

Adopted: 11/30/98
Amended: 1/29/10

Amendment to Parameters and Guidelines

Penal Code Sections 1000.93, 1000.94 and 1000.95
Penal Code Sections 273.5, subdivisions (e), (f), (g), (h) and (i)
Penal Code Section 1203.097

Statutes 1992, Chapters 183, and 184, Statutes 1993, Chapter 221,
Statutes 1993-1994, Chapter 28X, Statutes 1995, Chapter 641

Domestic Violence Treatment Services — Authorization and Case Management 05-PGA-30 (96-281-01)

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

I. Summary and Source of the Mandate

The test claim legislation provides that if an accused is convicted of a domestic violence crime and granted probation as part of sentencing, the defendant is required to successfully complete a batterer's treatment program as a condition of probation.

The Commission determined that probation *is a penalty* for conviction of a crime. The successful completion of probation is required before the unconditional release of the defendant. If the defendant fails to successfully complete a batterer's treatment program, the test claim legislation subjects the defendant to further sentencing and incarceration.

Since the legislature changed the penalty for domestic violence crimes by changing the requirements for probation, the Commission determined that the "crimes and infractions" disclaimer in Government Code section 17556, subdivision (g), applies to this claim. Based on the plain and ordinary meaning of the words used by the Legislature, the Commission concluded that subdivision (g) applies to those activities required by the test claim legislation that are directly related to the enforcement of the statute which changed the penalty for a crime.

The Commission concluded that the activities listed below are *not* directly related to the enforcement of the test claim statute under Government Code section 17556, subdivision (g), and, therefore, are reimbursable:

- Administration and regulation of batterers' treatment programs (Pen. Code, § 1203.097, subs. (c)(1), (c)(2), and (c)(5)) offset by the claimant's fee authority under Penal Code section 1203.097, subdivision (c)(5)(B).
- Providing services for victims of domestic violence. (Pen. Code, § 1203.097, subd. (b)(4).)
- Assessing the future probability of the defendant committing murder. (Pen. Code, § 1203.097, subd. (b)(3)(I).)

II. Eligible Claimants

Eligible claimants include counties, and city and county.

III. Period of Reimbursement

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

Section 17557 of the Government Code states that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim was filed by the County of Los Angeles on October 4, 1996. Statutes of 1995, Chapter 641, became effective and operative on January 1, 1996. Therefore, costs incurred on or after January 1, 1996, are eligible for reimbursement.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable.

Pursuant to Government Code section 17561, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of issuance of the claiming instructions by the State Controller.

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

IV. Reimbursable Activities

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." 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. For each eligible claimant, all direct and indirect costs of labor, supplies, services, travel and training, for the following activities are eligible for reimbursement:

- A. Administration and regulation of batterers' treatment programs (Pen. Code, §§ 1203.097, subs. (c)(1), (c)(2) and (c)(5)) offset by the claimant's fee authority under Penal Code section 1203.097, subdivision (c)(5)(B).
 1. Development of an approval and annual renewal process for batterers' programs, not previously claimed under former Penal Code sections 1000.93 and 1000.95. (One-time activity.)

- a. Meeting and conferring with and soliciting input from criminal justice agencies and domestic violence victim advocacy programs.
 - b. Staff training regarding the administration and regulation of batterers' treatment programs. (One-time for each employee performing the mandated activity.)
- 2. Processing of initial and annual renewal approvals for vendors, including:
 - a. Application review.
 - b. On-site evaluations.
 - c. Notification of application approval, denial, suspension or revocation.
- B. Victim Notification. (Pen. Code, § 1203.097, subd. (b)(4).)
 - 1. The probation department shall attempt to:
 - a. Notify victims regarding the requirement for the defendant's participation in a batterer's program.
 - b. Notify victims regarding available victim resources.
 - c. Inform victims that attendance in any program does not guarantee that an abuser will not be violent.
 - 2. Staff training on the following activities:
 - a. Notify victims regarding the requirement for the defendant's participation in a batterer's program, and inform victims that attendance in any program does not guarantee that an abuser will not be violent. (One-time for each employee performing the mandated activities.)
 - b. Notify victims regarding available victim resources. (Once-a-year training for each employee performing the mandated activity.)
- C. Assessing the future probability of the defendant committing murder. (Pen. Code, § 1203.097, subd. (b)(3)(I).)
 - 1. Evaluation and selection of a homicidal risk assessment instrument.
 - 2. Purchasing or developing a homicidal risk assessment instrument.
 - 3. Training staff on the use of the homicidal risk assessment instrument.
 - 4. Evaluation of the defendant using the homicidal risk assessment instrument, interviews and investigation, to assess the future probability of the defendant committing murder.

In the event a local agency obtains a new homicidal risk assessment instrument, documentation substantiating the improved value of the new instrument is required to be provided with the claim.

V. Claim Preparation

Claims for reimbursement must be timely filed and identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV of this document.

SUPPORTING DOCUMENTATION

Claimed costs shall be supported by the following cost element information:

A. Direct Costs

Direct Costs are defined as costs that can be traced to specific goods, services, units, programs, activities or functions.

Claimed costs shall be supported by the following cost element information:

1. Salaries and Benefits

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

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

2. Materials and Supplies

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

3. Contract Services

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

4. Fixed Assets

List the costs of the fixed assets that have been acquired specifically for the purpose of this mandate. If the fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for the purposes of the mandated program is eligible for reimbursement.

5. Travel

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

6. Training

The cost of training an employee to perform the mandated activities is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title

and subject of the training session, the date(s) attended and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging and per diem.

B. Indirect Costs

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the OMB A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds 10%. If more than one department is claiming indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB A-87. An ICRP must be submitted with the claim when the indirect cost rate exceeds 10%.

VI. Records Retention

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. Data for Development of a Statewide Cost Estimate

The State Controller's Office is directed to include in the claiming instructions a request that claimants send an additional copy of the test claim specific form for the initial years' reimbursement claim by mail or facsimile to the Commission on State Mandates, 1300 I Street, Suite 950, Sacramento, California 95814, Facsimile number: (916) 445-0278. Although providing this information to the Commission on State Mandates is not a condition of reimbursement, claimants are encouraged to provide this information to enable the Commission to develop a statewide cost estimate which will be the basis for the Legislature's appropriation for this program.

VIII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimant experiences as a direct result of the subject mandate must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected under Penal Code section 1203.097,

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

subdivision (c)(5)(B), federal funds and other state funds shall be identified and deducted from this claim.

IX. State Controller's Office Required Certification

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