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May 28, 2015

Mr. Patrick J. Dyer
MGT of America
2001 P Street, Suite 200
Sacramento, CA 95811

Ms. Jill Kanemasu
State Controller's Office
Accounting and Reporting
3301 C Street, Suite 700
Sacramento, CA 95816

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

Re: **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
Handicapped and Disabled Students, 05-4282-I-03
Statutes 1984, Chapter 1747; Statutes 1985, Chapter 1274
Fiscal Years 1996-1997, 1997-1998, and 1998-1999
County of San Mateo, Claimant

Dear Mr. Dyer and Ms. Kanemasu:

The draft proposed decision for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft proposed decision by **June 18, 2015**. You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see http://www.csm.ca.gov/dropbox.shtml on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, July 24, 2015**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The proposed decision will be issued on or about July 10, 2015. 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.

Sincerely,

Heather Halsey
Executive Director

ITEM __

INCORRECT REDUCTION CLAIM

DRAFT PROPOSED DECISION

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274 (AB 882)

California Code of Regulations, Title 2, Sections 60000-60610 (Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed June 30, 1986, effective July 12, 1986 [Register 86, No. 28]

Handicapped and Disabled Students

Fiscal Years 1996-1997, 1997-1998, and 1998-1999

05-4282-I-03

County of San Mateo, Claimant

EXECUTIVE SUMMARY

Overview

This incorrect reduction claim (IRC) addresses reductions made by the State Controller's Office (Controller) to reimbursement claims filed by the County of San Mateo (claimant) for costs incurred during fiscal years 1996-1997 through 1998-1999 under the *Handicapped and Disabled Students* program.

The following issues are in dispute:

- Reductions based on ineligible costs claimed; and
- Reductions based on understated offsetting revenues and disbursements.[1]

The *Handicapped and Disabled Students* Program

The *Handicapped and Disabled Students* program was enacted by the Legislature to implement federal law that requires states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The program shifted to counties the responsibility and funding to provide mental health services required by a pupil's individualized education plan (IEP).

In 1990 and 1991, the Commission on State Mandates (Commission) approved the test claim and adopted parameters and guidelines, authorizing reimbursement for mental health treatment services.

[1] The total disputed reduction over three fiscal years is $3,323,423.

Procedural History

The claimant's fiscal year 1996-1997 claim was signed on November 25, 1997.[2] The claimant's fiscal year 1996-1997 claim was amended on July 15, 1999.[3] The claimant's fiscal year 1997-1998 claim was signed on December 31, 1998.[4] The claimant's fiscal year 1998-1999 claim was signed on January 31, 2000.[5] The claimant's fiscal year 1998-1999 claim was amended on December 5, 2000.[6]

On December 26, 2002, the Controller issued a final audit report.[7] On April 28, 2003, the Controller issued three remittance advice letters.[8] On April 28, 2006, the claimant filed this IRC.[9] On May 4, 2009, the Controller submitted written comments on the IRC.[10] On March 15, 2010, the claimant submitted rebuttal comments.[11]

Commission staff issued a draft proposed decision on the IRC on May 28, 2015.

Commission Responsibilities

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[12] The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the

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[2] Exhibit A, IRC 05-4282-I-03, at p. 20.

[3] Exhibit A, IRC 05-4282-I-03, at p. 26.

[4] Exhibit A, IRC 05-4282-I-03, at p. 40.

[5] Exhibit A, IRC 05-4282-I-03, at p. 52.

[6] Exhibit A, IRC 05-4282-I-03, at p. 59.

[7] Exhibit A, IRC 05-4282-I-03, at p. 71.

[8] Exhibit A, IRC 05-4282-I-03, at pp. 1; 373-377.

[9] Exhibit A, IRC 05-4282-I-03, at p. 1.

[10] Exhibit B, Controller's Comments.

[11] Exhibit C, Claimant Rebuttal.

[12] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[13]

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.[14]

The Commission must also review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.[15] In addition, section 1185.1(f) and 1185.2(c) of the Commission's regulations requires that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[16]

Claims

The threshold issue in this matter is whether the IRC was timely filed, based on former section 1185 of the Commission's regulations. Because staff concludes that it was not, the remaining issues are not addressed in this analysis.

Staff Analysis

Former section 1185 of the Commission's regulations, at the time pertinent to the filing of this IRC, provided that an IRC "shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice or other notice of adjustment notifying the claimant of a reduction."[17]

Here, the remittance advice letters dated April 28, 2003 are acknowledged by both parties,[18] and included in the record.[19] Based on those documents, a claim filed on or before April 28, 2006 would be timely, being "no later than three (3) years following the date..." of the remittance advice. The Commission's completeness letter, issued to the

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[13] *County of Sonoma*, supra, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[14] *Johnston v. Sonoma County Agricultural* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

[15] *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

[16] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

[17] Code of Regulations, title 2, section 1185 (as amended, Register 2003, No. 17).

[18] See Exhibit B, Controller's Comments, page 19; Exhibit C, Claimant Rebuttal Comments, page 4.

[19] Exhibit A, IRC 05-4282-I-03, at pp. 373-377; Exhibit B, Controller's Comments, at p. 19.

claimant and the Controller on June 6, 2006, states that the Commission received an IRC filing from the County of San Mateo on April 27, 2006, and after requesting additional documentation determined that filing to be complete on May 25, 2006.[20] However, the remittance advice letters were not the *first* notice of adjustment in the record, and the Commission has previously found that the earliest notice of an adjustment which also provides a reason for the adjustment triggers the period of limitation to run.[21] Instead, the final audit report, issued December 26, 2002, triggers the period of limitation to run: it identifies the claim components adjusted, the amounts, and the reasons for adjustment, and constitutes "other notice of adjustment notifying the claimant of a reduction," within the meaning of the Commission's regulations.[22] The claimant's and the Controller's reliance on the April 28, 2003 remittance advice letters is misplaced. Based on the issuance of the audit report, a timely claim could be filed only until December 26, 2005, and this claim, filed April 27, 2006, was beyond the regulatory period of limitation.

1. The general rule is that a statute of limitations attaches and begins to run at the time the cause of action accrues, and none of the exceptions or special rules of accrual apply here.

The general rule, supported by a long line of cases, is that a statute of limitations attaches when a cause of action arises; when the action can be maintained.[23] The California Supreme Court has described statutes of limitations as follows: "Critical to applying a statute of limitations is determining the point when the limitations period begins to run."[24] Generally, the Court noted, "a plaintiff must file suit within a designated period after the cause of action accrues."[25] The cause of action accrues, the Court said, "when [it] is complete with all of its elements."[26]

Here, the "last element essential to the cause of action," pursuant to Government Code section 17558.5 and former section 1185 (now 1185.1) of the Commission's regulations, is a notice to the claimant of the adjustment, which includes the reason for the adjustment. This is consistent with Government Code section 17558.5(c), which requires the Controller to notify a claimant in writing of any adjustment to a claim resulting from an audit or review,[27] and with former section 1185 of the Commission's regulations, which provides that incorrect reduction claims shall be filed not later than three years following the notice of adjustment, and that the filing must include a detailed narrative describing the alleged reductions and "[a] copy of the final state audit report

[20] Exhibit X, Completeness Letter, dated June 6, 2006.

[21] See Adopted Decision, *Collective Bargaining*, 05-4425-I-11.

[22] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

[23] See, e.g., *Osborn v. Hopkins* (1911) 160 Cal. 501, 506 ["[F]or it is elementary law that the statute of limitations begins to run upon the accrual of the right of action, that is, when a suit may be maintained, and not until that time."]; *Dillon v. Board of Pension Commissioners* (1941) 18 Cal.2d 427, 430 ["A cause of action accrues when a suit may be maintained thereon, and the statute of limitations therefore begins to run at that time."].

[24] *Pooshs v. Phillip Morris USA, Inc.* (2011) 51 Cal.4th 788, at p. 797.

[25] *Ibid* [citing Code of Civil Procedure section 312].

[26] *Ibid* [quoting *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 397].

[27] Government Code section 17558.5 (added, Stats. 1995, ch. 945 (SB 11)).

or letter or the remittance advice or other notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance."[28] Therefore, interpreting former section 1185 consistently with Government Code section 17558.5, staff finds that the last essential element of an IRC is the issuance by the Controller of a notice of adjustment that includes the reason for the adjustment.

Though more recent cases have relaxed the general accrual rule or recognized exceptions to the general rule based on a plaintiff's notice of facts constituting the cause of action, none of those exceptions apply here. Although "there appears to be a definite trend toward the discovery rule and away from the strict rule in respect of the time for the accrual of the cause of action...",[29] here, the claimant had knowledge of the reduction no later than when it received the final audit report.

Moreover, an IRC is founded upon a reduction in a claimant's reimbursement for a given fiscal year, and cannot reasonably be filed before a claimant is aware that the underlying reduction has been made. Therefore, the delayed discovery rules developed by the courts are not applicable to an IRC, because by definition, once it is possible to file the IRC, the claimant has sufficient notice of the facts constituting the claim.

2. <u>As applied to this IRC, the three year period of limitation attached to the final audit report issued December 26, 2002, and the IRC filed April 28, 2006 was not timely.</u>

As discussed above, the general rule of accrual of a cause of action is that the period of limitations attaches and begins to run when the claim accrues, or in other words upon the occurrence of the last element essential to the cause of action. The above analysis demonstrates that the general rule, applied consistently with Government Code section 17558.5 and Code of Regulations section 1185.1 (formerly 1185) means that an IRC accrues and may be filed when the claimant receives notice of a reduction and the reason(s) for the reduction. And, as discussed above, none of the established exceptions to the general accrual rule apply as a matter of law to IRCs generally. However, both the claimant and the Controller contend that the remittance advice letters issued April 28, 2003 trigger the period of limitation, and that an IRC filed within three years of that date would be timely. Staff finds that both the Controller and the claimant are incorrect.

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[28] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

[29] *Warrington v. Charles Pfizer & Co.*, (1969) 274 Cal.App.2d 564, 567 [citing delayed accrual based on discovery rule for medical, insurance broker, stock broker, legal, and certified accountant malpractice and misfeasance cases]; *Neel v. Magana, Olney, Levy, Cathcart & Gelfand*, 6 Cal.3d at p. 190 [court presumed "the inability of the layman to detect" an attorney's negligence or misfeasance, and therefore held that "in an action for professional malpractice against an attorney, the cause of action does not accrue until the plaintiff knows, or should know, all material facts essential to show the elements of that cause of action."]; *Seelenfreund v. Terminix of Northern California, Inc.* (1978) 84 Cal.App.3d 133, 138 ["appellant, in light of the specialized knowledge required [to perform structural pest control], could, with justification, be ignorant of his right to sue at the time the termite inspection was negligently made and reported…"].

a. The general accrual rule must be applied consistently with Government Code section 17558.5(c).

As noted above, the period of limitation for filing an IRC was added to the Commission's regulations effective September 13, 1999 to require that an IRC be filed "no later than three (3) years following the date of the State Controller's remittance advice *notifying the claimant of a reduction*."[30] On April 21, 2003, section 1185 was amended to state:

> All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice *or other notice of adjustment* notifying the claimant of a reduction.[31]

In addition, section 1185 was amended to require than an IRC filing include "[a] copy of the final state audit report or letter or the remittance advice or other notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance."[32]

Based on the plain language of these provisions, the Commission's regulation on point is consistent with the general rule that the period of limitation to file an IRC begins to run when the claimant first receives notice of a reduction.

Here, the issuance of the final audit report on December 26, 2002 provided sufficient notice of the reasons for and amounts of the reductions. An audit report, therefore, constitutes "other notice of adjustment," within the meaning of former section 1185(b), and is one of several possible notice documents that must be included in an IRC filing pursuant to the regulations, along with a "letter or the remittance advice or other notice of adjustment..."[33] Therefore, an audit report is sufficient to begin the period of limitation to run, and based on the strong preference in case law for beginning a statute of limitation at the earliest time that the claim can be maintained, the three year period here must be held to attach to the issuance of the audit report.

b. The three year period of limitation found in former Section 1185 of the Commission's regulations is applicable to this incorrect reduction claim, and does not constitute an unconstitutional retroactive application of the law.

In 1999, the following was added to section 1185(b) of the Commission's regulations:

> All incorrect reduction claims shall be submitted to the commission no later than three (3) years following the date of the State Controller's remittance advice notifying the claimant of a reduction.[34]

This regulation was in effect in December 2002, when the final audit report was issued. Then, on April 21, 2003, section 1185 was amended to state:

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[30] Code of Regulations, title 2, section 1185(b) (Register 1999, No. 38) [emphasis added].

[31] Register 2003, No. 17.

[32] Code of Regulations, title 2, section 1185(e) (Register 2003, No. 17).

[33] Code of Regulations, title 2, section 1185(e) (Register 2003, No. 17).

[34] Code of Regulations, title 2, section 1185 (Register 1999, No. 38).

> All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice *or other notice of adjustment* notifying the claimant of a reduction.[35]

The courts have held that "[i]t is settled that the Legislature may enact a statute of limitations 'applicable to existing causes of action or shorten a former limitation period if the time allowed to commence the action is reasonable."[36] A limitation period is "within the jurisdictional power of the legislature of a state," and therefore may be altered or amended at the Legislature's prerogative.[37] The Commission's regulatory authority must be interpreted similarly.[38] However, "[t]here is, of course, one important qualification to the rule: where the change in remedy, as, for example, the shortening of a time limit provision, is made retroactive, there must be a reasonable time permitted for the party affected to avail himself of his remedy before the statute takes effect."[39]

The California Supreme Court has explained that "[a] party does not have a vested right in the time for the commencement of an action."[40] And neither "does he have a vested right in the running of the statute of limitations prior to its expiration."[41] If a statute "operates immediately to cut off the existing remedy, or within so short a time as to give the party no reasonable opportunity to exercise his remedy, then the retroactive application of it is unconstitutional as to such party."[42] The California Supreme Court has held that approximately one year is more than sufficient, but has cited to decisions in other jurisdictions providing as little as thirty days.[43]

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[35] Register 2003, No. 17.

[36] *Scheas v. Robertson* (1951) 38 Cal.2d 119, 126 [citing *Mercury Herald v. Moore* (1943) 22 Cal.2d 269, 275; *Security-First National Bank v. Sartori* (1939) 34 Cal.App.2d 408, 414].

[37] *Scheas, supra,* at p. 126 [citing *Saranac Land & Timber Co v. Comptroller of New York,* 177 U.S. 318, 324].

[38] *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal.4th 1, 10 [Regulations of an agency that has quasi-legislative power to make law are treated with equal dignity as to statutes]; *Butts v. Board of Trustees of the California State University* (2014) 225 Cal.App.4th 825, 835 ["The rules of statutory construction also govern our interpretation of regulations promulgated by administrative agencies."].

[39] *Rosefield Packing Company v. Superior Court of the City and County of San Francisco* (1935) 4 Cal.2d 120, 122.

[40] *Liptak v. Diane Apartments, Inc.* (1980) 109 Cal.App.3d 762, 773 [citing *Kerchoff-Cuzner Mill and Lumber Company v. Olmstead* (1890) 85 Cal. 80].

[41] *Liptak, supra,* at p. 773 [citing *Mudd v. McColgan* (1947) 30 Cal.2d 463, 468].

[42] *Rosefield Packing Co., supra,* at pp. 122-123.

[43] See *Rosefield Packing Co., supra,* at p. 123 ["The plaintiff, therefore, had practically an entire year to bring his case to trial…"]; *Kerchoff-Cuzner Mill and Lumber Company v. Olmstead* (1890) 85 Cal. 80 [thirty days to file a lien on real property]. See also *Kozisek v. Brigham* (Minn. 1926) 169 Minn. 57, 61 [three months].

Here, the amended regulation adopted April 21, 2003 broadened the scope of notice that could trigger the period of limitation to run, with the words "or other notice of adjustment..."[44] Applying the three year period of limitation to the December 26, 2002 audit report means the limitation period would have expired on December 26, 2005, approximately thirty-two months after the limitation period was altered by the regulation. Based on the cases cited above, and those relied upon by the California Supreme Court in its reasoning, that period is more than sufficient to satisfy any due process concerns with respect to application of section 1185 of the Commission's regulations to the pending limitation period in this IRC.

Conclusion

Based on the foregoing, staff finds that the regulatory period of limitation applies from the date of the final audit report, which provided the earliest notice of a reduction, along with reasons for the reduction(s). And, based on the evidence in this record, that application does not violate the claimant's due process rights or otherwise constitute an unconstitutional retroactive application.

Staff Recommendation

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

[44] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM ON: Government Code Sections 7570-7588 Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274 (AB 882) California Code of Regulations, Title 2, Sections 60000-60610 (Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28] Fiscal Years 1996-1997, 1997-1998, and 1998-1999 County of San Mateo, Claimant	Case No.: 05-4282-I-03 *Handicapped and Disabled Students* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5. ARTICLE 7 (*Adopted July 24, 2015*)

DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim (IRC) during a regularly scheduled hearing on July 24, 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., and related case law.

The Commission [adopted/modified] the proposed decision to [approve/partially approve/deny] the IRC at the hearing by a vote of [vote count will be included in the adopted decision].

Summary of the Findings

This analysis addresses reductions made by the State Controller's Office (Controller) to reimbursement claims filed by the County of San Mateo (claimant) for costs incurred during fiscal years 1996-1997 through 1998-1999 for the *Handicapped and Disabled Students* program. Over the three fiscal years in question, reductions totaling $3,940,249 were made, based on alleged unallowable services claimed and understated offsetting revenues.

The Commission denies this IRC, finding that the IRC was not timely filed pursuant to California Code of Regulations, title 2, former section 1185 (now renumbered 1185.1).

COMMISSION FINDINGS

I. Chronology

11/25/1997	Claimant's fiscal year 1996-1997 claim was signed.[45]
07/15/1999	Claimant's fiscal year 1996-1997 claim was amended.[46]
12/31/1998	Claimant's fiscal year 1997-1998 claim was signed.[47]
01/31/2000	Claimant's fiscal year 1998-1999 claim was signed.[48]
12/05/2000	Claimant's fiscal year 1998-1999 claim was amended.[49]
12/26/2002	Controller issued its final audit report.[50]
04/28/2003	Controller issued remittance advice letters for each of the three fiscal years.[51]
04/27/2006	Claimant filed the IRC.[52]
05/04/2009	Controller submitted written comments on the IRC.[53]
03/15/2010	Claimant submitted rebuttal comments.[54]
05/28/2015	Commission staff issued the draft proposed decision.[55]

II. Background

The *Handicapped and Disabled Students* program was enacted by the Legislature to implement federal law requiring states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The program shifted to counties the responsibility and costs to provide mental health services required by a pupil's individualized education plan (IEP).

The *Handicapped and Disabled Students* test claim was filed on Government Code section 7570 et seq., as added by Statutes 1984, chapter 1747 (AB 3632) and amended by Statutes 1985, chapter 1274 (AB 882); and on the initial emergency regulations adopted in 1986 by the

[45] Exhibit A, IRC 05-4282-I-03, at p. 20.

[46] Exhibit A, IRC 05-4282-I-03, at p. 26.

[47] Exhibit A, IRC 05-4282-I-03, at p. 40.

[48] Exhibit A, IRC 05-4282-I-03, at p. 52

[49] Exhibit A, IRC 05-4282-I-03, at p. 59.

[50] Exhibit A, IRC 05-4282-I-03, at p. 71.

[51] Exhibit A, IRC 05-4282-I-03, at pp. 1; 373-377.

[52] Exhibit A, IRC 05-4282-I-03, at p. 1.

[53] Exhibit B, Controller's Comments.

[54] Exhibit C, Claimant Rebuttal Comments.

[55] Exhibit D, Draft Proposed Decision.

Departments of Mental Health and Education to implement this program.[56] Government Code section 7576 required the county to provide psychotherapy or other mental health services when required by a pupil's IEP. Former section 60020 of the Title 2 regulations defined "mental health services" to include the day services and outpatient services identified in sections 542 and 543 of the Department of Mental Health's Title 9 regulations.[57] In 1990 and 1991, the Commission approved the test claim and adopted parameters and guidelines, authorizing reimbursement for the mental health treatment services identified in the test claim regulations.

Handicapped and Disabled Students II[58] was filed in 2003 on subsequent statutory and regulatory changes to the program, including 1998 amendments to the regulation that defined "mental health services." On May 26, 2005, the Commission adopted a statement of decision on that test claim, approving many activities then defined in the amended regulations that defined "mental health services" *beginning July 1, 2001*. This amendment is not relevant to this IRC since the effective date postdates the reimbursement claim years at issue here.

Controller's Audit and Summary of the Issues

The Controller issued its final audit report on December 26, 2002, which reduced the claimed costs for fiscal years 1996-1997 through 1998-1999 under the *Handicapped and Disabled Students* program, totaling $3,940,249. The following issues are in dispute:

- Reductions based on ineligible costs claimed for medication monitoring and crisis intervention;[59] and
- Reductions based on understated offsetting revenues and disbursements.[60]

However, because the analysis herein concludes that the IRC was not timely filed, based on the date of the earliest notice of an adjustment, these issues are not analyzed below, and the entire claim must be denied.

III. Positions of the Parties

County of San Mateo

The claimant asserts that the Controller incorrectly reduced claimed costs totaling $3,232,423 for the audit period.[61] The claimant argues that the Controller "arbitrarily excluded eligible activities for all three fiscal years…" based on an "overly restrictive Parameters and Guidelines interpretation…" The claimant maintains:

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[56] California Code of Regulations, title 2, division 9, sections 60000-60610 (Emergency Regulations filed December 31, 1985, designated effective January 1, 1986 (Register 86, No. 1) and re-filed June 30, 1986, designated effective July 12, 1986 (Register 86, No. 28)).

[57] Former California Code of Regulations, title 2, section 60020(a).

[58] Statement of Decision, *Handicapped and Disabled Students II* (02-TC-40/02-TC-49).

[59] The claimant does not dispute some of the ineligible costs reduced.

[60] Some of the reductions on the basis of understated offsetting revenues are not disputed.

[61] Exhibit A, IRC 05-4282-I-03, page 2; 8.

> The activities in question were clearly a part of the original test claim, statement of decision and are based on changes made to Title 2, Division 9, Chapter 1 of the California Code of Regulations, Section 60020, Government Code 7576 and Interagency Code of Regulations, and part of the activities included in the Parameters and guidelines. [*sic*][62]

The claimant asserts that the Controller "made the errant assumption that the costs were intentionally excluded and are therefore ineligible." The disallowance, the claimant argues, "is based on an errant assumption that these activities were intentionally excluded." Rather, the claimant argues, "the Parameters and Guidelines for this program, like many other programs of the day, were intended to guide locals to broad general areas of activity within a mandate without being the overly restrictive litigious documents as they have become today."[63] The claimant argues that the Controller's claiming instructions provide for reimbursement of "any related county participation in the expanded IEP team…for 'individuals with exceptional needs' who are designated as 'seriously emotionally disturbed', pursuant to Subdivisions (a), (b), and (c) of Government Code § 7572.5 and their implementing regulations." The claimant therefore concludes that medication monitoring and crisis intervention activities are reimbursable, when necessary under an IEP, because these are defined in the regulations and not specifically excluded in the parameters and guidelines or claiming instructions.[64] The claimant asserts that the amount of the incorrect reduction related to medication monitoring and crisis intervention activities is $1,329,581.

In addition, the claimant "also takes issue with a second issue regarding revenue offsets." The claimant asserts that "Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) revenues only impact 10% of the County's costs for this mandate." However, the claimant argues, the Controller "deducted 100% of the EPSDT revenue from the claim." Therefore, the "disagreement regarding the revenue offset represents $1,902,842."[65]

In response to the Controller's comments, discussed below, the claimant argues that it "agrees in part with the SCO finding regarding Medi-Cal beneficiaries with respect to the offset of federal Medi-Cal funds":

> In the SCO's audit report, the SCO stated "…if the County can provide an accurate accounting of the number of Medi-Cal units of services applicable to the mandate, the SCO auditor will review the information and adjust the audit finding as appropriate." We have provided this data as requested by the SCO. The State auditor also recalculated the date, but no audit adjustments were made.[66]

With respect to the Controller's audit findings related to disallowed services, the claimant maintains that medication monitoring and crisis intervention activities are reimbursable under the mandate, even though not expressly included in the parameters and guidelines. The claimant

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[62] Exhibit A, IRC 05-4282-I-03, at p. 7.

[63] Exhibit A, IRC 05-4282-I-03, at p. 7.

[64] Exhibit A, IRC 05-4282-I-03, at p. 8.

[65] Exhibit A, IRC 05-4282-I-03, at p. 8.

[66] Exhibit C, Claimant Rebuttal Comments, at p. 1.

argues that "[t]he parameters and guidelines are not the mandate itself, but a tool used to claim for services mandated by the State." The claimant continues:

> In addition, the parameters and guidelines in effect at the time of these services (as amended on August 26, 1996) state that "any costs related to the mental health treatment services rendered under the Short Doyle Act" are reimbursable (Attachment C). The parameters and guidelines go on to say that certain specific treatment services are eligible, and, while medication monitoring and crisis intervention are not mentioned specifically, they are also not excluded. There is no mention in the parameters and guidelines that the listing of services was an all inclusive list. There is no disputing the fact that the provided medication monitoring and crisis intervention services were mental health treatment services rendered under the Short Doyle Act, and were mandated under Chapter 26.5 of the Government Code.[67]

Moreover, the claimant notes that medication monitoring was approved in the *Handicapped and Disabled Students II* test claim decision, suggesting that these services are mandated costs eligible for reimbursement. The claimant argues that the Controller "asserts that the dates set forth in [*Handicapped and Disabled Students II*] define a period of reimbursement for the amended portions beginning July 1, 2001…" and therefore "counties cannot claim for these services prior to that date..." However, the claimant argues, "[w]e again point out that we are not claiming reimbursement under [*Handicapped and Disabled Students II*], but rather under the regulations in place at the time services were provided."[68]

Finally, with respect to the Controller's assertion that the IRC was not timely filed, the claimant argues that "[i]n fact, our IRC was initially received by the Commission on April 26, 2006."[69] The claimant states that "[w]e were then requested to add documentation solely to establish the final date by which the IRC must have been submitted in order to avoid the [statute of limitations] issue." The claimant points out that "[t]he SCO asserts that the basis of the [statute of limitations] issue is that the IRC was not submitted by the deadline of April 28, 2006." The claimant continues: "The confirmation of this deadline by the SCO supports the timeliness of the initial presentation of our IRC to the Commission."[70]

State Controller's Office

The Controller maintains that "[t]he subject claims were reduced because the Claimant included costs for services that were not reimbursable under the Parameters and Guidelines in effect during the audited years." In addition, the Controller asserts that "the Claimant failed to document to what degree AB3632 students were also Medi-Cal beneficiaries, requiring that

[67] Exhibit C, Claimant Rebuttal Comments, at p. 3.

[68] Exhibit C, Claimant Rebuttal Comments, at p. 3.

[69] Exhibit C, Claimant Rebuttal Comments, at pp. 3-4. The IRC is in fact stamped received on April 27, 2006. (See Exhibit A, page 3.)

[70] Exhibit C, Claimant Rebuttal Comments, at pp. 3-4.

EPSDT revenues be offset." The Controller holds that the reductions "were appropriate and in accordance with law."[71]

Specifically, the Controller argues that while medication monitoring and crisis intervention "were defined in regulation…at the time the parameters and guidelines on the Handicapped and Disabled Students (HDS) program were adopted…" those activities "were not included in the adoption of the parameters and guidelines as reimbursable costs."[72] The Controller asserts that medication monitoring costs were not reimbursable until the Commission made findings on the regulatory amendments and adopted revised parameters and guidelines for the Handicapped and Disabled Students II program on May 26, 2005 (test claim decision) and December 9, 2005 (parameters and guidelines decision). The Commission, the Controller notes, "defined the period of reimbursement for the amended portions beginning July 1, 2001." Therefore, the Controller concludes, "medication monitoring costs claimed prior July 1, 2001 [*sic*] are not reimbursable."[73]

In addition, the Controller notes that "[i]n 1998, the Department of Mental Health and Department of Education changed the definition of mental health services, pursuant to section 60020 of the regulations, which deleted the activity of crisis intervention." Therefore, the Controller concludes, "the regulation no longer includes crisis intervention activities as a mental health service."[74]

With respect to offsetting revenues, the Controller argues that the claimant "did not report state-matching funds received from the California Department of Mental Health under the EPSDT program to reimburse the county for the cost of services provided to Medi-Cal clients." The Controller states that its auditor "deducted all such revenues received from the State because the county did not provide adequate information regarding how much of these funds were applicable to the mandate." The Controller states that "if the county can provide an accurate accounting of the number of Medi-Cal units of service applicable to the mandate, the SCO auditor will review the information and adjust the audit finding as appropriate."[75] In addition, the Controller states that the claimant "did not report state funding received from the State Board of Education under AB 599…" but the Controller also notes that the claimant "did not dispute the SCO audit adjustment related to AB 599 funds."[76]

Finally, the Controller asserts that the IRC filing is not timely, in accordance with the Commission's regulations. The Controller argues that section 1185 requires an IRC to be filed no later than three years following the date of the Controller's remittance advice or other notice of adjustment. The Controller states that remittance advice letters were issued to the claimant on

[71] Exhibit B, Controller's Comments, at p. 1.

[72] Exhibit B, Controller's Comments, at p. 17.

[73] Exhibit B, Controller's Comments, at p. 17.

[74] Exhibit B, Controller's Comments, at p. 17.

[75] Exhibit B, Controller's Comments, at p. 18.

[76] Exhibit B, Controller's Comments, at p. 18.

April 28, 2003, and therefore the period within which to file an IRC expired on April 28, 2006. The Controller states that this IRC was filed on May 25, 2006, and it was therefore not timely.[77]

IV. Discussion

Government Code section 17561(b) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state mandated costs that the Controller determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the statement of decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, *de novo*, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[78] The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[79]

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.[80] Under this standard, the courts have found that:

> When reviewing the exercise of discretion, "[t]he scope of review is limited, out of deference to the agency's authority and presumed expertise: 'The court may not reweigh the evidence or substitute its judgment for that of the agency. [Citation.]'" ... "In general ... the inquiry is limited to whether the decision was arbitrary, capricious, or entirely lacking in evidentiary support. . . ." [Citations.] When making that inquiry, the " ' "court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational

[77] Exhibit B, Controller's Comments, at p. 19.

[78] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[79] *County of Sonoma, supra,* 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[80] *Johnston v. Sonoma County Agricultural* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

connection between those factors, the choice made, and the purposes of the enabling statute." [Citation.]' "[81]

The Commission must review the Controller's audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant. [82] In addition, section 1185.1(f) and 1185.2(c) of the Commission's regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[83]

A. The Incorrect Reduction Claim Was Not Timely Filed.

At the time pertinent to this IRC, section 1185 of the Commission's regulations stated as follows: "All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice or other notice of adjustment notifying the claimant of a reduction."[84]

Here, the remittance advice letters dated April 28, 2003 are acknowledged by both parties,[85] and included in the record.[86] Based on those documents, a claim filed on or before April 28, 2006 would be timely, being "no later than three (3) years following the date..." of the remittance advice. The Commission's completeness letter, issued to the claimant and the Controller on June 6, 2006, states that the Commission received an IRC filing from the County of San Mateo on April 27, 2006, and after requesting additional documentation determined that filing to be complete on May 25, 2006.[87] However, the remittance advice letters were not the *first* notice of adjustment in the record, and the Commission has previously found that the earliest notice of an adjustment which also provides a reason for the adjustment triggers the period of limitation to run.[88] The first notice of adjustment is the final audit report issued December 26, 2002.

The general rule in applying and enforcing a statute of limitations is that a period of limitation for initiating an action begins to run when the last essential element of the cause of action or claim occurs, and no later. There are a number of recognized exceptions to the accrual rule, each based on the wronged party having notice of the wrong or the breach that gave rise to the action, and in each case the courts have carved out a practical or equitable reason to deviate from the

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[81] *American Bd. of Cosmetic Surgery, Inc, supra*, 162 Cal.App.4th at pgs. 547-548.

[82] *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

[83] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

[84] Code of Regulations, title 2, section 1185 (as amended by Register 2003, No. 17, operative April 21, 2003).

[85] See Exhibit B, Controller's Comments, page 19; Exhibit C, Claimant Rebuttal Comments, page 4.

[86] Exhibit A, IRC 05-4282-I-03, at pp. 373-377; Exhibit B, Controller's Comments, at p. 19.

[87] Exhibit X, Completeness Letter, dated June 6, 2006.

[88] See Adopted Decision, *Collective Bargaining*, 05-4425-I-11.

strict accrual rule. In the context of an IRC, the last essential element of the claim is the notice to the claimant of a reduction, as defined by the Government Code and the Commission's regulations. Government Code section 17558.5 requires that the Controller notify a claimant in writing of an adjustment resulting from an audit, and requires that the notice "shall specify the claim components adjusted, the amounts adjusted…and the reason for the adjustment."[89] Therefore, an audit report, which provides the claim components adjusted, the amounts, and the reasons for the adjustments, satisfies the notice requirements of section 17558.5. The Commission's regulations, interpreted consistently with section 17558.5, require an IRC to be filed no later than three years after the first notice of the claim components adjusted, the amounts of the adjustments, and the reasons for the adjustments.[90]

Here, as described in detail below, the final audit report, issued December 26, 2002, triggers the period of limitation to run: it identifies the claim components adjusted, the amounts, and the reasons for adjustment, and constitutes "other notice of adjustment notifying the claimant of a reduction."[91] The claimant's and the Controller's reliance on the April 28, 2003 remittance advice letters is misplaced, as they do not provide the first notice of an adjustment. Based on the issuance of the audit report, a timely claim could be filed only until December 26, 2005, and this claim, filed April 27, 2006, was beyond the regulatory period of limitation.

1. The general rule is that a statute of limitations attaches and begins to run at the time the cause of action accrues, and none of the exceptions or special rules of accrual apply here.

The threshold issue in this IRC is when the right to file an IRC based on the Controller's reductions accrued, and consequently when the applicable period of limitation began to run against the claimant. The general rule, supported by a long line of cases, is that a statute of limitations attaches when a cause of action arises; when the action can be maintained.[92] The California Supreme Court has described statutes of limitations as follows:

> A statute of limitations strikes a balance among conflicting interests. If it is unfair to bar a plaintiff from recovering on a meritorious claim, it is also unfair to require a defendant to defend against possibly false allegations concerning long-forgotten events, when important evidence may no longer be available. Thus, statutes of limitations are not mere technical defenses, allowing wrongdoers to avoid accountability. Rather, they mark the point where, in the judgment of the legislature, the equities tip in favor of the defendant (who may be innocent of wrongdoing) and against the plaintiff (who failed to take prompt action): "[T]he period allowed for instituting suit inevitably reflects a value judgment concerning

[89] Government Code section 17558.5

[90] See former Code of Regulations, title 2, section 1185(c) (Register 2003, No. 17).

[91] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

[92] See, e.g., *Osborn v. Hopkins* (1911) 160 Cal. 501, 506 ["[F]or it is elementary law that the statute of limitations begins to run upon the accrual of the right of action, that is, when a suit may be maintained, and not until that time."]; *Dillon v. Board of Pension Commissioners* (1941) 18 Cal.2d 427, 430 ["A cause of action accrues when a suit may be maintained thereon, and the statute of limitations therefore begins to run at that time."].

> the point at which the interests in favor of protecting valid claims are outweighed by the interests in prohibiting the prosecution of stale ones."[93]

The Court continued: "Critical to applying a statute of limitations is determining the point when the limitations period begins to run."[94] Generally, the Court noted, "a plaintiff must file suit within a designated period after the cause of action accrues."[95] The cause of action accrues, the Court said, "when [it] is complete with all of its elements."[96] Put another way, the courts have held that "[a] cause of action accrues 'upon the occurrence of the last element essential to the cause of action.'"[97]

Here, the "last element essential to the cause of action," pursuant to Government Code section 17558.5 and former section 1185 (now 1185.1) of the Commission's regulations, is a notice to the claimant of the adjustment, which includes the reason for the adjustment. Government Code section 17558.5(c) requires the Controller to notify a claimant in writing of any adjustment to a claim resulting from an audit or review:

> The notification shall specify the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to reduce the overall reimbursement to the local agency or school district, and the reason for the adjustment… [98]

Accordingly, former section 1185 of the Commission's regulations provides that incorrect reduction claims shall be filed not later than three years following the notice of adjustment, and that the filing must include a detailed narrative describing the alleged reductions and "[a] copy of the final state audit report or letter or the remittance advice or other notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance."[99] Additionally, a later amendment to section 1185 (after this IRC was filed) clarifies that the three year period is triggered by "the date of the Office of State Controller's final state audit report, letter, remittance advice, or other written notice of adjustment…" Therefore, interpreting former section 1185 consistently with Government Code section 17558.5, the Commission finds that the last essential element of an IRC is the issuance by the Controller of a notice of adjustment that includes the reason for the adjustment.

Historically, the courts have applied statutes of limitation very strictly.[100] The historically-strict interpretation of statutes of limitation accords with the plain language of the Code of Civil

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[93] *Pooshs v. Phillip Morris USA, Inc.* (2011) 51 Cal.4th 788, at p. 797.

[94] *Ibid*.

[95] *Ibid* [citing Code of Civil Procedure section 312].

[96] *Ibid* [quoting *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 397].

[97] *Seelenfreund v. Terminix of Northern California, Inc.* (1978) 84 Cal.App.3d 133 [citing *Neel v. Magana, Olney, Levy, Cathcart & Gelfand* (1971) 6 Cal.3d 176].

[98] Government Code section 17558.5 (added, Stats. 1995, ch. 945 (SB 11)).

[99] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

[100] *Marshall v. Packard-Bell Co.* (1951) 106 Cal.App.2d 770, 774 ["[S]tatutes of limitation are to be strictly construed and …if there is no express exception in a statute… the court cannot create one."]; *Lambert v. McKenzie* (1901) 135 Cal. 100, 103 ["Cases of hardship may arise, and do

Procedure, section 312, which states that "[c]ivil actions, *without exception*, can only be commenced within the period prescribed in this title, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by statute."[101]

However, more recently, courts have applied a more relaxed rule in appropriate circumstances, finding that a cause of action accrues when the plaintiff has knowledge of sufficient facts to make out a cause of action: "there appears to be a definite trend toward the discovery rule and away from the strict rule in respect of the time for the accrual of the cause of action..."[102] These cases demonstrate that the plaintiff's *knowledge* of sufficient facts to make out a claim is sometimes treated as the last essential element of the cause of action. Or, alternatively, actual damage must be sustained, and knowledge of the damage, before the statute begins to run.[103]

Here, a delayed discovery rule makes no sense in light of the plain language of the Commission's regulations and of section 17558.5, since the notice of the reduction and the reason for it constitutes the last essential element of the claim. Former section 1185 of the Commission's regulations provided for a period of limitation of three years following the date of a document from the Controller "notifying the claimant of a reduction."[104] Likewise, Government Code section 17558.5 requires the controller to notify the claimant in writing and specifies that the notice must provide "the claim components adjusted, the amounts adjusted…and the reason for the adjustment."[105] That notice, whether in the form of a final state audit report, letter, or remittance advice, is then required to be included in the IRC filing.[106]

Another line of legal reasoning, which rests not on delayed accrual of a cause of action, but on a new injury that begins a new cause of action and limitation period, is represented by cases alleging more than one legally or qualitatively distinct injury arising at a different time, or more

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arise, under this rule, as they arise under every statute of limitations; but this, of course, presents no reason for the modification of a principle and policy which upon the whole have been found to make largely for good..." (overruled on other grounds, *Wennerholm v. Stanford University School of Medicine* (1942) 20 Cal.2d 713, 718)].

[101] Enacted, 1872; Amended, Statutes 1897, chapter 21 [emphasis added].

[102] *Warrington v. Charles Pfizer & Co.*, (1969) 274 Cal.App.2d 564, 567 [citing delayed accrual based on discovery rule for medical, insurance broker, stock broker, legal, and certified accountant malpractice and misfeasance cases]. See also, *Neel v. Magana, Olney, Levy, Cathcart & Gelfand* 6 Cal.3d at p. 190 [Court presumed inability of layman to detect malpractice or malfeasance of an attorney, and therefore applied period of limitation to the discovery of wrongdoing].

[103] See, e.g., *Allred v. Bekins Wide World Van Services* (1975) 45 Cal.App.3d 984, 991 [Finding that the period of limitation should be tolled until the Allreds discovered the damage to their property, relying on *Neel v. Magana, Olney, Levy, Cathcart & Gelfand, supra*, 6 Cal.3d at p. 190; *Budd v. Nixen, supra*, 6 Cal.3d at pp. 200-201].

[104] Code of Regulations, title 2, section 1185 (Register 1999, No. 38).

[105] Government Code section 17558.5 (added, Stats. 1995, ch. 945 (SB 11)).

[106] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

than one injury arising on a recurring basis. [107] This line of cases is not applicable to the situation in which a later remittance advice or later audit report restates the same or lesser reductions, as is the case here, because there is no additional injury.

More pertinent, and more easily analogized to the context of an IRC, are those cases in which an action is brought to enforce or resolve a claim or entitlement that is in dispute, including one administered by a governmental agency. In those cases, the applicable period of limitation attaches and begins to run when the party's right to enforce the obligation accrues.

For example, in cases involving claims against insurance companies, the courts have held that the one-year period of limitation begins to run at the "inception of the loss," defined to mean when the insured *knew or should have known* that appreciable damage had occurred and a reasonable person would be aware of his duty under the policy to notify the insurer.[108] This line of cases does not require that the *total extent of the damage*, or the *legal significance* of the damage, is known at the time the statute commences to run, only that a plaintiff knows or has reason to know that damage has occurred, and a reasonable person would be aware of the duty to notify his or her insurer.[109]

An alternative line of cases address the accrual of claims for benefits or compensation from a government agency, which provides a nearer analogy to the context of an IRC. In *Dillon v. Board of Pension Commissioners of the City of Los Angeles*, the Court held that a police officer's widow failed to bring a timely action against the Board because her claim to her late husband's pension accrued at the time of his death: "At any time following the death she could demand a pension from the board and upon refusal could maintain a suit to enforce such action."[110] Later, *Phillips v. County of Fresno* clarified that "[a]lthough the cause of action accrues in pension cases when the employee first has the power to demand a pension, the limitations period is tolled or suspended during the period of time in which the claim is under consideration by the pension board."[111] In accord is *Longshore v. County of Ventura*, in which the Court declared that "claims for compensation due from a public employer may be said to accrue only when payment thereof can be legally compelled."[112] And similarly, in *California Teacher's Association v. Governing*

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[107] *Pooshs v. Philip Morris USA, Inc.* (2011) 51 Cal.4th 788, 797; *Grisham v. Philip Morris* (2007) 40 Cal.4th 623; *Phillips v. City of Pasadena* (1945) 27 Cal.2d 104.

[108] See *Prudential-LMI Com. Insurance v. Superior Court* (1990) 51 Cal.3d 674, 685; *Campanelli v. Allstate Life Insurance Co.* (9th Cir. 2003) 322 F.3d 1086, 1094.

[109] *Campanelli v. Allstate Life Insurance Co.* (9th Cir. 2003) 322 F.3d 1086, 1094 [Fraudulent engineering reports concealing the extent of damage did not toll the statute of limitations, nor provide equitable estoppel defense to the statute of limitations]; *Abari v. State Farm Fire & Casualty Co.* (1988) 205 Cal.App.3d 530, 534 [Absentee landlord's belated discovery of that his homeowner's policy might cover damage caused by subsidence was not sufficient reason to toll the statute]. See also *McGee v. Weinberg* (1979) 97 Cal.App.3d 798, 804 ["It is the occurrence of some ... cognizable event rather than knowledge of its legal significance that starts the running of the statute of limitations."].

[110] *Dillon v. Board of Pension Commissioners* (1941) 18 Cal.2d 427, 430.

[111] (1990) 225 Cal.App.3d 1240, 1251.

[112] (1979) 25 Cal.3d 14, 30-31.

Board, the court held that "unlike the salary which teachers were entitled to have as they earned it…their right to use of sick leave depended on their being sick or injured."[113] Therefore, because they "could not legally compel payment for sick leave to the extent that teachers were not sick, their claims for sick leave did not accrue."[114] This line of cases holds that a statute of limitations to compel payment begins to run when the plaintiff is entitled to demand, or legally compel, payment on a claim or obligation, but the limitation period is tolled or suspended while the agency considers that demand.

Here, an IRC cannot lie until there has been a reduction, which the claimant learns of by some document providing notice of an adjustment, and the IRC cannot reasonably be filed under the Commission's regulations until at least some reason for the adjustment can be identified.[115] As discussed above, section 17558.5 requires the Controller to provide written notice of any adjustment resulting from an audit, which in this case takes the form of a final audit report. Then, former section 1185 of the Commission's regulations provides that an IRC must be filed no later than three years after the notice of adjustment, and requires that the IRC filing include a copy of the audit report, letter, or remittance advice or other notice of adjustment.

Where an adjustment results from an audit, and an audit report has been issued, the claimant's reimbursement claim has already at that point been considered and rejected (to some extent) by the Controller, and that determination is ripe for the Commission's review. Therefore, there is no analogy to the tolling of the statute; rather, the period of limitation begins when the claim is reduced, by written notice, and the claimant is therefore entitled to demand payment through the IRC process.

Yet another line of cases addresses the accrual of an action on a breach of statutory duty, which is closer still to the contextual background of an IRC. In *County of Los Angeles v. State Department of Public Health*, the County brought actions for mandate and declaratory relief to compel the State to pay full subsidies to the County for the treatment of tuberculosis patients under the Tuberculosis Subsidy Law, enacted in 1915.[116] In 1946 the department adopted a regulation that required the subsidy to a county hospital to be reduced for any patients who were able to pay toward their own care and support, but the County ignored the regulation and continued to claim the full subsidy.[117] Between October 1952 and July 1953 the Controller audited the County's claims, and discovered the County's "failure to report on part-pay patients in the manner contemplated by regulation No. 5198…"[118] Accordingly, the department reduced the County's semiannual claims between July 1951 and December 1953.[119] When the County brought an action to compel repayment, the court agreed that the regulation requiring reduction

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[113] (1985) 169 Cal.App.3d 35, 45-46.

[114] *Ibid*.

[115] Government Code section 17558.5 (added, Stats. 1995, ch. 945 (SB 11)); Code of Regulations, title 2, section 1185 (Register 99, No. 38).

[116] (1958) 158 Cal.App.2d 425, 430.

[117] *Id*, at p. 432.

[118] *Id*, at p. 433.

[119] *Ibid*.

for patients able to pay in part for their care was inconsistent with the governing statutes, and therefore invalid;[120] but the court was also required to consider whether the County's claim was time-barred, based on the effective date of the regulation. The court determined that the date of the *reduction*, not the effective date of the regulation, triggered the statute of limitations to run.[121]

Similarly, in *Snyder v. California Insurance Guarantee Association (CIGA),*[122] the accrual of an action to compel payment under the Guarantee Act was interpreted to require first the *rejection* of a viable claim. CIGA is the state association statutorily empowered and obligated to "protect policyholders in the event of an insurer's insolvency."[123] Based on statutory standards, "CIGA pays insurance claims of insolvent insurance companies from assessments against other insurance companies…[and] '[i]n this way the insolvency of one insurer does not impact a small segment of insurance consumers, but is spread throughout the insurance consuming public…"[124] "[I]f CIGA improperly denies coverage or refuses to defend an insured on a 'covered claim' arising under an insolvent insurer's policy, it breaches its statutory duties under the Guarantee Act."[125] Therefore, "[i]t follows that in such a case a cause of action *accrues* against CIGA when CIGA denies coverage on a submitted claim."[126] Thus, in *Snyder*, the last essential element of the action was the denial of a "covered claim" by CIGA, which is defined in statute to include obligations of an insolvent insurer that "remain unpaid despite presentation of a timely claim in the insurer's liquidation proceeding."

Here, an IRC may be filed once a claimant has notice that the Controller has made a determination that the claim must be reduced, and provided notice of the reason(s) for the reduction. Government Code section 17551 provides that the Commission "shall hear and decide upon" a local government's claim that the Controller incorrectly reduced payments pursuant to section 17561(d)(2), which in turn describes the Controller's audit authority.[127] Moreover, section 1185.1 (formerly section 1185) of the Commission's regulations states that "[t]o obtain a determination that the Office of State Controller incorrectly reduced a reimbursement claim, a claimant shall file an 'incorrect reduction claim' with the

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[120] *Id*, at p. 441.

[121] *Id*, at pp. 445-446.

[122] (2014) 229 Cal.App.4th 1196.

[123] *Id*, at p. 1203, Fn. 2.

[124] *Ibid*.

[125] *Id*, at p. 1209 [quoting *Berger v. California Insurance Guarantee Association* (2005) 128 Cal.App.4th 989, 1000].

[126] *Id*, at p. 1209 [emphasis added].

[127] Government Code section 17551 (Stats. 1985, ch. 179; Stats. 1986, ch. 879; Stats 2002, ch. 1124 (AB 3000); Stats. 2004, ch. 890 (AB 2856); Stats. 2007, ch. 329 (AB 1222)); 17561(d)(2) (Stats. 1986, ch. 879; Stats. 1988, ch. 1179; Stats. 1989, ch. 589; Stats. 1996, ch. 45 (SB 19); Stats. 1999, ch. 643 (AB 1679); Stats. 2002, ch. 1124 (AB 3000); Stats. 2004, ch. 313 (AB 2224); Stats 2004, ch. 890 (AB 2856); Stats. 2006, ch. 78 (AB 1805); Stats. 2007, ch. 179 (SB 86); Stats. 2007, ch. 329 (AB 1222); Stats. 2009, ch. 4 (SBX3 8)).

Commission."[128] And, section 1185.1 further requires that an IRC filing include "[a] written detailed narrative that describes the alleged incorrect reduction(s)," including "a comprehensive description of the reduced or disallowed area(s) of cost(s)." And in addition, the filing must include "[a] copy of *any final state audit report, letter, remittance advice, or other written notice of adjustment* from the Office of State Controller that explains the reason(s) for the reduction or disallowance."[129] Therefore, the Controller's reduction of a local government's reimbursement claim is the underlying cause of an IRC, and the notice to the claimant of the reduction and the reason for the reduction is the "last element essential to the cause of action,"[130] similar to *County of Los Angeles v. State Department of Public Health*, and *Snyder v. California Insurance Guarantee Association*, discussed above.

2. <u>As applied to this IRC, the three year period of limitation attached to the final audit report issued December 26, 2002, and the IRC filed April 28, 2006 was not timely.</u>

As discussed above, the general rule of accrual of a claim or cause of action is that the period of limitations attaches and begins to run when the claim accrues, or, in other words, upon the occurrence of the last element essential to the cause of action. The above analysis demonstrates that the general rule, applied consistently with Government Code section 17558.5 and Code of Regulations section 1185.1 (formerly 1185) means that an IRC accrues and may be filed when the claimant receives notice of a reduction and the reason(s) for the reduction. And, as discussed above, none of the established exceptions to the general accrual rule apply as a matter of law to IRCs generally. However, both the claimant and the Controller assume, without analysis, that the remittance advice letters issued April 28, 2003 trigger the period of limitation, and that an IRC filed within three years of that date would be timely. The Commission finds that this assumption is incorrect.

a. The general accrual rule must be applied consistently with Government Code section 17558.5(c).

The period of limitation for filing an IRC was added to the Commission's regulations effective September 13, 1999 to require that an IRC be filed "no later than three (3) years following the date of the State Controller's remittance advice *notifying the claimant of a reduction*."[131] On April 21, 2003, section 1185 was amended to state:

> All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice *or other notice of adjustment* notifying the claimant of a reduction.[132]

It was also amended at that time to require that an IRC filing include "[a] copy of the final state audit report or letter or the remittance advice or other notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance."[133]

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[128] Code of Regulations, title 2, section 1185.1(a) (Register 2014, No. 21.

[129] Code of Regulations, title 2, section 1185.1(f) (Register 2014, No. 24).

[130] *Seelenfreund v. Terminix of Northern California, Inc.* (1978) 84 Cal.App.3d 133 [citing *Neel v. Magana, Olney, Levy, Cathcart & Gelfand* (1971) 6 Cal.3d 176].

[131] Code of Regulations, title 2, section 1185(b) (Register 1999, No. 38) [emphasis added].

[132] Register 2003, No. 17.

Based on the plain language of the provision, the Commission's regulation on point is consistent with the general rule that the period of limitation to file an IRC begins to run when the claimant *first* receives notice of a reduction.

Here, the issuance of the final audit report on December 26, 2002 provided sufficient notice of the reasons for and amounts of the reductions, and the case law described above would seem to weigh in favor of applying the period of limitation to the *earliest* notice of adjustment, even though the language of the Commission's regulations at that time explicitly provided for a remittance advice to trigger the period of limitation, and did not expressly name any other type of notice. An audit report, however, constitutes "other notice of adjustment," within the meaning of former section 1185(b), and is one of several possible notice documents that must be included in an IRC filing pursuant to the regulations, along with a "letter or the remittance advice or other notice of adjustment..."[134] Moreover, the requirement to include "[a] copy of the final state audit report or letter or the remittance advice or other notice. . ." in the filing indicates that the final state audit report is deemed "a notice of adjustment." Therefore, an audit report is sufficient to begin the period of limitation to run, and based on the strong preference in case law for beginning a statute of limitation at the earliest time that the claim can be maintained, the three year period here must be held to attach to the issuance of the audit report.

b. None of the exceptions to the general accrual rule apply, and therefore the later notices of adjustment in the record do not control the period of limitation.

As discussed at length above, a cause of action is generally held to accrue at the time an action may be maintained, and the applicable statute of limitations attaches at that time.[135] Here, both the claimant and the Controller assume that the period of limitation attaches to the remittance advice letters.[136] There is no support in law for this position. As discussed above, statutes of limitation attach when a claim is "complete with all its elements."[137] Exceptions have been carved out when a plaintiff is justifiably unaware of facts essential to the claim,[138] but even those exceptions are limited, and would not apply where a claimant has a full final audit report before it.[139] Accordingly, the earliest notice provided sufficient information to initiate an IRC, and the later remittance advice letters do not toll or suspend the operation of the period of limitation.

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[133] Code of Regulations, title 2, section 1185(e) (Register 2003, No. 17).

[134] Code of Regulations, title 2, section 1185(e) (Register 2003, No. 17).

[135] *Lambert v. McKenzie*, *supra*, (1901) 135 Cal. 100, 103.

[136] See Exhibit B, Controller's Comments, page 19; Exhibit C, Claimant Rebuttal Comments, page 4.

[137] *Pooshs v. Phillip Morris USA, Inc.* (2011) 51 Cal.4th 788, 797 [quoting *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 397].

[138] *Allred v. Bekins Wide World Van Services,* (1975) 45 Cal.App.3d 984, 991 [Relying on *Neel v. Magana, Olney, Levy, Cathcart & Gelfand, supra,* 6 Cal.3d at p. 190; *Budd v. Nixen*, *supra,* 6 Cal.3d at pp. 200-201].

[139] *Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, 1110 [belief that a cause of action for injury from DES could not be maintained against multiple manufacturers when exact identity of defendant was unknown did not toll the statute]; *Goldrich v. Natural Y Surgical Specialties, Inc.*

The discussion above also explains that in certain circumstances a new statute of limitations is commenced where a new injury results, even from the same or similar conduct, and in such circumstances a plaintiff may be able to recover for the later injury even when the earlier injury is time-barred.[140] Here, the later remittance advice letters do not constitute either a new or a cumulative injury. The letters state no new reductions, or new reasoning for existing reductions, with respect to the audited claims; they provide exactly as the audit report issued December 26, 2002: that costs totaling $1,038,963 for fiscal year 1996-1997; $1,351,404 for fiscal year 1997-1998; and $1,549,882 for fiscal year 1998-1999 were disallowed.[141]

Based on the foregoing, the Commission finds none of the exceptions to the commencement or running of the period of limitation apply here to toll or renew the limitation period.

c. The three year period of limitation found in former Section 1185 of the Commission's regulations is applicable to this incorrect reduction claim, and does not constitute an unconstitutional retroactive application of the law.

Former section 1185[142] of the Commission's regulations, pertaining to IRCs, contained no applicable period of limitation when the earliest of these claims were filed.[143] Neither is there any statute of limitations for IRC filings found in the Government Code.[144] Moreover, the California Supreme Court has held that "the statutes of limitations set forth in the Code of Civil Procedure…do not apply to administrative proceedings."[145] Therefore, at the time that the

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(1994) 25 Cal.App.4th 772, 780 [belief that patient's body, and not medical devices implanted it it, was to blame for injuries did not toll the statute]; *Campanelli v. Allstate Life Insurance Co.* (9th Cir. 2003) 322 F.3d 1086, 1094 [Fraudulent engineering reports concealing the extent of damage did not toll the statute of limitations, nor provide equitable estoppel defense to the statute of limitations]; *Abari v. State Farm Fire & Casualty Co.* (1988) 205 Cal.App.3d 530, 534 [Absentee landlord's belated discovery of that his homeowner's policy might cover damage caused by subsidence was not sufficient reason to toll the statute]. See also *McGee v. Weinberg* (1979) 97 Cal.App.3d 798, 804 ["It is the occurrence of some ... cognizable event rather than knowledge of its legal significance that starts the running of the statute of limitations."].

[140] *Pooshs v. Phillip Morris USA, Inc.* (2011) 51 Cal.4th 788; *Phillips v. City of Pasadena* (1945) 27 Cal.2d 104.

[141] Compare Exhibit A, IRC 05-4282-I-03, pages 83-84, with pages 373-377.

[142] Section 1185 was amended and renumbered 1185.1 effective July 1, 2014. However, former section 1185, effective at the time the IRC was filed, is the provision applicable to this IRC.

[143] Code of Regulations, title 2, section 1185 (Register 1996, No. 30). See also, Exhibit A, IRC 05-4282-I-03, pages 19; 26; 39.

[144] See Government Code section 17500 et seq.

[145] *Coachella Valley Mosquito and Vector Control District v. Public Employees' Retirement System* (2005) 35 Cal.4th 1072, 1088 [citing *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29; *Robert F. Kennedy Medical Center v. Department of Health Services* (1998) 61 Cal.App.4th 1357, 1361-1362 (finding that Code of Civil Procedure sections 337 and 338 were not applicable to an administrative action to recover overpayments made to a Medi-Cal provider); *Little Co. of Mary Hospital v. Belshe* (1997) 53 Cal.App.4th 325, 328-329

claimant in this IRC filed its reimbursement claims with the Controller, there was no applicable period of limitation articulated in the statute or the regulations for filing an IRC with the Commission.[146]

However, in 1999, the following was added to section 1185(b) of the Commission's regulations:

> All incorrect reduction claims shall be submitted to the commission no later than three (3) years following the date of the State Controller's remittance advice notifying the claimant of a reduction.[147]

This regulation was in effect in December 2002, when the final audit report was issued. Then, on April 21, 2003, section 1185 was amended to state:

> All incorrect reduction claims shall be filed with the commission no later than three (3) years following the date of the Office of State Controller's remittance advice *or other notice of adjustment* notifying the claimant of a reduction.[148]

The remittance advice letters that both the claimant and the Controller cite are dated April 28, 2003.[149]

The courts have held that "[i]t is settled that the Legislature may enact a statute of limitations 'applicable to existing causes of action or shorten a former limitation period if the time allowed to commence the action is reasonable."[150] A limitation period is "within the jurisdictional power of the legislature of a state," and therefore may be altered or amended at the Legislature's prerogative.[151] The Commission's regulatory authority must be interpreted similarly.[152]

(finding that the three year audit requirement of hospital records is not a statute of limitations, and that the statutes of limitations found in the Code of Civil Procedure apply to the commencement of civil actions and civil special proceedings, "which this was not"); *Bernd v. Eu, supra* (finding statutes of limitations inapplicable to administrative agency disciplinary proceedings)].

[146] *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29, 45 [The court held that PERS' duties to its members override the general procedural interest in limiting claims to three or four years: "[t]here is no requirement that a particular type of claim have a statute of limitation."]. See also *Bernd v. Eu* (1979) 100 Cal.App.3d 511, 516 ["There is no specific time limitation statute pertaining to the revocation or suspension of a notary's commission."].

[147] Code of Regulations, title 2, section 1185 (Register 1999, No. 38).

[148] Register 2003, No. 17.

[149] See Exhibit B, Controller's Comments, page 19; Exhibit C, Claimant Rebuttal Comments, page 4.

[150] *Scheas v. Robertson* (1951) 38 Cal.2d 119, 126 [citing *Mercury Herald v. Moore* (1943) 22 Cal.2d 269, 275; *Security-First National Bank v. Sartori* (1939) 34 Cal.App.2d 408, 414].

[151] *Scheas, supra,* at p. 126 [citing *Saranac Land & Timber Co v. Comptroller of New York*, 177 U.S. 318, 324].

[152] *Yamaha Corp. of America v. State Board of Equalization* (1998) 19 Cal.4th 1, 10 [Regulations of an agency that has quasi-legislative power to make law are treated with equal

However, "[t]here is, of course, one important qualification to the rule: where the change in remedy, as, for example, the shortening of a time limit provision, is made retroactive, there must be a reasonable time permitted for the party affected to avail himself of his remedy before the statute takes effect."[153]

The California Supreme Court has explained that "[a] party does not have a vested right in the time for the commencement of an action."[154] And neither "does he have a vested right in the running of the statute of limitations prior to its expiration."[155] If a statute "operates immediately to cut off the existing remedy, or within so short a time as to give the party no reasonable opportunity to exercise his remedy, then the retroactive application of it is unconstitutional as to such party."[156] In other words, a party has no more vested right to the time remaining on a statute of limitation than the opposing party has to the swift expiration of the statute, but if a statute is newly imposed or shortened, due process demands that a party must be granted a reasonable time to vindicate an existing claim before it is barred. The California Supreme Court has held that approximately one year is more than sufficient, but has cited to decisions in other jurisdictions providing as little as thirty days.[157]

Here, the amended regulation adopted April 21, 2003 broadened the scope of notice that could trigger the period of limitation to run, with the words "or other notice of adjustment."[158] Under the amended regulatory section, the final audit report issued December 26, 2002 constitutes sufficient "notice of adjustment" to trigger the period of limitation to run. With respect to possible retroactivity concerns, applying the three year period of limitation to the December 26, 2002 audit report means the limitation period would have expired on December 26, 2005, approximately thirty-two months after the limitation period was altered by the regulation. Based on the cases cited above, and those relied upon by the California Supreme Court in its reasoning, that period is more than sufficient to satisfy any due process concerns with respect to application of section 1185 of the Commission's regulations to the regulatory limitation period in this IRC.

Accordingly, the Commission finds that the regulatory period of limitation applies from the date of the final audit report, and based on the evidence in this record that application does not violate

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dignity as to statutes]; *Butts v. Board of Trustees of the California State University* (2014) 225 Cal.App.4th 825, 835 ["The rules of statutory construction also govern our interpretation of regulations promulgated by administrative agencies."].

[153] *Rosefield Packing Company v. Superior Court of the City and County of San Francisco* (1935) 4 Cal.2d 120, 122.

[154] *Liptak v. Diane Apartments, Inc.* (1980) 109 Cal.App.3d 762, 773 [citing *Kerchoff-Cuzner Mill and Lumber Company v. Olmstead* (1890) 85 Cal. 80].

[155] *Liptak, supra*, at p. 773 [citing *Mudd v. McColgan* (1947) 30 Cal.2d 463, 468].

[156] *Rosefield Packing Co., supra*, at pp. 122-123.

[157] See *Rosefield Packing Co., supra*, at p. 123 ["The plaintiff, therefore, had practically an entire year to bring his case to trial…"]; *Kerchoff-Cuzner Mill and Lumber Company v. Olmstead* (1890) 85 Cal. 80 [thirty days to file a lien on real property]. See also *Kozisek v. Brigham* (Minn. 1926) 169 Minn. 57, 61 [three months].

[158] Code of Regulations, title 2, section 1185 (Register 2003, No. 17).

the claimant's due process rights or otherwise constitute an unconstitutional retroactive application.

V. Conclusion

Based on the foregoing, the Commission finds that this IRC is not timely filed, and is therefore denied.

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 May 28, 2015, I served the:

> **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
> *Handicapped and Disabled Students*, 05-4282-I-03
> Statutes 1984, Chapter 1747; Statutes 1985, Chapter 1274
> Fiscal Years 1996-1997, 1997-1998, and 1998-1999
> County of San Mateo, Claimant

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 May 28, 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: 5/27/15

Claim Number: 05-4282-I-03

Matter: Handicapped and Disabled Students

Claimant: County of San Mateo

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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