

**TITLE 9, CALIFORNIA CODE OF REGULATIONS**  
**General Mental Health Services Act**  
**Notice published: October 29, 2010**

**NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the Department of Mental Health (“Department”) is proposing to take the action described in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Department will hold a public hearing starting at 10:00 a.m. on **December 14, 2010**, at the California Department of Water Resources Auditorium located at 1416 9<sup>th</sup> Street, 1<sup>st</sup> Floor in Sacramento, California. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will end when all comments have been received or at 5:00 P.M. whichever comes first.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted by facsimile (FAX) at 916-651-3852 or by e-mail to [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov). The written comment period closes at **5:00 p.m. on December 14, 2010**. The Department will consider only comments received at the Department offices or at the public hearing, by that time. Submit comments to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 5898 of the Welfare and Institutions Code, the Department of Mental Health (Department) is seeking changes to:

Division 1 of Title 9 of the California Code of Regulations as follows: Adopt Article 2 Sections 3200.085, 3200.117, 3200.126, and 3200.227, Repeal Article 2 Sections 3200.020 and 3200.250, Amend Article 3 Sections 3300, 3310, and 3410,

Amend Article 5 Sections 3500 and 3505, and Amend Article 6 Section 3640. This proposed action implements, interprets, and makes specific Sections 5600, 5610, 5664, 5681, 5718, 5802, 5806, 5813, 5814, 5820, 5830, 5840, 5846, 5847, 5848, 5890, 5891, 5892, 5893, 5897, and 5898 Welfare and Institutions Code; Mental Health Services Act, Section 3.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking action clarifies and updates existing MHSA regulations. Adoption of these regulations is necessary to implement the provisions required by the MHSA.

The California voters approved Proposition 63 during the November 2004 General Election. Proposition 63 became effective on January 1, 2005, as the Mental Health Services Act (MHSA). The MHSA expands mental health services to children/youth, adults and older adults who have serious mental illness or serious emotional disturbance and whose service needs are not being met through other funding sources. Through imposition of a 1% tax on personal income in excess of \$1 million, the MHSA provides the opportunity for the Department of Mental Health (DMH) to offer increased funding, personnel and resources to support county mental health programs and monitor progress toward statewide goals for children/youth, adults, older adults and families.

The MHSA directs county mental health programs to develop and submit a Three-Year Program and Expenditure Plan (Plan). The Plan is comprised of five components of activities and/or services for which the MHSA funding can be spent. The components are Community Services and Supports for children, transition-age youth, adults and older adults; Capital Facilities and Technological Needs; Workforce Education and Training; Prevention and Early Intervention; and Innovation.

Given the scale of each component, DMH is implementing each component on a sequential and/or phased-in approach. Accordingly, regulations related to each component are being drafted through a concurrent process as the MHSA components are developed.

Specifically, these regulations eliminate “Bridge Funding”, as Counties have received MHSA funds and begun implementing MHSA programs and projects, and there is no longer a need for this type of funding. These regulations eliminate “Planning Estimate”, as this term has been replaced by the Department by the term “Component Allocation”. These regulations define the terms “Distribution”, “Fiscal Year” to ensure the Counties understand the terms as having specific meaning in the context of MHSA. These regulations also give the Department the opportunity to change typographical/grammatical errors and allow the Department to move and incorporate existing regulation text to more appropriate sections.

This DMH rulemaking repeals two regulation sections, amends six regulation sections and adopts four regulation sections, located in the California Code of Regulations Title 9, Division 1, Chapter 14, Article 2, Definitions, Article 3, General Requirements, Article 5, Reporting Requirements and Article 6, Community Services and Supports.

## **MATERIAL INCORPORATED BY REFERENCE**

Supporting documentation and relevant materials the Department relied upon in the Initial Statement of Reasons and/or the Informative Digest include:

DMH Information Notice [10-04](#)

Clarification and Modifications to Enclosures for the Proposed Guidelines for the Mental Health Services Act (MHSA) Fiscal Year 2010/11 Annual Update to the Three-Year Program and Expenditures Plan

Enclosure 1 ~ Exhibit Listing and Instructions

Enclosure 2 ~ Exhibit C1 Instructions to Implementation Progress Report

Enclosure 3 ~ Exhibit C1 Implementation Progress Report

Enclosure 4 ~ Exhibit D Previously Approved Programs for CSS

Enclosure 5 ~ Exhibit E4 PEI Budget Summary

Enclosure 6 ~ Exhibit F3 TN New and Existing Project Description

Enclosure 7 ~ Exhibit F4 PEI New Program Description

Enclosure 8 ~ Exhibit F5 INN New Program Description

Enclosure 9 ~ Exhibit I Training, Technical Assistance and Capacity Building Request

## **THE DEPARTMENT HAS MADE THE FOLLOWING INITIAL DETERMINATIONS:**

The proposed regulatory action imposes mandates when and if a County Mental Health Department applies for funds pursuant to these regulations. Proposition 63 created the Mental Health Services Act, which expanded mental health services, and was passed by the voters in November 2004. The County may choose to participate in the MHSA program; it is not a mandated program. If a county chooses to participate in this program, the State will provide funding to the county based on its approved Three-Year Program and Expenditure Plan.

DMH has determined that the regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- Mandate on local agencies and school districts: **None**.
- Cost or savings to any state agency: **None**.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None**
- Other nondiscretionary cost or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None**.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: **None**
- Cost impacts on a representative private person or businesses: The DMH is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations **only** affect those County Mental Health Departments that choose to participate.
- Significant effect on housing costs: **None**.
- Small Business Determination: The proposed regulations would not affect small businesses as these regulations **only** affect those County Mental Health Departments that choose to participate.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of business currently doing business within California.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

The proposed regulatory action imposes mandates when and if a County Mental Health Department applies for funds pursuant to these regulations. These funds are available through the Mental Health Services Act.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Alice Lee  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 654-2319

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to Ms. Fields at the above address. Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [DMH.Regulations@dmh.ca.gov](mailto:DMH.Regulations@dmh.ca.gov). Comments must be submitted prior to **5:00 p.m. on December 14, 2010**.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Department has available the rulemaking file for inspection and copying at its office at 1600 9th Street, Room 435, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based. These documents may also be viewed and downloaded from the Department's website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

Following the public comment period the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be viewed and downloaded from the Department's website at [www.dmh.ca.gov](http://www.dmh.ca.gov) or by contacting Ms. Fields at the above address.

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