



Agenda Date: 5/22/2007
Agenda Placement: 6C

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 Agreement No. 3579 with the Department of Alcohol and Drug Programs
(FY 2006-2007)

RECOMMENDATION

Director of Health and Human Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Revenue Agreement No. 3579 with the California Department of Alcohol and Drug Programs decreasing the amount by \$103,880 for a new maximum of \$1,207,209 for Fiscal Year 2006-2007.

EXECUTIVE SUMMARY

This multi-year revenue agreement provides state and federal funding for most of the Health and Human Services Agency's alcohol and drug programs. The agreement includes funding for outpatient treatment, residential treatment, and prevention services for both Drug Medi-Cal and non-Drug Medi-Cal clients. Approval of the requested action will decrease the maximum amount for Fiscal Year 2006-2007 from the original amount of \$1,311,089 to \$1,207,209. This reduction reflects a decrease in projected Drug Medi-Cal revenue as well as a slight overall decrease in Federal Substance Abuse Prevention and Treatment (SAPT) block grant funding.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Substance Abuse Services
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	This contract amendment is discretionary in that Napa County may choose not to receive funding for its substance abuse programs from the state and federal governments.

Is the general fund affected?	Yes
Future fiscal impact:	This is a multi-year agreement terminating June 30, 2008.
Consequences if not approved:	If this amendment is not approved, Napa County's Negotiated Net Amount agreement will be inconsistent with state and federal allocations. Until this amendment is fully executed, the County's funding is based on the initial contract executed for FY 2006-2007.
Additional Information:	<p>The requested amendment decreases the total amount of the agreement by \$103,880: \$95,238 in Drug Medi-Cal billing revenue and \$8,642 in the federal SAPT (Substance Abuse Prevention and Treatment) block grant funding.</p> <p>The actual amount to be received by HHS for Drug Medi-Cal for Fiscal Year 2006-2007 will be based on actual Drug Medi-Cal billings, up to the new maximum amount available in the amended NNA agreement. The original allocation was based on a best estimate in FY 2004-2005 when the agreement was first executed. The new allocation is based on availability of funds and the County's estimate of potential Drug Medi-Cal billings for FY 2006-2007.</p> <p>Reductions in the categorical amounts of the SAPT block grant are SAPT Discretionary (\$9,709) and HIV Set Aside (\$114). Small increases totaling \$1,181 are added to Adolescent Youth Treatment (\$334), Primary Prevention (\$439), and Perinatal Set Aside (\$408), for a total overall decrease of \$8,642 in SAPT block grant funds for Fiscal Year 2006-2007.</p>

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

Agreement No. 3579, referred to as the Net Negotiated Amount (NNA) agreement, provides most of the state and federal funding for the substance abuse services delivered by the Napa County Health and Human Services Agency. The NNA agreement is a multi-year revenue agreement. Normally, the County receives the NNA agreement for the current fiscal year (referred to as Amendment No. 1) from the State midway through the fiscal year. The yearly funding is based on a budget submitted by the County that reflects the County's previous year's alcohol and drug cost report, expected current year costs, and the State's available funding. Amendment No. 1 reflects any changes that have been made to that budget. However, the State provides the yearly funding on a monthly basis before Amendment No. 1 is approved to ensure that counties have sufficient revenue to operate their programs.

Final changes to the NNA budget and/or additional available funds will be reflected in a second amendment to the NNA agreement (Amendment No. 2). Although the County receives all of its funding for the current fiscal year during the current fiscal year, the State may not provide Amendment No. 2 to the County until after the fiscal year is over.

Amendment No. 1 for Fiscal Year 2006-2007 will decrease the maximum contract amount from \$1,311,089 to \$1,207,209, a reduction of \$103,880. This reduction in the NNA agreement is due to: (1) a \$95,238 decrease in revenue to reflect the current estimate of Drug Medi-Cal billings for HHSA and for Napa County providers that contract directly with the State Department of Alcohol and Drug Programs, and (2) a \$8,642 decrease in federal SAPT (Substance Abuse Prevention and Treatment) block grant funding. The total amount of NNA funding that HHSA will actually receive for Fiscal Year 2006-2007 will be based on the actual amount of Drug Medi-Cal billings for Fiscal Year 2006-2007, up to the new maximum amount available under the amended NNA agreement.

Contractor's Exhibit 1 to Amendment No. 1, prepared by County Counsel, is made part of this Agreement for the purpose of putting the State Department of Alcohol and Drug Programs (ADP) on notice that the County does not intend to be bound by certain elements of the Agreement as currently written. ADP has defined the contractual relationship between the County and ADP as constituting a HIPAA Business Associate relationship and included Business Associate Agreements within this Agreement. It is the opinion of County Counsel and the County Privacy Officer, however, that no such relationship exists. Further, it is their contention that those Agreements contain provisions which are not applicable to the contractual activities, are excessive, preclusive and not compatible with current capabilities, do not conform with the letter or the spirit of the HIPAA regulations, and are inappropriate to this Agreement. Negotiations between ADP and several counties that share this opinion are being initiated with the expectation that, like the Department of Mental Health has recently done, ADP will concede that the disputed provisions are inappropriate and agree to amend its boilerplate agreement with counties. Intended as an interim measure, Exhibit 1 sets forth the County's position in order to allow the contract to be finalized immediately. While the Exhibit reflects language agreed upon by the parties to previous negotiations, it should be noted that in the unlikely event of a legal challenge the exceptions may not be binding. Yet, the small risk of a dispute, and even smaller risk of a successful contest, is heavily outweighed by the fact that failure to execute the contract at this time could result in interruption of services or funding.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Lorenzo Zialcita