

COMMISSION ON STATE MANDATES

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March 12, 2015

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Ms. Jill Kanemasu
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Division of Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Proposed Decision and Amendment to Parameters and Guidelines**
CPR Pocket Masks, CSM-4291 (14-MR-01)
Penal Code Section 13518.1; Statutes 1987, Chapter 1334
as modified by: Statutes 2013, Chapter 28 (SB 71)
California Department of Finance, Requester

Dear Ms. Suess and Ms. Kanemasu:

The proposed decision for the above-named matter is enclosed.

Hearing

This matter is set for hearing on **March 27, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission office at least five to seven *working* days prior to the meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM 4
PROPOSED DECISION
AND
AMENDMENT TO PARAMETERS AND GUIDELINES

Penal Code Section 13518.1

Statutes 1987, Chapter 1334 (AB 1726)

As Modified by:

Statutes 2013, Chapter 28 (SB 71)

CPR Pocket Masks

CSM-4291 (14-MR-01)

Department of Finance, Requester

EXECUTIVE SUMMARY

I. Summary of Mandate

These parameters and guidelines have been amended in accordance to the Commission on State Mandates' (Commission's) finding that the state's liability pursuant to article XIII B, section 6 and Government Code Section 17514 has been modified based on the subsequent change in law.¹

On August 18, 2014, Department of Finance (Finance) filed a request to adopt a new test claim decision on the *CPR Pocket Masks*, CSM-4291 program, asserting that Statutes 2013, chapter 28 (SB 71) is a subsequent change in law that ended the reimbursement period of the program pursuant to Government Code section 17570.

On March 27, 2015, the Commission adopted a new test claim decision finding that Penal Code section 13518.1, as modified by Statutes 2013, chapter 28 (SB 71), no longer constitutes a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. As a result, the Commission concluded that the state's liability to reimburse local agencies for the *CPR Pocket Masks*, CSM-4291, program ends beginning July 1, 2013.

II. Procedural History

On January 23, 2015, the Commission adopted the decision for the first hearing and directed staff to schedule the second hearing.² The draft proposed decision³ for the second hearing and the draft

¹ If the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Sections 17557, 17557.1, and 17557.2.

² Exhibit A, Decision, First Hearing, adopted January 23, 2015.

expedited parameters and guidelines⁴ were issued on January 30, 2015. On February 11, 2015, the State Controller's Office submitted comments recommending no changes on the draft proposed decision for the second hearing and the draft expedited parameters and guidelines.⁵

III. Discussion

The proposed amendment to the parameters and guidelines ends reimbursement for the program beginning July 1, 2013, and makes other clarifying changes in accordance with the Government Code and the Commission's regulations.⁶

Government Code section 17570(f) provides that a request for adoption of a new test claim decision shall "be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year." Finance filed the request for the adoption of a new test claim decision on August 18, 2014, thereby establishing eligibility for ending reimbursement for this program beginning July 1, 2013.

IV. Staff Recommendation

Staff recommends that the Commission adopt this proposed decision and amendment to the parameters and guidelines, ending the period of reimbursement beginning July 1, 2013, in accordance to article XIII B, section 6(a) of California Constitution and Government Code section 17514.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical changes to the proposed decision following the hearing.

³ Exhibit B, Draft Proposed Decision, Second Hearing, issued January 30, 2015.

⁴ Exhibit C, Draft Expedited Amendment to Parameters and Guidelines, issued January 30, 2015.

⁵ Exhibit D, State Controller's Office Comments on the draft proposed decision for the second hearing and the draft expedited amendment to parameters and guidelines.

⁶ California Code of Regulations, title 2, section 1183.7.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Penal Code Section 13518.1
Statutes 1987, Chapter 1334 (AB 1726)

As Modified by:
Statutes 2013, Chapter 28 (SB 71)

Filed on August 18, 2014
By Department of Finance, Requester

Case No.: CSM-4291 (14-MR-01)

CPR Pocket Masks

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

(Adopted March 27, 2015)

DECISION

The Commission on State Mandates (Commission) heard and decided this parameters and guidelines amendment during a regularly scheduled hearing on March 27, 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., California Code of Regulations, title 2, section 1190 et seq., and related case law.

The Commission [adopted/modified] the proposed decision and amendment to the parameters and guidelines at the hearing by a vote of [vote count will be included in the adopted decision].

I. Summary of Mandate Findings

This amendment to the parameters and guidelines is consistent with the Commission's finding that the state's liability pursuant to article XIII B, section 6(a) of the California Constitution for the *CPR Pocket Masks* program ended beginning July 1, 2013, based upon a subsequent change in law.⁷ Specifically, Statutes 2013, chapter 28 amended Penal Code section 13518.1, effective June 27, 2013, by deleting the mandatory language in the statute and replacing it with permissive language. Penal Code section 13518.1 is now performed at the option of the local law enforcement agencies, and there are no costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission, therefore, concluded that the *CPR Pocket Masks*, CSM-4291, program does not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning July 1, 2013.

⁷ Pursuant to Government Code section 17570(i), "[i]f the Commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the Commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to sections 17557, 17557.1, and 17557.2."

II. Procedural History

On January 23, 2015, the Commission adopted the decision for the first hearing and directed staff to schedule the second hearing.⁸ The draft proposed decision⁹ for the second hearing and the draft expedited amendment to parameters and guidelines¹⁰ were issued on January 30, 2015. On February 11, 2015, the State Controller's Office submitted comments recommending no changes on the draft proposed decision for the second hearing and the draft expedited amendment to the parameters and guidelines.¹¹

III. Commission Findings

The Commission finds the amendment to the parameters and guidelines for this program is supported by the findings adopted by the Commission in its new test claim decision with respect to the period of reimbursement, and other clarifying changes in accordance with the Government Code and the Commission's regulations.

IV. Conclusion

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

⁸ Exhibit A, Decision, First Hearing, adopted January 23, 2015.

⁹ Exhibit B, Draft Proposed Decision, Second Hearing, issued January 30, 2015.

¹⁰ Exhibit C, Draft Expedited Amendment to Parameters and Guidelines, issued January 30, 2015.

¹¹ Exhibit D, State Controller's Office Comments on the draft proposed decision for the second hearing and the draft expedited amendment to parameters and guidelines.

Amended: 3/27/15

Adopted: 7/28/88

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ITEM 4

AMENDMENT TO PARAMETERS AND GUIDELINES

Penal Code Section 13518.1

~~CHAPTER 1334, STATUTES OF~~ Statutes 1987, Chapter 1334 (AB 1726)

As Modified by:

Statutes 2013, Chapter 28 (SB 71)

CPR POCKET MASKS, CSM-4291 (14-MR-01)

The reimbursement period for this program ends beginning July 1, 2013

I. SUMMARY OF MANDATE

Chapter 1334, Statutes of 1987, added Section 13518.1 to the Penal Code to require every law enforcement agency employing peace officers, as described, to provide each peace officer with a portable manual mask and airway assembly designed to prevent the spread of communicable diseases when applying cardiopulmonary resuscitation.

II. COMMISSION ON STATE MANDATES' DECISION

The Commission on State Mandates (Commission), at its February 25, 1988, hearing, determined that a reimbursable mandate exists in Chapter 1334 Statutes of 1987.

On August 18, 2014, Department of Finance filed a request to adopt a new test claim decision on the CPR Pocket Masks, CSM-4291 program, asserting that Statutes 2013, chapter 28 (SB 71) is a subsequent change in law that ended the reimbursement period of the program pursuant to Government Code section 17570.

On March 27, 2015, the Commission adopted a new test claim decision pursuant to Government Code section 17570, finding that Statutes 2013, chapter 28 constitutes a subsequent change in law that ends the state's liability to reimburse local agencies for the CPR Pocket Masks program, CSM-4291 within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning July 1, 2013.

These parameters and guidelines have been amended in accordance to that decision.

III. ELIGIBLE CLAIMANTS

Any city, county, and special district (a district authorized by statute to maintain a police department) which incurs increased costs as a result of this mandate is eligible to claim reimbursement of those costs.

IV. PERIOD OF REIMBURSEMENT

Government Code section 17570(f) provides that a request for the adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year. The request for the adoption of a new test claim for 14-MR-01 was filed on August 18, 2014, establishing eligibility for the loss of reimbursement on or after July 1, 2013. Therefore, the reimbursement period for the test claim activities ended, beginning July 1, 2013.

~~Chapter 1334, Statutes of 1987 became effective January 1, 1988, and was signed into law on September 29, 1987. Section 17557 of the Government Code states that a test claim must be submitted on or before November 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed on December 2, 1987; therefore, costs incurred on or after September 30, 1987, are eligible for reimbursement.~~

~~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 Section 17561(d)(3) of the Government Code (GC), all claims for reimbursement of costs shall be submitted within 120 days of notification by the State Controller of the enactment of the claims bill.~~

~~If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise allowed by GC Section 17564.~~

V. REIMBURSABLE COSTS

A. Scope of Mandate

Law enforcement agencies shall be reimbursed for the increased costs of providing to each officer a portable manual mask and airway assembly.

B. Reimbursable Activities/Costs

For each eligible claimant, the following cost items are reimbursable:

1. Purchase of portable manual mask and airway assembly which meets the guidelines established by the Emergency Medical Services Authority. The per unit reimbursable cost of a portable manual mask shall be \$11.00 per mask, or the actual cost, whichever is less.
2. Repair or replacement of portable manual mask and/or airway assembly.

The activities for this program are no longer reimbursable as of July 1, 2013.

VI. CLAIM PREPARATION

Each claim for reimbursement pursuant to this mandate must be timely filed and set forth a listing of each item for which reimbursement is claimed under this mandate.

Claim details should include the following:

A. Employee Salaries and Benefits

Show the employee's job classification, actual number of hours devoted to each function, productive hourly rate, benefits, and mandated functions performed. The average number

of hours devoted to each function may be claimed in supported by a documented time study.

B. Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List the cost of materials acquired which have been consumed or expended specifically for the purposes of this mandate.

C. Allowable Overhead Costs

Cities and Counties have the option of using 10% of direct labor as indirect costs or 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

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of and the validity of such costs. These documents must be kept on file by the agency submitting the claim for a period of no less than three years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller or his agent.

VIII. OFFSETTING SAVINGS-AND-OTHER-REIMBURSEMENT

Any offsetting savings the claimant experiences as a direct result of this mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

IX. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY under penalty of perjury:

THAT the foregoing is true and correct;

THAT Sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with;

and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 12, 2015, I served the:

Proposed Decision and Amendment to Parameters and Guidelines

CPR Pocket Masks, CSM-4291 (14-MR-01)

Penal Code Section 13518.1; Statutes 1987, Chapter 1334

as modified by: Statutes 2013, Chapter 28 (SB 71)

California Department of Finance, Requester

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 12, 2015 at Sacramento, California.



Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/11/15

Claim Number: CSM-4291 (14-MR-01)

Matter: CPR Pocket Masks

Requester: Department of finance

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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