

ITEM 6
PROPOSED DECISION
AND
PARAMETERS AND GUIDELINES

Welfare and Institutions Code Section 8103(f) and (g)

Statutes 1990, Chapters 9 and 177; Statutes 1991, Chapter 955; Statutes 1992, Chapter 1326;
Statutes 1993, Chapters 610 and 611; Statutes 1994, Chapter 224; Statutes 1996, Chapter 1075;
Statutes 1999, Chapter 578

Firearm Hearings for Discharged Inpatients

99-TC-11 (07-RRM-01)

County of Los Angeles, Claimant

EXECUTIVE SUMMARY

I. SUMMARY OF THE MANDATE

These parameters and guidelines concern procedures by which certain individuals, who are prohibited from possessing firearms because they have been detained for treatment and evaluation as a result of a mental disorder, may challenge that prohibition.

On April 26, 2006, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statutes impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for district attorney activities in civil hearings pursuant to Welfare and Institutions Code section 8103(f) and (g). The Commission approved the test claim for the reimbursable activities found under Section IV, Reimbursable Activities.

II. PROCEDURAL HISTORY

The test claim decision was adopted on April 26, 2006. The County of Los Angeles (county) and the Department of Finance (Finance) filed a Joint Request for a Reasonable Reimbursement Methodology (RRM) and Statewide Estimate of Costs pursuant to Government Code, sections 17557.1-17557.2. The RRM was approved by the Commission on June 26, 2008 for a two-year term expiring on June 30, 2010. On May 27, 2010, the Commission approved an amendment extending the term of the RRM to June 30, 2011. The mandate was suspended by the Legislature in the 2011-2012 and 2012-2013 fiscal years, during which time the RRM had lapsed. On May 24, 2013, the Commission approved a joint amendment extending the term of the RRM to June 30, 2015.

On July 1, 2014 Commission staff notified the parties of the pending expiration of the RRM and invited them to jointly continue or modify the RRM or allow the RRM to expire pursuant to Government Code section 17557.2(f) and section 1183.16(a) of the Commission's regulations by September 1, 2014. Neither of the parties responded to the notice, thus triggering the preparation of draft expedited parameters and guidelines pursuant to section 1183.16(a) of the

Commission's regulations. On November 3, 2014, the Commission issued the draft expedited parameters and guidelines. The State Controller's Office (Controller) filed comments on November 24, 2014 recommending no changes to the draft expedited parameters and guidelines.

III. DISCUSSION

On July 1, 2014 Commission staff notified the parties of the pending expiration of the RRM and invited them to jointly continue or modify the RRM or allow the RRM to expire pursuant to Government Code section 17557.2(f) and section 1183.16(a) of the Commission's regulations by September 1, 2014. Neither of the parties responded to the notice, thus triggering the preparation of draft expedited parameters and guidelines pursuant to section 1183.16(a) of the Commission's regulations.

The proposed parameters and guidelines are effective beginning July 1, 2015 for any reimbursable costs incurred on or after that date. The proposed parameters and guidelines require actual cost claiming.

Reimbursement for state-mandated costs through fiscal year 2014-2015 may be claimed under the jointly proposed reasonable reimbursement methodology (joint RRM) for this program, 07-RRM-01. The joint RRM expires on June 30, 2015.

IV. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the attached proposed decision and parameters and guidelines and authorize staff to make any non-substantive, technical corrections following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
FOR:

Welfare and Institutions Code Section 8103(f)
and (g)

Statutes 1990, Chapters 9 and 177; Statutes
1991, Chapter 955; Statutes 1992, Chapter 1326;
Statutes 1993, Chapters 610 and 611; Statutes
1994, Chapter 224; Statutes 1996, Chapter 1075;
Statutes 1999, Chapter 578

Period of reimbursement begins July 1, 2015.

Case No.: 99-TC-11 (07-RRM-01)

*Firearm Hearings for Discharged
Inpatients*

DECISION PURSUANT TO
GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

(Adopted January 23, 2015)

DECISION

The Commission on State Mandates (Commission) adopted this decision and parameters and guidelines during a regularly scheduled hearing on January 23, 2015. [Witness list will be included in the adopted decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the decision and parameters and guidelines by a vote of [Vote count will be included in the adopted decision].

I. SUMMARY OF THE MANDATE

These parameters and guidelines concern procedures by which certain individuals, who are prohibited from possessing firearms because they have been detained for treatment and evaluation as a result of a mental disorder, may challenge that prohibition.

On April 26, 2006, the Commission adopted a statement of decision finding that the test claim statutes impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for district attorney activities in civil hearings pursuant to Welfare and Institutions Code section 8103(f) and (g).

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term of the RRM to June 30, 2011. The mandate was suspended by the Legislature in the 2011-2012 and 2012-2013 fiscal years and the RRM lapsed during this time. On May 24, 2013, the Commission approved an amendment extending the term of the RRM to remain in effect until June 30, 2015.

On July 1, 2014 Commission staff notified the parties of the pending expiration of the RRM and invited them to jointly continue or modify the RRM or allow the RRM to expire pursuant to Government Code section 17557.2(f) and section 1183.16(a) of the Commission's regulations by September 1, 2014. Neither of the parties responded to the notice, thus triggering the preparation of draft expedited parameters and guidelines pursuant to section 1183.16(a) of the Commission's regulations. On November 3, 2014, Commission staff issued the draft expedited parameters and guidelines. The State Controller's Office (Controller) filed comments on November 24, 2014 recommending no changes to the draft expedited parameters and guidelines.

III. COMMISSION FINDINGS

On July 1, 2014 Commission staff notified the parties of the pending expiration of the RRM and invited them to jointly continue or modify the RRM or allow the RRM to expire pursuant to Government Code section 17557.2(f) and section 1183.16(a) of the Commission's regulations by September 1, 2014. Neither of the parties responded to the notice, thus triggering the preparation of draft expedited parameters and guidelines pursuant to section 1183.16(a) of the Commission's regulations.

The proposed parameters and guidelines are effective beginning July 1, 2015 for any reimbursable costs incurred on or after that date. The proposed parameters and guidelines require actual cost claiming as specified in the proposed parameters and guidelines. The only comments on the draft expedited parameters and guidelines were submitted by the Controller and recommended no changes.

Reimbursement for state-mandated costs through fiscal year 2014-2015 may be claimed under 07-RRM-01. The joint RRM expires on June 30, 2015.

IV. CONCLUSION

Based on the foregoing analysis, the Commission hereby adopts the proposed decision and parameters and guidelines.

PROPOSED PARAMETERS AND GUIDELINES

Welfare and Institutions Code Section 8103(f) and (g)

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Statutes 1993, Chapters 610 and 611; Statutes 1994, Chapter 224; Statutes 1996, Chapter 1075;
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These parameters and guidelines concern procedures by which certain individuals, who are prohibited from possessing firearms because they have been detained for treatment and evaluation as a result of a mental disorder, may challenge that prohibition.

On April 26, 2006, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statutes impose a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for district attorney activities in civil hearings pursuant to Welfare and Institutions Code section 8103(f) and (g).

II. ELIGIBLE CLAIMANTS

Any county, or city and county that incurs increased costs as a result of this mandate is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

These parameters and guidelines are effective beginning July 1, 2015 for any reimbursable costs incurred on or after that date.

Reimbursement for state-mandated costs through fiscal year 2014-2015 may be claimed under the jointly proposed reasonable reimbursement methodology (joint RRM) for this program, 07-RRM-01. The joint RRM expires on June 30, 2015. On July 1, 2014 Commission staff notified the parties of the pending expiration of the RRM and invited them to jointly continue or modify the RRM or allow the RRM to expire pursuant to Government Code section 17557.2(f) and section 1183.16(a) of the Commission's regulations by September 1, 2014. Neither of the parties responded to the notice, thus triggering the preparation of draft expedited parameters and guidelines pursuant to section 1183.16(a) of the Commission's regulations.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.

2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, “I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. Ongoing Activities

1. For the district attorney to represent the People of the State of California in civil hearings pursuant to Welfare and Institutions Code section 8103(f) and (g), including only the following activities as related to those hearings, and as performed by the district attorney and/or district attorney support staff:

- a. review case/investigate/conduct interviews
 - b. find, retain, and consult with expert witness
 - c. conduct discovery
 - d. conduct depositions
 - e. legal research
 - f. prepare/file written documents for court
 - g. prepare oral arguments and evidence for court
 - h. appear in court
 - i. case file management
2. To assist the district attorney in civil hearings pursuant to Welfare and Institutions Code section 8103(f) and (g), including only the following activities as related to those hearings, and as performed by an expert witness:
- a. oral consultation services
 - b. prepare written documents for file/court
 - c. prepare oral testimony and evidence for court
 - d. appear in court

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in 2 Code of Federal Regulations (CFR) part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR part 225, appendices A and B (OMB Circular A-87 attachments A & B)). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 attachments A & B) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

¹ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the statements of decision on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.