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January 28, 2026

Juliana F. Gmur  
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*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Comment on Proposed Decision**  
*Child Physical Abuse and Neglect Exams, 24-TC-05*  
Statutes 2023, Chapter 841 (AB 1402); Penal Code Section 11171(f)  
County of Santa Clara, Claimant

Dear Ms. Gmur:

The County of Santa Clara ("County") files the following comment to the Commission on State Mandates ("Commission") in response to the Proposed Decision on test claim 24-TC-05 ("Test Claim"), concerning child physical abuse and neglect exams ("child abuse exams"). The Proposed Decision would find that there is no reimbursable mandate pursuant to article XIII B, section 6 of the California Constitution ("Section 6") where counties provide child abuse exams to victims who have private medical insurance. The County is deeply concerned about this finding and strongly encourages the Commission to direct Staff to amend the Proposed Decision so that all victim examinations are treated the same, regardless of insurance status.

**DISCUSSION**

The Commission should reject the premise that the type of insurance coverage held by the family of a victim should determine reimbursement of critical healthcare. This recommendation is not compelled by the law, nor is it consistent with the reasoning

of the Proposed Decision itself. Moreover, this asserted distinction between victims who are covered by Medi-Cal and victims who have private medical insurance makes uncertain whether counties could seek reimbursement for child abuse exams covered by Medi-Cal, as such reimbursement could—under the Proposed Decision’s rules—conflict with Medi-Cal discriminatory billing regulations, as described below.

*1. The distinction between Medi-Cal and private medical insurance creates an untenable contradiction in the Proposed Decision.*

The Proposed Decision asks the Commission to find “that the test claim statute does not mandate a new program or higher level of service for the increased costs of child physical abuse and neglect evidentiary exams when the costs could have been recovered directly from the victim or from the victim’s private medical insurance.” (Proposed Decision (“PD”), at p. 43.) At the same time, the Proposed Decision would find that “where the state’s Medi-Cal or the VCB programs previously paid for the child physical abuse and neglect medical evidentiary exams” the test claim statute mandates a new program or higher level of service. (*Id.*, at p. 50.)

The Proposed Decision then applies findings to Medi-Cal beneficiaries that apply equally to children with private medical insurance. Regardless of child insurance status, “[c]ounties uniquely provide child welfare services, including emergency response to abused and neglected children.” (*Id.*, at p. 57.) Regardless of child insurance status, the “requirement to pay for child physical abuse and neglect exams also furthers the state policy that all children are entitled to be free from abuse and neglect.” (*Ibid.*) Regardless of child insurance status, “statutes and practical realities compel the counties into being mandated to perform child physical abuse and neglect exams.” (*Id.*, at p. 60.) The Commission is therefore being asked to adopt a Proposed Decision that recognizes that counties uniquely must provide the public service of child abuse exams regardless of victim insurance status but can only claim reimbursement for a subset of those exams. This approach defies common sense and has no basis in applicable statutes.

*2. The Proposed Decision is incorrect that providing child abuse exams free of charge to victims with private medical insurance does not constitute a new state-mandated program.*

The Proposed Decision attempts to distinguish victim insurance status by finding that the test claim statute “does not require the counties to perform any new activities and does not shift costs from the state to the counties under article XIII B, section 6(c) for the costs of the exam previously recoverable from the victim’s private insurance or from the victim directly.” (*Id.*, at p. 44.) Claimants have outlined rebuttals to these arguments previously in the Test Claim and subsequent comments. The key principle of those rebuttals is that the Test Claim Statute, or Penal Code section 11171,

subdivision (f)—the prohibition on billing for child abuse exams—*is the new requirement*. It is contradictory to find that the very same Test Claim Statute imposes a new requirement when the victim has Medi-Cal, but not when the victim has private medical insurance. Whether or not the State transferred costs by enacting the Test Claim Statute is not dispositive because independent of that fact, the Test Claim Statute is a new program relative to prior law. Before the Test Claim Statute, counties could bill private medical insurance. After the Test Claim Statute, counties could not.

Even so, the State did transfer financial responsibility to counties by declining to appropriate funding for the Test Claim Statute. The Proposed Decision waves away this argument by stating that the State must assume financial responsibility before the Test Claim Statute is enacted. (*Id.*, at pp. 46–47.) The authorities cited do not stand for this proposition. The analysis of whether a program is new concerns the point at which the local government is *given a new legal requirement*, not the arbitrary point of enacting a statute. (See, e.g., *Department of Finance v. Commission on State Mandates* (2022) 85 Cal.App.5th 535, 559 [“To determine whether a program imposed by the permit is new, we compare the *legal requirements* imposed by the new permit with those in effect before the new permit became effective.”] (emphasis added).) A legal requirement can certainly change with the passage of a statute, but in this matter, it happened after the passage of the Test Claim Statute, when the Legislature declined to appropriate funds for child abuse exams. Because the Test Claim Statute eliminated county fee authority, it is the absence of funding that triggered a new legal requirement to assume the costs for child abuse exams.

The Proposed Decision asks the Commission to endorse a formalistic fiction where the Legislature can avoid transferring financial responsibility by inaction. Any statute can impose an unfunded mandate “subject to appropriation by the Legislature.” The Proposed Decision opens a loophole that plainly violates Section 6.

*3. The Proposed Decision threatens to create uncertainty about counties’ compliance with Medi-Cal discriminatory billing regulations.*

By distinguishing between children with Medi-Cal and children with private medical insurance, the Proposed Decision may also flout healthcare regulations. Medi-Cal rules state that providers cannot “submit a claim for reimbursement for the rendering of health care services to a Medi-Cal beneficiary in any amount greater or higher than the usual fee charged by the provider to the general public for the same service.” (Cal. Code Regs. Tit. 22, § 51480, subd. (a).) Yet that is precisely the scenario the Proposed Decision creates for counties.

For example, if a county submits a \$1,000 reimbursement claim for a child abuse exam, it cannot seek less than \$1,000 from a private medical insurer. But the Test Claim Statute prohibits counties from charging anything to private medical insurers for

Letter to: Commission on State Mandates  
Re: Comments on Proposed Decision, 24-TC-05  
Date: January 28, 2026  
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child abuse exams. (Pen. Code, § 11171, subd. (f).) Rather than allow counties to submit standardized reimbursement claims for child abuse exams regardless of insurance status, the Proposed Decision creates uncertainty over reimbursement for child abuse exams rendered to Medi-Cal beneficiaries. The County is concerned that the Proposed Decision therefore contains a poison pill that precludes reimbursement even for child abuse exams rendered to children with Medi-Cal. At bottom, the Commission should not be in the position of adopting a decision that adds requirements that do not exist in the statutory framework and creates legal uncertainties.

### **CONCLUSION**

The County is concerned about the practical, legal, and moral consequences of the Proposed Decision. Because the proffered distinction between child abuse exams rendered to victims with Medi-Cal and private medical insurance is inaccurate, the County strongly encourages the Commission to direct Staff to amend the Proposed Decision. The Decision the Commission ultimately adopts should treat all child abuse exams the same, regardless of insurance status.

### **Certification**

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or based on information and belief and that I am authorized and competent to do so.

Very truly yours,  
TONY LOPRESTI  
County Counsel

A handwritten signature in dark ink, appearing to read "Rajiv Narayan", is written over a horizontal line.

RAJIV NARAYAN  
Deputy County Counsel

## **DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 January 29, 2026, I served the:

- **Current Mailing List dated January 27, 2026**
- **Claimant's Comments on the Proposed Decision filed January 28, 2026**


*Child Physical Abuse and Neglect Exams, 24-TC-05*

Statutes 2023, Chapter 841, (AB 1402); Penal Code Section 11171(f), effective January 1, 2024

County of Santa Clara, 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 January 29, 2026 at Sacramento, California.



David Chavez

Commission on State Mandates

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**Last Updated:** 1/27/26

**Claim Number:** 24-TC-05

**Matter:** Child Physical Abuse and Neglect Exams

**Claimant:** County of Santa Clara

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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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