THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Health Services Agency **BOARD AGENDA #** *B-7

Urgent ☐ **Routine** ☒ **AGENDA DATE** March 1, 2011

CEO Concurs with Recommendation YES ☒ **NO** ☐ **4/5 Vote Required YES** ☐ **NO** ☒
(Information Attached)

SUBJECT:

Approval to Set a Public Hearing on March 22, 2011 at 9:05 a.m., Pursuant to Section 1442.5 of the Health and Safety Code, to Consider Changes to the Medically Indigent Adult Program Income Limits for Eligibility

STAFF RECOMMENDATIONS:

1. Set a Public Hearing pursuant to the Health and Safety Code § 1442.5 on March 22, 2011 at 9:05 a.m. to consider approval of the following revised Income Eligibility Standards for the Medically Indigent Adult Program:

   a. Revise existing County policy to establish the income limit for standard eligibility which provides eligibility with zero patient cost sharing in the Medically Indigent Adult program as 116% of the Federal Poverty Level, effective April 1, 2011.

(Continued on Page 2)

FISCAL IMPACT:

The Medically Indigent Adult (MIA) program represents the majority of the Health Services Agency's Indigent Health Care Program budget. The approved budget for Fiscal Year 2010-2011 for the Indigent Health Care Program is $13,023,242. The MIA program is funded by State Realignment from a portion of vehicles license fees and sales tax, and by a required County match. The approved budget for this fiscal year does not include any funding for the recommended program changes nor does it fully fund the

BOARD ACTION AS FOLLOWS:

No. 2011-133

THIS ITEM WAS REMOVED FROM THE AGENDA.
NO ACTION WAS TAKEN.

File No.

STAFF RECOMMENDATIONS (Continued):

b. Revise existing County policy to eliminate the existing copayment and share of cost eligibility categories in the Medically Indigent Adult Program and establish a Hardship Eligibility category which provides Medically Indigent Adult program eligibility with patient share of cost requirements for applicants with income between 117% - 223% of the Federal Poverty Limit, effective April 1, 2011.

FISCAL IMPACT (Continued):

enrollment and utilization growth experienced to date and anticipated during this Fiscal Year, projected at $2.3 million.

While actual costs would be based on the actual applicants, enrollment and utilization of covered services under the MIA program, by analyzing past experience data, it is estimated that the proposed changes will increase program expenditures by approximately $175,000 – $275,000. This increase is in addition to the previously identified exposure for this Fiscal Year of approximately $2.3 million. There is no new external revenue anticipated to offset these additional costs. Health Services Agency Clinic and Ancillary Services fund balance from previous years' carry-over of savings, is recommended as the source of funding to meet the combined increased expenditures for this Fiscal Year. Based on the outcome of the recommendations, the Health Services Agency would request the appropriate budget adjustments no later than the County's Third Quarter Budget Report.

DISCUSSION:

<u>Mandate and Legal Challenges</u>
Under Welfare and Institutions Code Section 17000, the County is required to provide or arrange for the provision of medical care services for the indigent residents of the County. Under the law, the scope of benefits and eligibility guidelines are established at the discretion of each county's Board of Supervisors, although case law has provided more detailed expectations.

On September 1, 2009 the Board of Supervisors conducted public hearing and approved staff recommendations for policy changes designed to reduce program program expenditures and avoid deficit spending as a result of decreased MIA program funding coupled with increased enrollment. Those changes were put into effect for new applicants on October 1, 2009 and for existing "enrollees" upon their renewal dates and were more closely aligned with the State's Medi-Cal eligibility guidelines and with many other counties' indigent coverage programs.

The Western Center on Law and Poverty (WCLP) challenged the new county policy, threatening legal action in the absence of policy changes. Specifically, WCLP took issue with the absence of consideration to an individual's ability to pay for medical care and the administrative policy of requiring the collection of copayments or share of cost prior to rendering care. The WCLP successfully sued both San Diego and Fresno Counties with regard to the ability to pay issue. A separate lawsuit is presently in litigation against the City and County of San Francisco with regard to the collection of copayments prior to the rendering of care. The Court compelled the use of local cost of living factors to determine indigent status and an individual's ability to pay a share of medical costs in both San Diego and Fresno Counties. The outcome of the San Francisco case is still pending.

On February 1, 2010, after conferring with County Counsel, the Health Services Agency implemented an administrative policy change regarding collection of copayments and share of cost at the time of service. Although staff continues to request collection, if the patient is not able or refuses to pay at the time of service, care is still provided.

On March 30, 2010, the Stanislaus County Board of Supervisors approved a staff recommendation to reinstate the income standards and cost sharing policies which had been in effect prior to the September 1, 2009 approved changed and directed staff to further review the eligibility standards considering the issues raised by the WCLP.

A Cost of Living Study was undertaken by Health Services Agency staff. Based on the outcome of that work, and review of the court cases in San Diego and Fresno counties, staff developed income limit changes for consideration. After review of the results of the Cost of Living Study compared with the two self-sufficiency studies submitted by WCLP, staff determined that as a matter of due diligence an outside third party review of the validity of the internally produced study was the next step before making a recommendation to the Board of Supervisors. The validation analysis commenced by HFS Consultants in December of 2010. On December 23, 2010, County Counsel received notice of a lawsuit regarding this matter.

Background on Cost of Living Study and Proposed Policy

Current policy is largely based upon the State of California's Medi-Cal eligibility guidelines and the majority of other county MIA programs rather than on a local cost of living component. Due to the absence of such a cost of living component, WCLP has taken issue with the County's eligibility policy. Staff considered several possibilities to determine the most reasonable and feasible method to determine and integrate a local cost of living mechanism into a future policy recommendation. WCLP provided two published studies on county specific or region specific cost of living. Staff explored the process used by San Diego and Fresno Counties in their effort to determine their respective local cost of living for use it their MIA eligibility standards. Also, when staff analyzed the source data underlying the studies provided by WCLP, the factors considered in those studies appeared to go beyond a determination of the basic needs/subsistence mandate on the County. For instance, the cost components included allowances such as gifts and dining-out. As those studies appeared to go beyond determination of the mandated basic needs/subsistence, Health Services Agency staff began efforts to develop an internally produced Cost of Living Study to ensure that the cost items on which the basic needs/subsistence levels were based in fact were limited to the common understanding of necessary requirements.

First, staff set out to determine the level of income that would represent the basic needs/subsistence level of income required for residents of our County in order to recommend the establishment of the Standard Eligibility Income Limit as a percentage of the Federal Poverty Level (FPL). Standard Eligibility would enable an applicant who met all other eligibility requirements, to be eligible for the MIA program services without any patient cost sharing. *Note: Existing policy would remain with regard to requiring that all applicants agree to a lien in the case of real property ownership*. Staff then worked to establish a Hardship category that would enable applicants with income that was somewhat above the Standard Eligibility to access care while sharing in the cost of the care. In order to establish the Hardship Income Limit, staff researched both the cost for individuals to purchase a commercial policy of health insurance, and the cost of the health coverage offered to the uninsured by the State of California. Based on that research, $811 was determined to be the available purchase price of health insurance coverage.

The methodology used and source data obtained for the staff produced study was provided to the HFS Consultants to obtain an objective third party review of the reasonableness and validity of the study methodology and its results. HFS Consultants validated the study. A summary of the Cost of Living Study and determination of the Cost of Health Coverage is attached as Attachment A.

Based on the externally validated Cost of Living Study, staff recommends that the Standard Eligibility Income Limit with no share of cost be established as 116% of the Federal Poverty Level.

Based on the externally validated study of the cost of purchasing health coverage in our county, staff converted that value to a percentage of the FPL and added it to the Standard Eligibility Income Limit recommended. As a result, staff recommends 223% be established as the Income Limit to qualify for the Hardship Eligibility Category.

Although no other recommended changes to the County's eligibility procedure handbook are part of this proposal, it is important to note that the actual eligibility determination process is based on a detailed procedure and requires the applicant to provide written documentation to support the applicant's circumstances. There are also many income exemptions in calculating the average monthly income, such as the value of court ordered payments. There are also asset exemptions such as a home and a moderately priced vehicle. The eligibility procedure handbook used by Health Services Agency staff has been provided to WCLP.

Trends and Financial Implications

The following table 1 summarizes the recent policy changes with respect to Income Limits and that which are now proposed.

Table 1

Income Based Limits	Policy in effect between October 1, 2009 and April 1, 2010	Present Policy	Proposed Policy Effective April 1, 2011	Proposed Policy Change
FPL or Income Level at which zero share of cost applies (liens still apply)	0 - $299	0 – 49% of FPL	"Standard Eligibility" FPL or Income Level at which zero share of cost applies (liens still apply)	0 – 116% of FPL
FPL or Income Level at which copays apply	$300 - $599 (approx. equivalent to 33% - 65%)	50% to 129% of FPL	N/A	NA
FPL or Income Level at which Share of Cost applies	$600 - $1,205 (approx. equivalent to 66% - 200%)	130% - 200% of FPL	"Hardship Eligibility" FPL or Income Level at which Share of Cost applies	117% - 223% of FPL
Cost Sharing for Major Restorative Dental Benefits	50% cost sharing for all income levels	No dental benefit specific Share of Cost - Income driven Share of Cost applied.	No dental benefit specific Share of Cost - Income driven Share of Cost applied.	No dental benefit specific Share of Cost - Income driven Share of Cost applied.

Note: Income and Asset Limits, and Monthly Share of Cost vary by Household Family Size. The current Federal Poverty Limit (100% FPL) for a Family Size of One is $902.50 of monthly income.

Monthly Share of Cost works much like a monthly deductible. The amount of one's share of cost would be the equivalent of the amount of one's income over the zero share of cost income limit. For example, 116% of the FPL is $1,047 per month. If an approved applicant had an average monthly income of $1,147, the monthly share of cost would be $100 which is equal to $1,147 minus $1,047. The patient would be responsible for the first $100 of cost each month that MIA program healthcare services were provided, while the MIA program would incur the monthly cost above the $100. Payment arrangements would be made available for those who could not pay at the time of service. Provision of services would not be delayed where payment could not be made at the time of service.

Financial Implications of this Proposal

Of significance is that this proposal projects increased cost without any new external funding. The MIA program is a County obligation under State law and is one of the programs counties are to provide with Realignment funds. Health realignment funding from the State consists of sales tax and vehicle license fees and requires a County General Fund match which for the MIA program is approximately $2.25 million annually. As a direct result of the unprecedented economic crisis, these State tax revenues have decreased resulting in a corresponding decline in Realignment funding. No offsetting relief on the program mandate has been provided by the State as such relief would require legislation.

The MIA program represents the majority of the Health Services Agency's Indigent Health Care Program budget. The approved budget for Fiscal Year 2010-2011 for the Indigent Health Care Program is $13,023,242 and does not include funding for this year's projected expenditure growth of approximately $2.3 million, or funding for the current proposed changes. Should these recommendations be approved, staff projects the annualized increased cost to be approximately $175,000 to $275,000. Table 2 below illustrates the estimated financial impact.

Table 2

Impact of Recommendations from Current Policy

Federal Poverty Level (Income)	Current v. Proposed Impact to Patient	Estimated Savings $ or Loss () to County
0 – 49 % of FPL	No Change	No Change
50 – 116% of FPL	Copays → No Share of Cost	($50,000)
117 – 130% of FPL	Copays → Share of Cost	$ 75,000
131 – 200% of FPL	No Change	No Change
201 – 223% of FPL	Ineligible → Eligible w/ Share of Cost	($200,000 – 300,000)

Public Hearing

Under the Health and Safety Code Section 1442.5, a public hearing is required in the event the Board of Supervisors considers a reduction or elimination of a healthcare service. At the proposed Standard Eligibility Income Limit, an estimated 356 individuals would be subject to a monthly share of cost that is greater than the copayments applicable to them under current policy. Although this is not an actual reduction or elimination of a service, it could be viewed as a reduction as it is not to the financial advantage of the resident and as such, a public hearing is being requested. Should this recommendation to set a public hearing date and time be approved, staff would proceed with the tasks to meet the advance notice requirement as prescribed under the respective California code section.

POLICY ISSUE:

Approval of this item supports the Board of Supervisors' priorities of A Healthy Community and Efficient Delivery of Public Services by considering changes which meet the current interpretation of the law while providing for the medical needs of our County's indigent population.

STAFFING IMPACT:

There is no staffing impact associated with this proposal.

DEPARTMENT CONTACT:

Mary Ann Lee, Managing Director, 209-558-7163.

Attachment A

STANISLAUS COUNTY
COST OF LIVING STUDY
FALL 2010
EXECUTIVE SUMMARY

SUMMARY:

The Stanislaus County Health Services Agency (HSA) completed a Cost of Living Study (COLS) during the latter part of calendar year 2010. The purpose of the COLS was to assess the appropriateness of the existing eligibility limits for the Medically Indigent Adult program, and to determine if modifications should be recommended to the Board of Supervisors.

With regard to eligibility, the Medically Indigent Adult program mandate (Welfare and Institutions Code 17000) as further clarified in recent court cases, is to be based on limits established by the County Board of Supervisors based upon ability to pay as determined through a COLS. Court cases have clarified that the cost of living applicable to a county's obligation is based upon basic needs or subsistence level. Further, the courts have ruled that for residents with income somewhat above the subsistence level eligibility, but who are unable to obtain subsistence medical care, a hardship waiver including cost sharing is an option.

There were two eligibility limit objectives for this COLS project. They were:

a. To objectively identify the income level as a percentage of the Federal Poverty Limit (FPL) which represents the subsistence need level of income for Stanislaus County.
   COLS conclusion: 116% of the FPL (that level is currently $1,047 per mo.)
b. To objectively identify the appropriate income range above the subsistence level that would provide eligibility with patient cost sharing ("Hardship Eligibility")
   COLS conclusion: 117% - 223% of the FPL (that level is currently $1,048 – 2,012 per mo.)

The summarized resulting COLS figures are illustrated on Exhibit 1.

<u>Study Methodology</u>

To design the COLS project, staff researched related projects in San Diego and Fresno counties, and researched source data/assumptions for the Cost of Living estimates provided by Western Center on Law and Poverty, the California Budget Project (CBP) study and the Insight Center for Community Economic Development Self Sufficiency Study (SSS), as well as reviewed other data sources relevant to Stanislaus County.

The following summarizes the research conducted and the basis for the Stanislaus County Cost of Living Study findings by category.

Housing – Staff accessed the Housing & Urban Development (HUD) website and found information on the Fair Market Values used by the California Budget Project. The CBP housing figure was based on the maximum amount that HUD will pay per month for housing and utilities for a one bedroom apartment. According to the HUD information, the maximum amount is based on the 40th percentile of cost, meaning that 40% of available one bedroom apartments were below the CBP estimated cost. Additionally, the CDP data did not include HUD's studio information and as such under-represented low income housing. Staff concluded that the CDP HUD based estimate was not representative of subsistence level housing cost.

Staff did searches for apartments and room shares in Stanislaus County (via "Craigslist", in the newspaper, namely The Modesto Bee, Modesto Bee's website, and apartmenthunterz.com). The search results found numerous studio apartments currently available at rates below $500 per month, while some apartments offered all utilities paid or a period of free rent. For the Craigslist search, staff downloaded all apartments and room shares and determined the monthly average housing unit rent to be $509.43.

Staff obtained a Market Overview Report from RealFacts for Stanislaus County for the 4th quarter of 2009 and used the same analysis and assumptions used in Market Pointe's Housing Study for San Diego County. Based on that analysis, the market value of apartments in Stanislaus County (following the same assumption that 2 individuals live in 2 bedroom apartments as the Market Pointe Survey) the monthly average rent to be $508.27.

Staff then averaged all of its searches to identify rate representing only the cost of housing – i.e. phone or utilities cost is not included in the housing rate. Staff identified the housing component of the COLS to be valued at $510.00. To assess the reasonableness of this figure, staff researched two additional sources: Stanislaus County Housing Authority and Consumer Expenditure Surveys. Staff accessed the public housing available units from the Stanislaus County Housing Authority and found units available at 30% of subsistence level income (at 116% of the FPL, 30% = $314) as well as low income units available for under $500 per month for a one bedroom. It is important to note however, that although San Diego and Fresno Counties included subsidized housing in their studies, to be conservative and assure fairness, staff did not include any subsidized housing in the COLS housing component. Second, staff compared the $510 figure to the rental rates paid according to the Consumer Expenditure Surveys for 2008 and 2009. Stanislaus County's calculated housing rate of $510 was 124% to 165% respectively of the national average rent per person. Hence, we concluded that the Stanislaus County COLS housing rate of $510.00 appears reasonable.

Utilities – staff used the Energy Consumption Expenditures for Housing Units and Energy Usage Indicators for 2005 and determined the average per household member Btu usage converted to kwh on the assumption that most apartments have electrical heat which is costlier than gas. Staff then calculated the average kWh per month and accessed the local energy providers' websites to determine the average cost per month. Staff accessed Modesto Irrigation District, Turlock Irrigation District and Pacific Gas & Electric and determined the monthly year-round averages. The monthly average of all three providers was $33.45. Since most room shares include all utilities and some apartments included all utilities, staff concluded that $33.45 is reasonable.

Attachment A

Staff accessed data on local phone plans and found that individuals with incomes below 150% of the Federal Poverty Level were able to receive discounted local phone service. Consistent with the basic needs/subsistence level responsibility, staff used the Lifeline rate that is available for local plans including the set up fee, and determined the total monthly estimated cost is $7.67.

Childcare – No childcare costs are included as indigent adults with children in the household should have linkage to Medi-Cal and hence, not eligible for the MIA program. The CBP and SSS reports provided by Western Center on Law and Poverty also did not include a cost for Childcare for single adults. Additionally, costs for court ordered child support are subtracted when calculating an applicant's income.

Food – For estimating food costs, staff accessed the USDA website and obtained the November 2010 Food Plan costs. Consistent with the basic needs/subsistence level responsibility, staff used the "Thrifty Food Plan" cost for a male between the ages of 18 and 50 as the base for our calculations. We obtained the food cost index for all cities in Stanislaus County from www.bestplaces.net and used that index (117) to determine the food cost. Since the court approved Fresno County's cost determination which based its food cost on the USDA Thrifty Food Plan, staff concluded it was reasonable to use the Thrifty Food Plan for the Stanislaus County study.

Transportation – Staff found the most recent national driver survey (2003) published by the Bureau of Transportation Statistics (BTS) and found that more than half of the population (68%) drives 15 miles or less to work; hence, staff estimated 30 miles round trip per day at five days per week for fifty-two weeks without any reduction for any vacation or sick days used. Staff obtained the AAA 2010 variable costs per mile (14.10 cents) and used that amount to determine the cost of gas, maintenance and tires. (Since the AAA survey estimates that a car is only kept for 5 years and hence builds in the cost of financing and depreciation for 5 years, staff determined this data to be inconsistent with subsistence level need and as such did not include AAA's estimated fixed costs data.) Rather, for the fixed costs staff identified the average age of vehicles across the nation as posted on to the BTS website to be 9.4 years, and using that data staff estimated the cost of registration, taxes and basic auto liability. Of note, the estimated round trip mileage for individuals living in Stanislaus County is possibly overestimated based on local trends; however, staff chose to be conservative and hence left the national trend data of 15 miles to/from work in our analysis. Also, staff did not use the IRS mileage rate as again this is based on newer vehicles and hence the rate builds in the cost of financing and depreciation. Staff utilized the California low cost insurance program for Stanislaus County to determine the cost of auto liability insurance.

Staff utilized the U.S. Census Bureau data that shows that in Stanislaus County that 40.70% of the population has only one or less vehicles; hence our calculations assume that individuals have one vehicle.

To assess applicability of the source data used, staff researched the Energy Information Administration data which supported that lower income individuals drive fewer miles, own older model vehicles and own more energy efficient vehicles than higher income individuals.

Attachment A

To determine a value for the cost of registration and vehicle license fees, staff researched the California Department of Motor Vehicles website for a 2001 Honda Civic in Stanislaus County and found the total fees to be $91.00. To be conservative and assure reasonableness, staff rounded up and established the figure at $100.00.

Healthcare – Staff excluded healthcare costs in the determination of subsistence level income, since MIA program eligibility would provide for healthcare.

To determine the income range above subsistence level that could qualify with patient cost sharing (Hardship Eligibility), staff researched the cost of purchasing health care insurance. Staff accessed the California Major Risk Medical Insurance Plan costs to determine the estimated monthly costs using the weighted average costs for all 2009-2010 eligible participants. That amount was determined to be $811 per month. Note: As a matter of fairness and equity, an additional $154 per month in costs are also added to set the income range as some of the cost estimates in the determination of subsistence level income, such as Social Security, are a function of income and rise as income rises. The $154 is added to account for this and the resulting maximum amount per month of income above subsistence level that could be considered Hardship Eligibility is $2,012.

Miscellaneous – Staff used the same assumption used in the SSS report provided by Western Center on Law and Poverty – i.e. 10% of all other costs. The sales tax figure is based on the Stanislaus County rate.

Social Security – Staff accessed the Internal Revenue Service website and included the cost of social security based on 7.65% of gross income including social security.

Federal Tax, Low-Income Home Energy Assistance Program (LIHEAP) & Earned Income Tax Credit (EITC). Staff did not include an estimate for Federal Tax as individuals with income at or below the subsistence income level of 116% of the Federal Poverty Level would qualify for the LHEAP and EITC credits, which nearly offset the estimated Federal Tax.

Hardship Eligibility Value Component – See Healthcare.

Stanislaus County
Cost of Living Study Worksheet
Fall 2010

Exhibit 1

Subsistence Level Costs and Credits	Cost/Income Level	Comments
Housing	510.00	
Phone - Lifeline Rate	7.67	
Electricity/Gas	33.45	
Child care	-	
Food	195.74	
Transportation	125.57	
Health Care	-	
Miscellaneous	87.24	
State	-	
Sales Tax	7.31	
Social Security	79.69	
Total Subsistence Level Costs	**1,046.67**	Represents the Income required for subsistence level living
Stated as % of Federal Poverty Limit (100% of FPL = $902.50)	**116%**	Standard Eligibility Income Limit
Cost/Income Value for Hardship Eligibility		
Health Insurance	811.00	
Increased costs at this level of required income	153.87	
Cost/Income Required including Healthcare	964.87	
Total of Subsistence Level + Costs of Health Insurance	**2,011.54**	Hardship Eligibility Income Limit
Stated as % of FPL (100% = $902.50)	**223%**	Hardship Eligibility Income Range = 117% - 223% of FPL

Notes:

Figures are based on one adult male.
Figures calculated as average annual cost however stated as monthly.
Not included in the subsistence level income are the estimates for Federal Income Tax of $26.92 or the LHEAP credit of $19.33 or EITC credit of $5.50.
LHEAP = Low Income Home Energy Assistance Program
EITC = Earned Income Tax Credit