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C A L I F O R N I A D E P A R T M E N T O F

Mental Health



Legal Office

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Sacramento, CA 95814
916-654-2319

May 5, 2010

Robert Ryan, County Counsel
County of Sacramento
700 H Street, Suite 2650
Sacramento, CA 95814

Dear Mr. Ryan:

The California Department of Mental Health (DMH) has communicated with your county Mental Health Department staff through Executive staff about concerns which arise from numerous reports regarding the proposed changes in the County's Mental Health Program for Fiscal Year 2010-11. The information DMH received from the County has caused additional concerns regarding the County's proposal and the Contractual Agreement between DMH and your County Mental Health Department for the Mental Health Services Act (MHSA) Program and/or the Mental Health Plan (MHP) Program. Because of the serious nature of these concerns an immediate response from Sacramento County is necessary. The nature of these proposed program and budget cuts may cause irreparable harm:

- It was reported that your office has deemed that Welfare and Institutions Code, Section 5652.5 is not applicable to the MHSA Program. Furthermore, reports indicated that your office believes that the Sacramento County Charter entitles the County Behavioral Health Department to eliminate contracts with private providers who have been long-term providers of mental health services to county clients, and transfer those duties to county employees whose training and qualifications are not with specific mental health skills. The County contends that unless it discontinues its private provider services and transfers those duties to reassigned county staff, the county will be displacing county workers. DMH does not believe either of these interpretations of the State and County requirements is correct or legal. Reassigning county employees to your mental health programs, unless that is their area of competency, and ending contracts that have been in place is not a reasonable application of the County or State requirements. In any

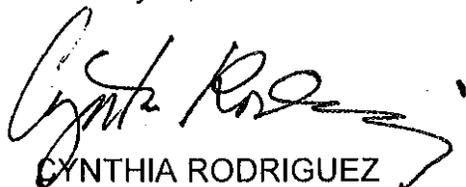
case, the county regulations cannot obviate the State requirements, both statutory and regulatory. Please inform DMH how the county intends to follow state law, including Welfare & Institutions Code section 5652.5.

- Pursuant to statute, MHPA funds which the county Mental Health program has received cannot be used to supplant other funds for pre-existing programs within your mental health system. As the County Mental Health staff has informed DMH of your planned use of MHPA funds to support previously existing programs, it is incumbent on your office to explain immediately how this proposed use of funds is not disallowed supplantation.
- It also would not be permissible for this change in services to cause the accidental or unplanned elimination of the functioning Full Service Partnerships which have been created with your MHPA funds. Please explain your plans to maintain those partnerships, a cornerstone of the MHPA programs, and how you plan to provide those services. Until an adequate explanation is forthcoming, DMH will not be able to approve your MHPA plan update.
- DMH was also advised that while the County anticipated receiving AB 3632 funding in the estimated amount of \$1,640,494 in Fiscal Year 2010-2011, the County's mental health budget has not been allowed to accrue those funds, and those funds were planned to be placed in a "trust fund". Please explain the reason for not allowing the accrual of anticipated funds as part of the requested appropriation for direct mental health services for FY 2010-11 and the reason for planning to place the funds in a "trust fund" despite the potential imminent changes in consumer services due to extreme fiscal needs of the mental health programs.
- DMH is informed that the County Mental Health Department needed to appropriate a "loan payback installment" of \$2,927,733.00 to the County General Funds for each future fiscal year beginning FY 2010-11. Please explain this "loan payback" as this proposal involves reducing the County's mental health budget and services to pay back a "loan" to the County General Funds. MHPA funds are specifically prohibited from being used as loans at the local level.
- There was an estimated increase of \$1,197,894 in the mental health budget for county overhead ("Charges for Other Departments"). There are specific formulas and processes for assigning overhead. There is a cap. We have not seen any documentation of this. Please explain the explanation for this increase.
- The reduction of \$1,792,383 for SB90 is not explained. DMH is informed that the County Mental Health Department was directed to budget this amount of funds as revenue for FY 2009-10 although the county was fully aware that this fund was not going to materialize. This decision predictably resulted in the County Mental Health Department being short \$1,792,383 for FY 2010-11, which has triggered further proposed budget and service reductions. Please explain.

- In this difficult fiscal time it is unclear why, with the reductions the county program faces, the county has not requested the full available funding from the MHSA program. Assuming full funding of the current County request for MHSA funds in the 2010/11 Fiscal Year, over \$2.5 million will remain in the County's Community Services and Supports Component Allocation and approximately \$7.5 million will remain in the County's Prevention and Early Intervention Component Allocation. This is in addition to over \$8 million in the County's Component Allocation for Innovative Programs.
- DMH expects a proposed transition plan for consumers and needs further detailed information regarding the Sacramento County Mental Health Plan in providing services to its priority target populations as stated in the MHP Contract. DMH is concerned for the consumers and their families who will be affected by the proposed changes planned, involving an estimated \$17.5 million budget reduction. DMH has been advised that at this time there is no transition plan explaining how consumers would be notified of the change in their provider and what provider the consumers would have and in what timeframe. The DMH is concerned that if the proposed budget is adopted, in less than 2 months from now approximately 6500 qualified recipients will be displaced from their long-term caregivers. And yet, there is still no transition plan. Additionally, there is no information about the adequacy of the proposed new services. This is not only a concern regarding clinical and quality of care issues, to insure no interruptions in mental health services for consumers, but additionally the MHP notification to consumers of provider change is a requirement stated on the MHP contract.

The nature and the consequences of your proposed budget have raised significant legal, clinical and compliance issues as noted above. As the state authority responsible for the oversight and monitoring of both the MHP and the MHSA contracts, DMH will not be able to approve plan updates or contracts until the resolution of these issues. Please respond to the issues above within 20 days from the date of this letter. DMH is currently in the process of reviewing funding requests from Sacramento County for its MHSA programs for fiscal year 2010-2011 requesting approximately \$40 million. That review cannot go forward without further explanation. DMH must ensure the integrity of both MHSA and MHP Contracts.

Thank you,



CYNTHIA RODRIGUEZ
Chief Counsel

cc: Sharon Stevenson, Chief Counsel
Department of Health Care Service