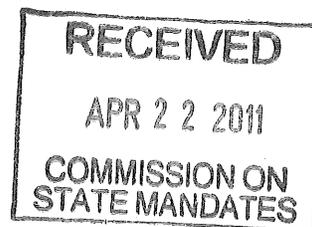




CALIFORNIA DEPARTMENT OF

# Mental Health

1600 Ninth Street  
Sacramento, CA 95814  
916-654-4027



April 22, 2011

VIA FACSIMILE FILING

Commission on State Mandates  
980 Ninth St., Suite 300  
Sacramento, CA 95814

Re: Written Comments on Draft Staff Analysis for Incorrect Reduction Claim  
Handicapped and Disabled Students (09-4282-I-5)  
Fiscal Years: 2003-2004, 2004-2005 and 2005-2006  
County of Santa Clara, Claimant

To the Commission on State Mandates:

The Department of Mental Health (DMH) hereby submits its comments on the above matter. DMH believes that the State Controller's Office appropriately reduced the claim filed by the County of Santa Clara because outpatient rehabilitation services are not reimbursable under the legislatively mandated Handicapped and Disabled Students Program (HDS) (Chapter 26.5 of Division 7 of Title I of the California Government Code). Outpatient rehabilitation services are distinct from day rehabilitation services. Outpatient rehabilitation services and day rehabilitation services are reported separately in cost reports submitted by the counties to DMH, separately defined, provide different services, and tracked separately. Recognizing the distinction, Title 2, California Code of Regulations, section 60200, section (i), and HDS and HDS II Parameters and Guidelines have excluded outpatient rehabilitation services as a reimbursable activity.

Counties prepare claims through a cost report method, wherein the county submits a certified cost report to DMH as a basis for their claims. In the cost report, counties report the various services provided by the counties through mode and service function codes and report the associated units of service corresponding to each service type. The county computes its direct costs by multiplying the corresponding units of service by the applicable unit rate. Consistent with DMH guidelines and Medi-Cal reporting, day rehabilitation services and outpatient rehabilitation services possess different service function codes. Day rehabilitation services are identified under Mode 10 – Day Mode of Service, Service Function Codes 91-99, and outpatient

rehabilitation services are reported under Mode 15 – Outpatient Mode of Service, Service Function Code 35. Services are also further differentiated by their units of service, as Outpatient Mode of Service is delivered in half-day and full-day increments, requiring service of at least 3 hours and less than 24 hours each day the program is open, and Day Mode of Service is delivered in minutes. The different service function codes and units of service that are reported on the cost reports submitted by counties show that outpatient rehabilitation services and day rehabilitation services are separate activities.

The California Code of Regulations delineates the difference between outpatient rehabilitation services and day rehabilitation services. The term “rehabilitation,” which definition has been adopted by the County of Santa Clara in its Clinical Record Documentation Manual for Outpatient Mental Health Services, means “a service activity which includes, but is not limited to assistance in improving, maintaining, or restoring a beneficiary's or group of beneficiaries' functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and support resources, and/or medication education.” Title 9 C.C.R. § 1810.243. Title 9 limits the definition of “day rehabilitation services” to a structured program of rehabilitation and therapy to improve, maintain or restore personal independence and functioning, consistent with requirements for learning and development, which provides services to a distinct group of individuals. Services are available at least three hours and less than 24 hours each day the program is open.” Title 9 C.C.R. § 1810.212. The definition of day rehabilitation services, as acknowledged by the Commission on State Mandates (CSM) in its Draft Staff Analysis, does not include socialization and vocational services.<sup>1</sup> However, outpatient rehabilitation services include socialization and vocational services such as “daily living skills, social and leisure skills, grooming and personal hygiene, and meal preparation skills,” which are outside the definition of day rehabilitation services. The definitions under Title 9 illustrate the differences between outpatient rehabilitation services and day rehabilitation services.

Recognizing the differences between outpatient rehabilitation services and day rehabilitation services, outpatient rehabilitation services were excluded from Title 2 C.C.R. § 60020 (i), which governs reimbursable services under the program. Title 2 C.C.R. § 60020 (i) defines “mental health services” as “mental health assessments and the following services when delineated on an [Individualized Education Program] in accordance with Section 7572(d) of the Government Code: psychotherapy as defined in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management.”

The HDS and HDS II Parameters and Guidelines also do not identify outpatient rehabilitation services as a reimbursable activity. The Parameters and Guidelines further state “when providing psychotherapy or other mental health treatment services, the activities of crisis intervention, vocational services, and socialization services are not reimbursable.”

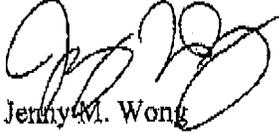
Consistent with Title 2 and the HDS and HDS II Parameters and Guidelines, CSM declared in its Statement of Decision issued on May 26, 2005 and by letter to DMH dated February 27,

<sup>1</sup> Socialization and vocational services are also shown as separate services from day rehabilitation through different service codes in the cost report.

2009, that rehabilitation services, as defined under Title 9 C.C.R. § 1810.243, are not reimbursable activities. CSM stated that the test claim regulations do not require or mandate counties to perform activities defined by section 1810.243. As can be seen, outpatient rehabilitation services have been consistently excluded from reimbursable activities under HDS.

For the foregoing reasons, the Commission on State Mandates should find that the State Controller's Office appropriately reduced the claim filed by the County of Santa Clara because outpatient rehabilitation services are not reimbursable under the HDS.

Very truly yours,



Jenny M. Wong  
Staff Counsel

DECLARATION OF SERVICE  
[C.C.P. §§ 1013A AND 2015.3]

Re: Handicapped and Disabled Students  
09-4282-I-05  
Claimant: County of Santa Clara

I am a citizen of the United States and a resident of the county of Sacramento. I am over the age of eighteen years and not a party to the above referenced action; my business address is Department of Mental Health, Office of Legal Services, 1600 9<sup>th</sup> Street, Rm. 435, Sacramento, CA 95814. On the date below, I served the foregoing document(s) described as:

Written Comments on Draft Staff Analysis for Incorrect Reduction Claim  
Handicapped and Disabled Students (09-4282-I-05)  
Fiscal Years: 2003-2004, 2004-2005 and 2005-2006  
County of Santa Clara, Claimant

on the parties below addressed as follows:

See attached service list

The parties where served as follows:

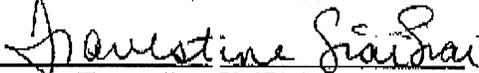
U.S. POSTAL SERVICE by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail in the ordinary course of business.

FACSIMILE TRANSMISSION - by personally transmitting to the above-named persons, who have previously agreed to receive documents via facsimile transmission, to the facsimile numbers shown above, on the date and time listed below, from facsimile machine number (916) 651-3852, pursuant to California Rules of Court, rules 2003-2008, Government Code section 11440.20, and California Code of Regulations, title 1, section 1008, subdivision (d). A true copy of the above-described documents was transmitted by facsimile machine and the transmission was reported as complete and without error.

PERSONAL SERVICE: By personally delivering a true copy thereof to the following person(s) at the address(es) as follows

INTERNET/ELECTRONIC MAIL SERVICE - I caused to be transmitted a copy of the foregoing document on this date via internet/electronic mail to Lexis/Nexis File & Serve or One Legal goFILE & SERVE for service on all parties in this case and court filing, pursuant to court order. In the alternative, if pursuant to order by the court of a party requests to receive documents via internet email, their internet email address will be listed following their address hereon and this document will be forwarded to that party in that fashion.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 22, 2011, at Sacramento, California.

  
Travestine SiaSia

## SERVICE LIST

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