

**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov

November 20, 2012

Ms. Juliana Gmur  
1865 Hernden Avenue, Suite K-44  
Clovis, CA 93611

*And Affected State Agencies and Interested Parties (see enclosed mailing list)*

**RE: Proposed Parameters and Guidelines and Statement of Decision and  
Notice of Hearing**

*Tuberculosis Control, 03-TC-14*

Health and Safety Code Sections 121361, 121362, and 121366

Statutes 1993, Chapter 676; Statutes 1994, Chapter 685; Statutes 1997, Chapters 116;  
and Statutes 2002, Chapter 763

County of Santa Clara, Claimant

Dear Ms. Gmur:

The proposed parameters and guidelines and statement of decision for the above-named matter are enclosed.

**Hearing**

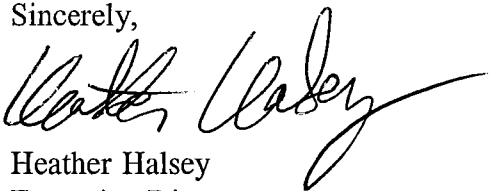
This matter is set for hearing on **Friday December 7, 2012**, at 10:00 a.m., in the State Capitol, Room 447, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) 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.

Please contact Kerry Ortman at (916) 323-3562 if you have any questions.

Sincerely,

  
Heather Halsey  
Executive Director

**ITEM 5**  
**PROPOSED PARAMETERS AND GUIDELINES**  
**AND**  
**STATEMENT OF DECISION**

Health and Safety Code sections 121361, 121362 and 121366

Statutes 1993, Chapter 676; Statutes 1994, Chapter 685;  
Statutes 1997, Chapter 116; and Statutes 2002, Chapter 763

*Tuberculosis Control*

03-TC-14

County of Santa Clara, Claimant

**EXECUTIVE SUMMARY**

The following is the proposed statement of decision for this matter prepared pursuant to section 1188.1 of the Commission's regulations. As of January 1, 2011, Commission hearings on the adoption of proposed parameters and guidelines are conducted under article 7 of the Commission's regulations.<sup>1</sup> Article 7 hearings are quasi-judicial hearings. The Commission is required to adopt a decision that is correct as a matter of law and based on substantial evidence in the record.<sup>2</sup> Oral or written testimony is offered under oath or affirmation in article 7 hearings.<sup>3</sup>

**I. Summary of the Mandate**

The *Tuberculosis Control* (03-TC-14) test claim addresses the activities required of local detention facilities and local health officers (LHOs) relating to tuberculosis (TB) control.

On October 27, 2011, the Commission on State Mandates (Commission) adopted a statement of decision for the test claim finding that the test claim statutes impose a partially reimbursable state-mandated program upon counties and cities within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local detention facilities to:
  - Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the LHO when a person with active TB or reasonably believed to have active TB is discharged or released from the detention facility; and

---

<sup>1</sup> California Code of Regulations, Title 2, section 1187.

<sup>2</sup> Government Code section 17559(b); California Code of Regulations, Title 2, 1187.5.

<sup>3</sup> *Ibid.*

- Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the LHO and the medical officer of the local detention facility receiving the person when a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction.
- For LHOs to:
  - Review for approval within 24 hours of receipt only those treatment plans submitted by a health facility; and
  - Notify the medical officer of a parole region or a physician or surgeon designated by the Department of Corrections when there are reasonable grounds to believe that a parolee has active TB and ceases treatment for TB.
- For counties or specified cities to provide counsel to non-indigent TB patients who are subject to an order of detention.

## **II. Procedural History**

On October 27, 2011, the Commission adopted a statement of decision for the test claim. On December 1, 2011, the claimants submitted proposed parameters and guidelines to the Commission. On January 4, 2012, the State Controller’s Office filed comments on the proposed parameters and guidelines. On October 17, 2012 the Commission issued a draft staff analysis and proposed parameters and guidelines with a comment period ending on November 6, 2012. On November 2, 2012, the State Controller’s Office filed comments on the proposed parameters and guidelines stating that they recommended no changes. On November 6, 2012, the Department of Finance filed comments stating that they found the reimbursable activities in the proposed parameters and guidelines consistent with the statement of decision. On November 15, 2012 the claimant filed a late declaration in support of its proposed parameters and guidelines.

## **III. Staff Analysis**

The claimant’s proposed parameters and guidelines seek reimbursement for several activities that are not specifically mandated by the plain language of the statutes approved by the Commission. Government Code section 17557(a) and section 1183.1 (a)(4) of the Commission’s regulations authorize the Commission to include the “most reasonable methods of complying with the mandate” in the parameters and guidelines. The “most reasonable methods of complying with the mandate” are “those methods not specified in statute or executive order that are necessary to carry out the mandated program.” However, a finding that an activity is necessary to carry out the mandated program must be supported by evidence in the record.<sup>4</sup> At the writing of the draft staff analysis, there was no evidence in the record to support the claimant’s request.

In response to the draft staff analysis, the claimant filed a declaration supporting several activities related to the LHO’s receipt and review for approval of treatment plans submitted by a health facility pursuant to Health and Safety Code section 121361(a)(2). Where this additional evidence supports a finding that activities may be necessary to carry out the mandated program, those activities have been included in the parameters and guidelines. However, staff finds that

---

<sup>4</sup> Government Code section 17559; California Code of Regulations, title 2, sections 1183.14, 1187.5.

the requested activities to “send out referral to regional unit for field staff assignment for home assessment and follow-up”, and “coordinate with field staff to ensure that TB patient and household/congregate setting have safe environment for discharge” go beyond the scope of the limited mandate in section 121361(a)(2), and are not reimbursable.

Staff has modified the proposed reimbursable activities to incorporate the language provided in statute, and consistent with the Commission’s statement of decision on the test claim. Section IV of the parameters and guidelines authorizes reimbursement for the following activities:

A. The following activities mandated by Health and Safety Code sections 121361 and 121362 are eligible for reimbursement:

1. For local detention facilities:

- a. When a person with active TB or reasonably believed to have active TB is discharged or released from a detention facility:
  - i. Draft and submit notification to the Local Health Officer; and
  - ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer.

Drafting the written treatment plan is *not* eligible for reimbursement.

b. When a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction:

- i. Draft and submit notification to the Local Health Officer and the medical officer of the local detention facility receiving the person; and
- ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer and the medical officer of the local detention facility receiving the person.

Drafting the written treatment plan is *not* eligible for reimbursement.

2. For Local Health Officers or others acting at the direction of the Local Health Officer:

- a. Receive and review for approval within 24 hours of receipt only those treatment plans submitted by a health facility. This activity includes the following:
  - Receive health facility’s treatment plan.
  - Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.
  - Coordinate with health facility on any adjustments to the treatment plan.
  - Send approval to health facility.
- b. Draft and send a notice to the medical officer of a parole region, or a physician or surgeon designated by the Department of Corrections, when there are reasonable grounds to believe that a parolee has active TB and ceases treatment for TB.

B. The following activity mandated by Health and Safety Code section 121366 is eligible for reimbursement:

1. Provide counsel to *non-indigent* TB patients who are subject to a civil order of detention issued by a Local Health Officer pursuant to Health and Safety Code section 121365 upon request of the patient. Services provided by counsel include representation of the TB patient at any court review of the order of detention required by Health and Safety section 121366.

In addition, the claimant's proposed parameters and guidelines include boilerplate language in Section V, authorizing eligible claimants to receive reimbursement for the direct costs of training. Training has not been approved by the Commission as a reimbursable activity, and there is no evidence in the record that training is reasonably necessary to comply with the mandated activities. Thus, the direct cost of training has been deleted from claimant's proposed parameters and guidelines. Costs incurred by a local agency for training are not eligible for reimbursement.

Finally, staff modified Section VII, Offsetting Revenues and Reimbursement, to incorporate the Commission's finding that fees and assessments from Health and Safety Code section 101325 are considered potential offsetting revenue for this program.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statement of decision on the parameters and guidelines and the attached parameters and guidelines. Staff further recommends that the Commission authorize staff to make non-substantive, technical corrections to the statement of decision and parameters and guidelines following the Commission hearing on this matter.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES  
FOR:

Health and Safety Code sections 121361,  
121362 and 121366

Statutes 1993, Chapter 676; Statutes 1994,  
Chapter 685; Statutes 1997, Chapter 116; and  
Statutes 2002, Chapter 763

Period of reimbursement beginning:  
July 1, 2002

Case No.: 03-TC-14

*Tuberculosis Control*

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

*(Proposed for Adoption: December 7, 2012)*

**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) adopted this statement of decision and parameters and guidelines during a regularly scheduled hearing on December 7, 2012. [Witness list will be included in the final statement of 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 sections 17500 et seq., and related case law.

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

**I. Summary of the Mandate**

This program addresses the activities required of local detention facilities and local health officers (LHOs) relating to tuberculosis (TB) control.

On October 27, 2011, the Commission adopted a statement of decision finding that the test claim statutes a impose a partially reimbursable state-mandated program upon counties and cities within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local detention facilities to:
  - Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the LHO when a person with active TB or reasonably believed to have active TB is discharged or released from the detention facility; and

- Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the LHO and the medical officer of the local detention facility receiving the person when a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction.
- For LHOs to:
  - Review for approval within 24 hours of receipt only those treatment plans submitted by a health facility; and
  - Notify the medical officer of a parole region or a physician or surgeon designated by the Department of Corrections when there are reasonable grounds to believe that a parolee has active TB and ceases treatment for TB.
- For counties or specified cities to provide counsel to non-indigent TB patients who are subject to an order of detention.

## **II. Procedural History**

On October 27, 2011, the Commission adopted the statement of decision approving the test claim.<sup>5</sup> Pursuant to Government Code section 17557 and Section 1183.11 of the Commission's regulations, the claimants submitted proposed parameters and guidelines to the Commission on December 1, 2011.<sup>6</sup>

On January 4, 2012, the State Controller's Office filed comments stating that they recommended no changes to the claimants' proposed parameters and guidelines.<sup>7</sup>

On October 17, 2012, the Commission issued the draft statement of decision and the draft proposed parameters and guidelines with a comment period ending on November 6, 2012.<sup>8</sup>

On November 2, 2012, the State Controller's Office filed a second set of comments stating that they recommended no changes to the proposed parameters and guidelines.<sup>9</sup>

On November 6, 2012, the Department of Finance filed comments stating that they found the reimbursable activities in the proposed parameters and guidelines consistent with the statement of decision.<sup>10</sup>

On November 15, 2012, the claimant filed a late declaration in support of their proposed parameters and guidelines.<sup>11</sup>

---

<sup>5</sup> Exhibit A.

<sup>6</sup> Exhibit B.

<sup>7</sup> Exhibit C.

<sup>8</sup> Exhibit C.

<sup>9</sup> Exhibit E.

<sup>10</sup> Exhibit F.

<sup>11</sup> Exhibit G. This declaration was a late filing. In this case claimant submitted the late filing with apologies and good cause. However, the late filing of comments has resulted in Commission staff rewriting the proposed parameters and guidelines and statement of decision.

### III. Commission Findings

The Commission reviewed the claimants' proposed parameters and guidelines and comments received. Non-substantive, technical changes for purposes of clarification, consistency, and conformity to the statement of decision and statutory language have been made. The following analysis addresses the substantive changes adopted by the Commission.

#### A. Reimbursable Activities

The claimant's proposed parameters and guidelines request reimbursement for the following activities:

For local detention facilities:

Draft and send notice and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer when a person with active TB or reasonably believed to have active TB is discharged or released from the detention facility.

Draft and send notice and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer and the medical officer of the local detention facility receiving the person when a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction.

The claimant's request for reimbursement for the local detention facility to "draft and send notice and a written treatment plan" to either the LHO or local detention facility in another jurisdiction is too broad and goes beyond the scope of the mandate approved by the Commission. The Commission found that submitting the notification and the written treatment plan was reimbursable. The notification is new and, thus, drafting the notification is required. But the Commission denied the activity to prepare the written treatment plan in the statement of decision on the test claim because that activity does not constitute a new program or higher level of service. Thus, the parameters and guidelines include the following reimbursable activities required by Health and Safety Code sections 121361 and 121362:

1. For local detention facilities:

---

This has caused significant disruptions in work flow and has taken staff away from working on matters for the January hearing. Several parties (though generally not this claimant representative) have taken to routinely filing late comments without requesting an extension of time to file comments for good cause, as is provided for under the Commission's regulations. The net result of this practice is to increase delays in the processing of matters pending before the Commission. Under the Commission's regulations, a three week comment period is provided and "all comments timely filed shall be reviewed by Commission staff and may be incorporated into the final written analysis." (Cal. Code Regs., tit. 2, 1183.07(c).) However, written testimony received at least 15 days in advance of the hearing [i.e. late filings], shall be included in the Commission's meeting binders. (Cal. Code Regs., tit. 2, § 1187.6.) Thus, there is no requirement for staff to review late comments or include an analysis of them in the final staff analysis and proposed decision.



- a. When a person with active TB or reasonably believed to have active TB is discharged or released from a detention facility:
  - i. Draft and submit notification to the Local Health Officer; and
  - ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer.

Drafting the written treatment plan is *not* eligible for reimbursement.

- b. When a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction:
  - i. Draft and submit notification to the Local Health Officer and the medical officer of the local detention facility receiving the person; and
  - ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer and the medical officer of the local detention facility receiving the person.

Drafting the written treatment plan is *not* eligible for reimbursement.

The claimant also proposes adding the following activities to the approved activity of the LHO reviewing a treatment plan within 24 hours of receipt from the health facility:

- Receive health facility's treatment plan.
- Send out referral to regional unit for field staff assignment for home assessment and follow-up.
- Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.
- Coordinate with health facility on any adjustments to the treatment plan.
- Coordinate with field staff to ensure that TB patient and household/congregate setting have safe environment for discharge.
- Send approval to health facility.

On November 15, 2012, the claimant filed a declaration of Teeb Al-Samarrai M.D., a Deputy Health Officer for the County of Santa Clara, in support of the claimant's request.<sup>12</sup> The declaration states in relevant part the following:

2. As part of my job, I am responsible for the review for approval within 24 hours of receipt TB treatment plans submitted by health facilities under Health and Safety Code section 121361, subdivision (a)(2).
3. The purpose of this review is to prevent transmission of active Tuberculosis and ensure appropriate treatment and follow-up for TB patients on discharge from health facilities.
4. To ensure that this purpose is met, the process is as follows: After receiving the health facility's treatment plan, I send a request to health facility for

---

<sup>12</sup> Exhibit G.

medical records and information on how the diagnosis was determined and the treatment prescribed.

5. Once the requested information arrives, I review the records. This review ensures that the appropriate treatment has been prescribed.
6. I then coordinate with the health facility, often requiring a discussion with physicians and/or other health facility staff on any adjustments to the treatment plan. I also review the assessment and evaluation performed by our case management staff to ensure that the disposition is appropriate. The disposition assessment ensures that the place where the patient is being discharged is safe for both the patient, household, facility or community members.
7. Finally, I approve the treatment plan by signing it and I send the approval to the health facility.

These activities are not specified in Health and Safety Code sections 121361 and 121362. However, Government Code section 17557(a) and section 1183.1(a)(4) of the Commission's regulations authorize the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines. The "most reasonable methods of complying with the mandate" are "those methods not specified in statute or executive order that are necessary to carry out the mandated program." A finding that an activity is necessary to carry out the mandated program must be supported by evidence in the record.<sup>13</sup>

The Commission finds that the following proposed activities are consistent with the test claim statutes and the test claim decision, and based on evidence in the record, are reasonably necessary to comply with the mandate:

- Receive health facility's treatment plan.
- Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.
- Coordinate with health facility on any adjustments to the treatment plan.
- Send approval to health facility.

Health and Safety Code section 121361(a)(2) provides that any treatment plan submitted for approval shall be reviewed by the LHO within 24 hours of receipt. Thus, receipt of the treatment plan is reasonably necessary to comply with this activity.

In addition, the declaration from the Santa Clara Deputy LHO demonstrates that both the request for supporting information and coordination with the health facility on any adjustments to the treatment plan are reasonably necessary to comply with the mandate to review the treatment plan for approval. Health and Safety Code section 121361(a)(2) states that "persons specified in this subdivision may be discharged from a health facility *only after*<sup>14</sup> a written treatment plan described in Section 121362 is approved by a local health officer of the jurisdiction in which the

---

<sup>13</sup> Government Code section 17559; California Code of Regulations, title 2, sections 1183.14, 1187.5.

<sup>14</sup> Italics added for emphasis.

health facility is located.” Because the health facility may discharge *only after* approval of the treatment plan, it is reasonably necessary that the LHO transmit that approval to the health facility in order to comply with the mandate.

However, the following two proposed activities go beyond the scope of the limited mandate in Health and Safety Code section 121361(a)(2) to review the treatment plan for approval:

- Send out referral to regional unit for field staff assignment for home assessment and follow-up.
- Coordinate with field staff to ensure that TB patient and household/congregate setting have safe environment for discharge.

Health and Safety Code section 121362 describes the contents of the written treatment plan to include the following information: patient name; address; date of birth; tuberculin skin test results; pertinent radiologic, microbiologic, and pathologic reports that are final or pending; updated clinical status and laboratory results at the time of discharge, release, or transfer; and any other information required by the LHO. The content of the treatment plan does not require the above activities related to home assessments or ensuring a safe environment for discharge. Health and Safety Code section 121363 does address examination of household contacts by the health care provider, but was not approved by the Commission as imposing any reimbursable activities on the LHO under article XIII B, section 6 of the California Constitution.

Accordingly, the parameters and guidelines identify the following reimbursable activities:

2. For Local Health Officers or others acting at the direction of the Local Health Officer:
  - a. Receive and review for approval within 24 hours of receipt only those treatment plans submitted by a health facility. This activity includes the following:
    - Receive health facility’s treatment plan.
    - Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.
    - Coordinate with health facility on any adjustments to the treatment plan.
    - Send approval to health facility.

In addition, the Commission found that Health and Safety Code section 121366 imposed a reimbursable state-mandated activity to provide counsel to non-indigent TB patients who are subject to an order of detention. Section 121366 authorizes the LHO to detain for examination or treatment a person who is the subject of an order of detention issued pursuant to Health and Safety Code section 121365. The statute requires that if a TB patient requests release from detention or is detained for more than 60 days, the order is required to be reviewed by the court. The TB patient shall remain in detention in those circumstances only when a court order authorizes the detention. In addition, the LHO is required to seek further court review of the detention within 90 days of each subsequent court review. A non-indigent TB patient who “is subject to a detention order shall have the right to be represented by counsel and upon the request of the person, counsel shall be provided.”

Regarding this activity, the claimant requests reimbursement for “costs incurred by counsel and counsel’s staff to review file; consult with client; provide legal research; draft legal memoranda; draft, file and serve motions, subpoenas, declarations, discovery, responses or other legal documents or filings; and prepare for and appear at hearings, settlements and/or mediations.”

Although these activities are generally conducted by attorneys in the course of providing general legal counsel, there is no evidence in the record that these activities are reasonably necessary to comply with the mandate in Health and Safety Code section 121366 to provide counsel to non-indigent TB patients who are subject to a civil order of detention issued by the LHO. The Commission has revised the language of this reimbursable activity consistent with Health and Safety Code section 121366 and, thus, the parameters and guidelines authorize reimbursement for the following activity:

Provide counsel to non-indigent TB patients who are subject to a civil order of detention issued by a Local Health Officer pursuant to Health and Safety Code section 121365 upon request of the patient. Services provided by counsel include representation of the TB patient at any court review of the order of detention required by Health and Safety Code section 121366.

Finally, the claimant has requested, and the SCO has not opposed, the request to include time study language in the parameters and guidelines. This language is included in the parameters and guidelines and provides the following:

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of effort are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller’s Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller’s Office.

#### B. Offsetting Revenues and Reimbursements

The Commission found that fees and assessments from Health and Safety Code section 101325 are considered potential offsetting revenue for this program. Thus, Section VII of the parameters and guidelines provides that to the extent local agencies receive any revenue from fees and assessments as a result of Health and Safety Code section 101325, and that revenue is applied to the reimbursable activities, the revenue must be identified and deducted from the costs claimed.

#### C. Boilerplate Language Regarding Training

The claimant’s proposed parameters and guidelines include boilerplate language in Section V, authorizing eligible claimants to receive reimbursement for the direct costs of training. Training has not been approved by the Commission as a reimbursable activity, and there is no evidence in the record that training is reasonably necessary to comply with the mandated activities. Thus, the direct cost of training has been deleted from claimant’s proposed parameters and guidelines. Costs incurred by a local agency for training are not eligible for reimbursement.

#### **IV. Conclusion**

The Commission adopts the parameters and guidelines and statement of decision for the *Tuberculosis Control*, 03-TC-14, with a period of reimbursement beginning July 1, 2002.

## PROPOSED PARAMETERS AND GUIDELINES

Health and Safety Code sections 121361, 121362 and 121366

Statutes 1993, ~~chapter~~ [Chapter](#) 676,; Statutes 1994, ~~chapter~~ [Chapter](#) 685,;  
Statutes 1997, ~~chapter~~ [Chapter](#) 116,; and Statutes 2002, ~~chapter~~ [Chapter](#) 763

### *~~Tuberculosis~~ Control*

03-TC-14

~~County of Santa Clara, Claimant~~

#### I. SUMMARY OF THE MANDATE

On October 27, 2011, the Commission on State Mandates (Commission) adopted a [Statement statement](#) of ~~Decision~~ [decision](#) finding that the test claim ~~legislation~~ [statutes](#) imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities:

- For local detention facilities to:
  - Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the ~~LHO~~ [Local Health Officer](#) when a person with active TB or reasonably believed to have active TB is discharged or released from the detention facility; and
  - Submit notification and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the ~~LHO~~ [Local Health Officer](#) and the medical officer of the local detention facility receiving the person when a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction
- For ~~LHOs~~ [Local Health Officers](#) to:
  - Review for approval within 24 hours of receipt only those treatment plans submitted by a health facility; and
  - Notify the medical officer of a parole region or a physician or surgeon designated by the Department of Corrections when there are reasonable grounds to believe that a parolee has active TB and ceases treatment for TB.
- For counties or specified cities to provide counsel to non-indigent TB patients who are subject to an order of detention.

## II. ELIGIBLE CLAIMANTS

Any city, county, and city and county that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

## III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The County of Santa Clara filed the test claim on September 26, 2003, establishing eligibility for reimbursement on or after July 1, 2002. Therefore, costs incurred pursuant to Health and Safety Code sections 121361, 121362 and 121366 are reimbursable on or after July 1, 2002.

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 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. (Government Code section 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.
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.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Activities that require varying levels of effort are not appropriate for time studies. Claimants wishing to use time studies to support salary and benefit costs are required to comply with the State Controller's Time-Study Guidelines before a time study is conducted. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are reimbursable:

A. The following activities mandated by Health and Safety Code sections 121361 and 121362 are eligible for reimbursement:

1. For local detention facilities:

~~Draft and send notice and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer when a person with active TB or reasonably believed to have active TB is discharged or released from the detention facility.~~

~~Draft and send notice and a written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer and the medical officer of the local detention facility receiving the person when a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction.~~

a. When a person with active TB or reasonably believed to have active TB is discharged or released from a detention facility,:

- i. Draft and submit notification to the Local Health Officer,; and
- ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer.

Drafting the written treatment plan is *not* eligible for reimbursement.

b. When a person with active TB or reasonably believed to have active TB is transferred to a local detention facility in another jurisdiction,:

- i. Draft and submit notification to the Local Health Officer and the medical officer of the local detention facility receiving the person,; and
- ii. Submit the written treatment plan that includes the information required by Health and Safety Code section 121362 to the Local Health Officer and the medical officer of the local detention facility receiving the person.

Drafting the written treatment plan is *not* eligible for reimbursement.

2. For Local Health Officers or others acting at the direction of the Local Health Officer:



a. Receive and Rreview for approval within 24 hours of receipt only those treatment plans submitted by a health facility. This activity includes the following:

- Receive health facility's treatment plan.
- Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.
- Coordinate with health facility on any adjustments to the treatment plan.
- Send approval to health facility.
- ~~Receive health facility's treatment plan.~~
- ~~Send out referral to regional unit for field staff assignment for home assessment and follow up.~~
- ~~Send request to health facility for medical records and information on TB medications, dosages and diagnostic work-up. Review records and information.~~
- ~~Coordinate with health facility on any adjustments to the treatment plan.~~
- ~~Coordinate with field staff to ensure that TB patient and household/congregate setting have safe environment for discharge.~~
- ~~Send approval to health facility.~~

b. Draft and send a notice to the medical officer of a parole region, or a physician or surgeon designated by the Department of Corrections, when there are reasonable grounds to believe that a parolee has active TB and ceases treatment for TB.

B. For counties or specified citiesThe following activity mandated by Health and Safety Code section 121366 is eligible for reimbursement:

1. PFor cities, counties, and cities and counties to provide counsel to *non-indigent* TB patients who are subject to an -civil order of detention issued by a Local Health Officer pursuant to Health and Safety Code section 121365 upon request of the patient. Services provided by counsel include representation of the TB patient at any court review of the order of detention required by Health and Safety Code section 121366. which includes, but is not limited to, costs incurred by counsel and counsel's staff to review file; consult with client; provide legal research; draft legal memoranda; draft, file and serve motions, subpoenas, declarations, discovery, responses or other legal documents or filings; and prepare for and appear at hearings, settlements and/or mediations.

## 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 and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment 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.

~~6. Training~~  
~~Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of~~

~~cost element A.1., Salaries and Benefits, and A.2., Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3., Contracted Services.~~

## 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 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)).

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 and 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 which 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 and 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, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation

---

<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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, [fees and assessments from Health and Safety Code section 101325 to the extent received and applied to the reimbursable activities](#), service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than ~~60~~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 the test claim decision and the 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 State 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 1183.2.

## **X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The ~~Statement~~statements of ~~Decision~~decision adopted for the test claim and parameters and guidelines are legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, ~~including the Statement of Decision~~, is on file with the Commission.