



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-063

For business meeting on May 17, 2024

Title

Report to the Legislature: Allocation of Funding in 2023–24 for Federally Funded Dependency Representation Program Shortfall

Agenda Item Type

Information Only

Date of Report

April 12, 2024

Submitted by

Judicial Council staff
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Center for Families, Children & the Courts

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Executive Summary

Staff of the Judicial Council's Center for Families, Children & the Courts submitted to the Legislature *Report on Allocation of Funding in 2023–24 for Federally Funded Dependency Representation Program Shortfall*, in accordance with the requirement in the 2023 Budget Act.

Relevant Previous Council Action

At its meeting on January 21, 2022, the Judicial Council adopted an allocation and distribution plan for the up to \$30 million provided for court-appointed counsel in dependency cases appropriated in the 2021 Budget Act.¹ At its meeting on May 10, 2022, the council received *Report to the Legislature: Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall*.² At its meeting on May 12, 2023, the council received *Report*

¹ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: Funding Allocation Methodology for General Fund Supplement to Address Federally Funded Dependency Representation Program Shortfall* (Dec. 14, 2021), <https://jcc.legistar.com/View.ashx?M=F&ID=10355260&GUID=B8B4DE43-8532-4100-A265-9BAB63635A29>.

² Judicial Council of Cal., Staff Rep., *Report to the Legislature: Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall* (Apr. 20, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=10819200&GUID=BCC85223-27D6-440E-83AA-328FD378921A>.

*to the Legislature: Allocation of Funding in 2022–23 for Federally Funded Dependency Representation Program Shortfall.*³

Analysis/Rationale

In January 2019, the U.S. Department of Health and Human Services made court-appointed counsel in dependency proceedings eligible for federal matching funds. The Judicial Council established the Federally Funded Dependency Representation Program (FFDRP) beginning fiscal year (FY) 2019–20 to support the courts and court-appointed counsel (CAC) providers in gaining access to these newly available federal funds to support enhanced legal representation services for families and children in dependency proceedings. For FY 2023–24, an estimated maximum of \$66 million is available in federal matching dollars to courts and CAC providers.

The \$66 million estimate is based on the amount that the 2023 Budget Act provided in state General Fund for court-appointed dependency counsel.⁴ FFDRP providers are unable to reach the federal reimbursement maximum for two reasons: (1) the scope of services eligible for reimbursement under federal funding is narrower than under the state General Fund, and (2) not all providers are currently capable of providing the type of documentation required for federal reimbursement. Participating providers were able to bill 53 percent in FY 2019–20; 64 percent in FY 2020–21; 72 percent in FY 2021–22; and 71 percent in FY 2022–23. To address these issues, the Budget Act of 2023 includes a provision that up to \$30 million from the General Fund be made available to the Judicial Council to reimburse courts and providers for any gap between the \$66 million estimate and what the state is able to recover in federal funds.

As required by the 2023 Budget Act, this legislative report identifies (a) the total eligible federal reimbursements invoiced statewide in the first two quarters of the current fiscal year; (b) projected shortfalls in year-end federal reimbursements; and (c) a proposed allocation and distribution of any portion of the \$30 million necessary to address projected shortfalls.

Fiscal Impact and Policy Implications

A shortfall of approximately \$17 million to \$25 million in eligible federal reimbursements in fiscal year 2023–24 will need to be covered with State General Fund. Judicial Council staff will need to expeditiously complete the review and approval of all invoices for FY 2023–24 so that quarterly distributions can be made to providers by the deadline of September 30, 2024.

Attachments and Links

1. Attachment A: *Report on Allocation of Funding in 2023–24 for Federally Funded Dependency Representation Program Shortfall*

³ Judicial Council of Cal., Staff Rep., *Report to the Legislature: Allocation of Funding in 2022–23 for Federally Funded Dependency Representation Program Shortfall* (Apr. 18, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=11956258&GUID=F7F8BAF9-4E72-41F6-A5CC-8698F059137C>.

⁴ Sen. Bill 101 (Skinner; Stats. 2023, ch. 12), Item 0250-102-0932 of section 2.00 of the Budget Act, provisions 2 and 3, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB101.



JUDICIAL COUNCIL of CALIFORNIA

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HON. PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

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Chair, Executive and Planning Committee

HON. ANN C. MOORMAN

Chair, Judicial Branch Budget Committee

HON. MARLA O. ANDERSON

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MS. SHELLEY CURRAN

*Administrative Director
Judicial Council*

April 4, 2024

Hon. Scott D. Wiener

Chair, Senate Committee on Budget and Fiscal Review

Chair, Joint Legislative Budget Committee

1020 N Street, Room 502

Sacramento, California 95814

Hon. Jesse Gabriel

Chair, Assembly Committee on Budget

Vice-Chair, Joint Legislative Budget Committee

1021 O Street, Suite 8230

Sacramento, California 95814

*Re: Report on Allocation of Funding in 2023–24 for Federally Funded
Dependency Representation Program Shortfall*

Dear Senator Wiener and Assembly Member Gabriel:

Under item 0250-102-0932, provision 2, of the Budget Act of 2023, the Judicial Council is submitting this *Report on Allocation of Funding in 2023–24 for Federally Funded Dependency Representation Program Shortfall*.

In January 2019, the U.S. Department of Health and Human Services made court-appointed counsel in dependency proceedings eligible for federal matching funds. The Judicial Council established the Federally Funded Dependency Representation Program (FFDRP) beginning fiscal year 2019–20 to support the courts and court-appointed counsel (CAC) providers in accessing these newly available federal funds to support enhanced legal representation services for families and children in dependency proceedings. For fiscal year 2023–24, an estimated maximum of \$66 million is available in federal matching dollars to courts and CAC providers.

The \$66 million estimate is based on the amount that the 2023 Budget Act provided in state General Fund for court-appointed dependency counsel. FFDRP providers are unable to reach the federal reimbursement maximum for two reasons: (1) the scope of services eligible for reimbursement under federal funding is narrower than under the state General Fund, and (2) not all providers are currently capable of providing the type of documentation required for federal reimbursement. Participating providers were able to bill 53 percent in fiscal year 2019–20; 64 percent in fiscal year 2020–21; 72 percent in fiscal year 2021–22; and 71 percent in fiscal year 2022–23.

To address these issues, the Budget Act of 2023 includes a provision that up to \$30 million of General Fund be made available to the Judicial Council to reimburse courts and providers for any gap existing between the \$66 million estimate and what the state is able to recover in federal funds. In fiscal year 2022–23, \$15.6 million of the General Fund made available by the provisional authority was used to reimburse courts and providers for this purpose.

As required by the 2023 Budget Act, this report identifies (a) the total federal reimbursements invoiced statewide in the first two quarters of the current fiscal year; (b) projected shortfalls in year-end federal reimbursements; and (c) a proposed allocation and distribution of any portion of the \$30 million necessary to address projected shortfalls.

(a) The total federal reimbursements invoiced statewide in the first two quarters of the current fiscal year.

The Judicial Council received approximately 188 of the 410 invoices expected statewide for the first two quarters of the current fiscal year, for a total of \$13.2 million in federal reimbursements.

(b) Projected shortfalls in year-end federal reimbursements.

Based on the data on legal representation invoices that were eligible for federal reimbursement, Judicial Council staff project a shortfall in federal reimbursements of approximately \$17 million to \$25 million in fiscal year 2023–24.

(c) A proposed allocation and distribution of any portion of the \$30 million necessary to address projected shortfalls.

By June 30, 2024, the Judicial Council will issue contracts to fund approximately 56 to 70 providers that entered into an FFDRP contract and have submitted invoices for every month under contract or documented extenuating circumstances preventing them from invoicing.

It is expected that participating providers will have submitted all fiscal year 2023–24 FFDRP invoices to the Judicial Council by July 26, 2024, so that the final shortfall amount in federal reimbursements can be determined.

By August 19, 2024, providers will have invoiced the council for the federal reimbursement shortfall amount so that all quarterly payments can be issued before September 30, 2024.

Hon. Scott D. Wiener
Hon. Jesse Gabriel
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If you have any questions related to this report, please contact Ms. Audrey Fancy, Principal Managing Attorney, Judicial Council Center for Families, Children & the Courts, at 415-865-7706.

Sincerely,



Shelley Curran
Administrative Director
Judicial Council

SC/AF/gl

cc: Cara L. Jenkins, Legislative Counsel

Erika Contreras, Secretary of the Senate

Eric Dang, Counsel, Office of Senate President pro Tempore Mike McGuire

Emelyn Rodriguez, General Counsel, Office of Assembly Speaker Robert Rivas

Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

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