Dept of Social and Health Services

Program 030 - Mental Health

2023-25 First Supplemental Budget Session

Maintenance Level - C9 - Trueblood Lawsuit Fines

Agency Recommendation Summary

The Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA) requests $14,099,000 GF-State for Fiscal Year (FY) 2024 for outpatient contempt fines and plaintiff attorney fees related to Trueblood, et. al. v. DSHS class action lawsuit.

Fiscal Summary

Fiscal Summary	Fiscal Years		Biennial	Fiscal Years		Biennial
Dollars in Thousands	2024	2025	2023-25	2026	2027	2025-27
Operating Expenditures						
Fund 001 - 1	$14,099	$0	**$14,099**	$0	$0	**$0**
Total Expenditures	**$14,099**	**$0**	**$14,099**	**$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 July 2016, DSHS was found in contempt of federal court for failure to comply with timeliness deadlines related to inpatient services. In October 2017, DSHS was found in contempt for jail-based evaluations. In February 2018, the parties engaged in a settlement negotiation process, resulting in a December 2018 settlement agreement, and the suspension of all inpatient fines. However, the federal court did not suspend outpatient contempt fines and DSHS is liable for plaintiff attorney fees. The goal of the settlement agreement 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 settlement agreement. Outpatient contempt fines are projected to be $820,750 per month in FY24 based on the last 12 months of fine data from FY23. It was also discovered that $510,000 in outpatient fines did not get paid in FY19 so a belated claim was submitted to OFM and approved for processing.

In addition to fines imposed by the federal court, BHA receives varying orders from state courts levying fines in show cause hearings that arise from contempt motions that are brought in individual criminal cases. Some courts are ordering payments directly for the benefit of criminal defendants, ordering DSHS to pay criminal defendants $250 per day for each day they wait in jail beyond the 7/14-day time limit. Other counties are levying fines but ordering that the fines be paid to county sheriff's offices, the county jails, or just paid into the court registry, without ordering those fines to be paid to the defendant. These sanctions are projected to be $245,000 per month in FY24 based on the last 12 months of data from FY23.

The estimated cost for FY24 by item is:

- $9,849,000 for outpatient contempt fines (federal court)
- $510,000 for unpaid outpatient contempt fines from FY19 (federal court)
- $800,000 for plaintiff attorney fees
- $2,940,000 for sanctions (various state courts)

PROPOSED SOLUTION:

Provide DSHS the necessary funding to pay for outpatient contempt fines, plaintiff attorney fees, and sanctions imposed by local courts.

EXPECTED RESULTS:

Fulfillment of court ordered costs.

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Assumptions and Calculations

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

None

Detailed Assumptions and Calculations:

See attached – 030 – ML – C9 – Trueblood Lawsuit Fines_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 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 (ESH) is located in Medical Lake in Eastern Washington, and Western State Hospital (WSH) is located 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 settlement agreement 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 this same client population. With an increased capacity for individuals awaiting placement for inpatient competency services, Class Members across the state will experience a decrease in wait times. Additionally, 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 2015 Trueblood lawsuit, where DSHS was found in contempt of federal court for failure to comply with timeliness deadlines related to inpatient services. In October 2017, DSHS was found in contempt for jail-based evaluations. In February 2018, the parties engaged in a settlement negotiation process, resulting in a December 2018 settlement agreement with the goal to bring the state into compliance and reduce the number of people who become or remain Class Members and to timely serve those who become Class Members.

HEAL Act Agencies Supplemental Questions

Not applicable

Reference Documents

030-ML-C9-Trueblood Lawsuit Fines_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	$14,099	$0	**$14,099**	$0	$0	**$0**

Agency Contact Information

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