Health Services
LOS ANGELES COUNTY

November 26, 2012



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

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

SUBJECT: **REVISED REIMBURSEMENT RATES FOR PHYSICIAN SERVICES FOR INDIGENTS PROGRAM (PSIP)**



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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.*

As approved by the Board on October 25, 2011, the Department of Health Services (DHS) is exercising its delegated authority to reduce the Fiscal Year (FY) 2012-13 PSIP reimbursement rate from 14% to 9% of the Official County Fee Schedule (OCFS). This reduction is necessary due to a projected decrease in Maddy Fund collections and the continued increase in claim volume.

DHS began the public process necessary to implement the proposed PSIP reimbursement rate reduction to participating non-County physicians on September 12, 2012, since continuing the reimbursement at the current 14% of OCFS would result in a projected shortfall of approximately $6.0 million for FY 2012-13. As required by the Board Motion, DHS notified the County Emergency Medical Services (EMS) Commission, CalACEP, all participating providers, and the Physician Reimbursement Advisory Committee (PRAC) of the proposed rate reduction. The EMS Agency also held a public hearing on October 2, 2012 with providers and stakeholders to discuss the proposed rate reduction. Attached are the comments received from the providers and other attendees.

## PSIP BACKGROUND

Developed in 1987 to reimburse private physicians for indigent care, PSIP has historically been funded by a combination of: 1) penalty assessments collected for certain criminal offenses and vehicle violations, known as "EMS/Maddy Funds"; 2) Los Angeles County "Measure B" property assessment funds designated for trauma centers (partial offset); and 3) the Emergency Medical Services Appropriation (EMSA). EMSA funds were originally placed into the State budget in 2002 to offset reductions in Proposition 99 Tobacco Tax funds allocated by the California Healthcare for Indigents Program. These EMSA funds have been allocated to counties based on each county's share of the financial burden to provide health care services to those who are unable to pay.

Unfortunately the State's Final FY 2009-10 Budget eliminated the line item called the EMSA, which resulted in a statewide reduction of $24.8 million intended to supplement the physician component of each county's EMS/Maddy Fund. This resulted in a loss of $8.8 million (or 30 percent of the funding) for Los Angeles County's PSIP Emergency Room (ER) and PSIP Trauma Physician programs.

As a result of this funding cut, the Board approved a rate reduction from 27% to 18% for FY 2009-10 on February 16, 2010. Based on previous projections, the rate remained at 18% for FY 2010-11. However, on October 18, 2011, the Board approved a reimbursement rate reduction to 12% for FY 2010-11 outstanding claims and established the rate at 14% for FY 2011-12 claims. Based on the continuous trends of decreased collections and increase in ER claim volume, it is projected that there is insufficient funding to maintain a 14% reimbursement rate for the remainder of FY 2012-13.

**FUTURE OF PSIP**

Although decreasing the reimbursement rate to 9% of the OCFS brings our payments to a very low rate, there is reason for hope. In 2014, an estimated 70% of the uninsured persons in Los Angeles will be eligible to gain health insurance through the Medicaid expansion or the State Health Insurance Exchange implemented through the Affordable Care Act.

This health insurance expansion will have two positive effects on the PSIP program. First, it will mean that physicians will now be able to bill full Medicaid rates for patients for whom they were previously receiving the low PSIP rate. Second, since most of the currently uninsured will be insured, the number of claims should drop (remaining claims will be for the residually uninsured). Therefore, we anticipate that in the future will be able to increase the percentage rate of the OCFS that we pay for PSIP claims. To help to maintain physician participation in the PSIP program we will alert physician participants in the PSIP program by letter that we believe that better reimbursement is coming soon.

If you have any questions, please contact me or Cathy Chidester, EMS Agency Director, at (562) 247-1604.

Attachment

MHK:as

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

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*To ensure timely, compassionate, and quality, emergency and disaster medical services*

Health Services
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# ATTACHMENT

## PUBLIC COMMENTS REGARDING PROPOSED REIMBURSEMENT RATE REDUCTION FOR THE PHYSICIANS SERVICES INDIGENT PROGRAM (PSIP)

## FISCAL YEAR 2012/2013 SERVICES

| *Attendees* | *Title* | *Organization* |
|---|---|---|
| Cathy Chidester | Director | EMS Agency |
| Andree Stecker | Assistant Director | EMS Agency |
| Manal Dudar | Fiscal Services Manager | EMS Agency |
| Eva Mora | Interim Chief | Health Services Administration |
| Robert Flashman, MD | Base Hospital Medical Director | St. Francis Medical Center |
| Frank Binch | Member, EMS Commission | Fourth Supervisorial District |
| Stephen Liu, MD | Associate Medical Director | California Hospital Medical Center |
| David Bernheimer, MD | Emergency Physician | California Hospital Medical Center |
| Michael Stephen, MD | ED Medical Director | St. Francis Medical Center |
| Arturo Pelayo, MD | President, Front Line Emergency Care Specialist | St. Francis Medical Center |
| Jaime Garcia | Regional Vice President | Hospital Association of Southern California |
| Brian D. Johnston, MD | ED Medical Director | White Memorial Medical Center |

## Public Hearing - October 2, 2012

### PROGRAM DATA

The EMS Agency distributed a PSIP chart and a funding schedule identifying prior and current year data for the program. These included data on Physician claims processed (paid and denied); number of physicians enrolled; physicians' expenditures, the overall revenue and expenditure, and the Official County Fees Schedule. These documents show that over the last years funding has been decreasing while claim volume has increased.

### FUNDING SCHEDULE

DHS Fiscal Services reported that one of the funding sources that affected the Maddy Fund was the Fiscal Year (FY) 2009-10 $8.8 million budget reduction as a result of the State's elimination of the Emergency Medical Services Appropriation (EMSA) fund. The fund continued to decrease from FY 2010-11 to 2011-12 by 12% and a 7% decrease is projected for FY 2012-13; while the PSIP claims have increased by 11% in FY 2010-11, 7% in FY 2011-12, and another 6% increase is projected for FY 2012-13.

The one time surplus of FY 2011-12 of funds was applied to the PSIP program. All the funds added to the program for the Impacted Hospital Program (IHP) patients brought by 9-1-1 from the MLK area have been used. Measure B funds are being fully utilized as appropriated by the Board of Supervisors. At this time, DHS does not have any funds to allocate to the PSIP program.

**PUBLIC COMMENTS – TRANSCRIBED FROM MEETING**

**Dr. Arturo Pelayo** stated that St. Francis Medical Center (SFMC) in Lynwood continues to be one of the hardest hit by the funding cuts. As a result of the closure of Martin Luther King, Jr.-Drew Medical Center, the volume of patients seen at SFMC continues to grow significantly. In the last four years, the reimbursement has gone from being equivalent to Medi-cal reimbursement. At the proposed rate, it will be a lot less and will only pay about $25 per claim. These services are provided to patients that do not have health care; they need education and follow up. These are the most complicated cases. It is the Los Angeles County and the Board's responsibility to take care of the indigent patients in the LA County. We are losing emergency physicians in Los Angeles County directly and simply because of these reductions. By continuing to reduce these funds, the County and the Board are not living up to their respective responsibility and are making it very difficult for the ER physicians and the call-panel physicians to live up to their responsibility.

Because of these cuts, the hospitals are understaffed, cannot hire doctors, and it is resulting in delaying diagnosis and delaying patient care where there are minutes for a critical diagnosis of a stroke, of a heart attack, but because of the inability to fully staff physicians, all patients are affected.

Dr. Pelayo shared a Patient Scenario: *In a case the hospital had two days ago, a female patient was vomiting blood and hypotensive, staff could not get a bed for over 45 minutes because the hospital was overwhelmed. This is a clear case of the result of the impact of the cuts. There is inadequate staffing for hospitals and for emergency services. This particular patient was not an indigent patient, she was insured.*

Dr. Pelayo suggested using the one-time surplus for FY 2011-12 previously applied to all PSIP program to be reserved for the IHP claims and also asked if they can recover at the Medicare rate at least.

**Dr. Stephen Liu** stated that California Hospital's patient mix is 50% Medi-Cal and 35% uninsured. This is 85% practically uninsured. Private practices have 2% of uninsured to be written off yearly. Almost 20% of California Hospital's ED Physician collections come from PSIP funds. Dropping the reimbursement rate by 30% (from 14% to 9% of OCFS) will impact this hospital tremendously. They are concerned. These are complicated patients that take a lot of resources, effort, time and energy. The reimbursement rate does not cover the cost of administration. It is not fair to the hospital, to the doctors and staff. It does not seem to be a sustainable issue. There should be other local funding sources that can augment this fund. He understands it does take a lot of expense to build a fund and he wonders if there is a way to decrease the cost of administration and transfer the funds for PSIP. Last year California Hospital had a monthly average of

4,700 patients, this year there are 1,000 patients more; this is equivalent to 30 to 35 additional patients a day.

We need two more physicians, two more shifts, and the hospital cannot afford them; certainly not with another cut. Dr. Liu urges not to cut the fund and to have consideration for the impact.

Dr. Liu shared a current patient scenario*: Yesterday, a patient waited to be triaged for an hour to get an EKG, and eventually died of a heart attack; the wait may have contributed to the loss of his life.*

**Dr. David Beinheimer** stated that ER physicians have opportunities to work elsewhere with easier jobs and better pay. He worries that California Hospital will have a decrease in the quantity of physicians that are willing to work at a place like California Hospital, SFMC, White Memorial, etc., because of the decrease in funds in very important programs like PSIP. It is tragic that in a State that generates so much money and so much wealth that there is such a deficit in the funding for a huge number of people. It seems unfair. He is seriously concerned. He appreciates the time and effort spent in trying to allocate more funds for millions of people that are desperate for healthcare.

**Dr. Michael Stephen** stated he will speak for the patients in Los Angeles and their families. Unfortunately, with the decrease of these funds, the saving of money is on the backs of the poor and on the backs of the uninsured. He understands participants and attendees are trying to correct a problem that is bigger than Los Angeles County, but unfortunately, who will suffer will be the families of all the people physicians serve. They will suffer because hospitals will not be able to provide the physicians coverage that are needed in the emergency department and the medical staff in the hospitals. The hospitals represented in this hearing are the safety net. Most emergency departments throughout the County show the average daily census going from 194 to 213 for the month of September. The volume of patients continues to increase. The problem of a patient needing care is not going away, it is getting bigger and fewer physicians are available to provide services. The thought of physicians and hospitals having to care for these patients, while receiving less money is incomprehensible. The Physicians' mission is to continue to care for patients, but would like Los Angeles County to care for physicians as they strive to care for the patients of the Los Angeles County.

In his 20 years of experience, the hospital had not faced a problem hiring physicians except for the last three years. There are many physicians that want to work with the poor. They are good hearted, but they cannot because the hospital cannot afford to pay them as they deserve. It is not sustainable. If a worst quality of care is acceptable for patients, it will turn into a tragedy for the poor. The physicians are the ones seeing the need of the patients not those making decisions in a room. The decisions are being made on the backs of the vulnerable. The most vulnerable are the people that will suffer.

Compared to last year, the number of Paramedics/EMTs arriving with patients has increased 10% per day, and an average of 22 more patients per day. The physicians work consistently to get them treated, but subsequently, those that are not critically ill end up waiting longer. The concern is not about the patients arriving in the hospital emergency departments, but about all patients in the LA County.

**Jaime Garcia** of the Hospital Association of Southern California reviewed the charts handed out and based on the Fiscal Years' financials asked the following four questions:

1. Are Measure B funds going to PSIP?
   DHS Fiscal Services: Yes, some to ER physicians (SFMC only) and some for trauma.
2. Is the most recent Measure B increase approved by the Board of Supervisors reflected on the spreadsheet provided?
   DHS Fiscal Services: No. The bulk of it was appropriated to DHS trauma hospitals, non-County trauma centers and Public Health.
3. There have been three increases to Measure B since 2008. Have any of these increases funds been allocated to PSIP?
   DHS Fiscal Services: No. The allocations have gone to DHS trauma hospitals, non-County trauma centers and Public Health.
4. What is the reasoning for County Counsel not recommending collection agencies or third party payers being involved as an opportunity to bring additional dollars into the program?
   The EMS Agency: This issue was brought to Counsel and they advised not to pursue this recommendation. Physicians under the PSIP program cannot go after the patient after receiving County payments; it is in the legislation. However, if there is a third party payer such as auto insurance, the claims are forwarded to a vendor and reimbursement is obtained from any settlement.

Mr. Garcia added that the County should react to the State cut of the EMSA funds and the decreasing County Maddy collections. Looking at how successful the County has been in recouping dollars, it should now increase the effort to look for additional options to collect and keep the program active. Can someone look at this program and see how it can be straightened in order to be able to bill third party payers? The cuts to this program happen to be the norm rather than the exception. The Statewide uncompensated costs for hospitals were $12.5 billion dollars; LA County's share was $4 billion. Hospitals can only do so much. Too many hospitals have already closed.

**Frank Binch,** Member of the EMS Commission, stated that Board staff cannot be present today. He will deliver an update of the hearing to the Health Deputies. In terms of patients and healthcare consequences, is this a sustainable cut? If not, why not? If this 36% cut is consequential, why are so few representatives here?

The Board of Supervisors delegated authority to the Director of Health Services. The person who has authority to make the changes is Dr. Mitchell H. Katz, who is a physician himself, but the Board requires holding this hearing in a transparent fashion with outreach before making the decision.

**Dr. Brian D. Johnston:** [I have] been attending these hearings for four years and the hearings do not change anything. The outcome is decided and the County does what it does. The County has shifted a huge burden of uninsured patients over to the private sector. There is no money. Hospital Council has data that shows that the County should take care of the uninsured; they have a legal obligation under the Welfare and Institution Code in Section 17000. Most physicians have given up. It is not worth their time to attend these hearings. Nothing happens, it never changes anything.

As to the consequences of the cut, is there any system that is sustainable when the demand exceeds the capacity and the payers do not pay? The County is not the only one to be blamed. There was Medi-Cal, one payer, but now there are 200 series of HMOs that avoid the bills. There are fights between IPAs and HMOs organizations and the Department of Managed Healthcare in Sacramento being clearly on the side of the insured and not on the side of the payers. There is 2.5 million uninsured in this County and a large number of people under-insured or insured by companies, which see the premium of their dollars, not something held in trust for patients and providers. It is not sustainable.

If I had the opportunity to advise the Board of Supervisors, I would ask them to begin to wonder what they would say when something really bad happens in our healthcare system as a result of these regular, repeated cuts. It is not viable and it is extremely dangerous. It is self-defeating and unwise is the kindest word I can use. I will send a strong letter.

**Mr. Binch** inquired if the Hospital's Information systems capture time stamping information and strategic plan on patient passage through the systems. Can data be provided of each emergency department?

**Dr. Pelayo: Y**es, there is data available to provide.

**Mr. Binch:** It would be useful for the hospitals that are concerned and impacted by decisions such as what is being discussed in this meeting, to get together and standardize the reporting, so that the Board is provided with environmental impact information on what is going on in the emergency departments in time sequence with the decisions being made like this cut. The Board operates with statistical information; all cases are stronger if numbers are provided.

**Dr. Liu** responded that Cal/ACEP is coming out with a report card and the goal is for doctors to be able to respond to the current status on their departments by entering data daily. The report card will reflect that on a specific date, a percentage of an X number of Departments in the State of California were holding an X number of patients waiting for beds, and X number of patients waiting in the waiting room for the past X number of hours, etcetera. If objective data is expected, the Board of Supervisors' members are encouraged to visit the emergency rooms. Otherwise, this is an invisible problem. If one of the Board of Supervisors members is concerned enough, and wants to understand this issue, he is invited to pay a visit and see the chaos physicians are dealing with. Staff will show him around. Nothing is going to change until someone really important dies in one of these ERs. The people making the decisions do not understand these patients' problems. The decision handlers can call their doctor and they choose a hospital, but those under this Program do not have a choice. They call 9-1-1 and are brought to the emergency rooms.

**Dr. Johnston** stated it is very important for this cut to be put in context. The context is critical. The County healthcare system is built to a budget, not built to need. The need has increased. The capacity of the County healthcare systems, both inpatient and outpatient, has been far outstripped by that population. We have 2.5 million uninsured in LA County; that is about 25% of the population. There is very high penetration of HMOs who are very good at not paying. The most vulnerable hospitals will be taking a big cut. White Memorial is looking at a $20 million dollar cut; it is a very significant cut. The hospital has made very strenuous efforts to stay afloat. The ED volume is going up; it is at 9% this year. In one year, it is quite significant.

Additionally, the City of Los Angeles has decided to impose a gross receipt tax on physicians in medical practices. They will go after a group charging this tax, then, they go after the members of the group, and, they are going back nine years on this particular tax. The result is that physicians who work in the City of Los Angeles, an area of high need, are getting paid far less than if they would be working in another area and would pay fewer taxes. Physicians are willing to accept low pay for the satisfaction of taking care of people who really need their services, but nobody can work for free. This is a threat to the emergency departments and the emergency departments are the only open door. People cannot go to private offices, if they go to the County, they lose a day or two of work. If they lose a couple of work days, they may lose their jobs. These people come to the emergency rooms when they are feeling very lousy because they have had untreated medical problems. How can physicians go on being underpaid? The physicians' services are undervalued.

This threat falls disproportionally on the hospitals that take care of the poor. It does not make any sense. No action is expected from the Board of Supervisors, it will result in disaster. It will be quite a disaster because it affects people who do not vote and that are not particularly articulate and are not well-represented and politically vulnerable; the mentally ill, the poor, and the working poor. The Department of Health Services (DHS) puts out a study on state of healthcare, but there has not been a new study since 2009. The Department should think on how to respond and protect themselves legally and their reputation and be prepared when other Countries, other States and other people question why nothing was ever done. The newly graduated physicians from their residency programs are $200,000 to $250,000 dollars in debt. It is a new factor. They cannot work for cheap. It is increasingly difficult to bring physicians to our hospitals.

Dr. Johnston urges the County of Los Angeles not to take this step and to seriously see what can be done to increase the PSIP funds. A healthy workforce pays for itself.

**Dr. Robert Flashman** stated that the SFMC's census has gone from 60,000 to 77,000 this year. They have lost three physicians in the last three years and are unable to find replacements. The hospital is unable to increase the number of shifts to have physicians available to take care of the patients. At the time of the Los Angeles riots, physicians stayed in the hospital to be available for the emergencies. Physicians are there every day, covering extra shifts they would normally be able to do, but they are not being compensated for it. Without the dedicated physicians in Los Angeles County, yes, these people will be in very difficult times, health wise. No one knows exactly what the outcome of a person's healthcare, who has left the hospital, who could not be seen within 12 to 24 hours will be. The times to see patients have increased and the County has already seen the increasing times. There is no specialty back-up in Los Angeles County, such as orthopedic back-up for hands, except for in limited places. Working patients with a hand injury who visits one of these hospitals cannot receive care for his/her injury in a reasonable expedited time. Instead, there is a need to call around for up 12 hours trying to find a hospital. The County does not make it available either; their programs are always full.

SMFC had to stop caring for fractures; the physicians do not have the time to attend these patients. These procedures require conducting an evaluation, doing the reduction, re-evaluating the x-ray and more; they are very time consuming. There are an unreasonable number of people in the ER waiting room, while the ambulance is driving around, with sick people in the back, trying to find a location for medical care. If these patients had primary care physicians, they would not arrive as critically ill to the emergency rooms and while physicians take care of patients, they do not attend to the patients arriving to the emergency rooms in gurneys. Time is important.

Does the Board of Supervisors use a formula when it is decided to distribute the Measure B funds? How can we be of influence to shift Measure B funds over to private providers?