

May 22, 2026

Juliana Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
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Response to Test Claim 25-TC-02, CARE Act County Legal Counsel

Dear Director Gmur:

The Department of Finance has completed its review of Test Claim 25-TC-02 submitted to the Commission on State Mandates (Commission) by the County of Santa Clara (Claimant) Office of the County Counsel, in which the Claimant alleges it incurred reimbursable, state-mandated costs for legal costs incurred related to providing legal representation and advice to county behavior health agencies associated with the following bills:

- Chapter 319, Statutes of 2022 (SB 1338)
- Chapter 283, Statutes of 2023 (SB 35)
- Chapter 640, Statutes of 2023 (SB 42)
- Chapter 647, Statutes of 2024 (SB 1400)
- Chapter 646, Statutes of 2024 (SB 1323)
- Chapter 528, Statutes of 2025 (SB 27)

SB 1338 added Part 8 to Division 5 of the Welfare and Institutions Code to establish The Community Assistance, Recovery, and Empowerment (CARE) Act. The subsequent bills amended the CARE Act to add further requirements for CARE Act participation and implementation.

The CARE Act created a civil court process, also known as the CARE process, that allows specified adult persons to petition a civil court to create a voluntary CARE agreement or a court-ordered CARE plan. Under the agreement or plan, county behavioral health agencies (CBHAs) provide behavioral health care, including stabilization medication, housing, and other enumerated services, to “respondents” or adults who are experiencing a qualifying severe mental illness and who meet other specified criteria. The CARE Act was implemented in two cohorts. The first cohort included seven counties whose participation was required by October 1, 2023. The second cohort included the remaining counties and were required to participate by

December 1, 2024, unless an extension was requested. The Claimant was part of the second cohort of counties.

Under the CARE Act, CBHAs are required to participate in the CARE process once a petition is filed by an authorized adult in civil court, and the court determines the petition meets specified requirements. Afterward, the CBHA is required to attend the initial hearing, and may be required to participate in subsequent hearings, conduct assessments, submit reports, and assist in the development of a CARE agreement or CARE plan.

As a result of complying with the CARE Act, the Claimant is seeking reimbursement for the increased costs incurred to provide legal counsel to CBHAs in the CARE process. The Claimant alleges its Office of the County Counsel incurred \$37,219 in state-mandated, reimbursable costs in 2024-25 to represent CBHAs and estimates \$118,352 in such costs for 2025-26.

While the CARE Act specifically directs CBHAs or a representative of CBHAs to participate in the CARE process, there is no statutory requirement that CBHAs must be represented by or receive legal advice by its legal counsel throughout this process. The CBHAs are not plaintiffs or defendants in the CARE process. The only statutory requirement regarding mandated legal representation is that the respondent—not CBHAs—is entitled to be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay. (Welf. & Inst. Code, §§ 5976(c), 5977(a)(3)(A)(ii), 5977(a)(5)(C)(ii).) An additional mandate specific to county counsel is not legally compelled, and should not be inferred as practically compelled, as the use and amount of reliance on county counsel is discretionary for CBHAs.

The Commission's regulations authorize the Commission to consider and include activities in the parameters and guidelines that are reasonably necessary to comply with the mandated activities if there is substantial evidence in the record to support the finding. (Cal. Code Regs., tit. 2, § 1183.1(a)(4).) If the Commission determines the CARE Act does impose reimbursable, state-mandated costs on the Claimant to provide legal counsel to CBHAs in the CARE process, Finance notes that the reimbursable activities should be supported by evidence in the record that these activities are reasonably necessary to comply with the CARE Act, beyond providing general legal counsel for the county.

Finance notes that the Department of Health Care Services (DHCS) and the Judicial Branch provide ongoing reimbursements to counties for CARE Act implementation costs. As of the 2025 Budget Act, the state has appropriated approximately \$139.3 million General Fund to reimburse CBHAs for CARE Act costs. This is comprised of \$57 million General Fund in fiscal year 2022-23, \$27.2 million General Fund in 2023-24, \$23.3 million General Fund in 2024-25, and \$31.8 million General Fund in 2025-26.

Additionally, as of the 2025 Budget Act, the state has appropriated approximately \$144 million General Fund for the Judicial Branch to implement the CARE Act and provide legal representation. This is comprised of \$6.1 million General Fund in fiscal year 2022-23, \$38 million General Fund in 2023-24, \$47.4 million General Fund in 2024-25, and \$52.4 million General Fund in 2025-26. The Claimant acknowledges the availability of funds from DHCS for reimbursement of CARE Act implementation but has not provided evidence that the funding provided by the state to counties is insufficient to pay for legal representation or advice, if the CBHA chooses to avail itself of such legal assistance. Instead, the Claimant argues that the funding scheme is inadequate as counties cannot claim costs for activities that the Claimant acknowledges are not explicitly in the test claim statutes. To the extent that the revenue the Claimant receives from either of these departments can cover county counsel costs in CARE proceedings, the Commission should ensure that any such revenue is excluded from any calculation of state-mandated costs.

Finally, Finance notes that subdivision (h) of Welfare and Institutions Code section 5794 allows CBHAs to petition the court to begin the CARE process:

The following adult persons may file a petition to commence the CARE process:

... (h) The director of a county behavioral health agency, or their designee, of the county in which the respondent resides or is found.

If the Commission determines the CARE Act imposes state-mandated, reimbursable costs on local agencies, Finance asserts the Commission should ensure reimbursement is not provided for circumstances in which a CBHA files an initiating petition for the CARE process. Because the county's filing of an initiating petition to begin the CARE process is not statutorily mandated, the associated costs are not state-reimbursable.

If you have any questions regarding this letter, please contact Chris Hill, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

Rosanna Nguyen

ROSANNA NGUYEN
Program Budget Manager

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 May 26, 2026, I served the:

- **Current Mailing List dated April 27, 2026**
- **Finance's Comments on the Test Claim filed May 22, 2026**
- **County of Los Angeles' Written Comments in Support of County of Santa Clara's CARE Act County Legal Counsel Test Claim, 25-TC-02 filed May 22, 2026**

CARE Act County Legal Counsel, 25-TC-02

Statutes 2022, Chapter 319 (SB 1338); Statutes 2023, Chapter 283 (SB 35);
Statutes 2023, Chapter 640 (SB 42); Statutes 2024, Chapter 647(SB 1400);
Statutes 2024, Chapter 646 (SB 1323); Statutes 2025, Chapter 528 (SB 27);
Welf. & Inst. Code, § 5977(b)(4); (b)(7)(A); (c)(2); Welf. & Inst. Code, §
5977.1(a)(1); (a)(4); (c)(3)(A); (d)(2), (3), (5); Welf. & Inst. Code, § 5977.2(a)(1);
Welf. & Inst. Code, § 5977.3(a)(1); Welf. & Inst. Code, § 5977.4(d); Welf. & Inst.
Code, § 5978.1(c)

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 May 26, 2026 at Sacramento, California.



David Chavez

Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/27/26

Claim Number: 25-TC-02

Matter: CARE Act County Legal Counsel

Claimant: County of Santa Clara

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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