



Board Agenda Item 40

DATE: July 7, 2020

TO: Board of Supervisors

SUBMITTED BY: David Pomaville, Director, Department of Public Health

SUBJECT: Retroactive Medi-Cal County Inmate Program Participation Agreement and Administrative Services Agreement

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a retroactive Participation Agreement with the California Department of Health Care Services for participation in the Medi-Cal County Inmate Program, effective July 1, 2020. This Agreement shall remain in effect upon the same terms and conditions as long as the County has an active Administrative Services Agreement with DHCS (\$800,000 per annum); and**
- 2. Approve and authorize the Chairman to Execute a retroactive Administrative Services Agreement with the California Department of Health Care Services to allow reimbursement for administration of the Medi-Cal County Inmate Program for State Fiscal Year 2020-23, effective July 1, 2020 through June 30, 2023 (\$23,431)**

Approval of the first recommended action will allow medical providers to seek reimbursement from the California Department of Health Care Services (DHCS) Medi-Cal County Inmate Program (MCIP) for covered inpatient hospital services (covered services) rendered to eligible County adult inmates and juvenile wards (eligible inmates) effective July 1, 2020 until such time as either party provides written notice of non-renewal; and approval of the second recommended action provides for the reimbursement to Department of Health Care Services for their service costs to administer the MCIP. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended action, providers would not be reimbursed by DHCS for covered services provided to eligible inmates who are incarcerated at Fresno County Detention Facilities and the Juvenile Justice Campus. Furthermore, the County would retain responsibility for payment to providers for these services. County provider participation in MCIP is contingent upon maintaining both the Administrative Services and Participation Agreements with DHCS.

RETROACTIVE AGREEMENT:

The recommended agreements are retroactive to July 1, 2020 and were not presented to your Board earlier due to the delay in receiving the Administrative Services Agreement from DHCS, which was received by the Department on June 4, 2020. The prior agreement, which contained both participation and administrative service cost language, expired June 30, 2020.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The estimated yearly maximum compensation is \$800,000 for the Medi-Cal County Inmate Program Participation Agreement, which allows the County to participate in MCIP. DHCS will charge the County for the Non-Federal Share of the Medi-Cal fee-for-service reimbursed to medical providers not to exceed \$800,000 State Fiscal Year (SFY). DHCS will also charge the County an annual administrative service fee of \$7,433 for year one, \$7,804 for year two, and \$8,194 for year three, which is based on a methodology specified in the proposed Administrative Services Agreement with a maximum compensation of \$23,431 for the three-year agreement. There are no pending invoices related to this Agreement. Sufficient appropriations and estimated revenues are included in the Department of Public Health's Org 5620 FY 2020-21 Recommended Budget and will be included in future budget proposals.

DISCUSSION:

Federal law generally prohibits claiming Medicaid funds to reimburse for health care services provided to inmates residing in correctional facilities. However, this prohibition does not apply to inpatient hospital services, including inpatient psychiatric services and physician services provided to an eligible inmate at a medical facility that is located off the grounds of the correctional facility and when the inpatient hospitalization is expected to be for at least 24 hours. Assembly Bill 1628 (Chapter 729, Statutes of 2010) and Assembly Bill 396 (Chapter 394, Statutes of 2011) authorized DHCS and counties to claim Federal Financial Participation (FFP) for medical and psychiatric inpatient hospital services provided to County Medi-Cal eligible inmates housed in county correctional facilities.

On April 3, 2018, the Board approved Agreement Nos. 18-169 and 18-170 with California Forensic Medical Group, Inc., (now Wellpath), which provide for participation in MCIP for inpatient hospitalization services.

On May 8, 2018, the Board approved the designation of the Sheriff's Office as an entity to assist County Jail inmates with their health care applications to include MCIP applications. The designation allowed the Sheriff's Office to assist and act on behalf of those inmates who are unwilling to cooperate and/or incapacitated and/or unable to cooperate in the application process under the MCIP.

The County must have an executed MCIP Participation Agreement with DHCS prior to provider direct submittal of service claims. The agreement sets forth the terms that the County must abide by in order to participate in MCIP, including that DHCS will reimburse providers at the applicable Medi-Cal rate for the services rendered to the extent FFP is available. The County shall retain financial responsibility for inpatient hospital services provided to inmates and wards who are not eligible for MCIP. Generally, these are inmates and wards receiving pension or whom have a source of income that is above the allowable Medi-Cal limit.

As part of the MCIP Participation Agreement process, the Department submitted the MCIP Participation Form for FY 2020-23, included as Attachment A. The form allowed DHCS to determine the County's administrative services costs, which are included in the recommended MCIP Administrative Services Agreement. Continued county provider participation in MCIP is contingent upon approval of both agreements; therefore, even though there is no stated term end date to the Participation Agreement, the County must enter into a new Administrative Services Agreement effective July 1, 2023 to allow for continued MCIP provider invoicing beyond June 30, 2023. In the previous MCIP process only one 12-month term agreement existed, which required execution of a new agreement every year.

DHCS will charge the County an annual administrative service fee of \$7,433 for year one, \$7,804 for year two, and \$8,194 for year three (\$23,431), which is based on a methodology specified in the proposed Administrative Services Agreement, Addendum A. The methodology for calculating the County's share of DHCS administrative costs is based on population data with 30% of the total administrative costs being distributed evenly to participating counties of over 50,000 in population and 70% of the total administrative costs being allocated to participating counties pro-rata based on population. To account for a cost-of-living adjustment on a yearly basis after year one, DHCS will include a year-over-year growth factor of 5% to the maximum payable amount of the annual administrative cost for each subsequent SFY. DHCS will invoice

the County for the administrative costs quarterly after the close of the previous quarter based on actual administrative costs.

The recommended agreements contain language stating that the County agrees to indemnify DHCS and although neither agreement contains the standard County indemnification language and insurance requirements, given the nature of this agreement, County Risk Management has approved of the agreement as being in the County's best interest. The recommended agreements allow DHCS to draw Federal funds for allowable services, which in turn allows the County to realize a savings for costs that would have otherwise been incurred. The recommended Participation Agreement shall remain in effect upon the same terms and conditions unless written notice of non-renewal is given by either party to the other party by providing a 30-day written notice. The Administrative Services Agreement shall be effective from July 1, 2020 through and including June 30, 2023 unless written notice of non-renewal is given by either party to the other party by providing a 30-day written notice. Termination of the proposed Administrative Services Agreement will automatically terminate the Participation Agreement. Failure to enter into an Administrative Services Agreement with DHCS will also deem the Participation Agreement terminated.

REFERENCE MATERIAL:

BAI #44, October 8, 2019
BAI#36, May 8, 2018
BAI #8.1, April 3, 2018
BAI #26, February 7, 2017
BAI #36.1, December 6, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A
On file with Clerk - Participation Agreement with DHCS
On file with Clerk - Administrative Services Agreement with DHCS

CAO ANALYST:

Raul Guerra