



# Board Agenda Item 36

DATE: May 17, 2022

TO: Board of Supervisors

SUBMITTED BY: Susan L. Holt, Director, Department of Behavioral Health

SUBJECT: Retroactive Memorandum of Understanding with California Department of State Hospitals and CalMHSA and Participation Agreement with CalMHSA

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a retroactive Memorandum of Understanding with the California Department of State Hospitals and the California Mental Health Services Authority for mandated state psychiatric hospital beds and services, effective July 1, 2021 through June 30, 2022 (\$850,000);**
- 2. Approve and authorize the Chairman to execute a retroactive Participation Agreement (No. 1162-2021-SHP-FC) with the California Mental Health Services Authority for purchase of state psychiatric hospital beds on behalf of the County, effective July 1, 2021 through June 30, 2022 (\$1,402/per bed); and,**
- 3. Approve and authorize the Director of the Department of Behavioral Health, or designee, to act as the authorized representative for the County and receive notices related to the Memorandum of Understanding with the California Department of State Hospitals and the California Mental Health Services Authority.**

Approval of the recommended actions will allow for a one-year Memorandum of Understanding (MOU) with the California Department of State Hospitals (DSH) and the California Mental Health Services Authority (CalMHSA) for state hospital beds. Pursuant to Welfare & Institutions Code (W&IC), section 5000 and following, the MOU will provide mandated beds and services for Lanterman-Petris Short (LPS) Conservatees who are gravely disabled mentally ill clients, as ordered by the Fresno County Superior Court (Court). The agreement will be funded with Mental Health Realignment funds. Approval of the recommended actions will also allow for a one-year Participation Agreement with the CalMHSA to contract for state hospital beds on the County's behalf, along with all other counties under the agreement. Approval of the recommended actions will also allow the Department of Behavioral Health's Director to act as a representative of the County to receive notices regarding the MOU or agreement and to provide input and/or feedback as necessary. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable alternatives. Non-approval of the recommended actions will prevent the Department from authorizing state psychiatric hospital placement and services through the CalMHSA MOU and the Participation Agreement for adults with severe mental illness deemed by the Court to require a higher level of care in a locked facility.

RETROACTIVE AGREEMENT:

The recommended MOU and Participation Agreement are retroactive to July 1, 2021 as the Department received the final approved MOU from CalMHSA on February 10, 2022 and the agreement on March 22, 2022. CalMHSA has historically provided documents to the Department late in the fiscal year.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The maximum compensation allocated for the MOU in FY 2021-22 is \$850,000, fully offset with Mental Health Realignment funds. The cost of the MOU is based upon a dedicated hospital bed rate structure. The cost is based on amounts provided to the California State Controller's Office per the County Actual Use statement reflecting actual bed usage by the County. The cost of the recommended Participation Agreement is \$1,402 per bed per fiscal year also offset by Mental Health Realignment funds. The actual cost for the FY 2020-21 agreement was \$525,840. Sufficient appropriations and estimated revenues are included in the Department's Org 5630 FY 2021-22 Adopted Budget.

DISCUSSION:

Pursuant to W&IC, Section 5600, counties are mandated to provide treatment options for adults with severe mental illness, including 24-hour treatment services at locked inpatient psychiatric hospitals. Sections 4330 through 4335 establish the process by which counties contract with DSH for a specified number of hospital beds, services, and the reimbursement method.

On September 14, 2010, the Board approved Agreement No. 10-489 with CalMHSA, authorizing the Department to join the CalMHSA Joint Powers Authority (JPA) to develop, implement, administer, and provide fiscal oversight of Mental Health Services Act statewide projects. The County has received membership benefits including cost reductions and the related efficiencies of sharing resources and knowledge. On June 18, 2013, the Board approved an Amendment to the agreement, which broadened the scope including the authority to jointly contract with other counties for state hospital beds and services. The amendment was a product of the Department's JPA membership and delineated that CalMHSA is an administrative agent for the County.

With your Board's approval of the retroactive MOU, the County will continue to utilize state psychiatric hospital placement and services for adults with severe mental health illness that require a higher level of care within a locked facility through FY 2021-22. Services include, but are not limited to, psychiatric and ancillary services, health care, expert testimony, and therapy. Department staff closely monitor each individual placed at a state hospital for services. As the individual's mental health improves, placement staff may transition them to less restrictive and less costly mental health facilities such as Mental Health Rehabilitation Centers and Skilled Nursing Facilities.

Additionally, with your Board's approval of the recommended actions, the state hospital bed rates for the period of July 1, 2021 through June 30, 2022, are as follows:

- Acute \$626/bed/day
- Intermediate Care Facility \$626/bed/day
- Skilled Nursing Facility \$775/bed/day.

The CalMHSA State Hospitals Program authorizes CalMHSA to contract with DSH for state hospital bed utilization on behalf of the County. The recommended Participation Agreement includes an annual payment of \$1,402/per bed to CalMHSA to cover administrative charges associated with their procurement of state hospital beds.

The recommended actions allow the Department Director, or designee, to serve as the authorized representative on behalf of the County to receive notices regarding the MOU or agreement and to provide input and/or feedback as necessary to accomplish the purposes of the MOU or agreement.

As this is state-drafted agreement language, the County's traditional insurance language and hold harmless language is not present in the recommended MOU and agreement.

OTHER REVIEWING AGENCIES:

The Behavioral Health Board was informed of these recommended action items during the April 20, 2022 meeting.

REFERENCE MATERIAL:

BAI #30, May 11, 2021  
BAI# 57, June 18, 2013  
BAI# 39, September 14, 2010

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - MOU  
On file with Clerk - Participation Agreement

CAO ANALYST:

Sonia M. De La Rosa