

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

July 14, 2020

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

JOHN McMAHON, Sheriff/Coroner/Public Administrator

SUBJECT

Administrative Services Agreement with the California Department of Health Care Services for the Medi-Cal County Inmate Program

RECOMMENDATION(S)

1. Approve **Administrative Services Agreement No. 20-578** with the California Department of Health Care Services, State Contract No. 20-10237, for reimbursement to DHCS of administrative costs associated with the Medi-Cal County Inmate Program (MCIP), for the period of July 1, 2020 through June 30, 2023, for an amount not to exceed \$43,078.
2. Direct the Director of Arrowhead Regional Medical Center to transmit the agreement to the Clerk of the Board of Supervisors within 30 days of execution by the California Department of Health Care Services.

(Presenter: William L. Gilbert, Director, 580-6150)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this item will allow the County of San Bernardino, through Arrowhead Regional Medical Center (ARMC) and the Sheriff/Coroner/Public Administrator (SBSD), to continue to contract with the California Department of Health Care Services (DHCS) to participate in and receive funding from the Medi-Cal County Inmate Program (MCIP). Pursuant to the terms of the Administrative Services Agreement, the County will reimburse DHCS a maximum of \$13,664.71 for 2020-21, a maximum of \$14,347.95 for 2021-22, and a maximum of \$15,065.34 for 2022-23, for a total agreement amount not to exceed \$43,078. Approval of this Administrative Services Agreement will not result in the use of Discretionary General Funding (Net County Cost), as ARMC will receive an estimated \$2.4 million in additional revenue from reimbursement associated with the federal financial participation of qualified acute inmate inpatient care provided by ARMC. Participation in the MCIP will also allow the SBSD to reduce the amount the County pays for services provided to certain inmates at non-county facilities by an estimated amount of \$1.0 million. Adequate appropriation and revenue is included in ARMC's 2020-21 budget.

**Administrative Services Agreement with the California Department of
Health Care Services for the Medi-Cal County Inmate Program
July 14, 2020**

BACKGROUND INFORMATION

On May 19, 2020 (Item No. 21), the Board of Supervisors (Board) approved Participation Agreement No. 20-283, State Agreement 20-MCIPSANBERNARDINO-36 ("Participation Agreement"), to allow ARMC and SBSB to participate in the MCIP program indefinitely. As part of that Participation Agreement, the parties agreed that they would enter into a separate agreement to reimburse DHCS for the administrative costs of operating the MCIP. The recommended Administrative Services Agreement subject to approval is the "separate agreement" contemplated by the Participation Agreement.

Approval of the Administrative Services Agreement will allow the County to reimburse the State for administrative costs associated with the MCIP, which is a prerequisite to the County's participation in the MCIP.

ARMC provides inpatient care to inmates incarcerated in correctional facilities throughout the County, as needed. Federal law prohibits claiming Medi-Cal funds for healthcare services provided to inmates residing in correctional facilities. However, there is an exception to this federal law when an inmate, who is found to be Medi-Cal enrolled, receives inpatient services at a medical facility located off the grounds of the correctional facility for an expected stay of more than 24 hours. Payment is dependent on the number of qualified acute patient days. The recommended Administrative Services Agreement supports fiscally-responsible and business-like operations as it will allow the County to continue to participate in the MCIP, which results in reimbursement to ARMC for the acute inpatient medical care services provided to Medi-Cal enrolled inmates. DHCS's ability to draw federal funds for allowable services, consistent with federal law, allows ARMC to receive reimbursement of expenses for medical care to inmates that would have otherwise been not recoverable. In addition, the MCIP allows the SBSB to reduce the amount paid for inpatient services at non-county facilities. The MCIP will only pay the federal share of the Medi-Cal payment.

The MCIP occurs at both a state and county level and allows Medi-Cal coverage for allowable inpatient hospital services to MCIP eligible inmates, including psychiatric and physician services. The MCIP eligible inmate refers to an individual who is eligible to receive MCIP services under the Adult County Inmate Program, the Juvenile Ward Program, the County Compassionate Release Program and the County Medical Probation Program. Under the MCIP, Medi-Cal providers receive federal reimbursement at the applicable Medi-Cal Fee-For-Service (FFS) rate using the same claiming process for non-inmate FFS Medi-Cal beneficiaries.

The MCIP is voluntary and counties have the option to participate in this program by entering into a Program Agreement and an Administrative Services Agreement with DHCS annually. After an inmate has qualifying inpatient days of medical acuity, a claim is submitted to DHCS for reimbursement. DHCS reviews the claim and, if approved, reimburses the inpatient provider at the Medi-Cal FFS rate. If a county does not participate in MCIP or does not abide by the terms of this agreement, the county remains responsible for arranging and paying for inpatient medical care of its inmates.

The County has been participating in the MCIP since July 2018. This Administrative Services Agreement was received from the State of California on June 8, 2020, and is retroactive to July 1, 2020. This item is being brought to the Board at this time, as it is the earliest available date, after all necessary reviews by county departments.

While the County's standard contract terms do not require the County to indemnify the other contracting party, this Administrative Services Agreement requires the County to defend, hold

**Administrative Services Agreement with the California Department of
Health Care Services for the Medi-Cal County Inmate Program
July 14, 2020**

harmless and indemnify DHCS, its officers, employees, and agents from any and all reported expenditures, liability, loss, or expense (including reasonable attorney's fees) for injuries or damages to any person, any property, or both which arise out of the terms and conditions of this Agreement and the negligent or intentional acts or omissions of the County, its officers, employees, or agents. By agreeing to the Administrative Services Agreement and the indemnification clause specifically, the County could be contractually waiving the protection of sovereign immunity, though because DHCS is also a public entity, the circumstances of that occurring is minimal. Nonetheless, claims that may otherwise have been barred against the County, time limited, or expense limited could be brought against DHCS without such limitations and the County would be responsible to defend and reimburse DHCS for costs, expenses (including attorney's fees), and damages, which could exceed the total contract amount.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Charles Phan, Deputy County Counsel, , 387-5455) on June 10, 2020; ARMC Finance (Chen Wu, Finance Budget Officer, 580-3165) on June 12, 2020; Finance (Yael Verduzco, Administrative Analyst, 387-5285) on June 25, 2020; Finance (Carolina Mendoza, Administrative Analyst, 387-0294) on June 19, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on June 28, 2020.

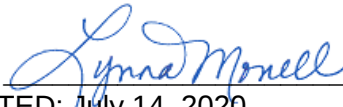
**Administrative Services Agreement with the California Department of
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July 14, 2020**

Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Robert A. Lovingood Seconded: Josie Gonzales
Ayes: Robert A. Lovingood, Janice Rutherford, Curt Hagman, Josie Gonzales
Absent: Dawn Rowe

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: July 14, 2020



cc: ARMC- Gilbert w/agree for sign
 Contractor- C/O ARMC w/agree
 File- w/agree
la 07/16/2020