



Lori A. Shibinette
Commissioner

Katja S. Fox
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION FOR BEHAVIORAL HEALTH

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October 27, 2022

The Honorable Karen Umberger, Chairman
Fiscal Committee of the General Court and

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Pursuant to RSA 9:16-a, authorize the Department of Health and Human Services, Division for Behavioral Health, to transfer funds within an existing accounting unit and establish a new expenditure class code, in the amount of \$180,942 for the purpose of transferring funds to the Judicial Branch to pay for legal representation at involuntary emergency admission probable cause hearings and appeals, effective upon Fiscal Committee and Governor and Executive Council approvals through June 30, 2023. Funding source: 100% General Funds.

05-95-92-9220010-41150000 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT, HHS: BEHAVIORAL HEALTH DIV, BUREAU OF MENTAL HEALTH SERVICES, COMMITMENT COSTS

Class/Object	Class Title	Current Adjusted Authorized Budget	Increase / (Decrease) Amount	Revised Budget
<u>Revenue</u>				
	General Funds	\$1,216,834	\$0	\$1,216,834
Total Revenue		\$1,216,834	\$0	\$1,216,834
<u>Expense</u>				
049 - 584910	Transfer to Other State Agencies	\$0	\$180,942	\$180,942
102 - 500731	Contracts For Program Servi	\$259,036	(\$180,942)	\$78,094
108 - 500751	Provider Payments Legal Ser	\$168,315	\$0	\$168,315
550 - 500398	Assessment And Counseling	\$789,483	\$0	\$789,483
Total Expense		\$1,216,834	\$0	\$1,216,834

EXPLANATION

The purpose of this request is to establish a new class line (049 – Transfer to Other State Agencies) and transfer existing funds from class 102 (Contracts for program services) into the new class line to allow the Department to pay the Judicial Branch for legal representation at involuntary emergency admission probable cause hearings.

The Department has historically entered into contracts with private law firms and attorneys (Contractors) to provide legal representation at probable cause hearings for individuals subject to involuntary admittance to the state mental health system. Following recent court rulings, the Department and the Judicial Branch reviewed existing RSA and determined that the responsibility to provide legal representation lies with the Judicial Branch. To effectuate this, the Department terminated the four contracts it previously held with existing Contractors effective September 30, 2022. Concurrently, the Judicial Branch entered into contracts with the same four Contractors effective October 1, 2022.

Approval of this requested action will allow the Department to pay the Judicial Branch for the legal representation responsibilities and costs it will now incur. Upon approval of this action, the Department and the Judicial Branch will bring forward a Memorandum of Understanding to the Governor and Executive Council, specifying the arrangement through which payment will be made and other duties.

The following is provided in accordance with the Budget Officer's instructional memorandum, dated April 17, 1985, in support of the requested actions:

1. Does the transfer involve continuing programs or one-time projects?
This request will ensure legal representation can continue to be provided at involuntary emergency admission probable cause hearings and appeals.
2. Is this transfer required to maintain existing program level or will it increase program level?
Transfers are to maintain existing program levels; this action will allow the Department to pay the Judicial Branch for legal representation costs that have historically been incurred by the Department.
3. Cite any requirements, which make this program necessary.
RSA 135-C:33, Right to Legal Counsel and RSA 135-C:52, Appeal.
4. Identify the source of funds on all account listed on this transfer.
100% General Funds
5. Will there be any effect on revenue if this transfer is approved or disapproved?
No.
6. Are funds expected to lapse if this transfer is not approved?
No, the General Funds are budgeted to pay for legal representation required under RSA 135-C:33 and RSA 135-C:52. If this request is not approved, the Department would need to enter into new agreements with the four former Contractors.
7. Are personal services involved?
No, this transfer does not result in any new positions.

Area served: Statewide.

Source of Funds: 100% General Funds

Respectfully submitted,



Lori A. Shibinette
Commissioner