



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

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Title

Report to the Legislature: Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall

Agenda Item Type

Information Only

Date of Report

April 20, 2022

Submitted by

Judicial Council staff
Audrey Fancy, Principal Managing Attorney
Center for Families, Children & the Courts

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Executive Summary

On or before April 1, 2022, staff for the Judicial Council’s Center for Families, Children & the Courts submitted to the Legislature *Report on Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall*, in accordance with the requirement in the Budget Act of 2021.

Relevant Previous Council Action

At its meeting on January 21, 2022, the council adopted an allocation and distribution plan¹ for the up to \$30 million provided for court-appointed counsel in dependency cases appropriated in the Budget Act of 2021.²

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 Sen. Bill 129 (Skinner), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB129. Item 0250-102-0932, provision 2, reads:

Upon order of the Department of Finance, the Controller shall increase Schedule (1) by up to \$30,000,000 to address any shortfalls in federal reimbursements pursuant to Title IV-E of the federal Social Security

Analysis/Rationale

In 2019, the federal Department of Health and Human Services made court-appointed counsel in dependency proceedings eligible for federal matching funds. In California, an estimated maximum of \$57 million is available annually in federal match dollars to courts and court-appointed counsel providers. This funding process is administered by the Judicial Council through the Federally Funded Dependency Representation Program.

The \$57 million estimate is based on the amount that the Budget Act of 2021 provided in state General Fund for court-appointed dependency counsel. Billing in the first year of operations (fiscal year 2019–20) did not reach the maximum for two reasons: the federal funding has a narrower scope of services eligible for reimbursement than the state General Fund, and not all providers are currently capable of providing the type of documentation required for federal reimbursement. For those reasons, the Budget Act of 2021 included 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 \$57 million estimate and what the state is able to recover in federal funds.

As required by the Budget Act of 2021, this legislative 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.

Fiscal Impact and Policy Implications

Judicial Council staff will need to complete the review and approval of all invoices for fiscal year 2021–22 expeditiously so that distributions can be made to providers by the September 30, 2022 deadline. In future years these calculations and distributions will need to be undertaken quarterly.

Act (42 U.S.C. Sec. 670 et seq.) that supplement funding for court-appointed counsel for children, nonminor dependents, and parents in juvenile court dependency proceedings pursuant to subdivisions (b) and (c) of Section 317 of the Welfare and Institutions Code and paragraph (4) of subdivision (a) of Section 77003 of the Government Code. The Judicial Council shall report by April 1, 2022, to the chairpersons of the committees and appropriate subcommittees that consider the State Budget the following information: (a) the total federal reimbursements invoiced statewide in the first two quarters of the current fiscal year; (b) any projected shortfalls through the end of the current fiscal year as compared to the \$57,000,000 in expected federal reimbursements; and (c) a proposed allocation and distribution of any portion of the \$30,000,000 necessary to address projected shortfalls. The Judicial Council shall work in collaboration with court-appointed dependency counsel providers to ensure timely submission, review, and payment of monthly invoices attributable to the 2021–22 fiscal year so that determination of the statewide total of federal reimbursements and any portion of the funding described in Provision 2 needed to address any remaining shortfall can be made no later than September 30, 2022. Distribution of funds to address any shortfall shall be made by the Judicial Council using the methodology customarily employed to distribute statewide court-appointed dependency counsel funding as described in Provision 1. Any funds described in Provision 2 not encumbered by October 1, 2022, for eligible activities attributable to the 2021–22 fiscal year shall revert to the General Fund.

Attachments and Links

1. Attachment A: *Report on Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall*



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MR. MARTIN HOSHINO
Administrative Director
Judicial Council

April 1, 2022

Hon. Nancy Skinner
Chair, Senate Committee on Budget and Fiscal Review
Chair, Joint Legislative Budget Committee
Legislative Office Building
1020 N Street, Suite 502
Sacramento, California 95814

Hon. Philip Y. Ting
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 2021–22 for Federally Funded
Dependency Representation Program Shortfall*

Dear Senator Skinner and Assembly Member Ting:

Pursuant to item 0250-102-0932, provision 2, of the Budget Act of 2021, the Judicial Council is submitting *Report on Allocation of Funding in 2021–22 for Federally Funded Dependency Representation Program Shortfall*.

In 2019, the federal Department of Health and Human Services made court-appointed counsel in dependency proceedings eligible for federal matching funds. In California, an estimated maximum of \$57 million is available annually in federal match dollars to courts and court-appointed counsel providers. This funding process is administered by the Judicial Council through the Federally Funded Dependency Representation Program.

The \$57 million estimate is based on the amount that the Budget Act of 2021 provided in state General Fund for court-appointed dependency counsel. Billing in the first year of operations (fiscal year 2019–20) did

not reach the maximum for two reasons: the federal funding has a narrower scope of services eligible for reimbursement than the state General Fund, and not all providers are currently capable of providing the type of documentation required for federal reimbursement. For those reasons, the Budget Act of 2021 included 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 \$57 million estimate and what the state is able to recover in federal funds.

As required by the Budget Act of 2021, 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 has received approximately 266 of the 360 expected invoices statewide for the first two quarters of the current fiscal year for a total of \$14 million in federal reimbursements. Employer organizations and sole proprietors that are new to the Federally Funded Dependency Representation Program (FFDRP) are averaging a federal reimbursement between 30 percent and 71 percent of their contracts, respectively. Returning FFDRP providers are averaging a federal reimbursement between 74 percent and 90 percent of their contracts.

(b) Any projected shortfalls through the end of the current fiscal year as compared to the \$57 million in expected federal reimbursements.

Based on the data presently available, Judicial Council staff project a shortfall in federal reimbursements of approximately \$16 million to \$21 million in fiscal year 2021–22.

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

By June 30, 2022, the Judicial Council will issue contracts to fund approximately 69 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 2021–22 FFDRP invoices to the Judicial Council by July 26, 2022, so that the final shortfall amount in federal reimbursements can be determined. By August 15, 2022, providers will invoice the Judicial Council for the federal reimbursement shortfall amount so that a lump-sum payment can be issued before September 30, 2022.

Hon. Nancy Skinner
Hon. Philip Y. Ting
April 1, 2022
Page 3

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,



Martin Hoshino
Administrative Director
Judicial Council

MH/AF

cc: Cara L. Jenkins, Legislative Counsel

Erika Contreras, Secretary of the Senate

Sue Parker, Chief Clerk of the Assembly

Eric Dang, Counsel, Office of Senate President pro Tempore Toni G. Atkins

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Hon. Nancy Skinner

Hon. Philip Y. Ting

April 1, 2022

Page 4

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