

Stanislaus County Behavioral Health and Recovery Services
Grand Jury Case No. 04-42
2003-2004

REASON FOR INVESTIGATION

To examine the preparation, approval and monitoring of agreements that Stanislaus County entered into with Doctors Medical Center of Modesto (DMC) for the delivery of services at Stanislaus Behavioral Health Center (SBHC), and the role of County Counsel in that process.

BACKGROUND

Previous grand juries have reviewed the decision of the Board of Supervisors to contract with DMC for the provision of medical health services following the closure of Stanislaus Medical Center in 1997. The current review focuses specifically on the contracts between the County and DMC relative to SBHC. SBHC is a division of the Stanislaus County Behavioral Health and Recovery Services (BHRS) which is responsible for all County sponsored inpatient and outpatient mental health services.

PROCEDURES FOLLOWED

1. People interviewed
 - a. Staff from Behavioral Health and Recovery Services
 - b. Staff from Office of Auditor-Controller
 - c. Staff from Office of Stanislaus County Chief Executive Officer
2. Documents Reviewed
 - a. Omnibus Agreement by and between County and DMC (November 30, 1997)
 - b. Facility Lease Agreement by and between County and DMC (November 30, 1997)
 - c. Facility All Risk Management Agreement by and between County and DMC (November 30, 1997)
 - d. Inpatient Hospital Services Agreement (November 30, 1997)
 - e. Detention Facilities Subcontract Agreement (November 30, 1997)
 - f. Letter from Director, BHRS to DMC (January 7, 2004)
 - g. Letter from DMC to Director, BHRS (January 21, 2004)
 - h. Memo from County Counsel to Director, BHRS (January 29, 2004)

FINDINGS

1. The County approved an agreement with DMC entitled the Omnibus Agreement concurrently with four subordinate agreements. Two of the subordinate agreements, the Facility Lease Agreement and the Facility All Risk Management Agreement, provide for the continuation of mental health services at SBHC. The term of all agreements is twenty years, commencing in 1997.
2. SBHC is an inpatient mental health facility operated by BHRS, and is owned in fee title by Stanislaus County.
3. The Facility Lease Agreement provides that all buildings, grounds, equipment and other improvements at SBHC are leased to DMC for lease consideration of \$35,583.00 per month.
4. The Facility All Risk Management Agreement provides that DMC will contract the operation of SBHC back to the County, and that in consideration of that contractual arrangement, the County will assume all financial responsibilities of the operation, including lease payments. The County has also indemnified and held harmless DMC from all tort liability. The sole remaining responsibility of DMC is the control of the manner in which medical services are provided at SBHC.
5. All of the agreements were prepared by private attorneys retained by the County who consulted with DMC attorneys in the preparation of the agreements. County Counsel did not participate in the preparation of the agreements.
6. Key County officials, who were intimately involved in the negotiations leading to the approval of the agreements, have left County service. Those key personnel include the former Chief Executive Officer, the former Director of the Health Services Agency (HSA) and the former Director of the Behavioral Health and Recovery Services.
7. Prior to the review of the agreements by the Civil Grand Jury, no one in the Office of County Counsel had reviewed the various agreements with DMC.
8. BHRS personnel did not have knowledge of the language in the Facilities Lease Agreement, or the contents of the Facility All Risk Management Agreement

CONCLUSIONS

1. The Omnibus Agreement and its subordinate agreements are complex. They have effectively created a process that permits the County to continue to receive reimbursement from Medicare and Medi-Cal for mental health services rendered to County residents. In that regard, the agreements are beneficial to the County and its residents.

2. There has been a loss of knowledge relative to the terms of the various agreements that occurred with the departure of the key personnel referenced above. Persons presently occupying those positions do not possess full knowledge and understanding of the agreements.
3. After the completion of the work by private counsel, the Board of Supervisors was left with no legal staff who had participated in the construction of the agreements.
4. There is a need for training on the agreements given the fact that many of the management personnel in the affected agencies did not occupy those positions when the County entered into the agreements with DMC.
5. The Omnibus Agreement and its subordinate agreements as they apply collectively to HSA and BHRS represent one of the largest contracts for services that Stanislaus has ever entered into, in terms of the financial resources involved. Therefore, it is troubling that so little effort has been made by anyone outside of HSA and BHRS to familiarize themselves with the agreements, or to monitor the performance of the agreements.
6. The County should not be in a position of having to rely on an agency with which it has contracted for explanations and interpretations of the agreements.
7. The County is placed at risk of financial loss any time that it enters into agreements that are not thoroughly understood by management personnel.
8. When management personnel do not thoroughly understand agreements, it is impossible for them to monitor the performance of the contracting parties relative to the terms of the agreements.
9. All agreements for services should be thoroughly reviewed by the Office of County Counsel before they are submitted to the Board of Supervisors for action. Further, each agreement should be executed by County Counsel to signify "approval as to form", whether or not the agreements are prepared by County Counsel or contracted legal counsel.

RECOMMENDATIONS

1. Initiate periodic reviews of the agreements with DMC to include staff from HSA, BHRS, the CEO's office, County Counsel and Risk Management to monitor the performance of the agreements and the parties to the agreements. Utilize the reviews to identify areas of concern, or potential problems that may affect the continued delivery of services, levels of service or costs.
2. Utilize the first staff review as an opportunity for County Counsel to conduct training on the terms and conditions of the agreements.

3. Ensure that all agreements presented for consideration of the Board of Supervisors have been thoroughly reviewed by County Counsel.
4. Require that County Counsel be signatory to every agreement approved by the Board of Supervisors, and that each such agreement shall be inscribed to signify “approval as to form” by County Counsel.
5. At least annually, prepare a report to the Board of Supervisors summarizing the findings, conclusions and any recommendations arising from the internal staff reviews. In order to maximize the opportunity for public awareness and public comment, the report should be presented orally, rather than being placed on the Consent Calendar.