

Payments to Other Agencies

145 - M2 - ZE - MENTAL HEALTH WORKLOAD INCREASE

Agency Submittal: 2015-17 Final 2017 Sup

Budget Period: 2015-17

SUMMARY

The Department of Social and Health Services (DSHS) requests \$185,000 (\$130,000 GF-State) to support the Attorney General's Office (AGO) request of hiring 1.5 FTEs to manage the marked increase of litigation and client advice over the timeliness of forensic services. It has become the subject of a federal court class action and at issue in numerous contempt hearings in courts all around the region. The workload increase also includes legal proceedings and client advice arising from challenges in timely admitting civilly-committed patients to the state hospitals. Other workload continues unabated, including for example, support for the Special Commitment Center (SCC).

PROBLEM STATEMENT

Mental Health law is a specialized area of practice and requires highly trained attorneys to provide effective, quality legal representation to the programs. Over the last two years, the work load has steadily increased and exceeds the current staff's capacity. This has resulted in staff frequently working excessive hours and through many weekends. The resulting stress and burnout increases the risk of turnover of the current well trained staff. The following cases reflect current legal work and are examples of anticipated future workloads:

- Trueblood class action in federal court, which has been pending since 2014 and has spawned a very high volume of litigation work including major motions (temporary restraining order/preliminary injunction, class certification, summary judgment, numerous contempt motions, and others) in addition to the trial, appeals, and remand;
- T.R. v. Quigley class action in federal court—support to the client during the settlement monitoring and implementation phase, which is ongoing;
- Federal court class action to be filed by Disability Rights Washington against the Special Commitment Center over services to disabled residents;
- Ongoing litigation in Pierce County over waitlists for long-term civil commitment beds at Western State Hospital;
- Extensive contempt/show cause hearings in many counties for failure to place individuals at Western State Hospital in a timely manner;
- Regular civil commitment litigation from Western State Hospital, including daily dockets, jury trials, and felony cases;
- Regular legal advice to Western State Hospital, the Child Study and Treatment Center, and all the programs in the DSHS Behavioral Health Administration;
- Regular advice to the SCC administration;
- Civil rights and public records litigation brought by SCC residents, including the new lawsuit over water quality at the SCC.



DSHS VISION

People are healthy • People are safe • People are supported • Taxpayer resources are guarded

DSHS MISSION

To transform lives

DSHS VALUES

Honesty and Integrity • Pursuit of Excellence • Open Communication • Diversity and Inclusion • Commitment to Service

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PROPOSED SOLUTION

Add 0.9 FTE Assistant Attorney General (AAG) and 0.4 FTE Legal Assistant (LA) to the Mental Health Section to meet the legal needs of the DSHS Mental Health program, and 0.2 FTE Management Analyst 5 for agency administration support.

EXPECTED RESULTS

DSHS has statutory and constitutional obligations to provide mental health services and due process to individuals who are civilly committed or under the care of the state. The AGO provides essential legal services to DSHS in the form of advice and representation in court in order for DSHS to fulfill its obligations. The AGO is also mandated to represent DSHS in actions challenging the adequacy of the mental health programs it administers. The AGO is integral to the success of alternative methods to resolve litigation in a manner that serves individuals in need of mental health services and the state. Funding for an additional attorney will contribute to having an adequate number of trained staff to meet the mounting demand for legal services related to the state's strained and challenged mental health system.

STAKEHOLDER IMPACT

This request supports the DSHS in meeting legal obligations to provide timely forensic services to criminal defendants, avoiding the risk of dismissal of criminal charges, and to provide timely services to civilly-committed individuals. It supports the operations of Western State Hospital, the Child Study and Treatment Center, and the SCC in meeting the extensive requirements of state and federal law in order to meet funding requirements and to provide services which meet the legal rights of those being served.

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Program Contact: David Hilberg (360) 902-7641

OTHER CONNECTIONS

Performance Outcomes/Important Connections

1. Does this DP provide essential support to one or more of the Governor's Results Washington priorities?

Goal 4: Healthy & Safe Communities - Healthy People - Provide access to good medical care to improve people's lives.

2. The decision package meets the following DSHS' strategic objectives:

[135] 7.1: Maintain a productive, effective organization and maximize the ability to deliver services within available resources.

3. Identify other important connections or impacts below. (Indicate 'Yes' or 'No'. If 'Yes' identify the connections or impacts related to the proposal.)

a) Regional/County impacts? No

b) Other local government impacts? No

c) Tribal government impacts? No

d) Other state agency impacts? Yes (Attorney General's Office)

e) Responds to specific task force, report, mandate or executive order? No

f) Does request contain a compensation change or require changes to a Collective Bargaining Agreement? No

g) Facility/workplace needs or impacts? No

h) Capital budget impacts? No

i) Is change required to existing statutes, rules or contracts? No

j) Is the request related to litigation? Yes (The additional staff will be assigned to work litigation for Mental Health cases)

k) Is the request related to Puget Sound recovery? No

l) Other important connections? No

4. Please provide a detailed discussion of connections/impacts identified above.

Funding this decision package will allow the AGO to hire the necessary FTEs to meet the increased litigation and client advice requirements.

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Alternatives/Consequences/Other

5. What alternatives were explored by the agency, and why was this alternative chosen?

The AGO has attempted to meet the increased workload by borrowing attorneys from other practice groups, who are minimally trained in mental health cases, to assist in the Mental Health section. However, this approach risks staff burnout and increased turnover as well as inadequately trained attorneys covering the workload. Additionally, the AGO and DSHS have recently entered into an interagency agreement, which would provide a mechanism to create the additional AAG position. However, this is a stop gap measure and is not a sustainable funding source for this ongoing type and level of work.

6. How has or can the agency address the issue or need within its current appropriation level?

The AGO is unable to address this issue within its current appropriation level because it lacks the funding to hire the additional AAG and support staff needed.

7. Does this decision package include funding for any IT-related costs (hardware, software, services, cloud-based services, contracts or IT staff)?

- No**
- Yes (Include an IT Addendum)**

Fiscal Detail**145 - M2 - ZE - Mental Health Workload Increase**

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
001-1 General Fund-State	0	130,000	160,000	160,000
001-C General Fund-Medicaid	0	55,000	68,000	68,000
Total Cost	0	185,000	228,000	228,000

Staffing	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
FTEs	0.0	0.0	0.0	0.0

Performance Measure Detail

Activity:	Incremental Changes			
	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Program: 145				
N073 Payment to Other Agencies	0	0	0	0
No measures submitted for package				

Object Detail

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
EM Attorney General Services	0	185,000	228,000	228,000
Total Objects	0	185,000	228,000	228,000

DSHS Source Detail**Overall Funding**

Operating Expenditures	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
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Fund 001-1, General Fund-State**Sources Title**

0011 General Fund State	0	130,000	160,000	160,000
Total for Fund 001-1	0	130,000	160,000	160,000

Fund 001-C, General Fund-Medicaid**Sources Title**

19UL Title XIX Admin (50%)	0	55,000	68,000	68,000
Total for Fund 001-C	0	55,000	68,000	68,000

Total Overall Funding	0	185,000	228,000	228,000
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