talks about a request \$7 million in fiscal year '22, an additional \$15 million in 2023. My question is when we-- when you contracted with Saint Francis, we allocated money for that contract and it was a substantial amount of money, then came back and we did some more. Is this, is this added staff above and beyond what we've already committed for the Saint Francis prog-- program or is this just because you're find-- you need more and more people?

DANNETTE R. SMITH: Well, ask me that question one more time. I'm trying to the page--

KOLTERMAN: Well, my point is we, we committed to--

DANNETTE R. SMITH: Yes.

KOLTERMAN: --helping you get through that transition and it was, it was being handled on a contract basis instead of hiring people in-house.

DANNETTE R. SMITH: Right.

KOLTERMAN: And now you bring them in-house, but--

DANNETTE R. SMITH: Right.

KOLTERMAN: --the money should still be there.

DANNETTE R. SMITH: Yes.

KOLTERMAN: It wasn't allocated to Saint Francis, so why the big increase in cost here?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

DANNETTE R. SMITH: So I know that I'm going to need more staff to be able to manage the new cases that I have. I'm also asking for money to help me with the increase in the number of, of cases that I'm getting as well, so it's a little bit of both.

KOLTERMAN: So the increase was substantial compared to what it had been with Saint Francis?

DANNETTE R. SMITH: I don't think so. I think the increase was--

KOLTERMAN: Are we talking just about the eastern service area--

DANNETTE R. SMITH: Just eastern service area.

KOLTERMAN: --or was this all?

KEVIN BAGLEY: I'm sorry.

DANNETTE R. SMITH: Yes.

KEVIN BAGLEY: It's a transfer from one--

DANNETTE R. SMITH: Transfer-- yeah, that's what I was saying. It's a transfer from one to the other.

KOLTERMAN: OK.

DANNETTE R. SMITH: On the general fund, um-hum.

KOLTERMAN: It's not new money?

DANNETTE R. SMITH: No, no.

KOLTERMAN: Then I misunderstood you. Thank you.

DANNETTE R. SMITH: No, no.

STINNER: Any additional questions? I have a few, so seeing none from my-- the number one question and/or statement, the way-- depending on how you want to take this-- and I was involved in both of these, LB108 as well as LB8-- LB485, and embedded into that-- the funds that we were supposed to receive, they did set aside a considerable amount-- and I do not have that, that percentage or number-- for administrative expenses. And I think when we, when we took a look at it and we said, well, did you spend those funds that were supposed to go toward

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

administrative expenses-- and you're thinking that you need more over that amount, is that, is that what I'm hearing you say?

DANNETTE R. SMITH: It's a transfer of dollars. Are we talking about the same thing?

STINNER: We have--

_____: No.

DANNETTE R. SMITH: No.

STINNER: I'm talking about economic assistance [INAUDIBLE] difference--

DANNETTE R. SMITH: Right, that's where I'm at.

STINNER: I'm sorry.

DANNETTE R. SMITH: OK.

STINNER: OK, LB108 and LB485, in the bills, in the money that we received, if we would have applied for it. Now we applied for it. There's administrative costs that are allowable--

DANNETTE R. SMITH: Um-hum.

STINNER: --to be, to be allocated to administration. And in that-- in the language, we said no General Funds for this because there's enough over here to take care of your administrative costs. And apparently that is not the case or is it the case? Maybe I can re-- maybe I'm, I'm-- I'll read the comments here that the fiscal analyst. He says--

DANNETTE R. SMITH: OK.

STINNER: --LB108, LB485 prohibit General Funds from being used to fund the provisions of these bills. LB108 states legislative intent that ARPA funds be used as allowable for administrative funds. And there was a significant amount of those funds and I, I don't have that number. No specific source of ARPA funding is identified with prohibition on General Funds to use the implementation of this bill. If specific federal funds sources for SNAP have been exhausted, the intent language would indicate ARPA to be used. And--

DANNETTE R. SMITH: Thank you. So Senator--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

STINNER: --that's the way we wrote the bill and now we got a request for General Funds--

DANNETTE R. SMITH: So--

STINNER: --so I'm scratching my head thinking--

DANNETTE R. SMITH: So, Senator Stinner--

STINNER: Help me out.

DANNETTE R. SMITH: --I don't have the answer to that. I'll have to get back to you.

STINNER: OK.

DANNETTE R. SMITH: And I'll make sure that I do.

STINNER: OK. Could you elaborate a little bit more on this technology issue? I mean, how do we tie it back to--

DANNETTE R. SMITH: The \$10 million?

STINNER: Yes--

DANNETTE R. SMITH: Yeah.

STINNER: --the \$10 million that you're asking for in technology and how do we tie that back to the--

DANNETTE R. SMITH: So--

STINNER: --coronavirus that--

DANNETTE R. SMITH: Well--

STINNER: --etcetera?

DANNETTE R. SMITH: Yeah, well, let me tell you a lot of getting the numbers, being able to manage the success of the public health emergency has been all through technology. Senator Stinner, when we started with this public health emergency, we didn't necessarily have all the technology that we needed to. And so we had to really kind of rebuild systems and we had to use the OCIO, OCIO's office a whole lot

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

more than we ever had. That \$10 million represents that additional usage of the OCIO's office--

STINNER: One of--

DANNETTE R. SMITH: --for technical support.

STINNER: One of the things we're trying to do in the appropriation side of things is as we put things into our recommendation to the floor is to have a complete information on, on the data associated with the request and then tying back to ARPA so that we-- if the Treasury does show up, we've got--

DANNETTE R. SMITH: Yes.

STINNER: --a considerable amount of information for them to look at to validate--

DANNETTE R. SMITH: Um-hum.

STINNER: --the process that we went through. So I probably need to get together with your folks on what, what our needs are.

DANNETTE R. SMITH: Express the--

STINNER: There is a checklist out there that we--

DANNETTE R. SMITH: Yeah.

STINNER: --did put together and so that-- we can-- I can follow up with your people on that. The other thing, I was trying to dig these numbers out, you know, it's trying to find out how much money we got under CARES Act. Is there any left? Did we get ARPA funding directly to HHS, which I know we did, how much that funding is and how much we've spent? And then there's a DD grant, I think also, that-- funds that we've received. I-- what I heard, it's called DD grant. If I'm using the wrong terminology, I, I apologize. But there was dollars associated with that. I think the Budget Director gave us some of those numbers, but-- and I had written them down on another piece of paper, but I, I'd really like to get an update on where, where those dollars-- how much those dollars were and where they went and what's left, if that's at all possible.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

DANNETTE R. SMITH: And I thought I had everything at my fingertips. Just one second, sir. OK, DHHS received over \$930 million in federal COVID-19 funding, primarily through ARPA and CARES, which is the federal CARES dollars, OK? We have spent about 35 percent of that money at this time and we are still getting the rest of the money out on the streets to our providers and to serve. Senator Stinner, much of the money as well went to our LIHEAP program, SNAP, and our Medicaid benefits programs. About \$400 million of it was for public health activities that had to do with testing and vaccination, IT, that kind of stuff. The federal government gave us a lot of money that was passed through on existing programs, if I didn't say that earlier. They gave us money that passed through--

STINNER: Yes.

DANNETTE R. SMITH: --to our regular programs.

STINNER: Yes. Somewhere along the line, at some point in time between now and the time we come up with the budget, I'd like to have an analysis of all of that so I can give it to the, to the committee so we can help-- help us understand what's, what's happening there.

DANNETTE R. SMITH: I think it's OK for me to say I know that we've had a report that talks about how the-- the programs that the money went to. And I know I shared-- I think I shared a report with Senator Arch. So I think we have something available.

STINNER: I saw a report. I'd just like some updated numbers--

DANNETTE R. SMITH: Um-hum.

STINNER: --if that OK.

DANNETTE R. SMITH: Yep.

STINNER: Senator McDonnell, I'm sorry.

DANNETTE R. SMITH: Yes.

McDONNELL: Thank you. Just to clarify, so right now between CARES and ARPA, you're at \$930 million.

DANNETTE R. SMITH: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

McDONNELL: You've spent 35 percent of that?

DANNETTE R. SMITH: Right and we're still moving the rest of the dollars out to the community.

McDONNELL: And then have you-- OK, so is the rest of that money earmarked, it just hasn't--

DANNETTE R. SMITH: Yes.

McDONNELL: --moved?

DANNETTE R. SMITH: Yes, yes.

McDONNELL: OK.

DANNETTE R. SMITH: It's been earmarked. Yes, sir.

McDONNELL: All right. If we get more details on that, I'd like to see it.

DANNETTE R. SMITH: Absolutely.

McDONNELL: Thank you.

STINNER: Senator Vargas.

VARGAS: Thank you for being here. Just a follow-up question on some of the funds, when you're doing the report, it would be helpful just to get the difference between earmarked in terms of what you're earmarking it for, which are unobligated and which are you said pass-throughs to--

DANNETTE R. SMITH: Yes.

VARGAS: --just agencies?

DANNETTE R. SMITH: Yes.

VARGAS: I don't know if you have a ballpark of the, you know, \$600 million that's not used. About how much of that would you say is not already dedicated to an existing program from the Feds, that is-- that's up to you to decide where it goes?

DANNETTE R. SMITH: The majority of the money--

VARGAS: OK.

DANNETTE R. SMITH: --Senator Vargas, has already been earmarked. When the federal government gave us money, they gave us criterias of how that money has to be used in that program with deadlines by when it has to be spent. So that's already occurred. So I'll try to be clear about what's obligated and what's unobligated for you.

VARGAS: And do you have any choices with how the money is spent within those programs? So let's say it's a line item for, I don't know, behavioral health-- or, or providers, let's say, and like you could use it for provider rates or something to that effect. Is it up to you to decide how those funds can then be used within those different, you know, programs?

DANNETTE R. SMITH: Some I do, some I don't. The majority of the money, though, has been money that has been used to enhance already existing programs.

VARGAS: OK, thank you. That would be helpful to get that in the report too.

DANNETTE R. SMITH: OK.

STINNER: Any additional questions? Seeing none, thank you.

DANNETTE R. SMITH: Thank you, Senator Stinner.

KEVIN BAGLEY: Good afternoon.

STINNER: Good afternoon.

KEVIN BAGLEY: Chairman Stinner, members of the Appropriations Committee, my name is Kevin Bagley, K-e-v-i-n B-a-g-l-e-y, and I'm the Director for the division of Medicaid and Long-Term Care in the Department of Health and Human Services. I'd like to begin by thanking Chairman Stinner and the members of the committee and your staff for working together with us. Medicaid is a significant portion of the state's budget and has significant impacts on the approximately 350,000 Nebraskans currently eligible for Medicaid coverage. Our division is committed to serving Nebraska's most vulnerable residents and has worked with the governor on a responsible budget to continue that work. The Governor's budget recommendation for state fiscal year 2022 and 2023 includes changes to the current appropriation requested

by the department to cover anticipated costs for activities required for the unwinding of the COVID-19 public health emergency, to rebase the Medicaid expansion budget, and to fund costs associated with Medicare Part D clawback costs passed through from CMS. I'd like to share some more specific information regarding these adjustments to Medicaid's appropriation in our budget request. The department requested approximately \$56.8 million in General Fund for state fiscal year '23 due to costs associated with the unwinding of our eligible members from the public health emergency. We continue to closely monitor the changing federal landscape as it relates to the eventual ending of the public health emergency. Currently, it's set to expire in April of this year. Our budget request assumes that the public health emergency will end in April, which would mean that the temporary 6.2 percent increase in federal matching funds would continue through the end of June 2022. This would mean that the department would expect to incur the bulk of the costs associated with performing client eligibility redeterminations, or unwinding from the public health emergency, for all members during state fiscal year '23 without the benefit of receiving that enhanced federal match. It's important to note that during state fiscal year '22, the department will recognize a significant positive net impact to the General Fund as a result of that temporary increase in federal financial participation. Guidance released by the prior administration earlier in the pandemic allowed for states to take action at the end of the public health emergency on any cases where a redetermination had been completed up to six months prior to the end of the public health emergency. This is often referred to as a lookback period. As Nebraska continued to perform redeterminations during the public health emergency, we were in a reasonably good position to take action on clients who otherwise would have lost eligibility within that allowed lookback period were it not for the public health emergency. In August of 2021, the new administration released updated guidance that no longer permit states to use a lookback period, but requires states to rework all cases and redeterminations at the end of the public health emergency. This will result, result in a much longer time period to complete those redeterminations and a greater fiscal impact to our program after the public health emergency ends. Another significant change resulting from the updated federal guidance was allowing states 12 months to complete those redeterminations versus the previous guidance of 6 months. At its most basic level, this results in a fiscal impact that-- to the department by continuing to incur the costs of increased beneficiary counts without the temporary 6.2

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

percent federal match. I'd note that this is expected to be a one-time request and should not create ongoing appropriation obligations beyond the end of that public health emergency unwind period. Additionally, we requested approximately \$24.5 million in General Fund for state fiscal year 2023 to fund Medicaid expansion aid costs consistent with our program experience to date. The original appropriation to this expansion program from LB294 in 2019 earmarked approximately \$43.9 million and General Fund appropriation for the first time for Medicaid expansion aid. The amount appropriated for expansion has not been altered since that initial earmark. The department is forecasting the expansion aid expenditures to be approximately \$68.4 million in General Fund for state fiscal year '23. There are two primary drivers for the need to rebalance the appropriations for the program. The first is that the appropriated funds that began paying for the benefits in October 2020 were allocated and appropriated based on a nine-month window as we started in October. The second, those initial appropriations were based on estimates of both enrollment and member costs that were completed in the fall of 2018 ahead of the ballot initiative. The actual costs on a per member per month basis are substantially higher than what was originally estimated. While the department has seen enrollment and expansion at a rate less than what was originally expected, the two factors previously shared require that the appropriation be adjusted. The department has been able to manage within the program budget for state fiscal year '21 and '22. However, Medicaid needs this investment in order to continue paying the coverage costs for this group of eligible Nebraskans into state fiscal year '23 and beyond. Finally, the Medicaid division also requested approximately \$5.5 million in General Fund for state fiscal year '23 to cover the costs of increased premiums the state pays for Medicare. The Medicare prescription drug program is supported in large part by state payments to the federal government for dual eligibles who common-- who receive drug coverage through Medicare Part D. These mandatory payments are generally referred to as clawback payments. Prior to Part D, prescription drug costs for these, dual-eligible individuals were paid by the state as part of the Medicaid program. Beginning January 1, 2022, all states were subject to a high annual percentage increase in per capita prescription drug expenditures. The department is able to absorb the increased costs that are being incurred in the last half of state fiscal year 2022. However, we request an additional appropriation to cover the increased costs for state fiscal year '23 and forward. In conclusion, we support the Governor's budget recommendation, which provides the necessary

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

resources to continue our focus on covering the healthcare needs of our Medicaid beneficiaries with an eye on improving the experience and outcomes of our populations served. We appreciate the Appropriations Committee's preliminary budget and agreement with the Governor's budget recommendations, which funds the department's requests in the current biennium through a combination of utilizing the \$55.1 million reappropriation and an appropriation from the MCO excess profit cash fund. We agree that utilization of that cash fund is appropriate in this circumstance, as the COVID-19 pandemic is the primary driver for dollars that were returned to MLTC under the profit cap and the medical loss ratio calculations during that time. Funding public health emergency unwind activities from the public health emergency-driven excess profit makes good sense. Thank you for your consideration of these items and I'd be happy to answer any questions.

STINNER: Any questions? Senator Kolterman.

KOLTERMAN: Thank you for being here, Director. So you, you get some clawback money, you get some money back from, from the, the three providers that, that manage the patients well, took care of them. You're anticipating. And your, your limit is less than you expected it to be, but the costs are higher. Is that accurate?

KEVIN BAGLEY: So I--

KOLTERMAN: The number of people enrolled didn't come in as high as we expected.

KEVIN BAGLEY: So you're thinking about Medicaid expansion there, Senator. And yes, so there was-- this is two factors that go into that. The initial white-paper estimate had our per member per month costs at about, just over \$500 per member per month. We've seen it closer to \$900 per member per month with our experience over the last year and a half or so. That being said, we've also seen a substantially smaller number of new enrollees than we had expected. That, that same white paper anticipated roughly 90,000 new individuals enrolling through Medicaid expansion. To date, we've seen just over 60,000. I think the latest number I saw was 62,000, just over that. So I think those two factors combined create that additional appropriation need there. I don't know if that answers the question you had--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

KOLTERMAN: It does and it, and it kind of, kind of phases into what I was really going to ask you. So we get to the end of 2022 and we've got to go out for contracts and rebid the Medicaid contracts, is that correct?

KEVIN BAGLEY: Yes, that's correct, Senator.

KOLTERMAN: So, so that will be done in the fourth quarter of this year?

KEVIN BAGLEY: So our, our current plan is that we'll release the new RFP in April of this year, we'll announce new awardees in July, and then based on what we see coming out of that, that list of new awardees to that RFP, we'll be able to produce a much better estimate of our timeline after that. But there would be a significant transition, given any potential new entrants to the market, if we had a new, new organization win a bid and the fact that there will be some changes to the expectations that they'll need to be able to come into compliance with.

KOLTERMAN: So you see the, the procurement process is going to be a little "thorougher" upfront, is that what I'm hearing you say?

KEVIN BAGLEY: I certainly am, yes. There's a couple of factors I think that I'd like to share in terms of how our procurement process is going to be a little bit more robust this time around. One, I guess-- and, and this was true in our previous procurement as well, but when we procure for our managed care plans, we don't really evaluate based on price because those plans will be required to operate under an actuarially certified capitation rate. And so in reality, we don't have an opportunity for them to come and underbid because we're not really evaluating on price. The second, this year, we've taken some substantial steps as a department to make it more robust in terms of our process. We've secured some external partners to help organize the content in a much better way than in previous years and we're also working with an external partner to make sure that our evaluation criteria are more robust than in previous iterations as well.

KOLTERMAN: And so right now-- can I--

STINNER: Go ahead.

KOLTERMAN: --continue on, just--

STINNER: Go ahead.

KOLTERMAN: So right now, we've got three providers that are, that are providing care under the Medicaid expansion, which is causing, if I read this correctly, it's-- you estimate \$500 per member per month and it's costing \$900 per member per month. Even though we didn't have as many enrollees, it's still right up against the budget. Is that an accurate depiction of what you said?

KEVIN BAGLEY: Yes and I'll add a caveat. I don't think that has a lot to do with the ability of our managed care providers to manage the care. What we're seeing with the group that has, has entered through Medicaid expansion is a very substantial level of utilization with behavioral health and substance use disorder. And so those services in particular are eating up a lot of that. I'd also add what's unclear to us. So far, our Medicaid expansion program has really only ever operated during the public health emergency and that's a time period wherein we've seen significant increase in behavioral health and substance use disorders across the board.

KOLTERMAN: But you see what I'm getting at is--

KEVIN BAGLEY: I do.

KOLTERMAN: --when you see, when you see the white paper, originally it said it's going to be \$500 per member per month and it's actually coming in at \$900 per member per month. I know our providers aren't making a lot of money off this to begin with. How can we, how can we write a proposal where we take care of the providers in adequate way and at the same time, control those costs through managed care. Are we going to use more providers? Are we're going to go to-- you know, I'm hearing from my people that are in, in the field, they don't want to see us go to five different organizations. That's bad enough that you got it, right, three different types of people-- three different organizations to work with. And, and I'm just getting at the fact that this looks like a runaway train to me and how do we get those costs under control? And, and the only way to do it, I think, is through the procurement process. And then I read where the prescription drugs are costing us more money. And the clawbacks, we're, we're making some changes to the clawbacks. That doesn't affect Medicaid, but it does the rest of the providers. I have some concerns about that so I hope that-- we can't do much about this, but going forward, that's a huge issue. That's a huge concern of mine.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

KEVIN BAGLEY: You know, and, and I, I feel like I could talk for hours on some of that, but-- and I'd, I'd be happy to anytime you'd like.

KOLTERMAN: Oh, we're going to talk.

KEVIN BAGLEY: Perfect. I, I will say, though, you know, we, we just completed a statewide listening tour wherein we sat down with stakeholders across the state from Scottsbluff to Kearney. We were in Norfolk and Omaha, here in Lincoln, and we had a couple of virtual sessions as well. We learned a lot, I think, about how to improve the member and provider experience in ways that don't necessarily cost a lot of money. There are investments that could be made to bring costs down, to make care more effective and efficient, and we can have those discussions, too, but I think we've learned a lot as we've sat down and talked with the folks that we serve. And I think you'll see that we are going to have some substantive changes that will make our program more effective for our members and our providers through this new RFP.

KOLTERMAN: OK, thank you.

STINNER: Additional questions? Senator Dorn.

DORN: Thank you, Chairman Stinner, and thank you for being here very much. Mine are I guess a little bit it-- you've answered quite a few of my questions with Senator Kolterman here I-- because I, I look at our numbers aren't at the 90,000, which was originally estimated, and we're at the 60-- 62,000. But you mentioned also that the cost was estimated to be a little over \$500 and we're at the \$900 range. Well, there's a cushion built in or you fortunately, unfortunately, or whatever, that when you per-- when you factor that out, we're still OK in this year's budget. But as we go forward in future years and assuming the cost doesn't come down to that \$500, we get closer to the 90,000, now how much more-- or I guess I-- talk a little bit about maybe where our projections are going to be or the con-- that's my concern, I guess, is what's it going to look like in two, three years?

KEVIN BAGLEY: That's a great question and I, I think I'll, I'll add the caveat upfront that in the middle of the public health emergency, where that's the only way we have operated this Medicaid expansion program, I think there's still a lot of question marks for us. That being said, last year when I testified before the committee, we talked about that 90,000 number and whether or not we thought it was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

realistic. And last year I, I shared, you know, generally within 18 months, you'll see that ramp up. It's been close to that amount of time now and we have yet to even have any churn. So no one has been disenrolled from Medicaid expansion because of the public health emergency. If I were to guess-- and, and I will caveat it as a guess-- I don't believe we are likely to hit that 90,000 number, at least not in the near future. Given the end of the public health emergency, we estimate that as many as 20 percent of our Medicaid expansion individuals may begin to fall off of the program because of those eligibility redeterminations. I don't know if it will be that high or not. Again, we have no experience on that front with this population yet, but I think we'll see likely that 60,000 number probably be where we end up.

DORN: No, thank you. I appreciate that because you answered a lot of what Senator Kolterman's answers [SIC], so I appreciate expounding on that a little more.

KEVIN BAGLEY: Happy to do it. Thank you.

STINNER: Senator Vargas.

VARGAS: Thank you for being here. This is more-- it's a question if you want to-- there's a reaction to this. And one of the conversations I had when we had our initial look at these numbers is there are a lot of requests. I appreciate that in Medicaid expansion and many of the other programmatic-- looking at use and utilization and need, that you're asking for the funds and asking for the PSL. It make sense to me. My concern in the long run is that we're really relying on a lot of these from-- cost shifts from carryover funds, which inherently means we're, we're not spending in other areas, which does concern me because we allocated these funds for the purposes of something. And so if we can-- and I'm seeing a handshake, so maybe that's not the case, but you know, let's say for the Medicaid, there's \$51 million in carryover funds, which I'm not sure if that's federal or if it's just unused funds in a different area. My hope is we see less of that in the future because, well, I don't think it's good for, for predicting what we actually need in terms of full-time staff. And I just wanted to make that-- and then if you had any reaction to that.

KEVIN BAGLEY: Yeah, I think generally these requests-- so the, the 5.5 will be an ongoing and the changes to that appropriation on expansion we anticipate being ongoing. The, the larger one, that \$55 million and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

the funds that have come out or that are proposed to come out of that cash fund are really a one-time expenditure, just reflects the, the portion of individuals who would have otherwise moved out of the program, but have not because of the public health emergency. So we, we're going to be carrying those folks, you know, for some amount of time without that additional enhanced match. Most of that 55 comes really out of the notion that we've had that 6.2 percent additional federal match and so it's kind of just been a net savings because of that.

VARGAS: OK, thank you.

KEVIN BAGLEY: Sure.

STINNER: I'm going to interrupt and I know Mr. Clements is next, but just to add on to what Senator Dorn was saying, if we go to 90,000 under our original projections and these costs don't come down, that's \$360 million that you guys are going to have to figure out how you manage around. So anyhow, Senator Clements, I'm sorry.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Director Bagley. I am thinking about the fact that when Medicare expansion was proposed, the state had some restrictions on it, but then those were denied and the Medicaid expansion population, you got the same benefits as the other Medicaid people. Is that a factor in the change from \$500 to \$900 per month?

KEVIN BAGLEY: I would say it is, but it's a very small factor. Out of the additional \$25 million that we've requested, less than \$1 million of that is actually attributable to that change.

CLEMENTS: OK, those benefits weren't a major factor then?

KEVIN BAGLEY: They-- not from a cost perspective, no.

CLEMENTS: Thank you.

STINNER: Additional questions? Seeing none, thank you.

KEVIN BAGLEY: All right, thank you.

STINNER: Good afternoon.

LEE WILL: Afternoon. So I'm here in response to Senator Vargas' question on Wednesday in regard, in regards to the Emergency Rental Assistance program, so I thought I'd take today to come as a proponent for HHS and kind of speak on the emergency assistance program if that's OK with you, Chair. So Chairman Stinner and members of the Appropriations Committee, my name is Lee Will, L-e-e W-i-l-l, and I'm the State Budget Administrator of the Department of Administrative Services' Budget Division. I'm a parent today to discuss emergency rental assistance program known as ERAP I and the available federal funding for ERAP II. The U.S. Treasury provided \$200 million on February 21 to the state of Nebraska for ERAP I. The budget division partnered with the military department and Nebraska Investment Finance Authority, or NIFA, to provide aid to eligible renters in need. The state also contracted with 15 or so community collaboratives to assist with this effort. The \$200 million provided to the state was initially allocated by the federal government in the following amounts: \$158.6 million to the state of Nebraska; \$22.2 million dollars to the city of Omaha; \$13.5 million to the city of Lincoln; \$4.3 million to Douglas County; and \$1.4 million to Lancaster County. The state undertook marketing efforts, which included printed ads, social media, radio ads, and billboards. Outreach efforts also included communications and presentations throughout Nebraska via the continuum of care network, the state Central Navigation network, and the Nebraska Emergency Management Agency's long-term recovery group network. Outreach was also made by the Volunteer Lawyers Project, which works with the Tenants Assistance Project. NIFA appeared before several groups of service providers and landlords to explain the ERAP application process and provided guidance whenever requested. They participated in landlord summits in Fremont, Kearney, Crete, and North Platte. They also used ERA clinics and open houses organized by local providers to offer technical assistance and help coordinate and support these efforts. Early in the implementation of the program, I spoke to U.S. Treasury officials and let them know the formula for determining the allocation of funding was disproportionate to need based on the amount of funding provided to the state versus the localities. For example, the concentration of renters within the metropolitan centers skewed the amount of dollars necessary in these areas versus the rest of the state. Data shows that 48 percent of all rental units are outside of Douglas and Lancaster counties. However, Treasury, Treasury initially allocated 79 percent of rental assistance funds to the state's allocation, which excludes the metro areas. The state worked with localities to identify the amounts necessary to ensure funding could

Transcript Prepared by Clerk of the Legislature Transcribers Office

Appropriations Committee January 28, 2022

Agency 25

Rough Draft

be provided through the end of the ERAP I eligibility period. The state reallocated a total of \$84.7 million out of \$158.6 million to localities, including: \$50 million to Omaha, \$30 million to Lincoln, \$3.3 million to Douglas County, \$1.4 million to Lancaster County. The adjusted totals for funding provided to the state, including ERAP II funds for localities which have applied at this point, equals: the state of Nebraska, \$73.9 million; Omaha, \$89.2 million; Lincoln, \$53.7 million; Douglas County, \$10.9 million; and Lancaster County, \$3.9 million. The state is currently utilized \$14.2 million for aid to renters out of the original \$158 million award from Treasury. This represents 6,000 processed applications in the state or 3,000 unique rental units. Assistance for renters was available for up to 12 months back rent and 3 months forward, so a total of 15 months was eligible under this program. The current program is anticipated to aid those in need through the end of calendar year '22. The total amount of funding utilized by the state represents 9 percent of the initial allocation, 19 percent after the funds are reallocated to the local jurisdictions. This shows the amount awarded was clearly disproportionate to demonstrated need. Another consideration is Nebraska has become a target for potentially fraudulent actors. Ten percent of applications are being flagged as potentially fraudulent, which represents \$12.1 million in funding. These applications have not been paid and are undergoing further review procedures. Treasury has established a portal for states to share information about bulk claims of fraudulent activity. Many local applications have been referred to the Nebraska State Patrol for investigation for potential fraud prosecution. The state of Nebraska has taken significant action to mitigate fraud attempts, including incorporating risk factors, among others-- among several other data elements. We sit here today and scratch our heads as to why record inflation is occurring and surging national debt continues to linger like a black cloud over the American economy. The federal government is providing-- is attempting to provide the state an additional \$120.5 million when \$44 million is already available to renters in need in the state. The federal government also recently clarified that the American Rescue Act, or ARPA dollars, for ERAP II allocations no longer have to have a COVID impact. I want to repeat that the U.S. Treasury no longer requires a COVID impact to receive COVID funding from ARPA to address COVID. The state continues to have \$44 million available for rental assistance. This, combined with a dramatic increase of fraudulent activity, makes application for ERAP II an unfavorable idea for hardworking taxpayers in the state. I'd be happy to take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

STINNER: Questions? Senator Vargas.

VARGAS: I appreciate the information and I think it's helpful to the committee because we had a lot of questions about it after--

LEE WILL: Sure.

VARGAS: --I posed the question. So I'm, I'm, I'm, I'm trying to follow your argument, which, despite claims of fraud--

LEE WILL: Yes.

VARGAS: --just like many of the ARPA dollars that we're currently looking at, which we're making a case that-- you know, there's many items that are in the Governor's ARPA requests that are making the claim that they are connected to COVID-19 recovery in some way, shape, or form.

LEE WILL: Yes.

VARGAS: And we're proposing to utilize them for good for our state--

LEE WILL: Correct.

VARGAS: --and our communities.

LEE WILL: Yes.

VARGAS: Why wouldn't we apply for these funds to make sure that we have flexibility in meeting the, the needs of our state when these funds will just go back to the rest of the other states if we don't apply for the funds?

LEE WILL: Sure, that's a good question. So February 21, the program was implemented and, and folks were eligible for 15 months of assistance. This new ARPA ERAP II allows for four years of rental assistance. So philosophically, I think we have to ask ourselves in Nebraska when we have a 1.7 percent unemployment rate, should we be paying rental assistance for the next four years? And if it is the case that California needs to apply for this funds, it is more expensive to live in California than it would be in some rental units in, say, Omaha, albeit, you know, maybe one or two times, however, we do have \$44 million we anticipate to go through the end of this year. It was really disheartening to me that the COVID impact no longer has

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

to be with Emergency Rental Assistance II Program. You no longer have to tie in any assistance in this ERAP II to COVID impact. And that's a difference from the first ERAP I application.

VARGAS: So the concern is that helping renters in need, even though it might not be tied to COVID-19, is not a good use of funds right now, at this time?

LEE WILL: Well, again, Senator, we have a 1.7 percent unemployment rate. We are seeing a lot of opportunities for employment in Nebraska and Omaha specifically. So there is an opportunity to go get a job, a quality job. The program has been running, will, will be running now for two years. With this additional ERAP, it's going to be a six-year program. We felt a need to not apply for six years of funding for rent-- renters.

VARGAS: Well, I don't have any more questions. My only thing would say, you know, in the past what we're trying to expand program utilization-- even when we looked at Medicaid, if we don't have good utilization, instead of clawing back, we should try to reach our communities that are the hardest hit, make sure they have those needs. I still don't see a reason why we wouldn't apply for something when it means we have the resources we need, no different from the ARPA funds that we're going to be debating here and their used for the next three years. But I appreciate you coming in and I appreciate the information.

LEE WILL: Sure.

STINNER: Senator Kolterman.

KOLTERMAN: Thank you, Senator Stinner. This is very helpful information because it does show that while you've applied for the first round--

LEE WILL: Yep.

KOLTERMAN: --we still have \$44 million and it looks like you have reached out--

LEE WILL: Yes.

KOLTERMAN: --to communities to try and get utilization.

LEE WILL: Correct.

KOLTERMAN: So I kind of understand a little better now why we haven't applied for the second.

LEE WILL: Yes.

KOLTERMAN: On the other hand, I-- this-- and maybe this isn't the place to ask this question, but in the Governor's budget, we have \$10 million for commercial real estate assistance.

LEE WILL: Yep.

KOLTERMAN: Is that, is that a different type of thing than this rental? I mean--

LEE WILL: Yeah.

KOLTERMAN: --to me, rental assistance is rental assistance--

LEE WILL: Yep.

KOLTERMAN: --whether it's commercial or individual. And you're willing-- we're willing to ask for ARPA funds here, but we're not going to do it--

LEE WILL: Yeah.

KOLTERMAN: --on an individual basis. That, that's kind of--

LEE WILL: Yeah, I heard Senator Wayne--

KOLTERMAN: --an odd deal to me.

LEE WILL: --speak on that on the floor. The one thing I would say with the CARES Act funding, we provided for small businesses, we provided for theaters, we provided for convention centers. The one that we did not finance for, in my opinion, was commercial real estate. I don't think that a lot of senators and their communities want to have buildings that have no tenants on them, like an old K-Mart or an old J.C. Penney that looks bad within the communities. So in order to make sure that those buildings are not closing within those communities, I think an award had to be provided because rent was not given by the small businesses because they were harmed by COVID-19. So it's really just looking at the need from CARES Act that we didn't address and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

putting it into ARPA and that's, you know, kind of what we do with all the recommendations.

KOLTERMAN: Does-- and you're thinking it could still qualify, is that--

LEE WILL: Yeah, it would absolutely qualify.

KOLTERMAN: So the \$10 million you want to leave there, but we still have \$44 million here that you--

LEE WILL: We're going to continue to use the \$44 million through the end of the year. The \$10 million has to have a specific COVID-related impact. The ERAP II \$120 million no longer has to have a COVID-related impact. It's paying for rent for folks, which you know, is a, is a good mission, but at some point, it has to be related back to the pandemic when the funds were appropriated in the first place.

KOLTERMAN: How much of that \$44 million that's sitting there, do you think-- just give us an idea of--

LEE WILL: Yeah.

KOLTERMAN: --are we going to hit that?

LEE WILL: Potentially.

KOLTERMAN: Are we going to utilize it all?

LEE WILL: I am also going to work with the localities to identify those, those monies. We can petition Treasury to reallocate. The one I'm a little bit concerned about is the city of Omaha. There are on their ERAP II dollars, where the other communities aren't so most likely, we'll look at voluntarily reallocating dollars to that community. But I need to talk to them next week to see what the need is and, and that kind of thing.

KOLTERMAN: Thank you.

LEE WILL: Sure.

DORN: [INAUDIBLE]

STINNER: Senator Dorn.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

DORN: Thank you, Chairman Stinner, and thank you, Director Will, for being here. Really appreciate this because there were a lot of questions or whatever.

LEE WILL: Sure.

DORN: I guess I have-- some of the things I'm-- just so I get clarification, when you talked about the amount of money the state received and then the cities received and then you basically decided to reallocate from the state to those cities--

LEE WILL: Yes.

DORN: --so then the state has no more control over that. The cities then are the ones that are, I call it, have direction in how to allocate those funds.

LEE WILL: Yeah, that's a very good question. So with the voluntary reallocation process, it took-- the state is no longer-- the cities are no longer a subrecipient of the state. They become a recipient of the funding. So we are no longer on the hook for the fraud, for, you know, all the auditing capabilities that come with these dollars. That then moves to the city. And that's one of the reasons that we didn't want some subrecipient relationships because the state would ultimately have to be-- you know, report the fraud and, and potentially the clawback that would come with these dollars. We're just seeing, you know, within the state, \$14 million total right now in aid. And I want to say not for lack of trying, I think we've done-- NIFA has done great work, boots on the ground, and we've contracted with some others that are getting the message out there. We just didn't see a need with \$14 million out of the original \$158 million award to apply for another \$120 million.

DORN: OK, then you mentioned just a little bit ago some of there-- the \$44 million that's right now left in, excuse me--

LEE WILL: Yeah.

DORN: --state's coffer there, that's through the end of the year. You just made the comment through the end of the year. So after the end of this fiscal year or-- excuse me, the calendar year or fiscal year--

LEE WILL: Yeah, it's calendar year.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

DORN: --then those funds are no-- they go back to the Federals or they just are going away or--

LEE WILL: Yeah, they would go back to Treasury. But I could tell you before that point, obviously, we'll work with the localities to make sure that it can be disseminated to them. And again, we don't want a subrecipient relationship, but I've been working with Treasury to identify the exact amounts and the localities. That \$84.7 million that was reallocated was determined by every one of those localities as the amount that they needed. It worked with our numbers. It was kind of a-- you know, just worked out what they were asking for is what we could provide. Treasury expedited that because we all were on the same page of where we thought the money should go.

DORN: What's the likelihood that the localities now will allocate all of their new-- the new numbers or whatever?

LEE WILL: Well--

DORN: What do you hear or what do you sense?

LEE WILL: --I would imagine it's almost 100 percent because the new program, as I indicated, goes through 2026. So people are getting-- folks are going to be getting their rent potentially paid through another four-year period.

DORN: So all those original dollars will at some point in time, outside of maybe the fraud lookback, they will all be used by the state of Nebraska, people--

LEE WILL: Those--

DORN: --of the state of Nebraska.

LEE WILL: Yes, those localities with an ERAP II that have been applied for thus far will be utilized within those communities, just-- most likely. The Lincoln-- it's going to be close, but by '26, I would imagine they would utilize those.

DORN: Thank you. Thank you very much for coming back and answering these questions.

LEE WILL: Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

DORN: The other day. I know, in, in our funding there was a lot-- there were several questions and--

LEE WILL: I understood.

DORN: --you sat there the whole day and listened intently, but thank you for at least giving us this information so we have something to--

LEE WILL: Yeah.

DORN: --look at.

LEE WILL: Thank you, sir.

STINNER: Senator Kolterman.

KOLTERMAN: Thank you again, Mr.-- Senator Stinner. One last point that I would just encourage you to look at.

LEE WILL: Sure.

KOLTERMAN: As we listen to Senator McKinney and Senator Wayne--

LEE WILL: Yeah.

KOLTERMAN: --and my colleague here to my right, Senator Vargas, and we start looking at the census tracts that--

LEE WILL: Sure.

KOLTERMAN: --have a lot higher-- I mean, you're basing a lot of this on unemployment--

LEE WILL: Yep.

KOLTERMAN: --low unemployment rate. When you start looking at these areas that are not quite as fortunate, they got really high--

LEE WILL: Yeah.

KOLTERMAN: --unemployment, yeah, is there any way of targeting those folks so that they can potentially understand how to get to this \$44 million that's left? And then at the same time, why wouldn't we apply with the idea if we don't use it, we send it back? Just a question.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

LEE WILL: No, that's fair. I mean, the city of Omaha obviously is in charge of the city of Omaha's program, so I would hope that they are informing those constituents within specifically Omaha about their program because the state doesn't cover those metropolitan centers as long as Omaha has money, which they do. The other thing is I think you have to bridge that opportunity. So I heard the high unemployment rate was at 5, 6 percent potentially in north Omaha, but we heard the crux of the state is 1.7 percent. So we, we largely understand. And I live in Omaha, there's help wanted signs. There just has to be that bridge between providing that opportunity where you see 5 percent and where the jobs are. And I'm not, you know, in economic development, but I do think that there is a bridge that can be built there.

KOLTERMAN: And we're going to be working on that.

LEE WILL: That's fair. Thank you, Senator.

KOLTERMAN: Thank you.

STINNER: Senator Wishart.

WISHART: Well, thank you for being here. I kind of walked into the--

LEE WILL: Sure.

WISHART: --middle of the conversation, but I do have the city-- I represent the City Mission in my district and--

LEE WILL: Gotcha.

WISHART: --we have a-- we have issues of homelessness--

LEE WILL: Um-hum.

WISHART: --in, in the areas that I represent. And so one of the questions I have is I recognize today there was an announcement to not accept a second round of, of rental assistance from the, from the federal government--

LEE WILL: To not apply yes, yes.

WISHART: --not apply.

LEE WILL: Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

WISHART: If enough senators are able to-- and, and advocates are able to articulate a, a strong enough reason to reconsider that application, is there time and openness from this administration to do that?

LEE WILL: Yes, March is the time frame and, and the Governor is a, a business case kind of person.

WISHART: Yeah.

LEE WILL: He wants data. He wants statistics. He want to shows that there's need out there, that we're not just going to sit on \$120 million, that 10 percent of it is coming in from fraudulent actors. So the notion to just sit on this money is very dangerous for the state, potentially because if you pay it out in fraud, you may be a clawback period. But as-- if there is enough need and it isn't just-- you know, I don't want to sound unsympathetic, but if it isn't providing rental assistance for four years and it is keeping people out of the streets, unhomeless and there's this sustainability element to keep them in the rental units and the money will actually be utilized, I think the Governor would like to look at those statistics and make a decision. I think he would be open to any decision and looking at the data and analytics.

WISHART: OK, thank you.

STINNER: One of the things that you and I have had a discussion about is at the outset of these programs, there was-- money just was not going out because the landlord couldn't get the tenant to fill out the application.

LEE WILL: Sure.

STINNER: Is that still been the case or do you hear--

LEE WILL: Yeah, so there's really arduous kind of procedures within this program. So first, you have to get the identification from the tenant, then you also have to get the identification from the landlord. There's a ten-day waiting period in there that you have to wait for those to be matched. If there is not a match, we pay the tenant. Now we are trying to, to your point, Senator Stinner, inform everybody and anybody who will listen that this is a program out there. But unfortunately, there are some arduous requirements from Treasury, so you can make sure that this isn't a fraudulent actor,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

that they actually live where they are-- they live, there's 80 percent AMI. They have to provide, you know, provide wage statements and it's no different than, like, say, applying for SNAP. However, some folks, what we're realizing too, just don't want to provide for government assistance, whether it be pride or other things, but we just need to-- yeah, I talked with folks. I've written letters to the court to try to avoid evictions. I've talked to folks who are crying about-- you know, calling their utility companies and make sure the utility companies understand this program is out. There are checks on-- in the mail. So I work on this program maybe an hour or two a day, while integrated with these folks that need the assistance. I talk to them personally to make sure that they get it.

STINNER: Do you have any information on the impact of this on Section 8 housing?

LEE WILL: Like if they would apply for this rental assistance versus Section 8--

STINNER: Yeah.

LEE WILL: --and reducing the amount of--

STINNER: Obviously, it could, could have reduced the dollar demand on Section 8 housing and switched it over to this type of housing and maybe there's a net-net effect. I--

LEE WILL: I can maybe take a look at that for you, Senator, to see if it, you know, over the time frame, if it's changed.

STINNER: Senator Vargas.

VARGAS: We are one of the two states that haven't reapplied or are not planning on reapplying by March, correct?

LEE WILL: Yes, us and Arkansas.

VARGAS: Have you had conversations with the other states in the region on how they've managed to address any fraudulent claims--

LEE WILL: Yep.

VARGAS: --and also make sure that the dollars are going out and-- I mean, clearly, they--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

LEE WILL: Sure.

VARGAS: --reapplied because they wanted to make sure to not leave money on the table--

LEE WILL: Yeah.

VARGAS: --for Nebraskans and make sure all of their people-- because it's taxpayer funds. We want to make sure to get it out-- back out the people--

LEE WILL: Sure, but--.

VARGAS: --so have you had conversations with other states on how they've addressed that and so then they could still reapply?

LEE WILL: Yeah, I have talked to-- so I went to a NASBO event, which is the National Association of State Budget Officers, and it's all the budget directors in the state and they said this was single handedly one of the most arduous programs that they had to conduct. But, you know, I haven't talked to them about this specific ERAP II, but what I can tell you is OMB, which is the Office of Management and Budget, determined that emergency rental assistance program was of high risk. The Government, Government Accountability Office, which is also a federal regulator, came in and said Treasury, you guys have to implement processes because right now you aren't going to be able to find this fraud. So Treasury, about a week ago, implemented a process and a new portal. For every landlord that receives over \$30,000, you would have to go line by line with each-- eight data elements. Within Texas, that's about 3,000 applications, 24,000 line items that if Treasury doesn't approve the process, you would have to put into that portal. So we are seeing every state that this project-- this program is rampant with fraud. And I know this committee in the Legislature as a whole has been concerned about the Unemployment Trust Fund. I, I draw a lot of correlations between this fund and the Unemployment Trust Fund, as you are going to see years down the line that there has been a lot of fraud within this program. So I haven't talked to states about ERAP II, but I can tell you we make a decision for the state of Nebraska looking at the analysis. And as-- Senator Wishart said that she may have some additional analysis that we will look at, but we have to make decision that's best for our state.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

VARGAS: That's fine. I appreciate you coming. I appreciate the data. Just at the end of the day, if 48 other states were able to figure this out and make sure it meets the needs of their people and we can offset costs and it's taxpayer funds that is not going to go back to the Treasury, it's going to be redistributed out to every other state, I don't see why we don't apply and then figure out how to make it work and improve our processes to make sure fraud doesn't happen. I appreciate you coming.

LEE WILL: Sure.

STINNER: I, I just want to ask one more question. The state has NIFA administrate-- administering this program and then Deloitte is the overseer or somebody that makes sure our documentation is right--

LEE WILL: Yeah.

STINNER: --does some audit work, etcetera, is that--

LEE WILL: Sure, so I would say the state of Nebraska is the administer-- administrator. You know, the contract is conducted through NEMA, Department of Military, so it's General Bohac's shop, and obviously NIFA is intricately, you know, familiar with this program. They're on every call because they actually are the boots on the ground. They understand the issue much better than, you know, say our General Bohac. Deloitte has set up the portal. They have a contact center that is of a nine-to-five for the last two years. So obviously that's a costly venture in order to finance software licenses, all the portal, all the fraud investigation. I mean, it is a costly venture in order to give these funds out correctly.

STINNER: But, but in the, in the, the risk of clawback, OK--

LEE WILL: Yeah.

STINNER: --we're talking clawback now. Is Deloitte the overseer to make sure that the documentation is correct and they will do the audit and they will do the follow-up?

LEE WILL: Yeah.

STINNER: That's what we're paying them for.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

LEE WILL: Yes, absolutely, correct. We, we have about 20 applications right now that are being looked at by the audit that look clean as of this point. So I think at least the procedures that we put in place for the audit-- Deloitte portion, I believe they've done a really nice job to make sure that we're not going to have a clawback in the future. They're detecting, like I said, about 10 percent of fraudulent applications. The U.S. Department of Treasury early on wanted you to rely somewhat on self-attestations. It was my name is Lee Will. I, I reside at this place and this person is my landlord. I think we were very wise in Nebraska not to go down that route because I think we would have saw that 10 percent maybe go to 30 percent of fraudulent applications. You just wouldn't have been able to catch it.

STINNER: Very good. Any additional questions? Seeing none, thank you very much.

LEE WILL: Thank you.

STINNER: Any additional proponents on Agency 25? We got a page that's out looking for water. I think he went to the Platte, but I--

_____ : I think it was Salt Creek.

STINNER: There you go.

BOB SHUEEY: OK, good afternoon--

STINNER: Good afternoon.

BOB SHUEEY: --Senator Skinner-- or Stinner, excuse me, and the rest of the committee. My name is Bob Shueey, B-o-b S-h-u-e-e-y, and I'm the director of operations and corporate compliance officer of South Central Behavioral Services in Hastings and Kearney. I'm testifying today on behalf of South Central Behavioral Services and the Nebraska Association of Behavioral Health Organizations. Thank you for the opportunity to speak to you today. At South Central Behavioral Services, we provide our rural communities with a wide range of behavioral health services, including outpatient treatment for mental health and substance use disorders, 24-hour crisis services, as well as a variety of specialized rehabilitative services for the population diagnosed with severe and persistent mental illnesses like schizophrenia and bipolar disorder. Our nonprofit agency and others like it across the state are cornerstones of the behavioral health system in Nebraska and we consider ourselves to be a safety net

provider. The behavioral health care system in our state is facing a financial crisis and without action by the state to shore up this system, we face losing critical service lines. Using the Division of Behavioral Health's own cost model study and the evidence of our own program budgets, we know that rates are far below the cost of providing care. This has limited our ability to maintain our program facilities, reduced our ability to innovate in order to adapt to system changes, prevents us from being able to retain skilled and knowledgeable staff members, and makes recruiting new qualified employees next to impossible. Over the last three years, we have had to raise new therapist salaries by 40 percent and this year, we raised the hourly rate of our residential direct care staff by 25 percent in an as yet unsuccessful attempt to recruit enough qualified individuals to fully staff our facilities. Insufficient rates alone would make maintaining our system extremely challenging, but COVID-19 has made things vastly more complicated. We have three programs facing significant losses over the last two years due to COVID and workforce issues. To give you a concrete example, our residential facility, which has eight beds, has been forced to operate at half capacity for most of the last two years, first due to COVID safety issues and now due to our inability to recruit and retain enough staff to meet regulatory staffing ratios. This program, which has an annual operating budget of \$450,000, ended last year with a \$150,000 loss and six months into this fiscal year, is running \$78,000 in the red. But these issues go beyond just one program or one agency. Safety net providers of day rehabilitation, outpatient therapy, and various residential programs around the state can tell similar stories. At this time, we ask the state to recognize that the system of behavioral healthcare in Nebraska is under severe financial stress. Without immediate emergency relief, we are looking at further diminishing our ability to keep these vital services operational. We encourage this committee, the Division of Behavioral Health, and the regions to find flexibility in funding that has already been appropriated and make emergency funding available. Rate increases alone, while helpful and much needed-- and a much-needed long-term solution will likely be too little, too late for some crucial programs. Thank you for your time and understanding.

STINNER: Thank you. Any questions? Senator Erdman.

ERDMAN: Thank you, Senator Stinner, and thank you for coming in. So your loss of employees, have any of those been lost to the forced vaccination?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

BOB SHUEEY: No.

ERDMAN: None at all.

BOB SHUEEY: Zero.

ERDMAN: OK.

STINNER: Additional questions? Seeing none, thank you.

BOB SHUEEY: Thank you.

TAMI LEWIS-AHRENDT: Good afternoon, senators. My name is Tami Lewis-Ahrendt, T-a-m-i L-e-w-i-s-A-h-r-e-n-d-t. I'm the executive vice president and chief operating officer at CenterPointe. We are a nonprofit certified behavioral health clinic providing services to individuals with mental health and substance use disorders in Lincoln and Omaha through a full continuum of care for all age groups. A bill you'll hear next week proposes a 10 percent rate increase to Medicaid, which is critical in helping Medicaid providers continue to meet the rising costs of providing services. But the rate increase shouldn't stop there. All state-funded behavioral health services should be paid on par, including services through the Division of Behavioral Health and Probation-funded services through the Supreme Court. These state funds are part of the safety net and should be consistent across the board. I'm also here to draw your attention to a network-wide concern from behavioral health providers. We've been impacted more so now than ever before by the ongoing weight of the COVID-19 pandemic. Staffing shortages are impacting our census and shutting down available beds for residential programs. These shortages are also limiting access to day programming and outpatient services. We have to limit intakes and are operating below our capacity to keep people safe and meet the right ratios required by the service definitions. In the last two months alone, CenterPointe has seen a 12 to 20 percent reduction in our revenue and capacity because of the effects of COVID-19 on our workforce and the people we serve. The loss of revenue and limits on access to care have grown as our already reduced staff are getting ill or taking care of loved ones. We're facing unprecedented expenses relating to PPE and general precautionary measures and the individuals we serve aren't coming into programs as quickly due to lack of testing access and illness. CenterPointe has a short-term residential program in Omaha with 20 beds, 20 beds that said open right now because of staffing shortages, holding necessary space for isolation and ongoing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

illness containment, and to provide rooms for quarantine. Programs that operated at 90 to 95 percent of their capacity prepandemic are now operating at 55 to 60 percent. Some are even lower depending on space configurations, illness among referral sources, community exposure risks, and nursing shortages. The impacts on our business do not diminish the need for our services. The need for behavioral health support continues to grow. We're asking the state to provide some relief. The proposed Medicaid rate increase is an important piece, but we're asking for the Division of Behavioral Health to look at creative ways to help providers access already allocated budgeted dollars that this committee has already appropriated so that we can weather the storm. In fiscal year '21, we were able to draw down otherwise underutilized units for our impacted programs through the COVID relief funds agreement with the regions. We're asking for emergency relief funds to be accessed once again. We are the safety net. We are the providers for the individuals who are most vulnerable and most often impacted by the pandemic. Without us, there is no crisis response continuum, no long-term community behavioral health solution, no homelessness interventions, and no access to life-saving recovery services. We're asking for your help to keep agencies like us and the system up and running.

STINNER: Thank you. Senator Dorn.

DORN: Thank you, Chairman Stinner. Thank you for being here. The gentleman before you and you both-- now both of you mentioned the fact that you are running at 50 to 60 percent of capacity. What's happening to those people? I mean, if you were operating or-- assuming 100 percent before--

TAMI LEWIS-AHRENDT: Yeah.

DORN: --what's happening to those other people? Where, where are they at out in the world?

TAMI LEWIS-AHRENDT: They're sitting in shelters, they're living in tents, they're waiting on wait lists to get access. They're not getting services,.

DORN: They're not getting services.

TAMI LEWIS-AHRENDT: They're not getting services.

STINNER: They're also in the emergency wards.

TAMI LEWIS-AHRENDT: Emergency rooms, regional centers when they can get in.

WISHART: [INAUDIBLE]

STINNER: Do you have a question, Senator Wishart?

WISHART: Yeah, I was actually going to ask you if you had any thoughts on the previous testimony in terms of rental assistance.

TAMI LEWIS-AHRENDT: Interesting that you asked that. So I think from our experience at CenterPointe-- and we are-- we provide about 280 units of supported housing in Lincoln. The influx of money for rental assistance is going to end. It's not going to end the need for people to have rental assistance. The people who are, who are in need of rental assistance, the unemployment rate has nothing to do with it. Working does not equal a living wage. It doesn't mean helping make ends meet. Just because you have a job, doesn't mean you can afford to live in a city like Lincoln or Omaha. And I think the state needs to invest in rental assistance to help the people who are trying to bridge the gap from part time or underemployment to, to success. A lot of the people we serve rely on rental assistance to get them through from treatment through recovery into independence. They can't survive without it.

STINNER: Additional questions? Senator Clements.

CLEMENTS: Thank you. Thank you For coming. What percentage of your clients are on Medicaid?

TAMI LEWIS-AHRENDT: As of today, I would say about 85 to 90 percent on any given day are Medicaid recipients--

CLEMENTS: OK.

TAMI LEWIS-AHRENDT: --because of Medicaid expansion.

CLEMENTS: That makes you very vulnerable to Medicaid reimbursements then.

TAMI LEWIS-AHRENDT: Indeed.

CLEMENTS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

STINNER: Additional questions? I have one and that's you've made an indication that there are budgeted dollars that have not gone out. Do you have a number on that by any chance?

TAMI LEWIS-AHRENDT: I don't, but I can get that for you, Senator Stinner. I can get you our number. The region authorities can let you know what their total unallocated dollars are, unspent dollars are, but I can get yours.

STINNER: OK and I can probably ask for Fiscal to do the same thing, so either way, we'll find out, OK?

TAMI LEWIS-AHRENDT: Excellent.

STINNER: Any additional questions? Seeing none, thank you for your time.

TAMI LEWIS-AHRENDT: Thank you.

STINNER: Good afternoon.

ALAN ZAVODNY: Good afternoon. Senator Stinner and members of the Appropriations Committee, thank you for this opportunity to speak about the state of the state of developmental disabilities in Nebraska. For the record, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y, and I'm the chief executive officer of NorthStar Services, providing supports in 22-plus counties in northeast Nebraska. I'm currently in my 41st year in the field of developmental disabilities. I'm also appearing before you my last time as mayor of the fine 2,995 citizens of David City, Nebraska, as I will not be seeking a fourth term. Senator Stinner, thank you for your distinguished service to the state of Nebraska and I bring you greetings from Jason Levinsky [PHONETIC]. Apparently, you had lunch with some bankers recently, so he said to tell you hello. Senator Stinner, I'm getting too old for this crap. I'm telling you. Usually I appear before you to share numbers and trends. This year, I get to just tell some stories. You'll hear numbers from others in the coming days and weeks, beginning as early as Monday and you've heard some already. If you allow me to offer NorthStar services as your canary in the coal mine, the coal mine, it is my responsibility to inform you that your canary is dead. We are no longer on the precipice of a crisis. We are way down the road, full blown into it. We and many agencies similarly situated as us have leaped from the precipice. The

Transcript Prepared by Clerk of the Legislature Transcribers Office

Appropriations Committee January 28, 2022

Agency 25

Rough Draft

only question that remains is if there is a safety net that catches us or if the ground will stop our fall. Our board is made up of 21 county commissioners and county supervisors, one from each of our counties in our service area. Arguably, county boards are the most conservative example of a governing body. Our board made the knowing decision to approve raises that we couldn't afford. We find ourselves, at the end of November, over \$404,000 in the red. Our board recognized that without staff, we couldn't support the people we're committed to. They recognize that their decision could put us out of business. They also recognize that by not spending the money, it could result in our being unsustainable. They recognize that by spending the money, it could result in our becoming unsustainable. I applaud their very difficult decision to try. We have made it this far with ridiculous overtime, supervisors working shifts, and families pitching in with having a family member go home. You are well aware of the issues in Corrections and nursing homes. The unemployment rate continues to be historically low. We exist for one reason, to provide supports that you as the state of Nebraska are required to by the federal government to provide. You are, for almost all intents and purposes, our sole funding source. In closing, it pains me more than I can possibly articulate that this is dying before my eyes on my watch. I'm one of the last dinosaurs. Most of my contemporaries have hung it up. One curse in my long tenure, as I'm very confident about how we got here and I'm confident they know where the bodies are buried. I miss the Sandy Sostads of government. You have all the power. I have none. I go back so many Appropriations Committees that I still remember Jerome Warner and Scotty Moore. Never has the future of DD-- of the DD system hung in the balance more than today. Our employees and the over 4,000 individuals that receive supports have put their future and lives in your hands. And as a summary, I just want to finish with one last anecdote. You know, as Senator Chambers used to say, invoking Billy Joel, when I wore a younger man's clothes, my dad put me in a combine. And we had this lever that said engage. And before you cut beans or wheat or picked corn, you would put that into motion and it would shake and it would be loud. You swore the thing was disintegrating around you. Then parts would start moving and you thought it's going to fly apart. Well, this-- these days, I feel like I'm in a perpetual state of engage and I don't know if there's enough duct tape and baling wire in the world to hold this thing together and stop it from flying apart. I'd be happy to answer any questions.

STINNER: Thank you. Any questions? Senator Wishart.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

WISHART: Thank you for being here. In terms of, in terms of the funding for DD, if, if this Legislature were to aggressively increase rates so that providers could increase the compensation for staff, would that solve the problem or are we seeing a change in the direction that people are going in terms of where they're working?

ALAN ZAVODNY: I'm sure some people would like me to say yes. I'm not convinced. You allocated more money and we spent less. So there's something going on. I think I know what, what happened. And I think we can point you toward that and there's, there's just so many moving parts to this. You know, I, I've read all the articles-- I was going to provide those-- that when you increased your Corrections a lot, you had more applicants, you've stabilized it. Well, we were able to do this-- probably not lose as many people, but when you wake up every morning not-- thinking you're fully staffed and three people call in with positive tests and the three people who serve have it in one section and these types of things-- and I thought Senator Erdman asked an important question. You know, we don't even know how the vaccine mandates are going to apply to us. There's that Medicaid question that-- it goes-- it's a rollercoaster. It's one minute this-- I have a friend that's a hospital administrator who's really worried about losing 16 or 18 people, not all of them nurses, but-- and being able to operate if they require the mandates. So there are so many things. We do know that we had to jump from \$12.25 an hour to \$14.25 just to hold onto people. It's hard to find people to do this work anyway, but at low pay, it was hard. And now with unemployment at 1.8-- I heard 1.7, whatever it is, you would know better than I, but I don't know. I don't think it's just that. I think the money that you've appropriated, which was much appreciated, how that is dealt with in the system is almost as equally as important as putting more money in it. We know we need more to pay to increase the salary just a little bit to hold even what we have. But-- I'm not the smartest guy in the world, but I've come you over and over over the years and a lot of what I've said, almost all it's come true, just because I live it. We've contracted, we've contracted, we've contracted. We continue to contract. We're going to get smaller and smaller. And maybe this system's outmoded, I don't know, but I think we need to take a hard look at-- I know Senator Walz is looking at studying the system. And there's some other things in place, but it's not just throwing money at it. We need some systemic fixes.

STINNER: Additional questions? Turnover rate compared today to pre-COVID is accelerated and do you have numbers on that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

ALAN ZAVODNY: The problem with our turnover-- it historically is around 36 to 40 percent. We-- I used to call our people after every payroll and say, you know, you're overtime. Explain to me why we have overtime. I haven't made those calls for two years. It's pointless for me to make them because to cover shifts, we're just working exorbitant overtime. It's just a necessity of keeping open. But, you know, nobody could have planned for a pandemic.

STINNER: What are you paying your frontline people?

ALAN ZAVODNY: \$14.25 to start.

STINNER: \$14.25.

ALAN ZAVODNY: Our board made that decision. We were at \$12.25 and we are losing people and we didn't have enough employees and it held onto the ones we had, but we're really-- we will run ads and no people apply for months and months and months at \$14.25.

STINNER: Any additional questions? Thank you for coming today.

ALAN ZAVODNY: Thank you.

JOE KOHOUT: Chairman Stinner and members of the Appropriations Committee, my name is Joe Kohout, K-o-h-o-u-t, and I appear today on behalf of our client, the Nebraska Association of Regional Administrators, or the six behavioral health regional administrators from across the state of Nebraska. And I'm here today at their request and on their behalf to express the willingness of the six behavioral health regions to work actively with our providers and our individual networks to provide additional emergency funding to them as they approach these-- the-- as they deal with the situation that each of those providers are dealing with. We believe that the committee could act swiftly to provide assistance by enacting legislation and putting in intent language in the budget that would provide some flexibility to the regions. We estimate-- and I think, Senator Stinner, to your question before, we estimate the current unspent dollars within the program 38, 38 program at \$16.9 million and those are allocated but unspent. I want to make that clear. They're allocated to specific program lines, but they're not-- but they remain unspent. So, so when our members or when our regions look at those numbers and say, gosh, we have providers who are in real difficult times, we need some flexibility with regards to how we can get this money out the door and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

get it to those providers. That is one way that we believe the committee could act quickly to do that. So we stand ready to assist in any way, shape, or form that we can, Mr. Chairman, and will-- I will try to answer any questions, but as you noticed, you have two very capable individuals to, to your left that know this stuff better than, than this guy does, so.

STINNER: Very good. Questions? Seeing none, thank you.

JOE KOHOUT: Thank you.

JEREMY NORDQUIST: Good afternoon, Chairman Stinner, members of the Appropriations Committee. I am Jeremy Nordquist, J-e-r-e-m-y N-o-r-d-q-u-i-s-t, president of the Nebraska Hospital Association and as always, I'm honored to appear before this highly esteemed committee. Nebraska hospitals are facing a tremendous workforce crisis, a workforce crisis that many of our members' CEOs describe as the absolute worst of their entire careers. Our hospitals are struggling. They're struggling under the weight of COVID-19, struggling to recruit staff, struggling to retain their talented healthcare heroes, and struggling to keep up with the rising costs of personnel. Hospitals in Nebraska are not immune from the wage pressures we are seeing throughout our entire economy and we need your help today with an increase in Medicaid provider rates. I know Chairman Stinner likes numbers, so I'll do my best here. Depending on the hospital, 60 to 70 percent of their hospital revenue comes from a government payer. Those payer rates are fixed; 2 percent this year in Medicaid and 2.5 percent increase this year in Medicare. About half of a hospital's total expenditure in Nebraska is personnel, \$3.5 billion dollars hospitals spent on personnel costs in the last year. Our hospitals right now are staring a huge increase in personnel costs in the face in the year ahead. One hospital system said they usually spend around \$25 million a year on salary bump-ups. Obviously a very big system when their salary increase alone is typically \$25 million a year. This year, it's going to be more than double that. They've got to get-- they're going to be in the neighborhood of \$50 million just for their salary increases for their system. Another hospital told me they're av-- annual average pay will be up 16 percent year over year from where they were a year ago and this is on top of them already spending an additional \$16 million that they typically don't spend for traveling nurse expenses in 2021. A third hospital said they just implemented a new pay structure for nurses. New nurses coming in, base pay is up 20 percent. All other nurses have to be adjusted up from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

there for nurses who have been along-- around for a while and they've added on new additional benefits like more generous student loan forgiveness, putting that adjustment north of 30 percent for new nurses. Hospitals cannot sustain with the-- with provider rates that are fixed with 60 to 70 percent of our revenue, cannot sustain the wage increases being demanded in the healthcare labor market right now without the help of state government and federal government through Medicare. Without this help, hospitals will be forced to scale back on services we can provide or the number of beds we can staff there. We can always attempt-- attempt is the key word-- to shift additional costs onto private payers, that, that remaining 30 to 40 percent. Obviously, those of you that know Senator Kolterman's work on PBM regulation of the insurers aren't-- wouldn't just take that lightly. They're pushing us the other way, trying to drive out costs for them. So I ask that these provide-- I also ask that these provider rates consider our small critical access hospitals. Sometimes they're overlooked and not adjusted for appropriately. These hospitals are cost reimbursed. However, the wage increases and inflation have increased much faster than the cost basis in the calculation often used for determining what are their quote unquote costs. Also, a lag in payments to them creates a big cash flow issue/ if you face a 20, 25 percent salary rate increase this year, but you're not going to see that reflected for 12, 18 months down the road, it really hurts those hospitals that have small or even some of our rural hospitals oper--have been operating at a small negative margin. Fifty-three percent of our critical access hospitals are facing financial stress and just last June, we lost MercyOne Hospital in Oakland, Nebraska. Our hospitals serve as a safety net of the state's healthcare system, providing services regardless of an individual's ability or willingness to pay. We can't turn someone away because they're not willing to pay what the cost of the services are and we cannot just go out and, and raise prices of our services to keep up with the costs of those, of those services. So that's why we're coming to you and asking for your help. Happy to take any questions.

STINNER: Questions? Senator Hilkemann.

HILKEMANN: What is the approx-- do you have any idea what the endowment of all the hospitals in Nebraska is?

JEREMY NORDQUIST: That's a good question. I don't. I can get you, I can-- we can try to pull that number together, but yeah, I don't--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

HILKEMANN: Eventually, you got-- these hospitals have, have fundraised for years to create large endowments to help them to fund through this. This is a rainy day time--

JEREMY NORDQUIST: Um-hum.

HILKEMANN: --for the hospitals. And what, and what--

JEREMY NORDQUIST: Yeah, yeah.

HILKEMANN: This a time when they can be looking at looking at their endowments to help them through this as well.

JEREMY NORDQUIST: Yeah and I think that would probably be a wide range of those that have really healthy--

HILKEMANN: Right.

JEREMY NORDQUIST: --ones versus those that don't, but we will, we will do some digging and bring that back to you.

STINNER: Senator Clements.

CLEMENTS: Thank you, Mr. Nordquist. You, you have received payments from Medicare and Medicaid. Do you have an idea of what the difference is between the reimbursements of Medicare and Medicaid?

JEREMY NORDQUIST: It, it really depends on the service. You know, overall, you would-- you typically would hear Medicare will reimburse 70ish percent of costs and Medicaid on a whole, a little lower than that, 60ish percent of costs. Last-- I'm trying to think-- it was last-- maybe last year on provider rates, I brought some members to this committee that I can bring back where we really broke it down and looked at individual service lines. For instance, the Medicaid was paying about the same cost as private pay for some basic checkups, some basic lab tests, things like that, but when it got to something like cost related to labor and delivery, there was a wide variation. Medicaid was only paying about 48, 49 percent of what private pay would pay for labor and delivery. So it really varies by my service. But we can, we can get you some more information in that space if you're interested.

CLEMENTS: Thank you.

JEREMY NORDQUIST: Yeah.

STINNER: And addit-- Senator Erdman.

ERDMAN: Thank you, Senator Stinner. Thank you for coming today.

JEREMY NORDQUIST: Yeah.

ERDMAN: So I read an article awhile back that said we're about 15.8 percent down on hospital beds availability because of shortage of staff.

JEREMY NORDQUIST: Um-hum.

ERDMAN: And coming forward, we're going to have the vaccine mandate go into effect. So what do you think the reduction will be in staff if that continues?

JEREMY NORDQUIST: Yeah, it really is going to vary on the part of the state. I mentioned a little of this the other day. You know, in the Omaha area, you know, I heard from, you know, the Med Center there. They, they, they lost 18 employees out of a total of 18,000 on that campus, so very, very small. And I think CHI, Methodist, and Bryan, the bigger systems all have the same thing. But we certainly-- and I just communicated to the Governor's office this week, he was asking for some information about hospitals that are at the other end of that spectrum and there certainly are some of those out in the Panhandle and western Nebraska that are going to have tremendous challenges when this vaccine mandate goes in and it's going to impact their care. And, you know, they-- many-- some of them joined, joined with the state in, in pushing back hard against the vaccine mandate because they knew this was coming. And like I said the other day, they've, they've tried to engage with their staff and, and just haven't been able to, to move the needle on it.

ERDMAN: It appears the people in my location and my area where they're trying to encourage doctors and staff to get vaccinated, they've already reached all the people they are going to reach and most people that haven't been vaccinated aren't going to get it.

JEREMY NORDQUIST: Right, right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

ERDMAN: And I talked to a hospital administrator last month who said the majority of those who are aren't vaccinated are doctors and if they don't have doctors in the hospital--

JEREMY NORDQUIST: Um-hum.

ERDMAN: And one of the nursing home administrators has resigned already and the head nurse resigned as well.

JEREMY NORDQUIST: Yeah.

ERDMAN: We're very much in danger of losing the hospital and the nursing homes--

JEREMY NORDQUIST: Yeah.

ERDMAN: --in its entirety.

JEREMY NORDQUIST: Yeah.

ERDMAN: These people are getting vaccinated and they're going to go away and everybody else is going to suffer.

JEREMY NORDQUIST: Right.

ERDMAN: This is significant.

JEREMY NORDQUIST: Absolutely and yeah, we've heard similar stories. One, one hospital, their entire physical therapy department was saying no, so the entire department would shut down. Another one, only 4 out of their 44 nurses at that point-- this was this data that-- that comment was about a month old, probably haven't-- hasn't moved much since then. I mean, if you take out-- you know, at these critical access hospitals, a couple of nurses can mean, you know, the entire operations of, of their beds. So it would have a-- it's going to have a lot of impact. And really those hospitals, their only hope then at that point is to try to go to staffing agencies and, and right now, some of those hospitals are paying \$250 an hour for a staff nurse to the agencies. And you know, that, that just isn't sustainable when you have such small margins that those hospitals have. And that's, that's kind of the bigger picture on the provider rates. As we get to this point, the federal money is flow-- you know, as, as the CARES Act money came into a lot of hospitals to help them, that money is pretty much done now. And we're looking at provider rates into the future as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

we try to unwind this, this unique situation we're in with travelers all over the country. At \$200-plus an hour, hospitals cannot sustain that into the future. And how are we going to put that horse back into the barn? And, you know, states that keep support to their hospitals are-- will probably be in a better position to be staffed than those that, that aren't. So it's something we're really worried about, how this all turns out for staffing in our healthcare systems.

ERDMAN: I think it's very similar to the gentleman that sat there before that said no matter how much money you give to DD, it may not work and that's where we are. We don't have-- there's not people out there are going to come to our local community hospital, not to come to a rest home and we're going to close and those people will get no service at all.

JEREMY NORDQUIST: Yeah.

ERDMAN: That, that's what's going to happen. Once it closes, it won't open back up.

JEREMY NORDQUIST: We're really worried about it.

STINNER: Additional questions? Do you have a number on how much the hospitals received in CARES Act money?

JEREMY NORDQUIST: I don't have the statewide number, but I'll, I'll get that to you. I know specifically some of the bigger systems, but across the entire state, I would have to, I'd have to look that up, but.

STINNER: Do you have a percentage of charity cases provided by the hospitals, percentage-wise?

JEREMY NORDQUIST: It, it-- I have the total dollar amount in, in charity and that, that, like I said, is around \$600 million, but that also includes offsets to Medicaid and Medicare losses, so-- but I'll, I'll find out the percentage. I, I-- you know, for the bigger systems, I know their mix tends to be about 60 percent Medicare, 10, 12 percent Medicaid, about 30 percent, a little less than 30 percent, private, and charity ends up being, I think, around 5, but I'll, I'll double-check that.

STINNER: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee January 28, 2022
Agency 25
Rough Draft

JEREMY NORDQUIST: Yeah.

STINNER: Any additional questions? Seeing none, thank you.

JEREMY NORDQUIST: Thank you.

STINNER: Any additional proponents? Any opponents? Anyone in the neutral capacity? That concludes our hearing on Agency 25, Health and Human Services.