



# Board Agenda Item 38

DATE: April 11, 2023

TO: Board of Supervisors

SUBMITTED BY: David Luchini, RN, PHN, Director, Department of Public Health

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

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a Participation Agreement with the California Department of Health Care Services for participation in the Medi-Cal County Inmate Program, effective July 1, 2023 and will remain in effect until terminated by either party pursuant to and in accordance with the requirements and conditions set forth in this Participation Agreement, for an estimated amount of \$800,000; and**
- 2. Approve and authorize the Chairman to execute an 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 2023-26, effective July 1, 2023, through June 30, 2026, total not to exceed \$26,636.**

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, 2023, until such time as either party provides written notice of non-renewal. Approval of the second recommended action provides for the reimbursement to DHCS for their service costs to administer the MCIP. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended actions, 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.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The estimated three-year maximum compensation is \$800,000 for the Medi-Cal County Inmate Program Participation Agreement, which allows the County to participate in the MCIP. DHCS will also charge the County an annual administrative service fee of \$8,205 for year one, \$8,861 for year two, and \$9,570 for year three, which is based on a methodology specified in the proposed Administrative Services Agreement with a maximum compensation of \$26,636 for the three-year agreement. Sufficient appropriations and estimated revenues will be included in the Department of Public Health's Org 5620 FY2023-24 Recommended Budget and will

be included in future budget requests.

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 2, 2018, your 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, your 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 and 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 a pension or who 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 Letter of Intent Medi-Cal County Inmate Program County Participation Form for the State Fiscal Year (SFY) 2023 through SFY 2026, 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 and the County must enter into both a new Participation Agreement and Administrative Services Agreement to allow for continued MCIP provider invoicing beyond June 30, 2023.

This Participation Agreement has an estimated maximum compensation amount of \$800,000 as there are several factors that could affect the actual amount of compensation, which includes the recent local rescission of the Emergency Zero-Dollar Bail rule. This may result in longer incarcerations with more inpatient hospital services being provided to inmates and wards, also of consideration is the possible increase in Medi-Cal provider reimbursement in 2024, both of which would increase the County's share of the FFP. Additionally, the mandated changes that will be brought about by the California Advancing and Innovating Medi-Cal (CalAIM) initiative Services and Supports for Justice-Involved Adults and Youth may lower the actual Participation Agreement compensation starting in SFY 2024-25. The initiative will help to address poor health outcomes and disproportionate risk of illness and accidental death among justice-involved Medi-Cal eligible adults and youth as they re-enter their communities by providing the Medi-Cal Managed Care enrollment process and providing targeted Medi-Cal services to eligible individuals while they are incarcerated and 90-days prior to their release, thus ensuring continuity of coverage and services after incarceration. Providers would not submit claims through the MCIP for any 90-day pre-release inpatient services rendered. 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.

DHCS will charge the County an annual administrative fee of \$8,205 for year one, \$8,861 for year two, and \$9,570 for year three (\$26,636), 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 the cost-of-living adjustment on a yearly basis after year one, DHCS will include a year-over-year growth factor of 8% 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, the Department is of the opinion, and County Risk Management has concurred, that the agreements are 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 Participation Agreement also contains Business Associate language.

DHCS has clarified that the recommended Participation Agreement, while containing evergreen language, shall remain in effect for a maximum of three years (July 1, 2023, through June 30, 2026) and only as long as the County remains in an Administrative Services Agreement with DHCS and should that Administrative Services Agreement terminate, the Participation Agreement will automatically terminate as well. The 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, 2023, through and including June 30, 2026, 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 #40, July 7, 2020  
BAI #44, October 8, 2019  
BAI #36, May 8, 2018  
BAI #8, 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  
On file with Clerk - Administrative Services Agreement

CAO ANALYST:

Ronald Alexander