



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: 11/04/2014
Placement: Administrative
Estimated Tme:
Continued Item: Select_Continued
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Mona Miyasato, County Executive Officer, 568-3400
Director(s)
Contact Info: Tom Alvarez, Budget Director, 568-3432
Ray Aromatorio, Risk Manager, 884-6865
SUBJECT: **Transfer of CSAC-EIA Medical Malpractice Coverage from Program I (Self-Insured) to Program II (Primary Insurance).**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the attached "Memorandum of Understanding, Medical Malpractice Program," with CSAC Excess Insurance Authority (CSAC-EIA).
- b) Authorize the Board's designated representative to the CSAC-EIA's board to execute any future amendments to the Memorandum of Understanding (MOU) and such other documents that may be needed related to the Medical Malpractice Program.

Summary Text: The Board's approval of the recommended action will allow the Medical Malpractice Coverage to be transferred from the CSAC-Excess Insurance Authority (CSAC-EIA) Medical Malpractice Program I (Self-Insured Program) to Program II (Primary Insurance Program).

The major advantage in transferring to Program II is: for about the same insurance premium the County significantly reduces its liability exposure, for reasons discussed below. This means the administrative, legal, and claim loss payments previously incurred by the County would be subsumed in Program II, less the \$10,000 deductible.

The CSAC-EIA currently offers two Medical Malpractice Programs:

1. Medical Malpractice (Program I) under which the County is currently covered has the following:
 - The program is comprised of eight counties.
 - The County has a \$500,000 Self-Insured Retention (SIR); therefore, is responsible to pay claims up to \$500,000 before CSAC-EIA excess insurance coverage begins.
 - The claims administration costs are not covered.
 - The legal fees are covered only for claims penetrating the SIR and only if such services are provided by outside legal counsel.
 - The County controls the defense and settlements of all claims within the SIR.
 - The insurance policy limits are \$21,500,000.
 - The excess insurance carrier is Lexington.
2. Medical Malpractice (Program II), the recommended primary insurance program, has the following:
 - The program is comprised of 41 public entities.
 - This primary insurance program has a \$10,000 deductible.
 - The administration, loss payments and defense costs, less the \$10,000 deductible, are included in the premium.
 - CSAC-EIA has contracted with Risk Management Services (RMS) to administer the claims for all 41 members.
 - CSAC-EIA also controls the investigation and defense of all covered claims assigning and monitoring outside legal counsel as required. This means that the board is giving up its right to select legal counsel and control settlements.
 - Insurance policy limits are \$21,500,000.
 - The excess insurance carrier is Lexington.
 - The insurance carrier agreed to make the insurance policy retroactive to October 1, 2014, if this item is approved by the board by November 5, 2014.

If the Board of Supervisors approves the recommendation all medical malpractice claims incurred prior to October 1, 2014 would be covered for any claims penetrating the \$500,000 SIR. Such claims are commonly referred to as “tail claims” and would continue to be self-administered and self-defended by the County. For claims incurred on or after October 1, 2014, the County’s liability would be limited to \$10,000 per claim.

This positive development was in part a result of a change in the exposure over time among several of the medium to smaller entities participating in Program I. These entities, for various reasons, no longer operate a hospital or medical center, significantly reducing their overall exposure. Without the hospital exposure, these counties became a much better fit in Program II, which has a lower overall cost structure.

Alliant, the insurance broker for CSAC-EIA, provided an early indication of the cost to move from a self-insured program to a primary program on September 19, 2014, a revised indication on October 2,

2014 and an actual quote from Lexington was received on October 9, 2014. This matter was reviewed on October 10, 2014 by the County’s Risk Management Evaluation Team (CEO, Auditor-Controller, County Counsel and Risk Management) with a recommendation to move from Program I to Program II.

Background: The County of Santa Barbara has been a member the California State Association of Counties Excess Insurance Authority (CSAC-EIA), a member-directed risk sharing pool of counties and public entities committed to providing risk coverage programs and risk management services since November 1, 1979. Tom Alvarez, Budget Director and Ray Aromatorio, Risk Manager represent Santa Barbara County as director and alternate, respectively, on the CSAC-EIA Board of Directors.

The County of Santa Barbara was a founding member of the CSAC-EIA Medical Malpractice program formed on June 1, 1988. The assets and liabilities of the program were initially combined with the County’s General Liability Program. Subsequently, an Internal Service Fund was created with the passage of County Resolution 92-202 on April 14, 1992, thereby transferring assets and liabilities of the Medical Malpractice Program as of July 1, 1991. The attached MOU incorporates the Memorandum of Coverage (MOC) which is summarized in the declarations page.

Although CSAC-EIA will administer our medical malpractice claims this Program change does not result in any layoffs in the Risk Management office because the medical malpractice cases on average represent less than 2.5 percent of all the cases handled by the Risk Analyst. Also, the Risk Analyst will continue to administer the remaining open cases. The annual number of claims filed against the County is about 3.2 and there are currently four open files.

Fiscal and Facilities Impacts:

Budgeted: Yes **Fiscal Analysis:**

| Funding Sources | Current FY Cost: | Annualized On-going Cost: | Total One-Time Project Cost |
|------------------------|-------------------------|----------------------------------|------------------------------------|
| General Fund | | | |
| State | | | |
| Federal | | | |
| Fees | | | |
| Other: | \$ 344,343.00 | \$ 397,731.00 | |
| Total | \$ 344,343.00 | \$ 397,731.00 | \$ - |

Narrative:

The Program II (Primary Insurance) premium is \$11,053 greater than the Program I (Self-Insured) premium: The annual premium costs for Program I was quoted at \$333,290 and was \$247,168 for the policy year ending September 30, 2014. The premium quoted for Program II is \$344,343. The potential savings on claims is \$490,000 per claim, plus administration and legal costs. In addition, Program II will reduce the potential volatility within a given year as premiums are fixed for the year.

Staffing Impacts: NONE

Special Instructions:

Send approved minute order and 2 copies of the certified resolution to Tom Alvarez, County Executive Office.

Attachments:

1. Memorandum of Understanding, Medical Malpractice Program
2. CSAC-EIA Excess Insurance Authority Medical Malpractice Program II Pooled Layer Memorandum of Coverage

Authored by:
Ray Aromatorio