



Board Agenda Item 50

DATE: May 25, 2021

TO: Board of Supervisors

SUBMITTED BY: David Luchini, RN, PHN, Interim Director, Department of Public Health
Margaret Mims, Sheriff-Coroner-Public Administrator

SUBJECT: Retroactive Intergovernmental Certification

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a retroactive Intergovernmental Transfer Certification with the California Department of Health Care Services for voluntary contribution of County non-Federal funds to cover the non-Federal share of Medicaid eligible expenditures through the Medi-Cal County Inmate Program for State Fiscal Year 2020-21, effective July 1, 2020 through June 30, 2021, estimated total \$134,778.

Approval of the recommended action will certify the County's use of non-Federal funds to reimburse for the administration and non-Federal share of eligible inpatient hospitalization cost through the California Department of Health Care Services (DHCS) administered Medi-Cal County Inmate Program (MCIP). Per DHCS, the Intergovernmental Transfer (IGT) Certification is a necessary step implemented starting with the FY 2019-20 agreements. The IGT Certification certifies that County funds used to reimburse DHCS for the administration and non-Federal share of MCIP eligible services qualify for Federal Financial Participation (FFP), pursuant to 42 Code of Federal Regulations (CFR) part 433, subpart B, and are not derived from impermissible sources. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended action, DHCS's Policy and Procedure Letter (PPL) No. 20-016 states that it will result in the immediate revocation of the current MCIP agreements and termination of the County's participation in the MCIP. This would result in the DHCS no longer claiming for FFP under Title XIX of the Social Security Act and therefore no longer making inpatient medical service provider payments for County adult inmates and juvenile wards. Cost for inpatient medical services for this population would revert to 100% County responsibility retroactively to July 1, 2020. Year to date cost liability is unknown at this time as DHCS non-federal share of cost invoices for FY 2020-21 are pending.

RETROACTIVE AGREEMENT:

The recommended IGT Certification is retroactive to July 1, 2020 and was not presented to your Board earlier due to the delay in receiving the Certification from DHCS, which was received by the Department on April 2, 2021.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. DHCS will continue to reimburse medical providers for eligible inmates' inpatient hospital service cost and invoice the County for

the Non-Federal Share estimated to be \$134,778 in FY 2020-21. Invoice payments for FY 2019-20 and FY 2020-21 are still pending and the Department is waiting for updated invoices and/or direction from DHCS based on the reconciliation process. DHCS has assured the Department the reconciliation process will continue and the IGT Certification will not impact our ability to reconcile claims. Sufficient appropriations and estimated revenues are included in the Department's Org 5620 FY 2020-21 Adopted Budget, to make invoice payments.

DISCUSSION:

Assembly Bill 1628 (Chapter 729, Statutes of 2010) and Assembly Bill 396 (Chapter 394, Statutes of 2011) authorized DHCS and counties to claim 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 October 8, 2019, your Board executed the FY 2019-20 MCIP service participation and administrative Agreement No. 19-524. For FY 2020-21, DHCS adjusted the agreement processes and created a three-year administrative agreement and a 12-month service agreement that will automatically renew for unlimited 12-month periods as long as an administrative agreement is in place. The agreements were executed by your Board on July 7, 2020 (Agreement Nos. 20-262 and 20-263). On December 15, 2020, your Board approved a Retroactive Intergovernmental Transfer Certification (No. 20-507) indicating an estimated amount of \$279,000 for FY 2019-20. Per DHCS's PPL No. 20-016, the certification will be needed on a yearly basis.

The MCIP Participation Agreement allows providers direct submittal of service claims to DHCS MCIP Division and sets forth the terms that the County must abide by in order to participate in the MCIP. Terms include the County responsibility to reimburse DHCS based on invoices received for the non-Federal share of DHCS claimed Title XIX eligible services. DHCS retains responsibility to make direct medical provider payments at applicable Medi-Cal rates and therefore retain all Title XIX FFP received. The administrative services agreement provides for DHCS to charge the County an annual administrative service fee for the County's share of DHCS administrative costs, this cost is shared between all MCIP participating counties. The 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 a 100% county liability.

DHCS has continued to communicate that the yearly MCIP IGT Certification will not change the current contractual reimbursement process to an advancement of funds process. The IGT Certification serves to insure the County's commitment to reimburse DHCS with funds from the County's General Fund or from any other funds allowed under Federal law and regulation, including but not limited to section 1903(w) of the Social Security Act and 42 CFR, Part 433, Subpart B. In late 2020, the Department, with County Counsel input, communicated with DHCS to attempt to capture language in the certification that assured the County a continued reimbursement relationship for the MCIP contracts, however DHCS would not accept any language amendments to the certification. The Department will return to the Board should the reimbursement process change to an actual IGT process, requiring an advance on estimated non-Federal share of cost for eligible MCIP services.

The County will be required to submit an IGT Certification annually to DHCS by June 30th of each State fiscal year to be eligible for continued participation in MCIP.

REFERENCE MATERIAL:

- BAI #69, December 15, 2020
- BAI #40, July 7, 2020
- BAI #44, October 8, 2019

BAI #8.1, April 3, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Certification

CAO ANALYST:

Ronald Alexander