



August 7, 2017

To: County Administrative Officers
County Health Directors
Public Hospital Executives
County Human Services Directors
County Auditor-Controllers

From: California State Association of Counties
County Health Executives Association of California
California Association of Public Hospitals and Health Systems
County Welfare Directors Association of California

Re: AB 85 Fiscal Year 2014/15 True-Up – County Action Required

Background. AB 85 (Chapter 24, Statutes of 2013) required the diversion of 1991 Health Realignment funds from counties to the Family Support subaccount, wherein the funding is used by the state to offset state General Fund costs in the CalWORKs program. The amount diverted from each county is determined according to three formula options: California's 12 public hospital counties (Article 12 counties), and at the time of the passage of AB 85, 34 County Medical Services Program (CMSP) counties, as well as the remaining 12 "clinic" counties (Article 13 counties).

Article 12 and Article 13 counties were afforded the option to choose between two methods of determining the amount diverted from their county under AB 85:

- 1) The 60/40 option: a straight formula in which 60 percent of health realignment that would have otherwise been received is diverted, and the county retains 40 percent of the remaining health realignment funds; or
- 2) The formula option: A calculation that determines the amount to be diverted using a formula that considers the county's cost and revenue experience and redirects 80 percent of the savings related to reduced indigent care costs realized by the county.

Article 12 and Article 13 counties that selected the formula-based approach (see [county decisions](#)), submit data to the Department of Health Care Services (DHCS) to determine an "interim redirection amount" that is diverted from counties during the fiscal year. Counties later undergo the "true-up" or reconciliation process within two fiscal years after the diversions, where final data is submitted by the county and used by DHCS to calculate the final redirection amount (see "Final Determinations" below). This amount represents the amount of Health Realignment funding that should have been redirected in that fiscal year based on the updated data.

Final Determinations. The statute requires DHCS to determine the final redirection amount for all Article 12 and Article 13 counties that elected to use the formula approach. The Department of Finance (DOF) then must subsequently issue notification letters to those counties identifying how much the state either owes the county or the county owes the state.

Repayment Process. For counties that are owed money *from* the State, the State will make a lump sum payment into the county's local health and welfare trust account by October 1, 2017.

For counties that owe money *to* the State, the counties are required to deposit the difference into the family support subaccount **within three months of receiving the letter from the Department of Finance**. If a county does not transfer the amount owed, the State Controller has statutory authority to transfer an amount equal to 1.5 times the amount of the determination from the county's health realignment share to the family support account.

Recommended Action. For counties that must repay the State through the deposit of funds into the Family Support subaccount, we recommend the following actions be taken.

- **Notify the Auditor/Controller.** Notify the county Auditor Controller *immediately* of the transaction that needs to be made. The notification should, at a minimum, include the following:
 - The amount to be transferred into the family support subaccount.
 - The purpose of the transfer (i.e. AB 85 FY 14/15 Final Determination)
 - The three-month timeline for which the transfer must be made, upon receiving the DOF notice. Please note the transfer can be made in a lump sum or smaller payments so long as the total is transferred within three months of receiving notification.
 - A copy of the DOF letter and final determination chart as supporting documentation.
- **Notify your Social Services Director.** The funds transferred into the family support subaccount directly impact the county social services department. Those instructing the auditor/controller to make the transfer should also notify the Social Services department that the transfer has been initiated.
- **Maintain Good Records.** To avoid any penalties, please also retain all documentation showing the transfer of funds was made within the required three-month timeframe.

Appeals. Both Article 12 and Article 13 counties had the opportunity to appeal the final determination within 30 days of receiving notification from the Department of Health Care Services, pursuant to Welfare and Institutions Code (WIC) Section 17612.3(d)(2) for the Article 12 counties and WIC Section 17613.3 (d)(2) for the Article 13 counties. However, this notification occurred on June 30 and is separate from the three-month DoF notification and timeline above. Many Article 12 counties, on advice of their counsel, have decided to file both an administrative appeal and file a writ in Superior Court to preserve their appeal rights. Please consult your own county counsel as needed.

Contact Information. Should you have questions, please feel free to contact your county association representatives listed below:

CSAC: Farrah McDaid Ting, Legislative Representative, (916) 650-8110 or fmcting@counties.org

CHEAC: Michelle Gibbons, Executive Director, (916) 327-7540 or mjgibbons@cheac.org

CAPH: Richard Rubenstein, Vice President and General Counsel, (510) 874-7100 or rrubenstein@caph.org

CWDA: Eileen Cubanski, Senior Fiscal and Policy Analyst, (916) 443-1749 or ecubanski@cwda.org

County Counsels: Jennifer Henning, CSAC Litigation Counsel, (916) 327-7535 or jhenning@counties.org