

# **PROPOSED Continuity of Payment of Nonprofits Policy**

## **Continuity of Payment for Nonprofit providers in the Event of COVID-19 Related Disruptions**

### **Background**

Nonprofit providers deliver essential services to Santa Clara County residents on behalf of and funded by the County. Due to the public health emergency related to COVID-19, certain programs may be required to close or cancel services or suffer other disruptions, which could have implications for cash flow, as the County typically only pays for actual services rendered. This policy is intended to clarify guidance regarding allowability of County payments to nonprofit providers in the event of closures related to COVID-19, particularly for services considered “non-essential.” Essential services may be required to stay open and incur extra costs associated with staying open.

### **General Policy**

It is the County’s intent to support the sustainability of nonprofit providers by continuing to provide full or partial payment in the event of programmatic closures that are in accordance with recommendations from the Santa Clara County Public Health Department. There are three scenarios that may impact application of this policy:

- **Closure of Non-Essential Services:** As recommended by the County Health Officer, County programs delivering non-essential services should close to promote social distancing or for other reasons, nonprofit providers should take reasonable steps to follow that guidance. In any such policy or order, the County shall clarify which nonprofit services are essential and which are non-essential as soon as is feasible. County departments funding nonprofit providers should continue to pay for services during this closure according to the following procedures and guidance.
- **Location-Specific Closure:** If a specific instance of COVID-19 is found at a program site, that location may need to temporarily close. County departments funding the program should continue to pay for services during this closure according to the following procedures and guidance.
- **Service Level Impacts:** Some providers with fee-for-service contracts may remain open but experience lower-than-expected services levels (e.g., if a provider typically receives referrals from a school site that has closed while the provider remains open). This may lead to reductions in the funding that provider typically receives based on the fee-for-service model. These are typically contracts with the Behavioral Health Services Department (BHSD), Health and Hospital System (HHS), Social Services Agency (SSA) and the Probation Department.

### **Procedures**

- A. Providers should notify all funding departments of a closure or impacted program, including whether a closure is location-specific or due to guidance recommended by the County, including Office of Emergency Management and/or the Public Health Department, and/or why the service level may be impacted. If the closure is location-specific, providers should indicate the specific rationale for the closure, which should be reasonable and associated with County policy guidance.
- B. Providers should identify and thoroughly document all expenditures associated with

the closed program(s). Documentation (i.e., payroll records, receipts) must be retained to justify expenses, and to support claiming for County funding

- Fixed and regular costs (such as rent, utilities, salaries): these costs will continue to be incurred and should be paid normally.
  - Hourly employees (including those that would not otherwise be paid when a program is not operating) should be paid the anticipated wage during the closure.
  - If there are any expenses that will not be incurred due to the programs closure (e.g., avoided food or travel costs for canceled programs), these should be identified and excluded from invoicing. If these costs have been incurred prior to the closure, they should be paid by the contracting department.
  - While these expenditures may be billed using a regular monthly invoice template, the expenses related to a closure should be able to be isolated and available upon request to allow the County to seek reimbursement for these specific costs.
- C. Providers with Cost Reimbursement contracts should invoice for the month, but should be flexible and responsive to departmental requests for additional documentation about expenditures during closure, which may include (per departmental needs) documentation of specific services that were expected but unable to be delivered, and costs associated with those services.
- D. Providers with Fee-for-Service contracts (i.e., primarily BHSD, HHS, SSA and Probation Department providers with contracts with services billed based on units actually provided) should be allowed convert contracts to cost reimbursement contracts, or alternatively, invoice for the month by calculating 1/12<sup>th</sup> of the contracted units of service and should be prepared to offer documentation of specific services that were expected but unable to be delivered. For Medi-Cal covered services, BHSD/HHS will ensure that the cost report settlement process appropriately accounts for the actual cost of services, and BHSD/HHS expects all units of service to continue to be entered into UNICARE unless notified separately by BHSD/HHS. Alternatively, the County may wish to move Fee-for-Service contracts to a full cost reimbursement structure.
- E. Departments will need to ensure funding is available to pay for canceled services, closed programs or reduced service levels. In particular, departments should ensure federal or state grants are not used to pay for canceled services. If a contract receives federal, state or other grant funding that will not cover the cost of the closure, departments should work with the Budget Office to ensure General Fund sources are available to pay these costs as feasible and appropriate, and, if not, to determine whether to request additional appropriations to support them. While it is the County's intent to support the sustainability of essential services by backfilling federal and state grants with General Fund, this may not be feasible or appropriate for all contracts, and departments may exercise discretion in determining how to fund services.
- F. Requests For Proposals shall be suspended during the current emergency (or longer pending the degree of disruption) and contracts that are concluding by June 30, 2020, will be extended one fiscal year, except for in the case of contract termination due to malfeasance.
- G. The County shall process invoices and pay nonprofit providers in a timely manner and shall work with nonprofits to institute a flexible and low-barrier advance policy and practice for essential services providers who demonstrate a cash flow need.

## Questions and Current Guidance

1. If the provider chooses to close a program without a specific justification such as a recommendation from the Public Health Department or a location-specific outbreak, should these costs be funded?

The County does not plan to reimburse providers for program closures that are not consistent with general County advice or direction. Providers should contact their funding department for advice if they are unclear on the application of the County's general advice to their particular situation, if feasible. However, if a nonprofit provider operates a program in a facility provided by another entity, such as the School District, and that entity closes that facility, the County intends to reimburse for those costs.

- 2. Will the County reimburse the cost of event-specific cleaning of program sites in the event of an actual case of COVID-19? If so, what is the process? Will the County fund the cost of cleaning and other emergency preventative expenses that would not be typically incurred, even if no closure is recommended?**

Should a provider believe that an employee or client at a program site has been diagnosed with COVID-19, they should contact all funding departments to notify them of the need for closure and cleaning. The County will work with the provider on cleaning and other protocols during the closure, and will reimburse the provider for costs incurred provided it is consistent with public health advice.

The County may issue separate policy guidance on this issue more broadly, and if that occurs, this guidance will be updated. The County will explore how to deliver augmented cleaning services and other supplies at service sites with large vulnerable populations, with funding which would be separate from current funding to nonprofit providers.

However, while other County-funded programs may also request such services, some essential supplies may be limited and should be prioritized for specific vulnerable populations in congregate settings. The Department of Public Health will issue guidance about appropriate routine cleaning practices for non-healthcare settings. If a nonprofit serves vulnerable populations in congregate settings and believes augmented cleaning services and supplies are necessary, these requests will be considered on a case-by-case basis.

- 3. Will the County reimburse for costs incurred by a provider for employee leaves incurred as a result of precautionary measures nonprofit providers take with their employees?**

Each nonprofit organization should review the Public Health Department's advice regarding vulnerable individuals and work, and make decisions that are in their own interests and those of their employees.

The County will reimburse nonprofit costs up to the practices in place for County departments and employees. The County will reimburse providers up to this level, and, as reasonable and required, for incremental costs to backfill employees needed to sustain essential services in their absence.

- 4. Most departments restrict providers from making changes to a program budget after a department-prescribed deadline. Will County departments allow a later deadline for requesting these changes to allow nonprofit providers the flexibility to move funding within current contract budgets to better respond to this issue?**

Providers that experience disruptions resulting from this declared emergency, such as a

required closure, may receive an extension for budget revisions pending the degree of disruption. County policy is to grant these extensions where operationally feasible. Providers may contact department program officer(s) to request an extension. Providers should continue normal business operations, and should make reasonable efforts to meet current deadlines for revisions to program budgets.

- 5. Some providers may remain open but experience lower-than-expected service levels (e.g., if a provider typically receives referrals from a school site that has closed while the provider remains open). If these services are funded via a fee-for-service contract, will the County fund the full cost of these services when actual units of service decrease below a sustainable level?**

Nonprofit providers should continue providing services and documenting them as required by departments. If a nonprofit provider is seeing lower-than-expected units of service related to COVID-19, please contact your appropriate County department to report your concerns. If increased support is necessary as it relates to the COVID-19 response, providers will be instructed to follow Procedure D above to receive funding in light of decreased service levels. The County's general policy goal is to support service providers experiencing disruptions due to the declared public health emergency.

### **Updates and Attachments**

This policy will continue to be amended as the situation progresses with amended advice on these questions and additional advice on other topics related to County payments to and contracting with nonprofit service providers should they become necessary.