Countywide Services Agency

Department of Health and Human Services
Ann Edwards-Buckley, Director

County of Sacramento

Steven C. Szalay,
Interim County Executive

Bruce Wagstaff,
Interim Administrator

June 1, 2010

Stephen W. Mayberg, Ph.D., Director
California Department of Mental Health
1600 9th Street
Sacramento, CA 95814

Dear Dr. Mayberg:

I am responding to the May 5, 2010 correspondence from Cynthia Rodriguez, Chief Counsel for the Department of Mental Health (DMH) to Robert Ryan, Sacramento County Counsel. That correspondence expresses concern about proposed changes in the County's mental health service delivery system for Fiscal Year 2010-11.

No decision has yet been made by the Board of Supervisors. Not only is the County exploring a mental health system redesign in which services are provided primarily by County employees, but it is also exploring other service delivery models. One of those alternatives includes a hybrid in which services are provided by County employees in concert with Regional Support Teams (RSTs), County staff has not yet determined which model will be recommended to the Board of Supervisors for adoption. However, the County is committed to the recovery model that has been utilized so effectively by the RSTs and intends to maintain that model.

Nor has County staff conclusively determined when any transition would be completely effected. It is, however, anticipated that any County-required transition would commence no earlier than August 1, 2010, and would be phased in over the following two to three months. The County's transition plan, regardless of which service delivery model is ultimately adopted, will seek to minimize disruption to consumers while simultaneously ensuring continuity and quality of services.

While the County appreciates DMH's concerns, many of the issues raised in that correspondence are based upon an erroneous understanding of the County's proposed changes. The County's responses, and clarifications, to your May 5, 2010 inquiry are as follows:

Full Service Partnerships

Contrary to your apparent understanding, the County does not intend to eliminate the Full Service Partnerships (FSP) programs that are MHSA funded. As indicated in the County's Fiscal Year 2010-11 Annual Update, the County is requesting full funding to continue services in all five of its approved FSP

programs. If that Annual Update is approved, 58.9% of the CSS funding will be allocated to FSP programs; this amount exceeds the minimum 50% requirement.

AB 3632

With respect to the AB 3632 funding issue, you question the County's decision not to allow the accrual of anticipated funds in the amount of $1,640,494 as part of the requested appropriations for direct mental health services for Fiscal Year 2010-11. That amount relates to the reductions to the program that must be made based on the lack of funding from the State for the current levels of services. The Fiscal Year 2010-11 Requested Proposed Budget includes the federal Individuals with Disabilities Education Act (IDEA) of $1.8 million and $1.5 million from the State for expenditures from Fiscal Year 2007-08. Such funding does not reflect actual current fiscal year costs. Therefore, it would be fiscally imprudent to provide services at levels for which there is no current funding. The County is reviewing its current level of services in light of actual available funding. If the actual expenditures exceed the amount of revenue, the County will need to make further reductions to absorb the increased cost. However, once the funding from the State is received for prior year costs, the funds will be used to restore the program reductions.

Prior to Fiscal Year 2009-10, the State allocated $2 million to the County and the County claimed under SB 90 any expenditure in excess of that amount. However, SB 90 funding is normally received two years after the claims are submitted. For Fiscal Year 2000-01 through Fiscal Year 2003-04, the County's outstanding SB 90 claims of $7,801,400 were included in the State's 15-year repayment plan that was part of the State Budget for Fiscal Year 2005-06. In Fiscal Year 2009-10, the State eliminated the $2 million allocation and required the County to submit costs through the SB 90 process based on actual expenditures. The change in State funding resulted in the County funding services via other revenues, pending receipt of State funding. In Fiscal Year 2009-10, the State paid $1.5 million over the $2 million allocation for Fiscal Year 2006-07 expenditures, resulting in the County fronting that amount for three years.

The Fiscal Year 2010-11 State Budget includes only partial funding for the program. The County has included $1.5 million in State funding in its Proposed Budget. That amount is based on the amount which the State paid the County for Fiscal Year 2006-07. Given the partial State funding, the State's substantial delay in paying the County's actual expenditures, as well as the County's serious budget constraints, the County will need to reduce services to clients to match the federal IDEA and anticipated State funding. Should the State provide adequate funding in a timely fashion, the County will use such funds to restore any adopted program reductions.

Repayment of Interfund Transfer

You have also inquired as to whether MHSA funds are being used for a "loan payback installment" of $2,927,733 to the County General Fund. In Fiscal Year 2008-09, the County utilized Interfund Transfers (as authorized by Government Code section 25252) to address and/or minimize General Fund shortfalls in various County programs. At the time, responsibility for the County's mental health service delivery system was vested in the Department of Behavioral Health Services. That department has since been abolished and is now a division within the Department of Health Services (DHHS).

The shortfall in revenue which necessitated the Interfund Transfer of $14.6 million was triggered by a number of factors, including the State's deferral in revenue for Early Periodic Screening, Diagnosis, and Treatment (EPSDT) for five years after expenditure, the State's delay in paying for AB 3632 expenditures, and a decline in realignment funds. In the EPSDT program, the County is reimbursed for

95% of the approved bills and the remaining 5% is not received until the State cost settles with the County, approximately five years later. The preliminary cost settlement between the County and the Provider occurs within 12-14 months of the invoices submitted to the County, thereby resulting in the County up-fronting the Providers for services through the use of realignment funds. Once the State cost settles with the County, any costs that are denied, the County would have traditionally absorbed from the Mental Health Trust which was depleted in Fiscal Year 2008-09. The two year delay in reimbursement of AB 3632 expenditures also results in the County's need to use other funding resources. Since the funds are not received until after the close of the following fiscal year, the revenue cannot be accrued.

As a result, there was a significant gap in funding. The Interfund Transfer constituted only a temporary transfer of funds that must legally be returned to the fund from which they were transferred. The transferred funds must be returned over a five year period: 0% percent in the first year, 20% in years two through four and 40% in the fifth year. The first payment is $2,927,733. MHSA funds are not being used for this purpose. Realignment funds are being used to reimburse the fund from which the Interfund Transfer was made. Services funded with realignment revenue have been reduced accordingly.

County Overhead Costs

You have also requested an explanation of an estimated increase of $1,197,894 in the overhead costs. The increase in allocated costs stems from services that are obtained from other County departments or from increased insurance costs. The allocated costs include accounting/fiscal from the Office of the Director of DHHS, facility costs, central personnel services costs, unemployment insurance, worker's compensation, liability insurance and similar items. These costs are allocated based on full-time equivalent positions, facilities utilized by programs, and/or actual experience or usage. For example, facility costs are passed directly to the program in the facility, which include leases and increased facility maintenance costs. Unemployment is allocated based on 90% actual costs or usage and 10% for staffing. There is a direct correlation between the number of terminated staff and the increased costs attributable to unemployment, worker's compensation and liability costs.

SB 90 Reduction

You have also asked for an explanation as to the reduction of $1,792,383 for SB 90. The County Executive's Office anticipated receiving that amount in SB 90 revenue from the State in Fiscal Year 2009-10 for the prior year's costs. The funding was used to provide services in the Mental Health Treatment Center. In January 2009, the County Executive's Office determined that the State was going to defer payment and that the funds would not be received by the County. Because of the State's deferral, the Fiscal Year 2010-11 Budget needed to be reduced, resulting in additional service reductions. In order to avoid reducing the number of beds at the Mental Health Treatment Center, realignment funds were shifted from Adult Mental Health programs.

MHSA Funding Requests

You further question that the County has not requested the "full available funding from the MHSA program." The County previously requested additional CSS funding. However, given the projected decline in MHSA revenues over the next several years, the County anticipates needing to make reductions in these approved CSS programs. While the decline may not be as significant as initially projected, the County anticipates that its program expenditures will be substantially greater than its local allocations. The County intends to utilize all remaining funding, as well as its Prudent Reserve funding, to offset that decline. Nevertheless, the County anticipates a shortfall in Fiscal Year 2013-14 with no MHSA funding available to fill the gap.

While the possible use of one-time strategies to save programs and services is tempting, that strategy has only compounded the deficit problem at both the State and local levels. In DHHS' opinion, fiscal prudence does not dictate relying on such strategies. DHHS is taking reasonable steps to manage its MHSA funding in ways that allow the MHSA programs to remain viable and stable. While it is exploring some short-term strategies with PEI that may lead to increased community capacity, this is not feasible for CSS services. DHHS is working with a fiscal consultant to maximize the use of MHSA funding, while balancing reversion and sustainability issues. DHHS will be working on the Innovation component at the commencement of the new fiscal year and will submit a request for funding as soon as reasonably feasible.

Supplantation

In the County's current proposed redesign, contracts with the four existing RSTs, which have been funded with realignment revenues, will not be renewed. Individuals currently being served in the RSTs will be transferred to the County Wellness Centers and will ultimately be assessed to determine the type of services that they will receive. Some may be served in MHSA Full Service Partnership programs and others in MHSA General System Development programs. This same type of approach was previously approved by DMH when AB 2034 programs were defunded because of budget shortfalls at the state level. In that case, DMH allowed those being served in AB 2034 programs to transfer to MHSA funded programs if they met eligibility requirements. In a similar manner, the County is defunding the RSTs and those meeting eligibility will be served in MHSA programs.

Transition Plan

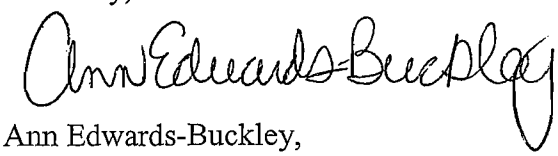
With respect to the proposed changes to the County's mental health services delivery system, it should be emphasized that the Board of Supervisors has not yet acted on either the Fiscal Year 2010-11 Proposed Budget or adopted the proposed mental health redesign. Assuming that the Board of Supervisors authorizes a mental health system redesign, it is anticipated that such redesign will not be implemented earlier than August 1, 2010 and would be presumably implemented in phases so as to minimize the impact on clients and to ensure an orderly transition. Because no action has as yet been approved or taken (other than general planning activities), there is no concrete information that can be provided to consumer clients as to individual impacts of any redesign. However, DHHS issued the attached April 23, 2010 memo, for distribution by contract providers. When, and if, the redesign is approved, DHHS will provide greater and more detailed notice to the mental health community and its consumer clients.

Use of Contract Providers

Finally, with respect to DMH's belief that Welfare and Institutions Code section 5652.5 is applicable to the MHSA Program, that same concern was expressed a year ago by an attorney representing mental health service providers in Sacramento County. I am enclosing a copy of the County's response to those allegations.

I strongly urge you to approve the County's plan updates and contracts. Failure to do so only further impacts the ability of the County to provide for the mental health needs of its residents.

Sincerely,



Ann Edwards-Buckley,
Director

cc: Robert Ryan, Counsel, Sacramento County
Bruce Wagstaff, Agency Administrator, Countywide Services, Sacramento County
Mary Ann Bennett, Division Chief, Behavioral Health Services, Sacramento County
Cynthia Rodriguez, Chief Counsel, State of California Department of Health Care Services