

**COUNTY OF MILWAUKEE
BEHAVIORAL HEALTH DIVISION ADMINISTRATION
INTER-OFFICE COMMUNICATION**

DATE: July 11, 2014

TO: Milwaukee County Mental Health Board

FROM: Hector Colon, Director, Department of Health and Human Services (DHHS)
Prepared by: Susan Moeser
Behavioral Health Division (BHD) Fiscal Services Director

SUBJECT: Report from the Director, Department of Health and Human Services, Requesting Authorization to Enter into a Memorandum of Understanding with the Wisconsin Department of Human Services Based on Recommendations from Sellers Dorsey and Associates, LLC - Consultants.

Issue:

Wis. Stat. § 51.41(10) states that mental health contracts with a value of at least \$100,000 to which Milwaukee County is a party may take effect only if the Milwaukee County Mental Health Board (MHB) votes to approve, or does not vote to reject, the contract within 28 days after the contract is signed or countersigned by the county executive.

Background:

The DHHS Director seeks authorization to enter into a Memorandum of Understanding with the State Department of Human Services (DHS) for a matter related to, but not directly addressed by file 12-834, previously authorized by the Milwaukee County Board of Supervisors in 2012. *See attached inter-office communication dated September 24, 2012, resolution, and fiscal note from file 12-834.*

In 2012, the Milwaukee County Board of Supervisors authorized DHHS to enter into a two (2) year professional service contract with Sellers Dorsey and Associates, LLC¹ for the "Behavioral Health Division Revenue Maximization Initiative" (hereinafter, the "Initiative"). The objective of the Initiative is to increase reimbursement of Medicaid covered services provided by the Behavioral Health Division (BHD). Federal regulations allow federal matching for Medicaid payments to hospitals to be the greater of costs or an amount equivalent to what Medicare would have paid for the same services. This Initiative uses current local levy to draw down the Federal match for claiming the difference between the existing per diem rate received by BHD and the full cost. Sellers Dorsey identified, has developed and has had approved by the State Initiatives

¹ Sellers Dorsey and Associates, LLC is a consulting firm with expertise in hospital revenue maximization assessments generally and experience with Wisconsin's Medicaid programs and cost reporting in particular. Payment to Sellers Dorsey is on a contingency fee basis and occurs only after Milwaukee County receives the additional federal funds.

for claiming procedures and strategies for unreimbursed inpatient and outpatient costs. It is estimated that the Initiatives could result in Milwaukee County ultimately recovering a million dollars annually.

Discussion:

The Initiative requires that the DHS submit a State Plan Amendment to the Centers for Medicare and Medicaid Services authorizing DHS to make payments to BHD for hospital services using Certified Public Expenditures as the source of the state share for the payments. (DHS may make payments that include the federal share only through the use of Certified Public Expenditures as the source of the state share, pursuant to 42 CFR § 433.51(b).²)

The Centers for Medicare and Medicaid (CMS) has now approved DHS's State Plan Amendment. Under the Initiative, the Certified Public Expenditures for the non-federal portion of the increased payment is already being provided by BHD in the unfunded costs BHD currently absorbs. The Federal Medicaid program will provide reimbursement for the federal portion of this unfunded cost. DHS requires that BHD enter into the attached Memorandum of Understanding (drafted by Sellers Dorsey) to indemnify DHS for any claims arising out of activities related to the Agreement and to reimburse DHS for any grant awards disallowed due to BHD error. Because the Amendment has been approved by both the State and CMS and because the State makes quality checks before payments are made to the County, it is anticipated that the risk of recoupment or other potential liability under the Amendment is low. The UW Hospital System has been operating under a similar plan for years and has not incurred similar liability.

DHHS's 2012 submissions to the Milwaukee County Board of Supervisors in file 12-834 referenced the requirement for Certified Public Expenditure transfers, but the related resolution did not include those provisions or address this Memorandum of Understanding. DHHS/BHD requests the MHB's authorization to proceed with this Memorandum of Understanding to fully implement the Initiatives and obtain substantial reimbursements.

² 42 CFR § 433.51(b) provides that public funds may be considered as the state's share in claiming federal financial participation if those funds are appropriated directly to the state or are transferred from other public agencies to the state and under its administrative control and are not federal funds.