

**COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH**

**F A C T   S H E E T**

**APPROVAL OF SETTLEMENT AGREEMENT AND PARTIAL DEFERMENT AND  
EXTENDED REPAYMENT OF COST REPORT SETTLEMENT RECOVERY  
(SUPERVISORIAL DISTRICT 5)  
(3 VOTES)**

**SUBJECT**

Request approval to defer recovery of certain amounts owed by Pacific Clinics until the State Department of Mental Health's Short-Doyle/Medi-Cal Audit is performed, and to enter into a repayment settlement agreement with Pacific Clinics to extend the Contractor's time to repay amounts owed to the County Department of Mental Health from three months to December 31, 2009.

**REQUEST**

Approve and instruct the Director of Mental Health, or his designee, to defer the recovery of \$955,210 determined to be owed during the Fiscal Year (FY) 2004-05 Cost Report and Reconciliation Settlement process for Pacific Clinics until the State Department of Mental Health (State) completes the Short-Doyle/Medi-Cal (SD/MC) Audit Settlement for FY 2004-05 (Audit Settlement).

Approve and instruct the Director of Mental Health, or his designee, to prepare, sign, and execute a Repayment Settlement Agreement with Pacific Clinics, to allow amounts owed by Pacific Clinics to the Department of Mental Health (DMH) for FY 2004-05 totaling \$965,628 to be paid by December 31, 2009, in lieu of the three-month repayment period stipulated in the financial provisions of the DMH Legal Entity Agreement (LE Agreement). The Repayment Settlement Agreement will be effective upon Board approval.

Find that there is sufficient justification to exempt Pacific Clinics from the moratorium provision on expansion and/or implementation of any new programs during the program of repayment, as provided for in the February 3, 2003, Chief Administrative Office (CAO), Auditor-Controller (A-C), and DMH joint action memo to your Board regarding timely repayment of settlement agreements.

**PURPOSE/JUSTIFICATION**

The recommended actions pertain to the SD/MC program, which is administered by DMH pursuant to federal and State statute, regulations, policies and procedures, and business guidance. The justifications for these actions are to minimize disruption to DMH's service delivery system and to allow Pacific Clinics sufficient time to satisfy the settlement amount owed to DMH.

Based on the FY 2004-05 State SD/MC Cost Report Reconciliation and Settlement, Pacific Clinics was determined to owe the County \$1,920,838 for its cost report settlement liability. Pacific Clinics seeks to defer \$955,210 of its cost report settlement liability for FY 2004-05. The request is based on future recovery of estimated State audit settlement amounts that will be calculated on actual costs. The FY 2004-05 audit settlement is estimated to result in additional State and federal reimbursement totaling \$942,219 that will be used to offset the amount owed to DMH, with the difference of \$12,991 being the County local match. Enforcing immediate repayment would result in impairment to Pacific Clinics of necessary cash flow used to sustain current service operations.

The audit settlement is based upon the actual audited costs allowed for the costs reported by the contractor and the actual units of service billed by the contractor to, and approved by, the State. This request, in part, is made because Pacific Clinics misreported real property revenues by reducing FY 2004-05 program expenses. This resulted in program expenses being reported in the FY 2004-05 SD/MC Cost Report that were less than the actual cost of the services. This understatement of program costs reduced State and federal reimbursements. However, the State ultimately reimburses the actual costs reported by contractors and as audited at the time of subsequent audit settlement. Pacific Clinics is anticipated to receive additional State and federal reimbursement when the audit settlement is final, which would reduce the Cash Flow Advance amount owed to DMH.

Pacific Clinics and DMH also request Board approval of a Repayment Settlement Agreement which will allow Pacific Clinics to repay the remaining balance of the FY 2004-05 Cost Report and Reconciliation Settlement in the amount of \$965,628 over an extended period in lieu of the three-month repayment period as provided in the LE Agreement. DMH requested that the A-C review the financial records of Pacific Clinics to ensure that such extended repayment was justified and that it would not place DMH or the County at risk of financial loss. Based on the A-C's recommendation it is recommended that the repayment be extended until December 31, 2009. This extension of the repayment period will mitigate an immediate adverse cash flow impact on Pacific Clinics' current service delivery system, thereby avoiding any adverse impact on the level and quality of services provided, and will enhance the probability of recovery of DMH funds from Pacific Clinics.

The recommendation to find that there is sufficient justification to exempt Pacific Clinics from the moratorium requirement is based on a provision in the February 3, 2003, CAO, A-C and DMH joint action memo to your Board regarding timely repayment of settlement agreements. This provision states, in pertinent part, "...DMH will recommend that future repayment settlement agreements include the following: A

moratorium on expansion and/or implementation of any new programs for this contractor during the period of repayment. Any exemption from this penalty would require justification that this restriction would negatively impact planned program services." DMH finds that Pacific Clinics is an important service provider in the County's mental health service delivery network and to exclude them from future planned programs, such as parts of the Mental Health Services Act (MHSA), would unduly harm County residents requiring services and impair access to services.

### **BACKGROUND**

As of December 18, 2008, Pacific Clinics had a FY 2004-05 Cost Report Reconciliation and Settlement balance of \$1,920,838 (consisting of \$955,210 to be deferred and \$965,628 to be recovered through December 31, 2009) due and payable to DMH. The requested deferral action applies to Pacific Clinics' balance of \$955,210 for FY 2004-05. The remaining \$965,628 will be recovered in monthly installments through December 31, 2009.

The Department's LE Agreements with providers specify that repayment of an amount due to DMH is to be made no later than September 30 following a fiscal year close. Such repayment is to be paid by contractor over a period not to exceed three months. Additionally, consistent with the February 3, 2003, CAO, A-C, and DMH joint action memo to your Board regarding timely repayment of settlement agreements, contractors must pay interest if the repayment period exceeds one year and must provide DMH with a comprehensive financial plan to support the repayment schedule.

Pacific Clinics requested, and DMH disbursed, claim payments for FY 2004-05 in anticipation of State and federal reimbursements. Currently, Pacific Clinics requests to defer a portion of its SD/MC Settlement liability for FY 2004-05.

Approval of the deferral of the settlement recovery until the audit settlement is final will permit Pacific Clinics to retain a portion of the funds already disbursed to them. Although these funds are presently unearned, according to current Medi-Cal reimbursements for approved SD/MC services, they are projected to be earned when the State concludes its audit settlement because of State adjustments to reported costs increasing reimbursements to actual costs. If DMH recovered these funds now, it is projected that DMH would be paying the funds back to Pacific Clinics in approximately 12 months. In the unlikely event that the State does not make the additional reimbursements, the full amount of the deferred funds will be due and payable subsequent to the final settlements conducted by the State and DMH.

This request also includes an extended period for Pacific Clinics to repay DMH the unearned portion of claims payments for FY 2004-05. Pursuant to the LE Agreement's repayment provision, Pacific Clinics is required to repay the amount owed to DMH in a period not to exceed three months. Pacific Clinics has informed DMH that repayment of the debts in a three-month period would result in adverse financial consequences that would directly and negatively impact the level and quality of services to its clients. To avoid such consequences, DMH and Pacific Clinics request Board approval to enter into a Repayment Settlement Agreement to extend the repayment period to December 31, 2009. In compliance with the February 3, 2003, joint action memo to your Board, DMH has included in the proposed Repayment Settlement Agreement the requirement that interest be charged if the repayment exceeds one year. Additionally, Pacific Clinics has also been instructed to provide a comprehensive financial plan to support the repayment schedule, including financial and cash flow statements, to DMH on a monthly basis. DMH will verify the reasonableness of the plan's assumptions and projections.

DMH and Pacific Clinics request that your Board find that there is sufficient justification to exempt Pacific Clinics from the moratorium requirement on expansion and/or implementation of any new programs during the program of repayment, as provided for in the February 3, 2003, CAO, A-C, and DMH joint action memo to your Board regarding timely repayment of settlement agreements. DMH considers Pacific Clinics to be a critical part of the County's mental health service provider network. Any exclusion, particularly from forthcoming MHSA awards, would leave serious service gaps in the service areas covered by Pacific Clinics with resulting degradation in the available scope and level of services to the clients.

Effective upon Board approval, DMH will continue to receive monthly repayments from Pacific Clinics until DMH has fully recovered the funds, which have not been deferred, owed to it. This proposed repayment period allows sufficient time for Pacific Clinics to take planned actions to improve their financial condition without disruption to their current service delivery level. Such repayments can be either in the form of actual cash payments, deductions from the Pacific Clinics' monthly claims, or a combination of these two categories.

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Fact Sheet  
Pacific Clinics FY 04-05 Settlement  
Page 5

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