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To ensure access to high-quality, patient-centered, cost-effective health care to Los Angeles County residents through direct services at DHS facilities and through collaboration with community and university partners.

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February 21, 2012

TO: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Mitchell H. Katz, M.D.
Director

SUBJECT: **RECOMMENDATION FOR REVISED DELEGATED AUTHORITY TO OFFER AND EXECUTE LETTERS OF AGREEMENT WITH PROVIDERS FOR MEDICALLY NECESSARY SERVICES FOR DHS PATIENTSREQUIRED FOR THE CALIFORNIA 1115 WAIVER**
(Board Agenda Item A-4, February 21, 2012)

On November 2, 2010, California Department of Health Services (CDHS) and Centers for Medicare and Medicaid (CMS) entered into a new 1115 Waiver, commonly known as the *California Bridge to Reform*, for a five year period, commencing November 1, 2010. This Waiver provides the framework to federal Health Care Reform in 2014 for Medicaid Coverage Expansion (MCE) enrollees who are adults, aged 19-64, with incomes at or below 133% of the Federal Poverty Level (FPL) and who meet citizenship or legal residence requirements. The Waiver will provide health care coverage expansion, continued partial funding of public hospitals' uncompensated costs, new funding for delivery system improvements at public hospitals, Medi-Cal Managed Care coverage for Seniors and Persons with Disabilities (SPDs), and federal matching funds for various State-only funded programs.

On December 14, 2010, your Board authorized the Department of Health Services (DHS) to submit action items related to the 1115 Waiver to your Board on a standing agenda item designated as A-4. This memo requests your Board's approval of a recommendation of delegated authority to offer and execute Letters of Agreement with health care providers for certain medically necessary intermittent as-needed services under specified circumstances, to assist DHS with its initiatives to implement the California 1115 Waiver.

BACKGROUND

On July 26, 2011, your Board approved delegated authority for contractual actions necessary to transition the Community Health Plan staff to serve as the Medical Service Organization function for DHS, concentrate DHS resources on being the key provider of health care of Medi-Cal and uninsured populations in Los Angeles County, and transition all lines of business from the CHP to L.A. Care to assume all health plan functions.

One of the specific actions in that Board letter approved delegated authority to enter into one or more Letters of Agreement (LOAs) to continue necessary treatment of Seniors and Persons with Disabilities (SPDs) or other Medi-Cal Managed Care or Healthy Families enrollees to provide those unique healthcare services not offered by DHS to ensure patient continuity of care, with reimbursement at or near market rates, subject to review and approval by County Counsel and the Chief Executive Office and notification to your Board.

On November 8, 2011, your Board approved identical delegated authority for LOAs for the IHSS enrollees.

Historically, such delegated authority existed for the CHP to enter into LOAs for intermittent services for its members, but DHS did not have such authority for those not enrolled in CHP. As DHS moves its CHP members to L.A. Care, delegated authority is needed to enter into timely agreements with providers for patients who are assigned to DHS medical homes by L.A. Care or other health plans and for patients who are enrolled in Healthy Way L.A. – Matched Program.

ADDITIONAL DELEGATED AUTHORITY

The expanded delegated authority recommended in this Board memo consists of the following:

1. Authority to enter into agreements for medically necessary intermittent as-needed services which DHS facilities do provide, but do not have sufficient capacity to provide on a timely basis.

2. Authority to enter into agreements for HWLA-Matched patients, including services not covered under HWLA-matched, and for Medi-Cal Managed Care non-SPDs, when medically necessary and needed to enable discharge of a patient from an acute care bed or to prevent an acute care hospital admission or Emergency Room (ER) visit.

In order that the delegated authority for LOAs is clearly available for reference in one Board action, the recommendation below is framed as a consolidated, updated and revised authority, rather than just asking your Board to approve the changes.

The LOAs shall be on a form approved by County Counsel. DHS will work with County Counsel and CEO Risk Management to develop a contract form that will allow DHS to offer the County's standard terms and conditions, with alternative language modifying or waiving standard County provisions not mandated by County ordinance as necessary based upon contract negotiations, with such changes to be included in the pre-approved form or handled on a case-by-case basis. For example, the contract form may include changes to the insurance provisions to only include coverage consistent with the kind of contracted service or purchased goods, and appropriate insurance coverage amounts taking into account the volume of services/goods. The contract form will include contractor indemnification, but may also include mutual indemnification based on negotiations, with such language to be developed in conjunction with County Counsel. Other standard provisions will be offered, but may be modified or waived only as needed.

DHS shall provide a report to your Board, CEO and County Counsel on no less than an annual basis. The report would include, among other data, the contract amount and rate to confirm that the rate is up to or near the prevailing market rate.

RECOMMENDATION

It is recommended that your Board approve a consolidated, updated and revised delegation of authority concerning Letters of Agreement for DHS patients, as follows:

Delegate authority to the Director of Health Services, or his designee,

1. To offer and execute Letters of Agreement (LOAs) , for an annual estimated amount of $1 million, with providers up to or near the prevailing market rate, for medically necessary intermittent as-needed elective inpatient and outpatient medical services (e.g., professional and hospital/facility services) not provided by DHS or in those cases where DHS facilities may not have sufficient capacity to provide such care on a timely basis; and for medically necessary intermittent as needed lower level of care and ancillary services, such as skilled nursing and durable medical equipment (DME), which are not currently available through DHS or its contractors, for DHS patients enrolled in Medi-Cal Managed Care, Healthy Families, the In-Home Supportive Services Plan, or Healthy Way L.A. – Matched, on a form approved by County Counsel, with subsequent notice to the Board, the Chief Executive Office and County Counsel. Such delegated authority shall be limited to medically necessary services, approved by the Director or his designee, (1) for which DHS is financially responsible under the applicable program or agreement, or (2) which are lower-level of care or DME services needed to discharge a patient from an acute care hospital bed or to prevent an acute care hospital admission or emergency room visit.

2. To modify or waive the County's contracting requirement for insurance, standard indemnification provisions and other standard County contract terms not mandated by County ordinance in the County-Counsel approved LOA, or on a case-by-case basis, in accordance with the terms of this Board letter.

If you have any questions or need additional information, please contact me or Dr. James Gerson, Ambulatory Care Managed Care Chief, at 213-240-8448.

MHK:JFS:jp

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors