

ITEM 17 L
FINAL STAFF ANALYSIS
PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Penal Code Sections 1026 and 1026.5

Statutes 1979, Chapter 1114

Statutes 1982, Chapter 650

Not Guilty by Reason of Insanity

05-PGA-35 (CSM-2753)

State Controller's Office, Requestor

EXECUTIVE SUMMARY

This is a request filed by the State Controller's Office (SCO) to amend the parameters and guidelines for the *Not Guilty by Reason of Insanity* program (CSM-2753) to add language regarding source documentation, and record retention requirements during the period a claim is subject to an audit. If the Commission on State Mandates (Commission) approves the SCO's request, the amendments would be effective for costs incurred beginning on July 1, 2005.

In 2003, upon recommendation from the Bureau of State Audits, direction from the Legislature, and an SCO request, the Commission adopted amendments to parameters and guidelines that clarified what source documentation claimants are required to retain to support the claims they file to obtain reimbursement for mandated programs, and records retention language that identifies the records that must be retained to support an audit initiated by the SCO. The adopted language, commonly referred to as "boilerplate language," has been included in all parameters and guidelines adopted since 2003. In addition, section 1183 of the Commission's regulations require parameters and guidelines to include instruction on claim preparation, notice of the SCO's authority to audit claims, and the amount of time documentation must be retained during the audit period.

The SCO is now requesting that parameters and guidelines adopted prior to 2003 be amended to also include the source documentation and records retention language.

This analysis pertains only to the request to amend the *Not Guilty by Reason of Insanity* program. The staff analyses for the other 48 programs will be presented separately.

There is one issue for the Commission's consideration:

- **Should the parameters and guidelines be amended to add the current "boilerplate language"?**

Staff finds that it is appropriate to approve the SCO's request to insert the source documentation and records retention language because it would conform the parameters and guidelines for the *Not Guilty by Reason of Insanity* program with the parameters and guidelines adopted for other programs, and is consistent with section 1183.1 of the Commission's regulations. Therefore, staff included the language requested by the SCO.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the SCO's proposed amendments to the parameters and guidelines for the *Not Guilty by Reason of Insanity* program, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Requestor

State Controller's Office

Chronology

07/16/1980	Board of Control (predecessor to the Commission on State Mandates) denies test claim
05/17/1982	Court of Appeal directs Board of Control to vacate its decision, approve claimant's parameters and guidelines, and determine statewide cost estimate
12/2/1982	Board of Control vacates its decision
03/17/1983	Board of Control adopts parameters and guidelines
10/26/1995	Commission on State Mandates (Commission) amends parameters and guidelines
07/27/2000	Commission amends parameters and guidelines
01/23/2003	The Commission, upon the recommendation of the Bureau of State Audits, direction from the Legislature, and upon request from the State Controller's Office (SCO), adopts amendments to the <i>School Bus Safety II</i> parameters and guidelines to include "boilerplate language" that details the documentation necessary to support reimbursement claims. After this date, all adopted parameters and guidelines contain this language
04/07/2006	SCO requests the parameters and guidelines for 49 mandated programs adopted prior to 2003 also be amended to include boilerplate language, including the <i>Not Guilty by Reason of Insanity</i> program analyzed here
04/27/2006	Commission deems SCO's request for amendment of parameters and guidelines complete and issues for comment
07/23/2009	Commission reissues SCO's request for amendment of parameters and guidelines for comment
08/18/2009	Department of Finance files comments
10/13/2009	Commission issues draft staff analysis

Background

This is a request filed by the State Controller's Office (SCO) to amend the parameters and guidelines for the *Not Guilty by Reason of Insanity* program (CSM-2753) to add language regarding source documentation, and record retention requirements during the period a claim is subject to an audit. If the Commission on State Mandates (Commission) approves the SCO's request, the amendments would be effective for costs incurred beginning on July 1, 2005.

Test Claim Decision and Parameters and Guidelines

The County of San Bernardino filed a test claim alleging that Penal Code sections 1026 and 1026.5 require the District Attorney to bring petitions in a court of competent jurisdiction in the name of the State of California to effect extensions of commitments in State hospitals for individuals who have been found not guilty by reason of insanity (NGI) and committed to said state institutions.

Penal Code section 1026.5 was further amended to require the District Attorney to review all NGI cases prior to the expiration of the defendant's maximum term of commitment, for a determination as to whether or not the petition for extended commitment should be filed.

In 1980, the Board of Control (Board) determined that no reimbursable mandate existed and claimant challenged the decision.¹ In 1982, the Board was directed to vacate its decision and to approve the claim. In 1983, the Board adopted the claimant's proposed parameters and guidelines. In 1995 and 2000, the Commission amended the parameters and guidelines.²

Boilerplate Language

On March 28, 2002, the Bureau of State Audits (BSA) issued an audit report on the *School Bus Safety II* program, stating that the parameters and guidelines do not impose sufficient requirements regarding the documentation required to support reimbursement claims, and thus, insufficient documentation was being submitted to support claims.³ The report recommended, among other things, that the Commission work with the SCO, other affected state agencies, and interested parties to make sure the language in the parameters and guidelines and the claiming instructions for the *School Bus Safety II* program reflects the Commission's intentions as well as the SCO's expectations regarding supporting documentation. On June 10, 2002, the SCO proposed that parameters and guidelines be amended to clarify what documentation is necessary to support reimbursement claims and what records must be retained to support audits initiated by the SCO.

Based on BSA's audit findings and recommendations, the Legislature enacted Statutes 2002, chapter 1167 (AB 2781) to direct the Commission to amend the parameters and guidelines in *School Bus Safety II*, to detail the documentation necessary to support reimbursement claims.

On January 23, 2003, upon recommendation from BSA, direction from the Legislature, and the SCO's request, the Commission adopted the following language regarding source documentation and records retention to the *School Bus Safety II* parameters and guidelines.⁴

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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge."

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

⁴ The Commission also adopted other boilerplate language that is not relevant to this request.

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.

VI. Record Retention

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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. 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.*

The Commission has included this language, commonly referred to as “boilerplate language,” in all parameters and guidelines adopted on or after January 23, 2003.

SCO Request to Amend Parameters and Guidelines

On April 7, 2006, the SCO requested that the parameters and guidelines for 49 mandated programs that were adopted prior to 2003 be amended to also include the boilerplate language regarding source documentation and records retention that was adopted by the Commission in 2003.⁵

The parameters and guidelines for the *Not Guilty by Reason of Insanity* program is one of the 49 programs the SCO is requesting be amended.

Comments on the Proposal

On April 27, 2006, the Commission issued the SCO’s request to amend the parameters and guidelines for comment. No comments were filed. On July 23, 2009, the Commission reissued the proposal for comment. On August 18, 2009, Department of Finance submitted comments.⁶

In its comments, Finance stated it was neutral on the proposal, because the request to include boilerplate language in the parameters and guidelines for the 49 programs would allow the Controller to complete audit related tasks more efficiently, and provide the claimant with more information and record retention requirements, as well as the statute of limitations for audits.

Commission staff issued the draft staff analysis on October 13, 2009.⁷ No comments were filed.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

⁵ Exhibit D.

⁶ Exhibit E.

⁷ Exhibit F.

Related Litigation (Clovis Unified School Dist., et al. v. State Controller)

This case involves a challenge by school districts and community college districts on reductions made by the State Controller's Office to reimbursement claims for several mandated programs.⁸ The school districts argue that reductions made on the ground that school districts do not have contemporaneous source documents are invalid.

Trial Court Ruling. On January 2, 2009, the Sacramento County Superior Court (Case No. 06CS00748) issued a clarification of ruling and on February 19, 2009, issued a Judgment and Writ, finding that reductions made by the Controller on the ground that claimants did not have contemporaneous source documents supporting their reimbursement claims were invalid as an underground regulation *if* the contemporaneous source document requirement was not in the Commission's parameters and guidelines. The court held that the Controller has no authority to reduce a claim on the ground that a claimant did not maintain contemporaneous source documents to support their claim, absent statutory or regulatory authority to require contemporaneous source documents, or language in the parameters and guidelines requiring it. Pursuant to Government Code section 17558, the Controller's claiming instructions shall be derived from the test claim decision and the adopted parameters and guidelines. Thus, the court granted declaratory relief and a writ of mandate requiring the Controller to set aside the reduction and pay the school district plaintiffs the amounts reduced on two mandated programs that did not have parameters and guidelines language requiring claimants to maintain contemporaneous source documents.

Court of Appeal Filings (Third District Court of Appeal, Case No. C061696). Notices of appeal and cross-appeal have been filed by the SCO, the community college districts, and the school districts, and opening briefs have been filed. The appeal on the issue of the validity of the contemporaneous source documentation requirement remains pending.

Discussion

The proposed amendments to the parameters and guidelines raise the following issue for determination by the Commission:

Issue: Should the parameters and guidelines be amended to add the Commission's current "boilerplate language"?

In 2003, following recommendation from the BSA and direction from the Legislature, the SCO requested, and the Commission adopted amendments to parameters and guidelines that clarify what source documentation claimants are required to retain to support the claims they file to obtain reimbursement for mandated programs, and records retention language that identifies the records that must be retained to support an audit initiated by the SCO.

The adopted language, as detailed on pages 4 and 5 of this analysis, has been included in all parameters and guidelines adopted since 2003.

In addition, section 1183.1, subdivision (a) (5) and (6) require that the parameters and guidelines contain, among other things, the following:

- Claim preparation. Instruction on claim preparation, including instruction for direct and indirect cost reporting, or application of a reasonable reimbursement methodology.

⁸ The Commission is not a party to this action.

- Record retention. Notice of the Office of the State Controller's authority to audit claims and the amount of time supporting documents must be retained during period subject to audit.

The SCO is now requesting that parameters and guidelines adopted prior to 2003 be amended to also include the source documentation and records retention language. This analysis pertains to the parameters and guidelines for the *Not Guilty by Reason of Insanity* program.⁹

Inserting the source documentation and records retention boilerplate language would conform the parameters and guidelines for the *Not Guilty by Reason of Insanity* program with the parameters and guidelines adopted for other programs, and is consistent with section 1183.1 of the Commission's regulations.

Therefore, staff finds that it is appropriate to approve the SCO's request, and made the following modifications to the parameters and guidelines:

IV. Period of Reimbursement

Government Code section 17557, subdivision (d) states that a parameters and guidelines amendment filed on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year. This amendment was filed on April 7, 2006, (after the claiming deadline) establishing reimbursement for fiscal year 2005-2006. Therefore, reimbursement for this amendment shall begin on July 1, 2005.

Staff clarified that the proposed amendments would be effective on July 1, 2005.

V. Reimbursable Costs

Staff inserted the following boilerplate language regarding source documentation, as requested by the SCO:

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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge."
Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government

⁹ The SCO only requested that the portions of the boilerplate language regarding source documentation and records retention be added to the parameters and guidelines for the 49 programs. There are other sections of the boilerplate language regarding the remedies available before the Commission, and the legal and factual basis for the parameters and guidelines. Staff did not include these sections because the SCO did not request that they be included.

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.

VII. Records Retention

At the request of the SCO, staff removed the existing language regarding records retention, and replaced it with the following boilerplate language regarding records retention.

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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. 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.*

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed amendments to parameters and guidelines for the *Not Guilty by Reason of Insanity* program, beginning on page 9.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

~~Originally~~ Adopted: March 17, 1983
~~First Amendment Adopted~~: October 26, 1995
~~Second Amendment Adopted~~: July 27, 2000
Proposed Amendment: January 29, 2010

Proposed Amendment to Parameters and Guidelines
Penal Code Sections 1026 and 1026.5

Statutes 1979, Chapter 1114, ~~Statutes of 1979~~
Statutes 1982, Chapter 650, ~~Statutes of 1982~~

Not Guilty by Reason of Insanity
05-PGA-35 (CSM-2753)

This amendment is effective beginning with claims filed for the
July 1, 2005 through June 30, 2006 period of reimbursement

I. Summary of the Source of the Mandates

Penal Code section 1026 was amended and section 1026.5 was added by Chapter 1114, Statutes of 1979, to require the District Attorney to bring petitions in a court of competent jurisdiction in the name of the State of California to effect extensions of commitments in State hospitals for individuals who have been found not guilty by reason of insanity (NGI) and committed to said State institutions.

Section 1026.5 was further amended by Chapter 650, Statutes of 1982, to require the District Attorney to review all NGI cases prior to the expiration of the defendant's maximum term of commitment, for a determination as to whether or not the petition for extended commitment should be filed. (Prior to this 1982 amendment, the District Attorney was only required to review those matters in which the State hospital was requesting extended term commitment proceedings.)

II. Commission on State Mandates' Decision (then Board of Control)

At its July 16, 1980, meeting, the Board of Control (Board) determined that no reimbursable mandate existed in Chapter 1114, Statutes of 1979. The Board reasoned that the Legislature in enacting Chapter 1114, placed in statute the existing law as declared by the court in, In re Moye, 22 Cal. 3d 457, 1978.

The claimant contended that absent enactment of Chapter 1114/79 or a similar statutory procedure, a person with a mental disorder could only continue to be confined by instituting civil commitment proceedings under the Lanterman-Petris-Short Act. Per the claimant, NGI extended commitment proceedings under Penal Code section 1026.5 were new. In addition the claimant viewed that the required mandatory review of all such defendants as they became eligible for release imposed a higher level of service upon local government.

The Board therefore concluded that since the District Attorney already had, by statute, the duty to bring those proceedings, the costs incurred by the County pursuant to the District Attorney being the petitioner in continuation proceedings are costs mandated by the Courts and not reimbursable under the Revenue and Taxation Code.

Following the Board's adoption of a brief written statement concerning its decision on September 17, 1980, the County of Los Angeles appealed the Board's decision. The Superior Court, County of Los Angeles, upheld the Board's decision; however, the claimant appealed the court's decision and ultimately succeeded in obtaining a reversal of the lower court's ruling by the Second Appellate District Court of Appeal. Subsequently, the Superior Court issued the Judgment and Writ directing the Board to vacate its earlier decision and approve the claim.

The Superior Court issued the Judgment and Writ (Superior Court No. C-342, 764) directing the Board to vacate its decision and to approve the above entitled claim. In response, at its December 2, 1982 meeting, the Board vacated the previous decision and followed the direction of the court.

On September 27, 1984, (Chapter 1436 of 1984) the Legislature deleted mandate claims bill funding for Chapter 1114, Statutes of 1979, and directed the Board to revise the parameters and guidelines because they failed to account for costs that would have been incurred by the counties as a result of the Supreme Court's 1978 In re Moye decision. Further the Legislature wanted assurance that only increased costs under Chapter 1114, Statutes of 1979 would be reimbursed.

The claimant filed a complaint for Declaratory Relief and Petition for Writ of Mandate on January 1, 1985, and subsequently allowed exhaustion of the statute of limitations for litigation. On August 17, 1993, the claimant requested amendment of the 1983 parameters and guidelines. The Commission, in pursuing these parameters and guidelines is following the guidelines to reflect both the Second Appellate District Court of Appeal and the 1984 Legislative Counsel directives. This is due in part to the Second Appellate District Court of Appeal decision that In re Moye did not impact the changes included by Chapter 1114, Statutes of 1979¹, and are therefore excluded from the subject parameters and guidelines.

¹ “. . . In re Moye did no more than to declare unconstitutional the provisions of the law which required a person committed under section 1026 of the Penal Code bear the burden of proof in a proceeding for his release to be an unconstitutional deprivation of equal protection. The opinion recommended, but did not require, the procedure provided in section 1026.5. It suggested that resort to the provisions of the Lanterman-Petris Act might afford equal protection. Had the Legislature been content to rely on that suggestion, an arguable case could have been made that costs of following the Lanterman-Petris procedure would not have increased the county's otherwise costs. (1-A proposition which we regard a fallacious, since section 1026.5 does involve the county, through its district attorney, in dealing with a group of persons not normally subject to Lanterman-Petris procedure.) But the Legislature was unwilling to rely on that judicial suggestion. The Lanterman-Petris procedure, at the most, could result in a 90-day commitment based on conduct after those proceedings had begun. It did not provide either for a commitment extending for the term prescribed for a crime, nor did it provide for a potentially indefinite series of two-year commitments. (1) In short, section 1026.5 sets forth an entirely new program for dealing with violent persons found not guilty by reason of insanity; it did not parallel the Lanterman-Petris program. What it did was to parallel the MDSO program, not theretofore available for the criminally insane. . .” .[County of Los Angeles v State of California (1982)132 Cal.App.3d 761; 183 Cal.Rptr. 5]

III. Eligible Claimants

Counties.

IV. Period of Reimbursement

This amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. Chapter 1114, Statutes of 1979, became operative on September 28, 1979, as an act of urgency, and the initial test claim for Chapter 1114/79 was filed February 20, 1980. Therefore, costs incurred on or after September 28, 1979, are reimbursable.

In addition, Chapter 650, Statutes of 1982, became operative on August 27, 1982, as an act of urgency. Consequently, costs incurred under this chapter on or after August 27, 1982, are reimbursable. Subsequent claims shall be filed on a fiscal year basis.

Chapter 1020, Statutes of 1986, added Penal Code section 1026.5 activities under Welfare and Institutions Code section 4117 as activities to be reimbursed from funds specifically appropriated by the Legislature for that purpose. This section became operative on July 1, 1987. Therefore, reimbursable mandate costs for Penal Code section 1026.5 are those incurred prior to July 1, 1987. Costs incurred after that date are reimbursable under Welfare and Institutions Code section 4117. To the extent Welfare and Institutions Code section 4117 funding as appropriated by the Legislature, or as approved as a deficiency by the Director of Finance, is exhausted, reimbursement claims may subsequently be filed through the State Controller pursuant to Government Code section 17500 et seq.

Beginning with claims for costs incurred in fiscal year 1997-98, claimants shall submit reimbursement claims for mental health treatment costs to the Department of Mental Health and reimbursement claims for nontreatment costs to the State Controller as provided in Welfare and Institutions Code section 4117.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561 (d) (3), all claims for reimbursement of costs shall be submitted within 120 days following the issuance of claiming instructions by the State Controller.

If total costs claimed for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise provided in Government Code section 17564.

V. Reimbursable Costs

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 under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." 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.

A. Scope of Mandate

Counties shall be reimbursed for the costs incurred for the District Attorney to bring petitions in a court of competent jurisdiction in the name of the State of California to effect extensions of commitments in State hospitals for individuals who have been found not guilty by reason of insanity (NGI) and committed to said State institutions pursuant to Penal Code sections 1026.5 and 1026, as added and amended by Chapter 1114, Statutes of 1979, and as annotated in the 1984 claims bill (Chapter 1436, Statutes of 1984).

Counties will further be reimbursed for the District Attorney to review all NGI cases prior to the expiration of the defendant's maximum term of commitment, for a determination as to whether or not the petition for extended commitment should be filed pursuant to Penal Code section 1026, as amended by Chapter 650, Statutes of 1982.

B. Reimbursable Activities

Counties will be reimbursed costs of extended commitment proceedings under Sections 1026 and 1026.5 of the Penal Code, Chapters 1114/79 and 650/82. Reimbursement will be limited to the following program activities:

- (1) Those District Attorney costs related to obtaining and reviewing necessary material on defendant's criminal and hospital case, including original court file and original, non-privileged District Attorney records on defendant's criminal case, in order to select appropriate cases for filing court requests for extended commitment proceedings.

- (2) Those costs related to necessary District Attorney travel to and from a State hospital.
- (3) Costs of transporting defendant for extended commitment proceedings.
- (4) Costs related to care and custody of defendant for extended commitment proceedings not reimbursed by other State funds.
- (5) District Attorney and indigent defense counsel review, preparation, and trial costs, including but not limited to judicial officer, clerk, court reporter, bailiffs, expert witnesses, special investigators, juror fees, etc., that are not reimbursed by other State funds.
- (6) Court-appointed expert witness (psychiatric, psychological, other mental health professional) services and special investigator costs, except as noted in section VIII herein.

VI. Claim Preparation and Submission

Each claim for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section V.B. of this document. In addition, claims must provide State patient information, and a copy of the statement, prepared by the county clerk of the county in which the hearing or trial was held and properly certified by a judge of the superior court of that county or an officer of the court for counties without a superior court judge, of all non-treatment costs incurred by the county, as required under Welfare and Institutions Code section 4117.

A. Direct Costs

(1) Employee Salaries and Benefits

Identify the employee(s) and/or the classification of the employee(s) involved. Describe the mandated functions performed and specify the time devoted to each reimbursable activity by each employee, productive hourly rate, and related fringe benefits.

The average number of hours devoted to each reimbursable activity in this document may be claimed if supported by a documented time study.

Reimbursement for personnel services includes compensation paid for salaries, wages, and employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and worker's compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities which the employee performs.

(2) Services, Equipment and Supplies

Only expenditures that can be identified as a direct cost of the mandate may be claimed. List the cost of the materials or equipment consumed specifically for the purpose of this mandate. Purchases shall be claimed at the actual price after deducting cash discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged based on a recognized method of costing, specifically applied.

3) Contract Services

Provide the name(s) of the contractor(s) who performed the service(s), including any fixed contracts for services. Describe the activity(ies) performed by each named contractor, and give the number of actual hours spent on the activities, if applicable, show the inclusive dates when services were performed and itemize all costs for those services. Attach consultant invoices to the claim.

(4) Capital Assets

List the purchase price paid for equipment and other capital assets acquired for this mandate. Purchase price includes taxes, delivery costs, and installation costs. If the equipment or other fixed asset is used for purposes other than for this mandate, only the pro rata portion of the purchase price may be claimed.

(5) Travel

Travel expenses for mileage, per diem, lodging, and other employee entitlements are eligible for reimbursement in accordance with the rules of the local jurisdiction. Provide the names(s) of the traveler(s), purpose of travel, inclusive of dates and times of travel, destination points, and travel costs.

(6) Training

The cost of training an employee to perform mandated activities specified in this document is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the dates attended, and the location. Reimbursable costs may include salaries and benefits, transportation, lodging, per diem, and registration fees.

(7) Indirect Costs

Indirect costs are defined as costs which 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 central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan. Counties have the option of using 10 percent of direct labor as indirect costs or of preparing a departmental Indirect Cost Rate Proposal. If the county elects to prepare an Indirect Cost Rate Proposal, the proposal must be prepared in accordance with Office of Management and Budget Circular A-87 (OMB A-87).

VII. Supporting Data Record Retention

~~For auditing purposes, all costs claimed must be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a). Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² 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 V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.~~

VIII. Offsetting Savings and Other Reimbursements

Any offsetting savings that the claimant experiences as a direct result of this mandate must 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, other state funds shall be identified and deducted from the claim.

Further, counties submitting claims for reimbursement on or after July 1, 1987 for claims for fiscal years 1987-88 through 1996-97, must first claim reimbursement from the Department of Mental Health under section 4117 of the Welfare and Institutions code. To the extent claimants cannot be reimbursed through the Department of Mental Health because the appropriation is exhausted and no deficiency is authorized pursuant to Budget Act or other statutory provisions, the unpaid balance may be claimed through the State Controller. New claims must be filed timely when filed with the Department of Mental Health.

Beginning with claims for costs incurred in fiscal year 1997-98, claimants shall submit reimbursement claims for nontreatment costs to the State Controller as provided in Welfare and Institutions Code section 4117.

IX. Required Certification

An authorized representative of the claimant shall be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

X. Parameters and Guidelines Amendments

² This refers to Title 2, division 4, part 7, chapter 4 of the Government Code

Pursuant to Title 2, California Code of Regulations, section 1183.2, parameters and guidelines amendments filed before the deadline for initial claims as specified in the Claiming Instructions shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed after the initial claiming deadline must be submitted on or before January 15, following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.