



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY
AUDITOR-CONTROLLER

March 21, 2006

Ms. Paula Highashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Highashi:

Los Angeles County Review - Commission's Analysis
Firearm Hearings for Discharged Inpatients [99-TC-11]

We submit our review of the subject Commission analysis, finding that a reimbursable State mandated program was imposed upon counties under the test claim legislation.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

John Naimo FOR
J. Tyler McCauley
Auditor-Controller

JTM:CY:LK
Enclosures

Los Angeles County Review - Commission's Draft Staff Analysis
Welfare & Institutions Code Section 1803(f), (g) as added, amended by
Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter
955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610,
Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes
of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients Test Claim [99-TC-11]

The County of Los Angeles [County] concurs with the Commission on State Mandates [Commission] draft staff analysis finding that new State-mandated firearm hearings for discharged inpatients were mandated under Welfare and Institutions Code [W&I] sections 1803(f) and 1803(g) as added and amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999, hereafter referred to as the subject law.

Specifically, regarding W&I section 1803(f) hearings, Commission staff conclude on pages 12-13 of their analysis, that:

“Therefore, staff finds that the district attorney activity of representing the people ⁶⁷ for both disputed and undisputed subdivision (f) hearings *as set forth in the 1999 test claim statute only* constitutes a new program or higher level of service within the meaning of [of] article XIII B, section 6 of the California Constitution. The amendments provide an enhanced service to the public by ensuring that firearms do not fall into the hands of potentially mentally - or alcoholism - impaired persons while protecting the person's right to due process.”

With respect to W&I section 1803(g) hearings, Commission staff conclude on page 13 of their analysis, that:

⁶⁷ “If this test claim is approved, the Commission can consider claimant's request for reimbursement for legal secretary and expert witness services at the Parameters and Guidelines stage to determine whether these services are needed as a reasonable method of complying with the mandate pursuant to California Code of Regulations, title 2, section 1183.1, subdivision (a)(4)”.

“Therefore, staff finds that the district attorney activity of representing the people ⁶⁸ for both disputed and undisputed subdivision (g) hearings *as set forth in the first test claim statute only* constitutes a new program or higher level of service within the meaning of [of] article XIII B, section 6 of the California Constitution. The amendments provide an enhanced service to the public by ensuring that firearms do not fall into the hands of potentially mentally - or alcoholism - impaired persons while protecting the person’s right to due process.”

Further, the County concurs with the Commission staff finding, on page 16 of their analysis, that:

“District attorney activities needed to represent the People of the State of California at Welfare and Institution Code section 8103, subdivision (g) hearings are reimbursable”.

However, the County disagrees with the Commission staff finding, on page 16 of their analysis, that:

“District attorney activities needed to represent the People of the State of California at Welfare and Institution Code section 8103, subdivision (f) hearings are not reimbursable”.

The County finds Subdivision (f) hearings are reimbursable and not subject to the funding disclaimer in Government Code section 17556(b). Clearly, the only condition under which section 17556(b) applies is when:

“The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.”

Under the Daycamos case [Superior Court, County of Sacramento, 1997, Number 96CS01471], relied on by Commission staff to invoke the court-mandated funding disclaimer in Section 17556(b), the honorable Cecily Bond, Judge in Department 45, explicitly indicated that no court-mandated revision of W&I section 8103(f)

⁶⁸ “If this test claim is approved, the Commission can consider claimant’s request for reimbursement for legal secretary and expert witness services at the Parameters and Guidelines stage to determine whether these services are needed as a reasonable method of complying with the mandate pursuant to California Code of Regulations, title 2, section 1183.1, subdivision (a)(4)”.

hearings was being ordered. Specifically, on page 6 of the Daycamos decision transcript, attached to Commission's analysis, Judge Bond stated:

"I think that some of this infirmity could be modified and changed and rectified by the Legislature, obviously. That may be something you want to explore. I think clearly its infirmity could be rectified. I am not going to rule on that". [Emphasis added.]

In the absence of a court requirement to revise W&I section 8103(f), the Legislature had unfettered discretion to devise a new statutory scheme. And so it did.

Accordingly, the court-mandated funding disclaimer in Section 17556(b) is not available to defeat reimbursements for W&I section 8103(f) hearings.

Therefore, reimbursement is required for W&I section 8103(f) hearings as well as W&I section 8103(g) hearings.

Reimbursement Rules

The County proposes that after this matter is decided by the Commission that a "reasonable reimbursement methodology" be developed as is permitted under Government Code Section 17518.5:

(a) "Reasonable reimbursement methodology" means a formula or reimbursing local agency and school district costs mandated by the state that meets the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local

agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

(c) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.”

The use of general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs, is particularly important here. Actual cost records, going back to July 1, 1998, the start of this reimbursement program, may not be available.

Finally, it should be noted that the costs derived under a “reasonable reimbursement methodology” should take into consideration differences among jurisdictions in providing W&I sections 1803(f) and 1803(g) firearm hearings ... and to that end, other jurisdictions should be encouraged to participate in the Parameters and Guidelines phase, following Commission’s adjudication of this matter.



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY
AUDITOR-CONTROLLER

**Los Angeles County Review - Commission's Draft Staff Analysis
Firearm Hearings for Discharged Inpatients Test Claim [99-TC-11]**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analyses, and for proposing, or commenting on, parameters and guidelines (Ps&Gs) and amendments thereto, and for filing incorrect reduction claims, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject review of Commission's draft staff analysis.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the attached document, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

3/20/06, Los Angeles, CA
Date and Place

Leonard Kaye
Signature

RECEIVED

MAR 23 2006

**COMMISSION ON
STATE MANDATES**

Mr. Steve Smith
Steve Smith Enterprises, Inc.
4633 Whitney Avenue, Suite A
Sacramento, CA 95821

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, California 95841

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor-Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415

Mr. Jim Jagers
P. O. Box 1993
Carmichael, CA 95609

Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. Glen Everroad
City of Newport Beach
3300 East Bidwell St., #294
Newport Beach CA, 92659

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd., #307
Sacramento, CA 95842

Mr. David Wellhouse,
Wellhouse & Associates
9175 Kiefer Blvd., Suite 121
Sacramento, California 95826

Ms. Susan Geanacou, Sr. Staff Attorney
Department of Finance
915 L Street, 11th Floor, Suite 1190
Sacramento, CA 95814

Mr. Mark Sigman, SB90 Coordinator
Riverside County
Auditor Controller
4080 Lemon Street, 3rd Floor
Riverside, CA 92501

Mr. J. Bradley Burgess
Public Resource Management Group
1380 Lead Hill Blvd., Suite # 106
Roseville, CA 95661

Ms. Annette Chinn,
Cost Recovery Systems
705-2 East Bidwell Street #294
Folsom, CA 95630

Ms. Jesse McGuinn
Department of Finance (A-15)
915 L Street, 8th Floor
Sacramento, CA 95814

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor-Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor-Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCaULEY
AUDITOR-CONTROLLER

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 21 day of March, 2006, I served the attached:

Documents: Los Angeles County Review - Commission's Analysis, Firearm Hearing for Discharged Inpatients [99-TC-11], including a 1 page letter of J. Tyler McCauley dated 3/21/06, a 4 page narrative, and a 1 page declaration of Leonard Kaye, now pending before the Commission on State Mandates.

[X] By transmitting to Commission's e-mail csminfo@csm.ca.gov a PDF copy of the above documents. By mailing original signed above documents to Commission's address: Ms. Paula Higashi, Executive Director; Commission on State Mandates; 900 Ninth Street, Suite 300; Sacramento, California 95814; and by Faxing above documents to Commission at [916] 445-0278.

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21 day of March, 2006 at Los Angeles, California.



Hasmik Yaghobyan