



Board Agenda Item 33

DATE: August 20, 2019

TO: Board of Supervisors

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

SUBJECT: Agreement with Community Medical Centers for Comprehensive Hospital Services

RECOMMENDED ACTION(S):

- 1. Make a finding that it is in the best interest of the County to waive the competitive bidding process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances for mandated inpatient hospital services, emergency care, outpatient clinic, and professional medical services for the County's Medically Indigent Services Program; and,**
- 2. Approve and authorize the Chairman to execute Agreement with Community Medical Centers for mandated inpatient hospital services, emergency care, outpatient clinic, and professional medical services for the County's Medically Indigent Services Program, effective August 20, 2019, not to exceed ten consecutive years, which includes a three-year base contract and seven optional one-year extensions, total not to exceed \$23,477,320.**

Approval of the recommended actions will waive the competitive bid process and execute an Agreement with Community Medical Centers (CMC) for mandated comprehensive inpatient hospitalization, emergency care, outpatient clinic, and other professional medical services provided within the hospital to eligible residents accessing the County's Medically Indigent Services Program. The recommended agreement will supersede the existing MISP agreement that will expire November 30, 2019. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended agreement is not approved, the County will have no agreement in place with a hospital provider to comply with its continued obligation under Welfare and Institutions Code section 17000, et seq. as of December 1, 2019. However, the County would still be responsible for the medical care and subsequent costs for eligible MISP patients.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Department of Public Health is requesting that your Board waive the competitive bidding process, consistent with Administrative Policy No. 34 under the "unusual or extraordinary circumstances" exception. CMC has been the County's principal provider of professional comprehensive inpatient hospitalization, emergency care, outpatient clinic, and other professional medical services for the County's low income, indigent, and MISP since 1996, when the County executed the Master Agreement No. 96-440. The partnership between CMC, University of California, San Francisco - Fresno Residency Program, and various provider groups serve the same population serviced through the County's MISP. Accordingly, CMC and the various providers of professional medical services credentialed to practice at CMC are uniquely qualified to provide MISP medical services based upon facilities, staffing, and overall expertise in treating the

County's low income and MISP population.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The County only pays for services rendered. The total maximum contract amount for the ten-year period is \$23,477,320. MISP medical care is estimated at \$5,000 to \$6,000 per patient based on cost information provided by CMC resulting in an estimated cost range of \$500,000 to \$3,000,000 annually. Due to the County previously providing MISP services through a fixed cost agreement and the revised MISP eligibility criteria, projected annual costs may vary because the actual cost of indigent medical care is dependent on the actual number of MISP recipients enrolling in the program and the types of services required for those patients. Should the projected cost for contracted services exceed the maximum contract amount, Department staff would return to the Board for an amendment. Due to the Affordable Care Act, the County has realized minimal cost under MISP. The Department estimates that the MISP population could be between 100-500 recipients annually. The agreement will be funded with Health Realignment. Sufficient appropriations and estimated revenue is included in the Department's Org 5240 FY 2019-20 Adopted Budget and will be included in future budget requests.

DISCUSSION:

Following the termination of Master Agreement No. 96-440 on December 1, 2014, the Department continued to meet with physicians, hospitals, health plans, physician groups, and other community partners to engage input from the health care community to discuss health care delivery options for the County MISP. CMC is the only hospital provider that has expressed willingness to treat the MISP population through a fee-for-service agreement with the County. Compensation will be calculated based on a percentage of hospital charges for services, specifically 20% of hospital charges for inpatient services and 15% for outpatient charges. The percentages, when applied to hospital charges, result in reimbursement rates that closely match Medicare rates. The recommended agreement with CMC will allow the County to continue to meet its mandate under Welfare and Institutions Code, section 17000, et seq, continued MISP services.

The Agreement with CMC (No. 14-676) is scheduled to terminate on November 30, 2019; however, CMC has requested that the County enter into the recommended agreement prior to expiration as CMC is required to recertify annually for participation in the U.S. Health Resources & Services Administration (HRSA) 340 B Drug Pricing Program and recertification occurs in the September/October timeframe.

One of the eligibility requirements for Program certification is that CMC hold a contract to care for indigent or low income patients with a State or local government agency. It would be beneficial for CMC's certification process for the initial effective date and subsequent extension effective dates to occur prior to Program filing time frame as this will ensure that CMC meets eligibility requirements. The benefits of the Program is that it saves CMC over \$30 million a year. Those savings have allowed CMC to expand the reach of their uncompensated care programs in the community, provide free medications exceeding \$500,000 a year to uninsured patients, provide Ambulatory Care Pharmacy access for the Ambulatory Care Clinic patients, and provide Ambulatory Infusion Center services at the East Medical Plaza to their clients. Approval of the recommended actions will allow CMC to meet the eligibility requirements of having a contract with a local government agency.

The Agreement No. 14-677 with University Faculty Associates, Inc. (UFA) approved by the Board on August 11, 2015, will expire on November 30, 2019 and provides professional medical services for MISP. The Department will return to the Board with a MISP master agreement for professional medical services that will supersede this agreement and include recent professional provider changes at CMC.

The recommended agreement will be effective August 20, 2019, for a base term of three years and may be extended for seven optional one-year periods upon written approval of CMC no later than sixty days prior to the first day of the next one-year extension upon the same terms and conditions unless written notice of

nonrenewal is given by the County and/or CMC. The three year base term plus seven optional one-year extension periods at the same terms will allow for stability of the current fee-for-service rate as there continues to be legal challenges to the Federal Patient Protection and Affordable Care Act (ACA) [Public Law 111-148, enacted on March 23, 2010], and to the individual mandate. The Department's Director, or designee, is authorized to execute such written approval of extension on behalf of the County. Additionally, either the County or CMC may terminate the recommended agreement without cause upon giving a 90-day advance written notice of the intent to terminate. The agreement contains dispute resolution language that allows for the parties to informally resolve any dispute that arises by nonbinding mediation; however, each party reserves the right to resolve the dispute in any manner provided by law or in equity. The recommended agreement contains mutual indemnification and hold harmless, which has been approved by County of Fresno Risk Management. The agreement also contains non-standard insurance language in that the commercial general liability is on a claims made and not a per occurrence basis and, in the event that CMC does not continuously maintain a claims made policy, CMC will purchase tail coverage at that time. Additionally, the agreement also contains non-standard sub-limits in the cyber liability insurance portion of the agreement.

REFERENCE MATERIAL:

Board Briefing Report, March 15, 2017 - Potential Repeal and Replacement of the Affordable Care Act
BAI #53, August 11, 2015
BAI #35, November 4, 2014
Board Briefing Report, August 6, 2014 - Update Regarding Medically Indigent Services Program and Community Medical Centers Agreement
BAI #4, August 23, 2013
BAI #113357, August 27, 1996

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request
On file with Clerk - Agreement with CMC

CAO ANALYST:

Sonia M. De La Rosa