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July 30, 2018

Honorable John B. Ellis
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Ave
Fairfield CA 94533

Regarding: County Responses to FY2017-2018 Grand Jury Report Entitled: In-Home Supportive Services Program Oversight and Management

Dear Judge Ellis,

The County Administrator's Office (CAO) appreciates the extension of time granted for our response to the above FY2017-18 Grand Jury Report. We have completed our initial review of responses for the other County Departments required to respond and held initial meetings with County Counsel and several involved Department Heads.

The following is submitted in response to the findings and recommendations of the report.

First Finding and Recommendation

Finding 1 – The Solano County In-Home Supportive Services (IHSS) program has failed to meet minimum state standards for quality assurance, quality improvement and anti-fraud efforts for four or more years. The root cause of this persistent failure of regulatory compliance results from a lack of effective program oversight and management by the Solano County Department of Health and Social Services (H&SS) and the Older and Disabled Adult Services (ODAS) office in particular. There is a prevailing practice of regulatory noncompliance as an operational norm.

Recommendation 1 – The Solano County Board of Supervisors (BOS) and the County Administrator hold H&SS department management personnel, particularly within the ODAS office, accountable for IHSS program compliance.

Response to First Finding and Recommendation – The CAO may not agree entirely with Finding #1, as we do not have purview of all that the Grand Jury received or considered.

The County Administrator will study Recommendation #1.

The County Administrator will commence additional meetings with impacted departments, will evaluate the IHSS and Compliance programs effectiveness and will formalize an action plan, as appropriate as outlined below:

- Meet with impacted departments and evaluate the program and its effectiveness by September 10, 2018
- Formalize action plan, as appropriate by December 10, 2018

Second Finding and Recommendation

Finding 2 –Solano County’s IHSS program management and compliance oversight functions have failed to achieve minimum objective measures of program integrity over the last five years due to the lack of effective use of H&SS departmental resources.

Recommendation 2– The H&SS office of Compliance and Quality Assurance be placed under independent operational supervision such as the Solano County Auditor-Controller until the IHSS program achieves minimal QA/QI standards and earns a satisfactory follow-up Internal Control Audit by the Solano County Auditor-Controller’s office.

Response to Second Finding and Recommendation – The CAO disagrees in part with the finding. The H&SS Compliance Unit is not the sole responsible agency for compliance for IHSS, and was established for the broader compliance requirements under Federal and State laws.

Movement of the office of Compliance and Quality Assurance may or may not be necessary for H&SS to meet State standards for IHSS compliance. However, the questions regarding having an audit plan, initial risk assessment procedures and independence in compliance and quality assurance and for responding and documenting corrective actions as compliance matters arise during the year is a matter requiring further study and review, as do the appropriate placement of staff and reporting authorities. The CAO will study Recommendation #2 as part of the response provided to Recommendation #1.

Third Finding and Recommendations

Finding 3 – The Solano County Department of H&SS’ welfare fraud investigative unit, the Special Investigations Bureau, has been precluded from participating in IHSS program fraud investigation and prosecution by H&SS departmental policy and budget decisions.

Recommendation 3a – The Special Investigations Bureau be transferred to the District Attorney’s Office.

Recommendation 3b - The current ‘Purchase of Service Agreement for Investigation of Welfare Fraud’ between the Solano County H&SS Department and the D.A.’s Office be rewritten to specifically include investigation and prosecution of IHSS program fraud.

Response to Third Finding and Recommendations – The CAO disagrees wholly or in part with the finding.

The recommendation will not be implemented at this time, because it is not warranted or reasonable to have the Special Investigations Bureau perform the duties of the State with regards to fraud in the IHSS program. Solano County Department of H&SS has voluntarily implemented fraud prevention/detection services within our Older and Disabled Adult Services Bureau, with a stated goal ensure recipients receive services they are entitled to so they may continue to live

independently in their own homes. When fraud is suspected or detected by staff conducting home visits it is reported to the Department of Health Care Services (DHCS) so that the State may determine which cases it will refer to the Solano County District Attorney (DA). The DA as an independent elected official may identify and elect cases it will prosecute.

Furthermore, it should also be noted that the Special Investigations Bureau is a mandated function, that is funded as part of the administrative funding associated with Employment and Eligibility (E&E) program funding received from the Federal government by way of the State

As noted the Department of H&SS Director's response:

The Grand Jury's statement that 'The Solano County Department of H&SS has an annual \$500,000 purchase of service contract with the District Attorneys' Office for the investigation and prosecution of welfare fraud' is in error. H&SS has an annual Purchase Service Agreement for the *prosecution* of welfare fraud in the amount of \$175,000 which is an appropriate service of the District Attorney's Office.

Fourth Finding and Recommendation

Finding 4 – IHSS provider time cards continue to be a significant source of potential fraud. The electronic IHSS provider electronic time card has been adopted by Solano County but is not mandatory.

Recommendation 4 – The Solano County Public Authority require that the IHSS electronic time card is a condition of employment for all providers. Granting of the power of proxy second signatures to the IHSS electronic time card should be limited to instances that meet the legal standard requiring a notarized power of attorney for a financial transaction.

Response to Fourth Finding and Recommendation – The CAO disagrees wholly or in part with the finding.

The recommendation will not be implemented because it is not warranted or is not reasonable. As indicated in the response by the Solano County Department of H&SS Director:

By statewide rules described in the State of California, Department of Social Services All-County Letter No.: 17-76 dated July 14, 2017, the use of electronic timesheet (ETS) is highly encouraged but it is not mandatory. The California Department of Social Services (CDSS) acts as the payroll agent, and it establishes the rules for the IHSS program, including how IHSS electronic timesheets are utilized. CDSS is the entity that has authority to impose rules or regulations for IHSS providers regarding conditions of employment. ETS is an optional service in which the consumer and provider must both agree to use e-timesheets.

Fifth Finding and Recommendation

Finding 5 – H&SS Department management stated that its primary concern is IHSS Program sustainability and quality of services rather than program integrity and regulatory compliance.

Recommendation 5 – Program integrity and regulatory compliance be the primary focus of H&SS management to ensure IHSS program sustainability.

Response to Fifth Finding and Recommendation – The CAO disagrees wholly or in part with the finding.

The recommendation will not be implemented because it is not warranted or is not reasonable.

As noted in the response by the Director of Solano County H&SS department and County policies, H&SS Departmental mission, and fundamental ethical realities, the primary focus of the ODAS Bureau is the provision of services to the IHSS consumer. The ODAS Bureau is a client-centered, service program. IHSS is a mandated, entitlement program. That said, the Solano County IHSS Program is in compliance with all applicable regulations per CDSS, as noted above.

In conclusion, the CAO acknowledged the issues raised by the Grand Jury regarding the IHSS Program and will study the recommendations contained in the Report.

The County Administrator will meet with impacted departments, will evaluate the program and its effectiveness and will formalize an action plan, as appropriate as outlined below:

- Meet with impacted departments and evaluate the program and its effectiveness by September 10, 2018
- Formalize action plan, as appropriate by December 10, 2018

Respectfully,



Birgitta E. Corsello
County Administrator

Cc: Solano County Board of Supervisors
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