

Hearing Date: November 17, 1994
File Number: CSM-4447
Staff: Sharlene T. Steed
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Proposed Parameters and Guidelines

Penal Code Sections 1000.93, 1000.94, 1000.95
Chapter 221, Statutes of 1993

Domestic Violence Treatment Program Approvals

and Concurrently Amended Parameters and Guidelines
Penal Code Sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.10 and 1000.11
Chapter 913, Statutes of 1979
Chapter 1158, Statutes of 1980

Domestic Violence Diversion

Executive Summary

These proposed parameters and guidelines are for the state mandated program set forth under the provisions of Penal Code Sections 1000.93, 1000.94, and 1000.95, Chapter 221, Statutes of 1993, and for concurrently amending parameters and guidelines for the state mandated program set forth under the provisions of Penal Code Sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.10 and 1000.11 of Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980. Amending the existing parameters and guidelines was necessary due to overlapping language in the new statutes. Both parameters and guidelines were combined in order to have one set of instructions for the entire program.

At a pre-hearing conference on October 19, 1994, all interested parties agreed to amend the existing parameters and guidelines by incorporating amendment language into these proposed parameters and guidelines. After the pre-hearing conference, the claimant, County of Los Angeles, and staff prepared the proposed parameters and guidelines which reflect the consensus of the parties (Attachment B).

The State Controller's Office recommends that these parameters and guidelines be modified by adding language that more clearly distinguishes the activities that can be claimed under each respective state-mandated program, and that they be adopted as modified.

The County of Los Angeles requests that the language proposed by the State Controller's Office be incorporated into the proposed parameters and guidelines.

Staff received no objections to these proposed parameters and guidelines.

Staff recommends the Commission adopt the staff proposed parameters and guidelines described in Attachment A, which are the same provisions as set forth in Attachment B without the strikeouts and underlines.

Claimant

County of Los Angeles

Chronology

- 12/22/93 Commission on State Mandates (Commission) receives test claim from claimant.
- 05/26/94 Commission hearing; approval of the test claim.
- 07/21/94 Commission hearing; adoption of the statement of decision.
- 08/30/94 Claimant submitted proposed parameters and guidelines.
- 10/04/94 Claimant submitted proposed parameters and guidelines.
- 10/19/94 Pre-hearing conference.

Summary of Mandate

The Commission determined that Penal Code sections 1000.93, 1000.94, and 1000.95, of Chapter 221/93, do impose a new program in an existing program upon county probation departments within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514, by requiring such probation departments to administer an approval process of batterer's programs and to renew the approval of such programs and to follow specific standards, criteria, and procedures as specified therein. These batterer programs provide treatment for persons charged with domestic violence and diverted from the criminal justice system.

The Commission further determined that section 1000.94, subdivision (c), provides limited fee authority for the county probation departments to charge the batterer's program for approval costs; and that, to the extent that such reimbursement is not sufficient to cover the costs of these activities, the unreimbursed portion of such costs are costs mandated by the state.

The Commission recognized that a related test claim was approved by the Commission on September 26, 1985. At that hearing, the Commission determined that the domestic violence diversion program set forth in Penal Code sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.10 and 1000.11, of Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980, imposed a new program upon local agencies requiring that county probation departments investigate for and make recommendations to the court in regards to eligible diversion defendants, monitor the progress of the diverted defendants and follow other requirements as stated therein. The Commission also noted that there are parameters and guidelines in existence for this related test claim.

Departmental Recommendations

The State Controller's Office and the Department of Finance participated in the October 19, 1994, pre-hearing conference and their comments and concerns were considered. In addition, the State Controller's Office submitted written recommendations. The State Controller's Office and the Department of Finance find the proposed parameters and guidelines acceptable and recommend their adoption.

Staff Analysis

Amending the existing parameters and guidelines was necessary due to overlapping language in the new statutes. Both parameters and guidelines were combined in order to have one set of instructions for the entire program.

The proposed parameters and guidelines satisfy the concerns of the Department of Finance, State Controller's office and other interested parties in that the activities for which local agencies can claim reimbursement are clearly delineated under each respective statute. The existing parameters and guidelines will be operative until superseded by the new parameters and guidelines.

Further, staff points out that the existing parameters and guidelines for Penal Code sections 1000.6, 1000.7, 1000.8, 1000.9, 1000.10 and 1000.11, as added and amended by Chapter 913, Statutes of 1979, and Chapter 1158, Statutes of 1980, are herein amended to conform with the new requirements of Chapter 221, Statutes of 1993, effective upon State appropriation(s) for the entire consolidated parameters and guidelines, as set forth herein.

In sum, staff finds that the reimbursable activities under each respective statute have been clearly delineated in these proposed parameters and guidelines to the satisfaction of all interested parties.

Staff Recommendation

Staff recommends the Commission adopt the proposed parameters and guidelines described in Attachment A, which are the same provisions as set forth in Attachment B without the strikeouts and underlines.