



# Board Agenda Item 36

DATE: September 25, 2018

TO: Board of Supervisors

SUBMITTED BY: Dawan Utecht, Director, Department of Behavioral Health

SUBJECT: Submission of the Fresno County Mental Health Services Act Assembly Bill 114 (Statute of 2017) Plan to spend

RECOMMENDED ACTION(S):

**Approve and authorize the Department of Behavioral Health to submit the Fresno County Mental Health Services Act Assembly Bill 114 (Statute of 2017) Plan to Spend.**

Approval of the recommend action will allow the Department to submit the County's Mental Health Services Act (MHSA) Assembly Bill 114 (Statute of 2017) Plan to Spend to the California Mental Health Services Oversight and Accountability Commission (MHSOAC). In Fresno County this includes \$9,433,301 MHSA funds that were reverted and reallocated back to the County for the purposes for which they were originally allocated.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the plan to spend; however, it would result in failure to adhere to the required statutes and the funds would revert back to the California Department of Health Care Services (DHCS) which would hamper the Department's efforts to provide needed behavioral health services in the community.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. MHSA funding allows for full reimbursement of direct and indirect costs. The FY 2018-2020 programs and service costs included in this plan (\$9,433,301) are detailed in this plan and have been approved in FY 2016-17 Annual Update and will be included in future annual updates. On December 5, 2017, your Board approved existing MHSA funded programs. Sufficient appropriations and estimated revenues are included in the Department's Org 5630 FY 2018-19 Adopted Budget and will be included in subsequent budget requests.

DISCUSSION:

On December 28, 2017 Fresno County Department of Behavioral Health (DBH) received Information Notice (IN) 17-059 from California Department of Health Care Services (DHCS) Mental Health & Substance Use Disorders Services (MHSUDS).

The purpose of Information Notice 17-059 was to inform counties of the following:

- The process the DHCS will use to determine the amount of unspent Mental Health Services Act (MHSA) funds subject to reversion as of July 1, 2017;
- The appeal process available to a county regarding that determination; and

- The requirement that by July 1, 2018, counties have a plan to expend the reverted funds by July 1, 2020.

Assembly Bill (AB) 114 (Chapter 38, Statutes of 2017) became effective July 10, 2017. The bill amended certain Welfare and Institutions Code (WIC) Sections related to the reversion of MHSA funds. AB 114 implemented provisions concerning funds subject to reversion as of July 1, 2017. Funds subject to reversion as of July 1, 2017, were deemed to have been reverted and reallocated to the county of origin for the purposes for which they were originally allocated (WIC Section 5892.1 (a)).

In Fresno County this includes \$9,433,301 of Prevention and Early Intervention (\$1,240,689); Innovation (\$3,805,077); Workforce, Education and Training (\$3,066,194); and Capital Facility/Technology Needs (\$1,381,341) funds.

By July 1, 2018, DHCS was required to prepare a report to the Legislature identifying the amounts of funds subject to reversion by county. Prior to releasing the report, DHCS was required to provide each county with the amount of funds they have determined are subject to reversion and a process for counties to appeal that determination (WIC Section 5892.1 (b)).

Additionally, by July 1, 2018, counties were required to have a plan to spend those funds by July 1, 2020 (WIC Section 5892.1 (c)). Pursuant to WIC Section 5892.1, subdivision (e), DHCS provided counties with IN 17-059 to implement those requirements. Additionally, IN 17-059 supersedes all other reversion policies contained in past Information Notices developed by the former Department of Mental Health and DHCS.

A county may expend reallocated funds for an already approved program/project or use the reallocated funds to expand an already approved program/project provided the program/project is the same component as the component for which the funds were originally allocated to the county, which must be in compliance with applicable MHSA statutes and regulations.

If a county fails to prepare a plan and submit a link to the plan by the required deadlines, the county will be substantially out of compliance with the MHSA. Per WIC Section 5899 (e), DHCS will work with the State Controller's Office (SCO) to develop a process to withhold 25% of the county's monthly allocations from the Mental Health Fund (MHF) until the county submits a link to the plan.

Information Notice 17-059 specified the following instructions for counties to plan to spend the funds:

- Every county must develop a plan to spend its reallocated funds and post it to the county's website;
- The county must submit a link to the plan to DHCS via email at [MHSA@dhcs.ca.gov](mailto:MHSA@dhcs.ca.gov) by July 1, 2018;
- Each county's Board of Supervisors (BOS) must adopt a final plan within 90 days of the county posting the plan to the county's website;
- Each county must submit its final Plan to Spend to DHCS and the MHSOAC within 30 days of adoption by the county's BOS;
- A county may not spend funds that are deemed reverted and reallocated to the county until the county's BOS has adopted a plan to spend those funds;
- The expenditure plan must account for the total amount of reverted and reallocated funds for all impacted FYs, as indicated in the applicable notice of unspent funds subject to reversion or in the final determination on an appeal;
- The county must include the Plan to Spend in the County's Three-Year Program and Expenditure Plan or Annual Update, or as a separate plan update to the County's Three-Year Program and Expenditure;
- Plan, and comply with WIC Section 5847 (a);
- Reallocated funds must be expended on the component for which they were originally allocated to the county.

Under original MHSA guidelines the Department did not have any funds subject to reversion. Recent

legislation receded prior instructions which subjected the funds to reversion and reallocation. A brief summary of the applicable law and MHSA guidance is below:

- 12/5/11 Department of Mental Health (now DHCS) issued Information Notice 11-15 clarifying how funds subject to reversion should be calculated by counties. Using this calculation, Fresno County had no funds subject to reversion.
- 6/23/16 DHCS issued IN 16-026 rescinding IN 11-15, thereby making unspent funds from fiscal years 2008-2009 through 2015-2016 subject to reversion if not spent within three fiscal years from 7/1/16.
- 7/10/17 Assembly Bill (AB) 114 (Chapter 38, Statutes of 2017) became effective and amended Welfare and Institutions Code (W&IC) sections related to the reversion of MHSA funds making funds subject to reversion as of 7/1/17 deemed reverted and reallocated to the county of origin for the purposes for which they were initially allocated, and that such funds be spent by 7/1/20. AB 114 required that each County with unspent funds prepare a plan to expend funds by 7/1/18.
- 12/28/17 DHCS issued IN 17-059 providing the methodology used to calculate funds subject to reversion as of 7/1/17. IN 17-059 also provides guidance on the appeals process, the plan to spend the funds, and the consequences for failure to spend the funds.

The Department will continue to monitor and comply with MHSA instructions and legislation to prevent future reversion of funds.

OTHER REVIEWING AGENCIES:

On August 15, 2018, DBH held a public meeting at the Department's contracted Blue Sky Wellness Center. The public meeting was advertised in the Fresno Bee and on local radio stations. The public meeting included information regarding the AB 114 Plan to Spend and the public had an opportunity to comment. There were no comments received regarding the reversion spending. On the same date, in the Director of Behavioral Health's routine presentation to the Behavioral Health Board, detailed information on the Plan to Spend was included. There were no objections noted by the Behavioral Health Board nor any members of the public in attendance.

REFERENCE MATERIAL:

BAI #5, December 5, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - MHSA Assembly Bill 114 Plan to Spend

CAO ANALYST:

Ronald Alexander