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DEPARTMENT OF MENTAL HEALTH

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October 19, 2010

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

APPROVAL TO PROVIDE INTERIM PROVISIONAL PAYMENTS ON AN AS NEEDED BASIS TO CONTRACTORS FOR SERVICES TO INDIVIDUALS ELIGIBLE FOR BOTH MEDICARE AND MEDI-CAL (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

Request approval to provide interim provisional payments to various Department of Mental Health Legal Entity contractors to maintain cash flow, pending the State's implementation of changes to the Short-Doyle/Medi-Cal Phase II claiming system to accommodate adjudication of claims for individuals with both Medicare and Medi-Cal benefits.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve and authorize the Director of Mental Health (Director), or his designee, to issue interim provisional payments to current Department of Mental Health (DMH) Legal Entity contractors for certain services to individuals with dual Medicare and Medi-Cal benefits upon Board approval through June 30, 2011, on an as needed basis subject to a case-by-case determination. No additional appropriation is associated with this request.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The recommended action will allow DMH to make interim payments to contractors that have rendered eligible mental health services to individuals with dual eligibility for Medicare and Medi-Cal benefits. Due to the State's delay in completing modifications to its Short-Doyle/Medi-Cal Phase II

("SD/MC II") claiming system for these dual eligible clients, these contractors are unable to bill and receive reimbursement for certain claims.

When a client has both Medicare and Medi-Cal, federal and State regulations require providers to bill Medicare prior to billing Medi-Cal. For County mental health plans, adjudicated Medicare claims are required before the billing can be submitted to Medi-Cal.

DMH contractors face a problem when the billing intermediary for Medicare claims (Palmetto GBA) rejects certain claims without adjudicating (i.e.," approving" or "denying") them. The current SD/MC II claiming system requires claims to be adjudicated prior to billing Medi-Cal; therefore, the State denies the claims that are rejected by Medicare, even though such services should be covered by Medi-Cal and are eligible for Medi-Cal reimbursement.

To satisfy the Federal Certified Public Expenditures (CPE) requirement, DMH has to reimburse the Legal Entity contractors for all claims that are forwarded to the State for processing and payment, including those claims that are rejected by Medicare. However, current contractual provisions of DMH's Legal Entity Agreement require the immediate recovery of any payments made for Medi-Cal claims that are denied by the State. This immediate recovery of any payments made for Medi-Cal claims that are rejected by Medicare will leave the contractors with no or reduced cash flow for current operations.

When DMH became aware of this problem, DMH management immediately initiated discussions with the California Mental Health Directors' Association and the State. The result of those communications was that the State agreed to phase in the modifications to its system starting in October 2010. However, it will take additional time for DMH to reprogram its system to be consistent with the State's changes to the SD/MC II claiming system, and the State has not provided a date by which all of its changes would be complete. Consequently, DMH is asking your Board's approval to implement interim provisional payments to alleviate contractors' cash flow problems due to the current contractual provisions of DMH's Legal Entity Agreement, thereby preserving the service delivery capabilities of the County's mental health system.

Implementation of Strategic Plan Goals

The recommended actions support the County's Strategic Plan Goal 4, Health and Mental Health.

FISCAL IMPACT/FINANCING

The recommended action will have no impact on net County cost as the interim provisional payments will be made from each impacted contractor's FYs 2009-10 and 2010-11 maximum contract amounts.

Interim provisional payments will be provided to contractors on an as needed basis for eligible mental health services provided during the period October 2009 through June 2011 to individuals with dual eligibility for Medicare and Medi-Cal benefits. Contractors were unable to bill and receive reimbursement for these services due to the State's delay in completing modifications to its SD/MC II claiming system. Some contractors have already received cash flow advances for services provided during this period. As a result, interim provisional payments will not be provided to those contractors; the services would reduce the outstanding cash flow advance balance.

Interim provisional payments are estimated to be $1.8 million a month for a total estimated interim payout of approximately $16 million. After the State implements the initial phases of modification to the SD/MC II claiming system, which will take place between October and December of 2010, the estimated monthly amount of $1.8 will be incrementally reduced as the system begins accepting and adjudicating majority of the eligible claims. The County will not receive Medi-Cal reimbursements until after the State completes the modifications to the SD/MC II claiming system, DMH submits the held claims and such claims are processed. This process is expected to be completed on or before June 30, 2011. Final reconciliation of these interim provisional payments will be made using standard procedures to assure that the contractors are not overpaid

The cash flow impact on the County is projected not to exceed $16 million from October 2010 through June 2011; however the impact on County's cash flow will be mitigated once the State completes at least some of the modifications to SD/MC II claiming system and starts to adjudicate and make reimbursements on the related claims. The State has informed counties that payments are scheduled 35 days after SD/MC II adjudicates the claims, subject to the State's FY 2010-11 budget being in place.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In response to the Federal Centers for Medicare and Medicaid Services' audit finding, the State had to change its billing system, including changes which check to assure that primary payers like Medicare, have been billed and have adjudicated the claims, before Medi-Cal payment can be made. As a result of the changes, DMH contractors are unable to bill certain claims for services to patients who are eligible for both Medicare and Medi-Cal benefits which Medicare will not adjudicate, pending system modifications by the State.

The claims for which interim provisional payment authority is sought are for care provided to dual eligible individuals, who received services which are outside of Medicare's scope of coverage, but are covered by Medi-Cal, such as education on medications. They also include services which are provided by individuals that Medicare does not recognize as rendering providers but who may provide covered service under Medi-Cal, such as marriage and family therapists. The key test is that Medicare will not adjudicate the claim.

The interim provisional payments will be made monthly after analyzing the impacted claims on a contractor-by-contractor basis, and may not exceed 1/12th of the annual maximum contract amount for each contractor. The claims eligible for interim provisional payments generally will not be forwarded to the State for processing and reimbursement until the State completes its modifications to the SD/MC II claiming system and DMH updates its billing system accordingly. However, the State requires claims to be submitted within one year from the date of service. Due to this requirement, DMH will forward claims at risk of being late to the State to preserve the claims' filing date.

The State has informed DMH that it will modify its SD/MC II claiming system to address this issue in two steps; first step of the implementation will take place on October 11, 2010, and the second step, in November 2010 although the State has not provided a date of completion. As the State makes these modifications, it will provide DMH the business rules which will be used to modify DMH's billing system so that they are consistent.

DMH will provide your Board with monthly status report as the State phases in the modifications to

its SD/MC II claiming system and DMH modifies its billing system accordingly to accommodate the adjudication of claims for individuals with dual Medicare and Medi-Cal benefits.

The Chief Executive Officer and Auditor Controller have reviewed the proposed action.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This claiming problem has impacted 91 DMH contractors that provide mental health services to the dual eligible population. These contractors are experiencing a reduction of approximately $1.8 million per month as a result of this issue with the State. The loss of this cash flow has created financial stress for the contractors as they have hired staff and services are being provided to the dual eligible population. These stresses may result in staff lay-offs and service reductions, which will be averted if this DMH proposed action is approved.

Respectfully submitted,

MARVIN J. SOUTHARD, D.S.W.
Director

MJS:RK:MM:GSK

c: Chief Executive Officer
County Counsel
Auditor-Controller
Executive Officer, Board of Supervisors
Chairperson, Mental Health Commission