



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 5/10/2011

Agenda Placement: 7F

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Shelli Brobst for Randolph F. Snowden - Director
Health & Human Services

REPORT BY: Shelli Brobst, Contracts Analyst - 253-4720

SUBJECT: Amendment No. 1 to Memorandum of Understanding with Napa County Office of Education (AB 3632)

RECOMMENDATION

Director of Health and Human Services requests approval of and authorization for the Chairman to sign Amendment No. 1 to revenue Memorandum of Understanding No. 6642 with the Napa County Office of Education relating to Assembly Bill 3632 mental health services funding and service requirements.

EXECUTIVE SUMMARY

The proposed amendment will ensure that special education students who currently qualify for federal Individuals with Disabilities Education Act (IDEA) funding for mental health services through an Individualized Education Program (IEP) will continue to receive services through the end of Fiscal Year 2010-2011 and will not be affected by any pending judicial or legislative actions following former Governor Schwarzenegger's line item veto of Fiscal Year 2010-2011 dedicated state funding for AB 3632 mental health services. The amendment provides a vehicle for (1) the transfer of federal IDEA funds from the State through the Napa County Office of Education/Special Education Local Planning Area (SELPA) to Napa County Mental Health for the provision of mental health services in Fiscal Year 2010-2011 and (2) reimbursement by SELPA to Napa County Mental Health for actual costs incurred by the County in providing required mental health services to eligible students from January 1, 2011 through June 30, 2011 that have not been funded through other sources.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes

Where is it budgeted?	Mental Health
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	The recommended Memorandum of Understanding (MOU) terminates June 30, 2011.
Consequences if not approved:	The Napa County Office of Education, through the Special Education Local Planning Area (SELPA), is required to establish an MOU annually with Napa County Mental Health to comply with the mandate to pass federal Individuals with Disabilities Education Act (IDEA) funding for AB 3632 services from the State Office of Education to Napa County Mental Health. If the MOU is not approved, the County will not receive available federal IDEA funding for AB 3632 services that HHS's Mental Health Division provides to eligible students.

In addition, if the amendment is not approved, Napa County will not be able to receive reimbursement from SELPA for actual costs incurred by the County in providing required mental health services to eligible students from January 1, 2011 through June 30, 2011 that have not been funded through other sources.

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Assembly Bill 3632 (AB 3632) is a State mandate requiring counties to provide free mental health services to children with special education needs in order for them to benefit from their education. Mental health services provided under AB 3632 include assessments, therapy, and therapeutic and residential costs for students placed in residential placements. The AB 3632 mandate was funded by a combination of federal Individuals with Disabilities Education Act (IDEA) funding and state SB 90 mandate claim reimbursement until October 8, 2010, when former Governor Schwarzenegger: (1) suspended the county AB 3632 mandate and vetoed \$133 million in Fiscal Year 2010-2011 state SB 90 mandate claim reimbursement to counties for AB 3632 mental health services; (2) provided \$52 million State General Fund in Fiscal Year 2010-2011 to county mental health departments to cover some of the costs of mental health services provided to AB 3632 students; and (3) eliminated \$70 million State General Fund for county welfare departments for the state's 40% share of residential placement costs for AB 3632 children in Fiscal Year 2010-2011. The Governor's veto left open the question of whether counties or county offices of education would be responsible for AB 3632 services after October 8, 2010, and resulted in several lawsuits. However, despite the uncertainty about which entity was financially responsible for these services, the Napa County Office of Education/Special Education Local Planning Area (SELPA) and Napa County Mental Health agreed to outline the service provision and payor responsibilities in a flexible manner that could accommodate future judicial or legislative changes.

A recent California Superior Court ruling found that the former Governor's suspension of the county AB 3632

mandate was legal and therefore counties are not required to provide and pay for mental health services pursuant to AB 3632 in Fiscal Year 2010-2011. Counties also will not be able to submit or be reimbursed for AB 3632 SB 90 mandate claims for current fiscal year services that occurred after October 8, 2010.

In November 2010 the State Superintendent of Schools released \$76 million in federal Individuals with Disabilities Education Act funding to county Offices of Education to pay for AB 3632 county mental health services in Fiscal Year 2010-2011 and to maintain essential mental health services for students with Individualized Education Programs (IEP). These funds were disbursed to county Offices of Education to allow for contracting with appropriate mental health agencies to provide specified mental health services. The State Budget Act requires each County Office of Education to enter into a MOU for the purpose of transferring federal IDEA funds to the county mental health agency for provision of AB 3632 services. Approval of the requested action will allow NCOE to transfer federal IDEA funds to HHS to fund part of the cost of services provided in accordance with AB 3632. Services will be provided by Napa County Mental Health to students referred to it by the schools, as specified in the student's IEP prepared by the schools. The amendment establishes the process by which Napa County Mental Health will account for its services so that they can be reimbursed through the IDEA funding.

The amendment also provides a vehicle for SELPA to reimburse the County for actual costs incurred by the County in providing required mental health services to eligible students from January 1, 2011 through June 30, 2011 that have not been funded through other sources. Due to the changes in reimbursement associated with residential placements, for purposes of this agreement the reference to Napa County Mental Health's provision of educationally related mental health services excludes residential placements. At this time, the responsibility for those services rests with the schools.

This amendment, which was initiated when it was unclear if the former Governor's October 8, 2010 suspension of the AB 3632 county mandate would be upheld, demonstrates a commitment by NCOE and Napa County Mental Health to ensure that students continue to receive services as required. The amendment recognizes that pending judicial or legislative actions may modify the financial agreements set forth in the amended MOU but confirms that AB 3632 services will be continued.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Karen Collins