Dept of Social and Health Services

Program 030 - Mental Health

2023-25 First Supplemental Budget Session

Maintenance Level - CS - Trueblood Case Judgment

Agency Recommendation Summary

The Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA) requests $100,318,000 GF-State for Fiscal Year 2024 to pay contempt fines ordered by the federal district court on July 7, 2023, related to the Trueblood, et. al. v. DSHS class action lawsuit.

Fiscal Summary

Fiscal Summary *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
	2024	2025	2023-25	2026	2027	2025-27
Operating Expenditures						
Fund 001 - 1	$100,318	$0	**$100,318**	$0	$0	**$0**
Total Expenditures	**$100,318**	**$0**	**$100,318**	**$0**	**$0**	**$0**

Decision Package Description

PROBLEM STATEMENT:

Trueblood, et. al. v. DSHS is a class action lawsuit challenging unconstitutional delays in competency evaluation and restoration services for individuals detained in city and county jails. In February 2018, DSHS engaged in a settlement negotiation process, resulting in a contempt settlement agreement. The goal of the settlement is to ensure the state serves Class Members timely, as well as reduce the number of potential or existing Class Members. Under the agreement, the majority of the monthly contempt fines are held in abeyance pending the State's ongoing compliance with the agreement.

On December 22, 2022, the Plaintiffs filed a Motion for Material Breach of Contempt Settlement Agreement and Motion for Civil Contempt. Plaintiffs alleged that the high number of felony civil conversion patients occupying forensic beds, which would otherwise provide services to Trueblood class members, was a breach of DSHS's obligations under the settlement and court orders. At the peak, over 180 forensic beds were occupied by civil conversion patients. On July 7th, 2023, the federal district court issued an order finding the State in breach of the contempt settlement agreement over a nine-month period, and in further contempt of the court's orders. The court ordered limitations on state hospital admissions, discharge or transfer of civil patients at the state hospitals, payment of over $100 million in contempt fines (out of the $290 million currently suspended), and new contempt fines to accrue on civil patients who remain in forensic beds at the rate of $1,000 per day after 21 days and $2,000 per day after 28 days.

On August 14th, 2023, the federal district court amended the July 7th order. The amended order specifies that payment of additional per diem fines described above begins after September 5th, 2023, for those civil patients not transferred out of forensic beds. DSHS also requested the court to allow payment of the $100 million in contempt fines in April 2024. There was no opposition from Plaintiffs and DSHS's motion is pending the court's decision.

PROPOSED SOLUTION:

Provide funding to process the court-ordered payment of $100,318,000 in contempt fines to the federal court.

EXPECTED RESULTS:

Fulfillment of court ordered contempt fines.

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Program Contact: Sandy Myer, (360) 485-2400

Assumptions and Calculations

Expansion, Reduction, Elimination or Alteration of a current program or service:

None

Detailed Assumptions and Calculations:

See attached – 030 – ML – CS – Trueblood Judgement_Attachment 1.xlsb

Workforce Assumptions:

None

Strategic and Performance Outcomes

Strategic Framework:

STRATEGIC FRAMEWORK:

BHA 3 - REDUCE THE DEMAND FOR AND PROVIDE TIMELY COMPETENCY EVALUATION AND RESTORATION SERVICES TO FORENSIC BEHAVIORAL HEALTH PATIENTS.

GOVERNOR'S RESULT WASHINGTON GOALS:

Goal 4. Healthy and Safe Communities, 4.1 Reduce Homelessness

Performance Outcomes:

See Expected Results.

Equity Impacts

Community outreach and engagement:

Due to the nature of this request, no community outreach or engagement was conducted. This request reflects the cost of unavoidable costs for outpatient contempt fines and plaintiff attorney fees, not funded in the current budget. BHA has received feedback from peers in both the general advisory and executive committees related to Trueblood. Feedback has also been received from various judges, prosecutors, and defense.

Disproportional Impact Considerations:

At this time, there are no identified populations or communities who will be marginalized or disproportionately impacted by this proposal. Should it become apparent that there are disparities, appropriate action will be taken.

Target Populations or Communities:

BHA provides services for individuals from across the state. Eastern State Hospital is in Medical Lake in Eastern Washington, and Western State Hospital is in Lakewood in Western Washington. This proposal ultimately benefits individuals who are awaiting inpatient admission to a DSHS BHA forensic services program at a state hospital, from a jail or from the community. Funding this request furthers equity in both justice system and laws and state and practices by ensuring BHA can comply with the court orders and pay the fines.

Other Collateral Connections

Puget Sound Recovery:

Not applicable

State Workforce Impacts:

None

Intergovernmental:

The Health Care Authority (HCA) and Criminal Justice Training Commission (CJTC) have worked closely with DSHS in providing support as each agency works with and has close contact with Trueblood impacted class members. DSHS will continue to work toward substantial compliance and a reduction in contempt sanctions. Trueblood program staff continue to update local Tribes about implemented programs. The provisions for the Agreement continue to receive support from city and county governments, jails, courts, law enforcement, prosecutors, and public defenders.

Stakeholder Response:

DSHS anticipates support from the Trueblood impacted class members and their families, as well as non-governmental, civil, and legal rights groups, focused on preserving the legal and constitutional rights of individuals.

State Facilities Impacts:

None

Changes from Current Law:

None

Legal or Administrative Mandates:

This request is in direct response to the July 7, 2023, court order in the Trueblood lawsuit, where DSHS was found in contempt of federal court.

HEAL Act Agencies Supplemental Questions

Not applicable

Reference Documents

030 - ML - CS - Trueblood Judgement_Attachment 1.xlsb

IT Addendum

Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?

No

Objects of Expenditure

Objects of Expenditure *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
	2024	2025	2023-25	2026	2027	2025-27
Obj. E	$100,318	$0	**$100,318**	$0	$0	**$0**

Agency Contact Information

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