THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Health Services Agency MAH **BOARD AGENDA #** B-5

Urgent ☐ **Routine** ☐ **AGENDA DATE** September 10, 2013

CEO Concurs with Recommendation YES ☑ **NO** ☐ **4/5 Vote Required YES** ☐ **NO** ☑
(Information Attached)

SUBJECT:

Approval to Select the County Formula Option for Health Care Realignment Funding for the Stanislaus County Implementation of the State Medi-Cal Expansion Portion of the Affordable Care Act Pursuant to Assembly Bill 85 of 2013

STAFF RECOMMENDATIONS:

1. Approve the selection for Stanislaus County of the "60% State/40% County" formula option described in Assembly Bill 85 of 2013 for Health Realignment funding beginning in Fiscal Year 2014-2015.
2. Authorize the Managing Director of the Health Services Agency or her designee to notify the State of California of the Health Realignment funding option selected by the Board of Supervisors.

FISCAL IMPACT:

The Health Services Agency total Fiscal Year 2013-2014 budget is approximately $90 million. Annually this budget contains approximately $14 million of what is referred to as "1991 Health Realignment" funding from the State of California and a corresponding $3.5 million of local mandated

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2013-455

On motion of Supervisor Monteith , **Seconded by Supervisor** Withrow
and approved by the following vote,
Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

1) X **Approved as recommended**
2) _____ **Denied**
3) _____ **Approved as amended**
4) _____ **Other:**
MOTION:

Christine Ferraro

ATTEST: **CHRISTINE FERRARO TALLMAN, Clerk** **File No.**

FISCAL IMPACT (Continued):

match, often referred to as the County Maintenance of Effort (County MOE). Of the total 1991 Realignment received, the majority is retained by the Health Services Agency with a small amount (6%), as revenue to the Department of Environmental Resources budget for public health related programs operated under that department.

The 1991 Health Realignment funding from the State is an allocation of collected Vehicle License Fees and Sales Tax revenue. As such, the actual amount distributed to the County each year fluctuates somewhat with the strength of the economy. The allocation of the statewide Health Realignment by county is based on an allocation percentage table found in the Welfare and Institutions Code Section 17603. Stanislaus County's percentage is 1.0509%.

The corresponding County MOE obligation of $3,510,803 is stated in the Welfare and Institutions Code Section 17608.10. The annual source of the County MOE mandated match has been the County General Fund.

The services which are to be supported by the 1991 Health Realignment funding and mandated County MOE, primarily includes various public health programming and the care to the medically indigent population under the Welfare and Institutions Code Section 17000. Since the inception of this funding, and based on what and where services were provided, the county has annually allocated the Health Realignment and County MOE funding in the following manner:

County Program Budget	Percentage of Health Realignment Allocated
HSA Medically Indigent Adult budget	64%
HSA Public Health budget	26%
HSA Clinic & Ancillary budget	4%
Department of Environmental Resources (DER)	6%

With the January 1, 2014 implementation of the Medi-Cal Expansion component of The Patient Protection and Affordable Care Act (Federal health care reform), a significant portion of the Medically Indigent Adult program population will gain eligibility in the Medi-Cal program. As a result, the State will redirect a portion of the 1991 Health Realignment away from counties and instead into an account to support a State obligation. This redirection of monies is based on the assumption that counties will have a lower level of spending in the Medically Indigent Adult (MIA) programs and other

sources of care for indigents provided by the counties due to the expansion of Medi-Cal eligibility starting January 1, 2014.

Under Welfare and Institutions Section 17000, each county has an obligation to provide or arrange for the provision of medical care to indigents who have no other source for these services. The counties' MIA program is essentially the payor of last resort for eligible indigents; the eligibility of which is established by each county's Board of Supervisors. In Stanislaus County, eligibility is determined on several factors including income. The income limits are age-banded as is common in the health coverage marketplace, and range from 171% of the Federal Poverty Level for the youngest age band up to 279% of the FPL for the oldest age band. The majority of the enrolled indigents have income below 138% of the FPL, but are not eligible for Medi-Cal generally because there are no children in the home. Under the January 1, 2014 Medi-Cal Expansion, these childless adults with income up to 138% of the FPL will become eligible for Medi-Cal and as such, will not be eligible for the County's MIA program.

In the recently passed Assembly Bill 85 of 2013, several counties, including Stanislaus County must select one of two formula options to be used by the State in determining the amount of redirected Health Realignment funding annually to begin in Fiscal Year 2014-2015. While annually budgeting for the County MIA program has always been of significant challenge, as the expenditures depend on future utilization of health care services, and given that much of the Federal health care reform has yet to be implemented and the State administrative policy on the options is presently being or yet-to-be defined, there are additional uncertainties relative to the formula options. Some examples would include the State's interpretation of "indigent" and allowable revenues and costs, and the volume of MIA program enrollment in the future.

Assembly Bill 85 as enrolled provides two options from which to choose:

1. Revenue/Cost Savings Formula
2. 60% State/40% County Split Formula

Working from various assumptions and scenarios, staff forecasted that under a best case scenario the amount of remaining (non-redirected) Health Realignment funding annually to the County would be about equal under either option, however considering more realistic scenarios, the county could receive up to $1.5 million more of remaining Health Realignment under the 60% State/40% County Split formula option.

Under the 60% State/40% County Split option, and holding harmless (status quo funding levels) the Public Health, Clinics & Ancillary Services and DER budgets, staff forecast an ongoing unmet need (overmatch) of approximately $1.3 million to fully support the costs of the residual MIA program; however, this amount should be less

than experienced in the more recent past. In the past, this overmatch has been as high as $6.1 million and was funded from one-time retained earnings in the Clinics and Ancillary Services budget. Those one-time funds have now been depleted, resulting in a General Fund exposure for the ongoing unmet need. This need for overmatch by Stanislaus County may not be necessary in other counties given the differences in county MIA programs. Further analysis and more refined forecasting of the actual amount of overmatch or unmet need beginning in Fiscal Year 2014-2015 will be included in the Proposed Fiscal Year 2014-2015 Health Services Agency budget submission and will be based on more timely information available at that time.

DISCUSSION:

In 1991, changes were made at the State level to the funding of various Public Health and Indigent Care responsibilities carried out at the county level. This funding stream is referred to as "1991 Health Realignment". The funding consists of an allocation of Vehicle License Fees and Sales Tax, and obligates each county to an established Maintenance of Effort (County MOE) match amount. For Stanislaus County this annual County MOE amount is $3.5 million, while the State portion fluctuates with Vehicle License Fee and Sales Tax collections, however, for context in Fiscal Year 2012-2013 the State-provided funding amount was approximately $14 million.

Specifically as regards the Indigent Care responsibilities referenced above, under Welfare and Institutions Section 17000, each county has an obligation to provide or arrange for the provision of medical care to indigents who have no other source for these services. The counties' MIA program is essentially the payer of last resort for eligible indigent adults; the eligibility and scope of benefits of which is established by each county's Board of Supervisors as guided by case law. Significant differences exist across the MIA programs by county.

Due to Federal health reform law, the State of California is opting to implement the State optional Medicaid (called Medi-Cal in California) Expansion, which will enable childless adults (citizens and legal residents) with income up to 138% of the Federal Poverty Level to gain eligibility to Medi-Cal beginning on January 1, 2014. The majority of these individuals presently rely on county Medically Indigent Adult (MIA) programs for their healthcare needs. As the State anticipates that the counties' expenditures for care to indigents will significantly decline, the State has already passed legislation which will redirect associated funding to another human services program to offset a State expense.

For a variety of reasons, including the limited time between passage of the State law and the implementation date of January 1, 2014, the State is using a different methodology for the redirection of State estimated county savings for the six months of

2014 (January through June) than for the fiscal years beginning July 1, 2014 and thereafter.

Redirection in Fiscal Year 2013/2014

In the 2013/2014 Fiscal Year, the State arbitrarily established a statewide redirection figure of $300 million and will apply the existing Health Realignment allocation percentages by county. For Stanislaus County, that means that approximately $3.2 million of what would have routinely been received in Health Realignment funding from the State, will not be funded to the County and instead will be redirected to a State CalWORKs fund. This change in anticipated funding is included in the Recommended Final Budget for Fiscal Year 2013-2014 under consideration by the Board of Supervisors on September 10, 2013.

Redirection Formula beginning Fiscal Year 2014-2015 – ***A County Choice***

Beginning at the start of Fiscal Year 2014-2015 and thereafter, the State has established savings-formula-based mechanisms to determine the amount of redirection of Health Realignment funds relative to each county. All the counties in California fall into one of three categories which are: Public Hospital Counties of which there are 12, Payor/Clinic Counties of which there are 12, and County Medical Services Program (CMSP) Counties of which there are 34. Stanislaus County falls into the Payor/Clinic county category as it does not operate a public hospital and is too large to be in the CMSP category (which is reserved for counties with a population less than 200,000). A Revenue/Cost Savings formula was developed for the Public Hospital Counties and a fixed 60% State/40% County split option was developed for the CMSP Counties. Those counties including Stanislaus County which fall into the Payor/Clinic County category have the choice of selecting from two mutually exclusive options: a modified Revenue/Cost Savings formula or the 60% State /40% County split formula. The selection by each of these 12 counties is a one-time selection to be made by the Board of Supervisors.

Deadline for County Board of Supervisors Selection

In Assembly Bill 85 of 2013 (AB85), the official deadline to report a county's selected formula option is December 4, 2013. However, if a county is considering the Revenue/Cost Savings formula, extensive reporting is due to the State by September 30, 2013. In the absence of staff submitting such reporting, the Revenue/Cost Savings formula becomes unavailable, so the option would default to the 60% State/40% County split without Board of Supervisor consideration, hence the timing of this staff recommendation. As of this writing however, a clean-up bill is moving through the legislature which would extend these deadlines by at least 30 days.

Staff Analysis of the Options and Factors Resulting in the Staff Recommendation

There are two options from which to choose:

1. Revenue/Cost Savings Formula – requires ongoing data sharing and reconciliations
2. 60% State/40% County Split Formula – fixed and not subject to ongoing reconciliations

The Revenue/Cost Savings formula involves a baseline estimate of savings which would be redirected and then subject to reconciliation processes on an estimated timeline of post 30 months. Establishment of the baseline involves sharing of county data retrospectively to Fiscal Year 2011-2012, followed by deliberations between county and State staff, but with the State having the ultimate discretion on determining which revenue and costs are allowable (within the AB85 language). If the county/State staff deliberations fail to achieve a mutually agreed baseline, a county can request a committee review, and a subsequent appeals review, however the ultimate discretion remains at the State. The revenue to be counted in the baseline and subsequent reconciliations includes any funding by the county to pay for enrolled MIA patients' costs of care and operating of the program. The revenue and costs to be counted include those not only in a county's MIA program budget, but also in the county clinic budget attributable to the indigent patients, and may include some services under the Public Health budget. After the initial baseline year, the real-time redirection amount is re-set, and continues to be subject to the post "30 month" reconciliation process. The actual determined savings is then subject to an 80% State/20% County split, although there is a cap applied such that the State's redirection figure could be less than 80%. If the amount that equates to 80% is greater than the amount that would have equaled 64% (or more depending on an interpretation by the State) of the Health Realignment from the State, then the redirection savings amount is limited to the "64%" figure. The State's share of the savings is the lessor of 80% or the amount of the Health Realignment the county had historically allocated to pay for the care to indigents. In Stanislaus County, that amount is at least 64% but could be higher if the State determines that portions allocated to the non-MIA budgets should be included.

The 60% State/40% County Split option is more straight forward, simpler and arguably less risky for the County, in that it is a fixed split that is not subject to data sharing and reconciliations. It is important to note however that the percentages are applied to the total of the Health Realignment (VLF and Sales tax) from the State, as well as the County MOE amount. The county would not be relieved of any of the entire $3.5 million County MOE spending obligation, so essentially, the split is technically closer to a 70% State/30% County split, as the State's take (or redirection of funding) includes the County MOE funding in the formula. Note: Although the 60% State/40% County option

is described herein as a fixed percentage split, within AB85 there is the possibility of petitioning the State for reconsideration in the event a county can demonstrate with sufficient evidence that due to State or Federal law, regulation, rulemaking or court decisions, county expenditures have been materially impacted.

In order to compare the two options, staff made assumptions on elements of the formula that were subject to the State's interpretation and assumptions on the residual enrollment volume in the MIA program. Staff varied the assumptions to consider possible outcomes. In the best case scenario which counts on some State interpretation being in favor of the counties (which is unlikely) the amount of remaining annual Health Realignment funding for Stanislaus County would be approximately equal under either formula option. Under more realistic assumptions however, the amount of remaining annual Health Realignment funding available to the County is up to approximately $1.5M more under the 60% State/40% County option.

Unless the law changes in the future, the option chosen by the Board of Supervisors is not flexible. The choice will apply to all fiscal years in the future beginning July 1, 2014. With so much changing in the coming years due to Federal health care reform, the actual financial experience at the county level could change. Under the Revenue/Cost Savings formula, the County would either enjoy or conversely suffer from the up and downside risk associated with the ongoing baseline and reconciliation process. Under the Revenue/Cost Savings formula, additional annual administrative burden would necessarily be a cost to the County due to the reporting and reconciliation process with the State. Under the 60% State/40% County option, there is no up or downside risk beyond the economic fluctuations that impact VLF and Sales tax revenues, which is present under either formula, and no obligation for reporting, hence no additional administrative burden and cost.

Given the forecast and the greater stability offered under the 60% State/40% County option, staff is recommending this be the option selected by the Board of Supervisors.

The recommendation to select the 60% State/40% County option for the future Health Care Realignment funding was presented in detail to the Board of Supervisors Health Executive Committee comprised of Supervisors O'Brien and Withrow who acted to recommend this option to the Board of Supervisors.

POLICY ISSUES:

Support of this staff recommendation is consistent with the Board of Supervisor's priority of A Healthy Community as it seeks to retain the greatest amount of funding to provide essential and mandated health services for our community.

STAFFING IMPACTS:

The conversion of many Medically Indigent Adult patients to the Medi-Cal program will have a staffing impact as the Medically Indigent Adult program will be significantly smaller in the future. The related staffing impacts are described in the Recommended Final Budget for Fiscal Year 2013-2014 under consideration by the Board of Supervisors on September 10, 2013. Monitoring and participating in the Health Realignment related activities will be performed by existing staff.

DEPARTMENT CONTACT:

Mary Ann Lee, Managing Director, 209-558-7163.

Changes to "1991 Health Realignment" Funding

Formula Options – A County Choice

Health Services Agency

September 10, 2013

What this is about and why….

- The amount of funding received from the State to help support public health and indigent care services is being significantly reduced in anticipation of lower County indigent care expenditures.

- Prompted by the Expansion of the Federal/State Medi-Cal program effective January 1, 2014.

Health Realignment Funding

From State ….about $14 million annually

- Portion of Vehicle License Fees
- Portion of Sales Tax

Requires a County Maintenance of Effort Match of $3.51 million annually

Health Realignment Funding Allocation

Stanislaus County budgets:

HSA Medically Indigent Adult ……..64%

HSA Public Health……..26%

Dept of Environmental Services……6%

HSA Clinics & Ancillary Services……4%

36% "public health" services

Split followed corresponding services at implementation of the "1991 Health Realignment"

Medically Indigent Adult Program

Welfare & Institutions Code Section 17000

- Obligates all counties to provide or arrange for the provision of medical care for indigents, as the payer of last resort (does not include mental health)

- Eligibility and Scope of Benefits established by each county's Board of Supervisors, with case law guidance

Stanislaus County MIA Program

Uninsured Adults between ages of 20 – 64

Citizens & Legal Residents

Asset Limits

Age Banded Federal Poverty Level Income Limits

171% of FPL – 279% of FPL

Medi-Cal Expansion Effective 1/1/14

Uninsured Adults between ages 20 – 64

Citizens and Legal Residents

Income Limit at 138% of the Federal Poverty Limit

The majority of enrolled MIA patients have income within the new Medi-Cal limit, so will no longer be eligible for the MIA Program, effective January 1, 2014

The State intends to redirect every potential dollar of "County Savings" to a State obligation

Assembly Bill 85 of 2013
Current v. Future Fiscal Years Impact

Redirection of Funding

- FY 2013/2014 - One Methodology
  - No Choice by counties
  - *Stanislaus County will receive $3.2 M less*
- FY 2014-2015 forward – Different Methodologies
  - 12 counties have a choice of methodology

Assembly Bill 85 of 2013
Impact by County

Counties fell into 1 of 3 categories

- Public Hospital Counties - 12
- County Medical Services Program Counties - 34
- Clinic/Payor Counties - 12

Stanislaus County is a “Clinic/Payor” County

Methodologies for 2014-2015 Forward

- Public Hospital Counties = Revenue/Cost Savings Formula
- CMSP Counties = 60% State/40% County Split
- **Clinic/Payor Counties = One-time Choice of Options**

  Modified Revenue/Cost Savings Formula, or
  60% State/40% County Split Option

Option #1 Revenue/Cost Savings Formula

- Baseline established using revenue and cost data from FY08/09, then annually on rolling 3 year old data.
  - Revenue & Costs to include MIA program **AND** Indigent related revenue and costs in the Clinics & Ancillary Services budget!
  - Revenue includes NOT JUST Health Realignment and County MOE, but also other County dollars needed to balance the respective budgets!
- Reconciliation through data sharing and deliberations with the State, 30 months following each FY, to determine if the State owes monies to the County or visa versa.
- State entitled to 80%* of the savings
  - There is a cap on the 80% tied to the historical amount allocated to Indigent Care.

Option #2 60% State/40% County Fixed Split

- State entitled to redirect 60% of the Health Realignment AND County MOE* amount

- Fixed formula – no data sharing or reconciliation process with the State

Forecasts Developed by Staff

Scenarios

- Different Interpretations by State on elements of the Revenue/Cost Savings Formula

- Different Assumptions on Residual MIA Program Enrollment levels and corresponding costs

Forecast Results

Two Methodology Options	Remaining Revenue for County responsibilities	Administrative Cost for Data Sharing/ Reconciliations
Revenue/Cost Savings Formula	$6.38 - 7.96 million	Not calculated/Not included
60/40 Fixed Split	$7.91 million	None

Under either methodology:

1. The County remains obligated to the full $3.51 million MOE spending (mandated match to the Health Realignment revenue from the State), included above.
2. Preserving status quo Health Realignment/MOE funding for the non-indigent services, an overmatch (County General Fund exposure) still estimated to balance future MIA budgets but at a lower amount than recent County spending.

Staff Recommends:
60% State/40% County Split Option

Reasons:

1. Revenue/Cost Savings Formula leaves much discretion at State on elements of the calculation (does include an exceptions request process); assume unfavorable for the County.
2. Additional administrative burden (cost) and financial uncertainty under the Revenue/Cost Savings Formula.
3. Forecasting shows the County will do up to $1.5 M better under the fixed 60/40 Split option (plus avoid the admin cost of the Revenue/Cost Savings Formula).

Is the “Fixed” 60/40 split really set forever?

In AB 85, there is a provision that would allow a County to petition for reconsideration if the County can demonstrate justification due to a new Federal or State Law or regulation or court decision.

Timelines

December 4, 2014 = Deadline to notify the State of the County's selected methodology,

however….

October 1, 2014 = Deadline to report historical revenue and cost data to the State if a County might want to choose the Revenue/Cost Savings methodology.

Note: Bills moving in Assembly and Senate to delay these deadlines by at least 30 days.

Staff Recommendation:

Supported by Health Executive Committee of BOS

1. Approve the selection of the 60% State/40% County option described in AB85 of 2013.

2. Authorize the Managing Director of HSA to notify the State of the selected option.