

AUGUST 16, 2023

The Governor's Behavioral Health Modernization Proposal

PRESENTED TO:

Senate Committee on Health
Hon. Susan Talamantes Eggman, Chair



LEGISLATIVE ANALYST'S OFFICE

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Key Takeaways

This handout summarizes our [series](#) of analyses of components of the Governor’s Behavioral Health Modernization proposal. The proposal is currently moving through the Legislature in two companion bills—SB 326 (Eggman) and AB 531 (Irwin). Key takeaways from the series (as they relate to SB 326, as amended on July 13, 2023) are below.

- ***Administration’s Justification of Proposed MHSA Funding Category Changes Incomplete.*** The administration’s proposal would reduce county spending flexibility and shift the focus of MHSA funding to Full-Service Partnerships (FSPs) and housing interventions. We find that the proposal likely will result in counties spending less on a number of current programs funded through MHSA, potentially reducing outpatient services, crisis response, prevention services, and outreach. We find that the administration’s justification for the proposal is incomplete and we provide several questions for the Legislature to ask the administration to assess whether the proposal is warranted. For example, can the administration provide evidence that the proposal is likely to result in better behavioral health outcomes for the population as a whole?
- ***Uncertain Whether Current Level of MHSA Spending by Counties on Children and Youth Services Would Be Maintained.*** While there could be an increase in MHSA funding for children and youth services within FSPs, there likely would be a reduction in MHSA funding available for other children and youth services. On net, we find that whether the current level of county MHSA spending—particularly at the county level—on children and youth services would be maintained is uncertain.
- ***Alternatives Available to Require Spending on Children and Youth Services.*** Current regulations require a certain level of MHSA funding for children and youth mental health services, but there is no such statutory requirement included in the Governor’s proposal. Should maintaining spending on children and youth services be a priority for the Legislature, there are a number of ways that the Legislature could amend the Governor’s proposal to include a children and youth mental health services funding requirement, such as by requiring a percentage of total county MHSA revenue to be spent on children and youth services.



Key Takeaways

(Continued)

- **Recommend Rejection of Governor’s Proposal to Reduce Allowable County Reserves.** In light of extreme MHSA revenue volatility, allowable county reserves would have to be around two-thirds higher than their current levels to provide reasonable protection against declines in revenue. The Governor’s proposal would therefore move allowable reserves in the wrong direction. In addition, we think counties should generally have more flexibility in how they can deposit and use reserves and offer suggestions for how to improve the overall MHSA reserve policy.
- **Recommend Addressing MHSA Revenue Volatility Head-On.** The volatile MHSA tax is not suited to supporting ongoing mental health services and sufficiently mitigating MHSA revenue volatility with a reserve policy alone would be challenging. A more straightforward approach would be to change the MHSA revenue source. We offer an option that we think has little downside from either the state’s or counties’ perspectives.
- **Recommend Maintaining MHSOAC’s Authority Absent Compelling Justification for Governor’s Proposal.** While the commission would continue to serve in an advisory role to the administration and the Legislature under the Governor’s proposal, the Governor proposes to remove most of the commission’s current oversight, regulatory, and programmatic authority over MHSA funding. We find that the proposed substantial reduction of the commission’s authority would limit its independence. Given the lack of analysis provided by the administration on the potential benefits of its proposal, we recommend the Legislature consider maintaining the commission’s current roles in providing general oversight as well as implementing certain components of the MHSA. Additionally, we recommend maintaining the commission’s authority to receive all information requested of state departments and all state and local entities that receive MHSA funding at its independent discretion.



Proposed Restructuring of the MHSA Funding Categories and Impacts on County Spending

Background

MHSA (Proposition 63) Approved by Voters in 2004. The MHSA dedicates a share of funding to prevention and early intervention activities, as well as innovative programs, that at the time some had argued should be a greater focus of public community mental health services.

Funding Categories Under Current Law Afford Counties Discretion. The MHSA establishes broad categories for how counties can spend the funding, including the percent of funds which must—or sometimes may—be spent on specific kinds of activities.

Governor's Proposal

Proposal Would Increase Spending on FSPs and Housing but Reduce County Discretion. Under the Governor's proposal, counties would have a smaller share of MHSA revenue available (30 percent of total MHSA county funding) for flexible spending on programs. The uses for the bulk of the remaining funding to counties are more prescriptive, with the funding going mainly to FSPs and housing interventions.

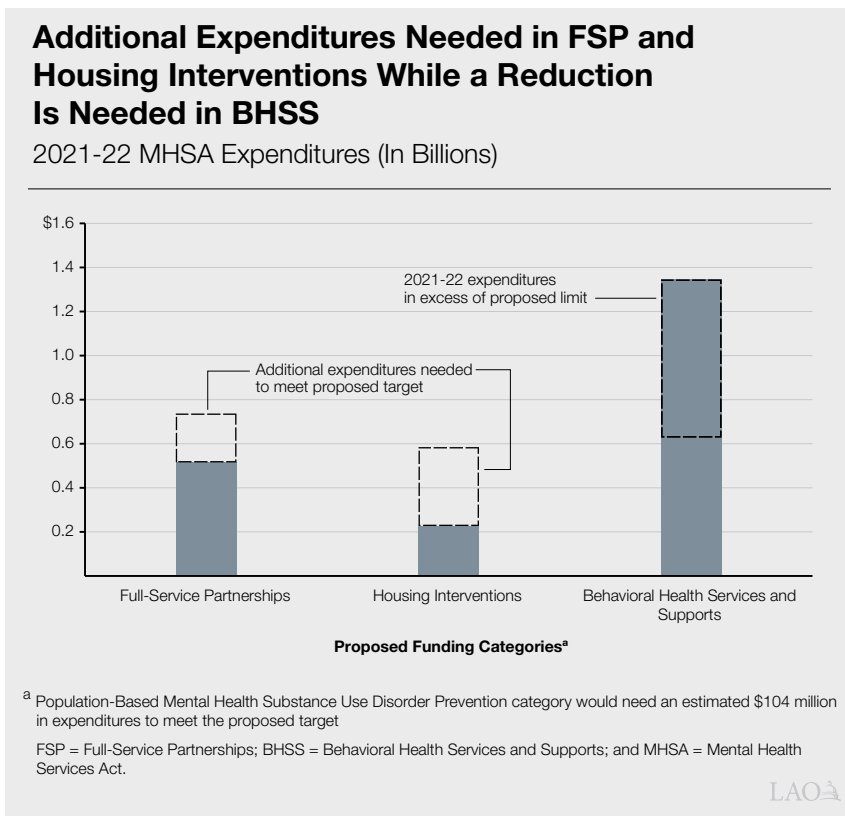


Proposed Restructuring of the MHSA Funding Categories and Impacts on County Spending

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Proposal's Impact on Current County Spending

New Funding Categories Likely Would Require Counties to Spend More on Certain Program, Less on Others. The figure below shows how we estimate current program expenditure levels would align with the proposed categories. Based on 2021-22 county expenditures, counties would need to increase spending on FSPs and housing interventions, substantially so in the case of housing interventions. Conversely, we estimate that spending on all other services would need to be reduced or redirected by more than half of 2021-22 funding levels.



Proposed Restructuring of the MHSA Funding Categories and Impacts on County Spending

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Issues for Legislative Consideration

- ***Administration’s Justification of Proposed Changes Incomplete.*** The administration has not provided an assessment of how the changes may negatively impact current services.
- ***Would Statewide Behavioral Health Outcomes Be Improved by Shifting Funding Focus?*** On net, can the administration provide evidence that the proposal is likely to result in better behavioral health outcomes for the population as a whole?
- ***What Are the Trade-Offs in Reducing County Spending Flexibility?*** The Legislature may wish to ask the administration, along with counties, about the trade-offs of reducing county flexibility in MHSA spending. Additionally, we recommend the Legislature consider whether the shift towards a top-down approach in the use of MHSA funds aligns with the Legislature’s vision of the program.
- ***How Does the Proposal Complement Recent Initiatives to Serve Individuals Experiencing Homelessness and Behavioral Health Conditions?*** The administration has not yet sufficiently articulated how its proposal complements a recent major initiative approved by the Legislature—the Behavioral Health Bridge Housing Program—to provide housing supports to homeless individuals with behavioral health conditions.
- ***What Are the Impacts on Individual Counties?*** The Legislature could ask the administration, along with counties, for information on the anticipated distributional impacts of the proposal on a county-by-county basis.



Impact of Governor's Proposal on Funding for Children and Youth

Background

Regulations Currently Require Portion of MHSA Funds to Be Spent on Children and Youth. While there is no statutory MHSA funding requirement pertaining to children and youth services, the Department of Health Care Services proposed and adopted regulations requiring that at least 51 percent (approximately 10 percent of the total county-share of MHSA revenues) of Prevention and Early Intervention (PEI) funds be used to serve individuals who are 25 years old or younger.

Governor's Proposal

Proposed Funding Categories Shift Mental Health Services Priorities. Under the proposal, there is no statutory funding requirement for children and youth mental health services in any category. In addition, the proposal defines children and youth as individuals under 18 years of age whereas the current regulations require spending on those individuals 25 years of age or younger.

Impact of Proposal on MHSA Spending on Children and Youth

Some Current Children and Youth Programs That Would Fit Under Proposed BHSS Category Likely Would Have to Be Reduced. Counties likely would need to reduce or redirect a portion of their spending that would fall under the Behavioral Health Services and Supports (BHSS) category and, with no funding requirement for children and youth services, county MHSA spending on some current children and youth programs likely would have to be reduced.

Spending on Children and Youth Services Delivered Under FSPs Could Increase by an Uncertain Amount. Given the proposal's shift in focus to FSPs and the potential need for counties to increase spending on FSPs, counties could increase spending on children and youth mental health services in FSPs. However, how counties would respond to the new spending requirements is uncertain as there is no requirement under the proposal for a certain percentage of FSP spending to be targeted to children and youth. Moreover, how counties might prioritize children and youth versus other populations for these services is unclear.



Impact of Governor's Proposal on Funding for Children and Youth

(Continued)

On Net, Uncertain Whether Current Level of MHSA Spending on Children and Youth Services Would Be Maintained. While there is uncertainty in what the impact of the proposal would be on children and youth services statewide, there is even more uncertainty at the county-by-county level.

Legislature Could Consider a Children and Youth Funding Requirement

Should maintaining spending on children and youth services be a priority for the Legislature, there are a number of ways that the Legislature could amend the Governor's proposal to include a children and youth mental health services funding requirement. These ways include:

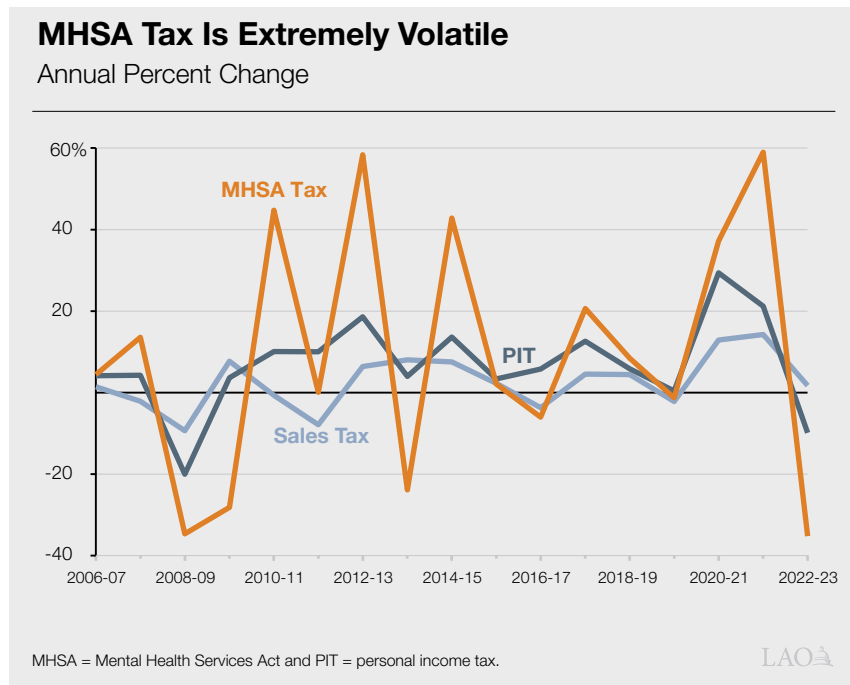
- Requiring a percentage of FSPs be spent on children and youth services.
- Expanding the proposed funding requirement within BHSS to include both early intervention *and* children and youth services.
- Requiring a percentage of total county MHSA revenue be spent on children and youth.



MHSA Revenue Volatility and the Governor's Proposal to Reduce Allowable County Reserves

Background

MHSA Tax Is an Extremely Volatile Revenue Source. The MSHA is funded by a 1 percent tax surcharge on taxable income over \$1 million. High-income taxpayers derive a majority of their income from volatile sources.



Budget Reserves Are the Key Tool Counties Have to Manage MHSA Revenue Volatility

Current County Reserve Rules.

- Current law caps allowable county reserves at about 33 percent of the average amount of CSS revenue the county received in the prior five fiscal years.
- Counties can use up to about 20 percent of Community Services and Supports (CSS) funding to support their local mental health system, including reserve deposits.



MHSA Revenue Volatility and the Governor's Proposal to Reduce Allowable County Reserves

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Governor's Proposal to Lower Allowable County Reserve Caps

Governor Proposes to Lower Allowable Prudent Reserve Caps. The Governor seeks to reduce county prudent reserve caps from their current level (33 percent of average CSS funding in the previous five years) to 25 percent for small counties and 20 percent for large counties.

Assessment

Recommend Rejection of Governor's Proposal to Reduce Allowable County Reserves. While there is no one right target, we think a reasonable target for the current MHSA would be for allowable reserves to be almost certain to cover a 20 percent revenue decline and very likely to cover a 30 percent revenue decline. In order to meet our suggested reserve policy target, allowable reserves would have to be roughly 55 percent of CSS funding, or about two-thirds higher than the current-law level. The Governor's proposal would therefore move allowable reserves in the wrong direction.

Additional Reserve Policy Improvements for Legislative Consideration

- ***Match Allowable Reserves to Revenue Volatility.***
- ***Grant Counties More Flexibility in Accessing Reserves and in Making Reserve Deposits.***
- ***Allow Counties to Set Aside Revenue Spikes to Offset Future Declines.***



Proposed Change in MHSOAC's Role

Background

The MHSOAC Oversees MHSA Expenditures and Has a Unique Role in the State's Mental Health System. The commission's current role includes providing general oversight over all county MHSA spending as well as programmatic authority over two specific current components of the MHSA—PEI and Innovation.

Governor's Proposal

Change in Funding Categories Mostly Removes MHSOAC Programmatic Implementation Authority. The Governor's overall proposal would remove the PEI and Innovation program funding categories along with the related programmatic role of the commission in setting funding priorities; adopting regulations; and, in the case of Innovation programs, approving funding for projects.

Assessment

The Proposed Substantial Reduction of MHSOAC's Authority Would Limit Its Independence. By removing many of the MHSOAC's current roles and responsibilities, the proposal may inhibit the ability for the commission to act independently despite maintaining a similar governance structure as currently.

Constraining MHSOAC's Independence Reduces Legislative Insight Into Local Programs.

Recommendation

Consider Maintaining MHSOAC's Authority Absent Compelling Justification for Governor's Proposal.

