

ITEM 9

JOINT REQUEST FOR REASONABLE REIMBURSEMENT METHODOLOGY

AND STATEWIDE ESTIMATE OF COSTS

Welfare and Institutions Code Section 8103, Subdivisions (f) and (g)
Statutes 1999, Chapter 578

Firearm Hearings for Discharged Inpatients
07-RRM-01 (99-TC-11)

County of Los Angeles and Department of Finance, Joint Requestors

Executive Summary

Background

In 2007, AB 1222 (Stats. 2007, ch. 329) was enacted to establish an alternative to the Commission adopting parameters and guidelines and statewide cost estimates. Under AB 1222, the Department of Finance and local agencies and school districts may jointly develop reasonable reimbursement methodologies (RRMs) and statewide estimates of costs, and submit the joint proposals to the Commission for approval and adoption.

AB 1222 requires the Commission to approve the draft reasonable reimbursement methodology and adopt the statewide estimate of costs if review of the submitted information demonstrates that the methodology and estimate were developed in accordance with the provisions of AB 1222. AB 1222 also requires the Commission to send the reasonable reimbursement methodology to the Controller and report the statewide estimate of costs to the Legislature within 30 days of adoption, and include it in its Reports to the Legislature.

This is the first jointly-proposed reasonable reimbursement methodology and statewide estimate of costs to come before the Commission.

Summary of the Mandate

On April 26, 2006, the Commission on State Mandates adopted its Statement of Decision finding that subdivisions (f) and (g) of Welfare and Institutions Code section 8103, as amended by Statutes 1999, chapter 578 imposed a reimbursable state-mandated program on county, or city and county district attorney offices within the meaning of section 6 of article XIII B of the California Constitution.

The test claim statutes established hearing procedures for persons detained for mental health treatment and evaluation, and eventually discharged, to challenge the firearm prohibition law

through a civil hearing in superior court. Under the firearm prohibition law, the detained patient shall not own, possess, control, receive, or purchase a firearm for five years except as permitted pursuant to subdivisions (f) and (g) of the test claim statutes.

The County of Los Angeles (County) and the Department of Finance (Finance) filed the first Joint Request for a Reasonable Reimbursement Methodology and Statewide Estimate of Costs pursuant to AB 1222 (Gov. Code, §§ 17557.1-17557.2) on this mandate.¹

Reasonable Reimbursement Methodology

Government Code section 17518.5 defines a reasonable reimbursement methodology as a formula for reimbursing local agencies for costs mandated by the state. A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies, or other projections of local costs. A reasonable reimbursement methodology shall consider the variation in costs among local agencies to implement the mandate in a cost-efficient manner. Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs.

Government Code section 17557.2, subdivision (d), requires the Commission to approve the draft reasonable reimbursement methodology if review of the information submitted pursuant to section 17557.1 and subdivision (b) of this section demonstrates that the draft reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year have been developed in accordance with section 17557.1 and meet the requirements of subdivision (a).

Staff Analysis

Issue: Does the joint proposal meet the following statutory criteria?

- **The proposed reasonable reimbursement methodology is based on cost information from a representative sample of eligible claimants and considers the variation in costs among local agencies to implement the mandate in a cost efficient manner.**

The Department of Finance surveyed all district attorneys and requested cost, salary, and workload information. The survey responses were returned to the Department of Finance and the County of Los Angeles for review. Eighteen counties responded to the survey, representing a majority of the counties who process firearm hearing cases. The Department of Justice estimates that the total number of firearm hearings reported statewide is approximately 300 per year; and the average number of cases reported by the surveyed claimants is approximately 316. The RRM is based on the data of 13 counties. The number of cases reported may not have resulted in actual hearings, but the average cost assumes that most cases resulted in hearings. (See Exhibit B for a detailed description of the methodology, survey data, and workload estimates.)

The Department of Finance and the County of Los Angeles collaboratively developed the following reasonable reimbursement methodology rates to reimburse eligible claimants for all direct and indirect costs for the reimbursable activities:

¹ Exhibits A and B.

RRM Rates
For Fiscal Years 1998-99 to 2007-08

Fiscal Year	RRM Rate /Petitioned Case
1998-1999	\$36
1999-2000	\$41
2000-2001	\$46
2001-2002	\$51
2002-2003	\$56
2003-2004	\$61
2004-2005	\$66
2005-2006	\$71
2006-2007	\$76
2007-2008	\$81

The RRM allows each eligible claimant to be reimbursed based on the rates per petitioned case. The rate for subsequent years will be adjusted by the implicit price deflator.²

The RRM states, as follows:

State reimbursement shall be calculated by multiplying the RRM rate by the number of subject hearings pursuant to the test claim statutes for the specified year. The number of subject hearings shall be supported by document(s) showing the names of the petitioners and their hearing dates.

Based on the information provided by the requestors, staff finds that cost information from a representative sample of eligible local agency claimants and the variation in costs among local agencies to implement the mandate in a cost efficient manner were considered in the development of this reasonable reimbursement methodology.

- **The County of Los Angeles and the Department of Finance took steps to determine the level of claimant support for the draft reasonable reimbursement methodology.**

Throughout the development of the RRM, the Department of Finance and County of Los Angeles met regularly with the League of California Cities/California State Association of Counties SB 90 workgroup to provide updates on the development of the RRM proposal for the Firearm Hearings for Discharged Inpatients mandate and to address their questions as they arose. The three counties comprising approximately 82 percent of the estimated mandate costs were contacted specifically to identify if there was any opposition from the most likely claimants. When no opposition was received by those counties, Finance and Los Angeles County submitted the RRM proposal to the Commission. Additionally, Finance sent an email request for support to the survey respondents and Los Angeles County sent an email, on behalf of the SB90 workgroup, requesting support from the California State Association of Counties.

² Exhibit E.

- **The RRM agreement includes a section proposing that the agreement be in effect for a term or period of two years, or upon submission to the Commission of a letter indicating the Department of Finance and test claimant’s joint interest in early termination of the reasonable reimbursement methodology.**

This requirement is met in Section III of the proposed agreement.

- **The RRM agreement includes an agreement that, at the conclusion of the period or term, the Department of Finance and the test claimant will consider jointly whether amendments to the RRM are necessary. (Gov. Code, § 17557.2, subd. (b)(5).)**

Although Section IV of the agreement addresses how the agreement may be amended, there is no sentence that expressly states what is required by Government Code section 17557.2, subdivision (b)(5). Staff recommends that a sentence be added to Section IV of the agreement to satisfy this statutory requirement.

There is broad support for the proposed reasonable reimbursement methodology.

Government Code section 17557.2, subdivision (a) states that a reasonable reimbursement methodology developed pursuant to section 17557.1 shall have broad support from a wide range of local agencies. The test claimant and the Department of Finance may demonstrate broad support from a wide range of local agencies in different ways, including, but not limited to, obtaining endorsements by one or more statewide associations of local agencies and securing letters of approval from local agencies. Staff reviewed the RRM proposal and supporting documentation submitted by the County of Los Angeles and Department of Finance and finds that there is broad support for this proposal because it is supported by the California State Association of Counties, and specifically by the counties of Butte, Kern, Los Angeles, San Bernardino, and Santa Clara.³ Moreover, no county has opposed this proposal.

Therefore, staff finds that the proposed reasonable reimbursement methodology has been developed in accordance with section 17557.1 and meets the requirements of Government Code section 17557.2, subdivision (a).

Statewide Estimate of Costs

If the Commission adopts the proposed Reasonable Reimbursement Methodology, the Commission thereafter shall adopt the proposed statewide estimate of costs for the initial claiming period and budget year.

The County of Los Angeles and the Department of Finance submitted a proposed Statewide Estimate of Costs based on the RRM described above and survey data, for the initial reimbursement period. If adopted, reimbursement claims would be paid from an appropriation in the 2009-2010 budget.

³ Exhibit D.

Statewide Estimate of Costs (Fiscal Years 1998-99 to 2007-08)
Firearm Hearings for Discharged Inpatients

Fiscal Year	Number of Cases*	RRM	<i>Total Costs</i>
1998-1999	0	\$36	\$0.00
1999-2000	343	\$41	\$14,063
2000-2001	261	\$46	\$12,006
2001-2002	232	\$51	\$11,832
2002-2003	376	\$56	\$21,056
2003-2004	596	\$61	\$36,356
2004-2005	232	\$66	\$15,312
2005-2006	154	\$71	\$10,934
2006-2007	116	\$76	\$8,816
2007-2008	300	\$81	\$24,300
Statewide estimate of costs	2,910		\$154,675

*Estimated average number of cases per year.

The SEC includes nine fiscal years for a total cost of \$154,675 (no costs were incurred in the 1998-99 fiscal year). This averages to \$17,186 per year.

Recommendation

Staff recommends that the Commission:

- Approve the proposed reasonable reimbursement methodology, as revised by staff. (Pages 9-12.)
- Adopt the statewide estimate of costs. (Pages 13-15.)
- Authorize staff to make technical corrections, before the adopted reasonable reimbursement methodology is sent to the State Controller's Office for inclusion in claiming instructions.

DRAFT

**Proposed Reasonable Reimbursement Methodology
Jointly Requested by the County of Los Angeles and Department of Finance**

**Statement of Decision: Firearm Hearings for Discharged Inpatients (99-TC-11)
Welfare and Institutions Code Section 8103 Subdivisions (f) and (g)
Chapter 578, Statutes of 1999
Proposed for Adoption: June 26, 2008**

**Initial Period of Reimbursement: July 1, 1998 through June 30, 2007
Budget Year: 2009-2010**

Counties and City and County (Eligible Claimants)

I. Summary of the Mandate

On April 26, 2006, the Commission adopted its Statement of Decision finding that subdivisions (f) and (g) of Section 8103 of the Welfare and Institutions Code (test claim legislation) impose a reimbursable state-mandated program on county or city and county district attorney offices within the meaning of Section 6 of Article XIII B of the California Constitution and Section 17514 of the Government Code for the district attorney's activities in representing the People of the State of California in civil hearings.

Chapter 578, Statutes of 1999 established hearing procedures for persons detained for mental health treatment and evaluation, and eventually discharged, to challenge the firearm prohibition law through a civil hearing in superior court. Under the firearm prohibition law, the detained patient shall not own, possess, control, receive, or purchase a firearm for five years except as permitted pursuant to subdivisions (f) and (g) (subject hearings) of the test claim legislation.

Reimbursable Activities

Any county or city and county that has a district attorney's office that incurs increased costs may claim reimbursement for the activities identified below at the rates established by the RRM:

1. District attorney services required to process a case related to the subject hearings. Activities include, but are not limited to, performing necessary legal tasks to prepare and plead case at the hearing.
2. Legal secretary/paralegal services required to process a case related to the subject hearings. Activities include, but are not limited to, performing administrative functions necessary to process documents for the hearing.

3. Expert witness services required to provide consultation on a case related to the subject hearings. Activities include consulting services provided at the hearing.

These activities are reasonable methods of complying with a mandate pursuant to paragraph (4) of subdivision (a) of Section 1183.1, Title 2, of the California Code of Regulations.

Reimbursement Period

The reimbursement period for the mandate begins September 29, 1999 for subdivision (f) of section 8103 of the Welfare and Institutions Code and begins July 1, 1998 for subdivision (g) of section 8103 of the Welfare and Institutions Code.

II. Reasonable Reimbursement Methodology

A reasonable reimbursement methodology means a formula for reimbursing local agencies for costs mandated by the state, as defined in section 17514 of the Government Code. A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies, or other projections of local costs. A reasonable reimbursement methodology shall consider the variation in costs among local agencies to implement the mandate in a cost-efficient manner. Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. (Gov. Code, § 17518.5)

The Department of Finance (Finance) and the County of Los Angeles (county claimant) collaboratively developed the following reasonable reimbursement methodology (RRM) rates to reimburse eligible claimants for all direct and indirect costs for the reimbursable activities specified in Section I above, pursuant to Government Code sections 17557.1-17557.2.

RRM Rates
For Fiscal Years 1998-99 to 2007-08

Fiscal Year	RRM Rate /Petitioned Case
1998-1999	\$36
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The RRM allows each eligible claimant to be reimbursed based on the rates per petitioned case. The rate for subsequent years will be adjusted by the implicit price deflator.

State reimbursement shall be calculated by multiplying the RRM rate by the number of subject hearings pursuant to the test claim statutes for the specified year. The number of subject hearings shall be supported by document(s) showing the names of the petitioners and their hearing dates.

An eligible claimant may file a reimbursement claim pursuant to the Controller's claiming instructions. Pursuant to Section 17561 of the Government Code, reimbursement for state-mandated costs may be claimed as follows:

1. For initial reimbursement claims for fiscal years 1998-1999 through 2006-2007, eligible claimants shall submit claims based on the RRM to the Controller within 120 days of the date the claiming instructions are issued.
2. An eligible claimant may, by February 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim based on the RRM for costs incurred for that fiscal year.
3. In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 of the Government Code between November 15 and February 15, an eligible claimant filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Section 17564 of the Government Code.

There also shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

III. Terms of Agreement

The terms of the RRM agreement shall be in effect for two years and expire on June 30, 2010, unless Finance and the county claimant submit a joint request for early termination of the RRM pursuant to subdivision (a) of Section 17557.2 of the Government Code or the test claim statutes are repealed.

The terms of subdivision (b) of Section 6 of the Article XIII B of the California Constitution also shall apply to this agreement, and require that beginning in fiscal year 2009-2010, the Legislature shall suspend the mandate for that fiscal year, or provide reimbursement in the annual Budget Act.

IV. Amendment of Agreement

The terms of the agreement may be renewed, pursuant to Section 17557.2 of the Government Code, if Finance and the county claimant jointly propose amendments or, after the term expiration date, propose the RRM remain in effect. The parties may also elect to allow the

RRM to expire on June 30, 2010 by notifying the Commission on State Mandates (Commission) that the county claimant will submit proposed parameters and guidelines subject to the Commission's procedures.

V. Record Retention

The document(s) used to support the application of a reasonable reimbursement methodology is subject to an audit by the State Controller's Office (Controller). The number of subject hearings claimed for reimbursement is subject to verification with records on file with the Department of Justice. The Controller may initiate an audit within three years of the date that the actual reimbursement claim is filed or last amended, whichever is later. 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.

Proposed Statewide Estimate of Costs

Jointly Developed by the County of Los Angeles and Department of Finance

**Statement of Decision: Firearm Hearings for Discharged Inpatients (99-TC-11)
Welfare and Institutions Code Section 8103, Subdivisions (f) and (g)
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**Proposed for Adoption: June 26, 2008
Initial Period of Reimbursement: July 1, 1998 through June 30, 2007
Budget Year: 2009-2010**

Counties and City and County (Eligible Claimants)

I. Summary of Proposed Statewide Estimate of Costs

The Department of Finance and the County of Los Angeles (county claimant) developed the statewide estimate of costs based on self-reported, unaudited survey data from eighteen (18) counties responding to the Firearm Hearings for Discharged Inpatients Reasonable Reimbursement Methodology survey.

According to the Department of Justice (DOJ), the eighteen respondents represented the majority of the counties who process firearm hearing cases under the test claim statutes. DOJ estimated that the total number of these firearm hearing cases reported statewide is approximately 300 per year; and the average number of cases reported by the surveyed claimants is approximately 316. Although DOJ estimated that the average number of cases may increase to 600 per year, this increase has not been reflected in the statewide estimate of costs.

The SEC may decrease if some eligible county claimants are unable to meet the \$1,000 minimum threshold for filing reimbursement claims, or may increase if the number of cases increases to 600 per year.

Statewide Estimate of Costs (Fiscal Years 1998-99 to 2007-08)
Firearm Hearings for Discharged Inpatients

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II. Summary of the Mandate and Reimbursable Activities

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Statutes 1999, Chapter 578 established hearing procedures for persons detained for mental health treatment and evaluation, and eventually discharged, to challenge the firearm prohibition law through a civil hearing in superior court. Under the firearm prohibition law, the detained patient shall not own, possess, control, receive, or purchase a firearm for five years except as permitted pursuant to subdivisions (f) and (g) (subject hearings) of the test claim statutes.

Any county or city and county that has a district attorney's office that incurs increased costs may claim reimbursement for the activities identified below, at the rates established by the reasonable reimbursement methodology adopted by the Commission.

1. District attorney's services required to process a case related to the subject hearings. Activities include, but are not limited to, performing necessary legal tasks to prepare and plead case at the hearing.
2. Legal secretary/paralegal services required to process a case related to the subject hearings. Activities include, but are not limited to, performing administrative functions necessary to process documents for the hearing.
3. Expert witness services required to provide consultation on a case related to the subject hearings. Activities include consulting services provided at the hearing.

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