



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: Behavioral Wellness
Department No.: 043
For Agenda Of: September 11, 2018
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Alice Gleghorn, PhD, Director
Director(s) Department of Behavioral Wellness, 681-5220
Contact Info: Pam Fisher, PsyD. Deputy Director, Chief of Clinical Operations,
681-5220
SUBJECT: Behavioral Wellness – Mental Health Plan Agreement No. 12-89394 for FY 13-17
Amendment A01 and Agreement No. 17-94613 for FY 17-22

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- A. Approve, ratify and authorize the Director of Behavioral Wellness or designee to execute the First Amendment to the FY 13-18 Mental Health Plan (MHP) (Agreement No. 12-89394) with the California **Department of Health Care Services (DHCS)** to revise the contract end date from June 30, 2018 to June 30, 2017;
- B. Approve, ratify and authorize the Director of Behavioral Wellness to execute a new retroactive \$0 five-year County Mental Health Plan (MHP) (Agreement No. 17-94613) with the California **Department of Health Care Services (DHCS)** for the provision of Medi-Cal Specialty Mental Health Services for the period of July 1, 2017 to June 30, 2022;
- C. Consider and approve Behavioral Wellness, through subsequent Board action, amending only the active FY 18-19 Mental Health providers' contracts for the provision of Medi-Cal Specialty Mental Health Services and not pursuing retroactive amendments to expired FY 17-18 provider contracts;
- D. Determine that the above actions are government fiscal activities or funding mechanisms which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and are therefore not a project under the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(4) of the CEQA guidelines.

Summary Text:

The County Department of Behavioral Wellness serves as the County's Mental Health Plan (MHP), providing medically necessary specialty mental health services to residents who are Medi-Cal beneficiaries. DHCS issues MHP contracts to each county in order to participate in the Medi-Cal program to receive Federal Financial Participation (FFP) to offset the costs of delivering mandated specialty mental health care services. Due to changes in federal regulations effective July 1, 2017, DHCS issued amendment to Santa Barbara County on May 30, 2018 for the FY 13-18 MHP Agreement No. 12-89394. DHCS only amends the FY 13-18 agreement to terminate as of June 30, 2017 instead of June 30, 2018; making it a FY 13-17 agreement.

DHCS also provided a new retroactive MHP Agreement No. 17-94613 with a start date of July 1, 2017 through June 30, 2022 and informed counties that the retroactive term of the agreement was approved by the federal Centers for Medicare and Medicaid Services (CMS) and is non-negotiable.

This is being brought to the Board of Supervisors for approval of the recommended actions authorizing the Behavioral Wellness Director to sign the MHP agreement as required by DHCS and CMS. In addition, Behavioral Wellness recommends the amendment of only the current FY 18-19 Mental Health provider contracts to incorporate the new FY 17-22 MHP terms, and not pursuing retroactive amendments to FY 17-18 contracts, since those contracts terminated June 30, 2018 and DHCS did not inform us of the new MHP's retroactive date until May 30, 2018. If the County does not execute this agreement, it will not be eligible for FFP reimbursement for services starting July 1, 2018.

Background:

The contract between Behavioral Wellness and DHCS specifies the terms and conditions under which Counties provide medically necessary Specialty Mental Health Services to Medi-Cal beneficiaries through County-operated and contracted programs ("Covered Services"). Covered services include inpatient psychiatric hospital services, Therapeutic Behavioral Services, day treatment/day rehabilitation and an array of outpatient services such as crisis intervention, therapy, rehabilitation services and case management. The contract also specifies requirements of the Medi-Cal program pertaining to Quality Care Management, and standards regarding electronic exchange of Protected Health Information.

Behavioral Wellness originally brought the DHCS MHP agreement #12-89384 for FY 13-18 to the Board of Supervisors for approval in May 2013, with the effective date of the agreement from May 1, 2013 through June 30, 2018. However, the federal Centers for Medicare and Medicaid Services (CMS) made changes in 2016 to the federal Medicaid Managed Care regulations applicable to Prepaid Inpatient Health Plans (PIHPs) including California's state/county MHPs. In accordance with the federal requirement to obtain FFP funding (42 CFR 438.802(a)), these changes were applicable on July 1, 2017. Therefore DHCS modified the current five year MHP agreement to retroactively begin on July 1, 2017 instead of July 1, 2018 and drafted an amendment to revise the FY 13-18 MHP termination date to a date a year earlier in order to avoid overlapping contracts terms for FY 17-18. According to DHCS, the contract amendment will change only the end date of the agreement from term June 30, 2018 to June 30, 2017 with no change to the contract amount.

DHCS in coordination with CMS made significant changes to the regulatory requirements incorporated in the new MHP agreement for FY 17-22 #17-94613, and per CMS requirements the contract must be retroactively dated to July 1, 2017. This MHP contract also is a zero dollar contract. The MHP's authority to be paid is established in accordance with Chapter 3, Part 2, Division 5 of the Welfare and Institutions Code along with Sections 5600, 5750, and 5650. DHCS explained that it is not necessary to develop and include individual county funding estimates for the five year term of the contract. This contract will be in

effect retroactively from July 1, 2017 and continue through June 30, 2022. Since the original FY 13-18 MHP expired on June 30, 2018 and we were not notified of by DHCS until May 30, 2018 of the new retroactive start date of July 1, 2017 in the new MHP, Behavioral Wellness feels it would be ineffective to pursue amendments to expired FY 17-18 contracts. However, Behavioral Wellness will return to the Board of Supervisors with amendments to the current FY 18-19 contracts to incorporate the new FY 17-22 MHP terms.

In addition, Santa Barbara and other counties raised concerns with the contracting process and retroactive dating, as summarized in a letter to DHCS prepared by the California Behavioral Health Directors' Association (CBHDA), County Counsels' Association of California (CCAC), and California State Association of Counties (CSAC) (Attachment D). DHCS responded on June 29, 2018 (Attachment F), informing CBHDA that the terms of the new contract and amendment are non-negotiable, as these were already approved by the federal Centers for Medicare and Medicaid Services (CMS). DHCS also clarified the \$0 contract format, due to the cost-reimbursement funding process for mental health services.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Narrative: The Amendment to Agreement #12-89384 only amends the date. Although the new MHP Agreement FY 17-22 - #17-94613 is a zero dollar contract, it is budgeted and DHCS will process and pay claims pursuant to the agreement.

Key Contract Risks:

As with any contract funded by State and Federal sources, there is a risk of future audit disallowances and repayments. Behavioral Wellness includes language requiring contractors to repay any amounts disallowed in audit findings, minimizing financial risks to County; however approximately 70% of annual FFP is generated by services at county clinics, and 30% from contracted service providers. Although Behavioral Wellness and County MHPs have worked diligently over the past year to implement changes to comply with these extensive revisions to federal regulations, the new FY 17-22 MHP issued May 30, 2018 sets forth DHCS' specific implementation of these revisions.

Special Instructions:

Please email one (1) copy of the minute order to Denise Morales at dmorales@co.santa-barbara.ca.us and one (1) copy to the BWell Contracts Division at bwellcontractsstaff@co.santa-barbara.ca.us.

Attachments:

- Attachment A: DHCS FY 13-17 MHP Amendment A01 to Agreement #12-89394
- Attachment B: DHCS FY 13-18 MHP Agreement #12-89394
- Attachment C: DHCS FY 17-22 MHP Agreement # 17-946132
- Attachment D: CBHDA-CCAC-CSAC-MHP-Contract-Concerns-Letter-6-15-2018
- Attachment F: DHCS Letter KBarlow - MHP Contract 6-29-2018

Authored by:

Denise Morales