



COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject: COLLECTIONS - RECOVERY OF PUBLIC FUNDS	Policy Number B-4	Page Number: Page 1 of 8
	Date Adopted: 12/13/1988	Revised Date: 05/23/2017

BACKGROUND:

The Board of Supervisors recognizes Article XVI, Section 6 of the California Constitution prohibits a gift of public money or a thing of value to another governmental entity, private individual or association, and that all property held under the County's care and control is in trust for the people of the State of California.

The Board further recognizes, as part of the County's fiduciary duty to safeguard the property and monies held in public trust, the importance that the County enforce just and legal obligations by efficient collection practices within its departments.

In view of the foregoing concerns, the Board of Supervisors adopts the following policy guidelines. This policy supersedes previous Board policy on Recovery of Public Funds (B-4) revised 9/24/2002. The purpose of this policy is to accomplish the following:

- a) Establish the priority and scope of the requirements for individual departments to collect debts for services and/or assistance rendered by County employees or County programs;
- b) Establish the guidelines for referral of County debt to the Treasurer-Tax Collector;
- c) Establish the specific procedures for referral of certain debt to County Counsel;
- d) Establish the specific requirements and processes for discharge of accountability pursuant to Government Code Sections 25257 through 25259.

POLICY:

Collection of just and legal obligations and debts owed to the County is a high priority concern of the Board of Supervisors. Departments and officers of the County are to prioritize collection of any obligations within their departments according to this policy.



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This policy shall not apply to those debts and obligations for which a specified collection procedure exists under federal, state, or local laws, statutes, or regulations; for example, the billing and collection of property taxes or the course of action required in the event of non-payment.

I. INDIVIDUAL COUNTY DEPARTMENT DEBT COLLECTION

- a) Departments are directed to bill the recipient of services or monies for which an obligation to repay the County is incurred as soon as possible or within thirty (30) days from the date such services or monies are provided.
- b) If not paid within thirty (30) days from the initial billing, a second billing shall be prepared and sent.
- c) If full payment is not received within 90 days from the date services were initially provided, the department shall refer the case to the Treasurer-Tax Collector to enforce the obligation.
- d) If the Treasurer-Tax Collector rejects the debt, the debt remains the responsibility of the originating department until the debt is collected in full or the department head is discharged from accountability as detailed in section IV of this policy.
- e) Health and Human Services Agency

Multiple governmental regulations, standards, and procedures govern the various programs administered by the Health and Human Services Agency (HHSA). Collection regulations for HHSA programs can be complex and subject to revision by the funding agency and the state or the federal government and are beyond the control of the County.



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HHSA has primary responsibility for collection activities and maintains a collections specialist on staff to coordinate collection efforts on behalf of HHSA administered programs. HHSA shall have discretion in determining when a case is referred to the Treasurer-Tax Collector for further collection enforcement as collection requirements and circumstances vary by program. HHSA programs that do not have specialized collection requirements or circumstances shall comply with Sections a) through c) as noted above.

HHSA shall maintain written departmental policies and procedures for collections activities that deviate from those outlined in this policy. Such policies and procedures shall be subject to periodic review by state or federal funding agencies or the County Auditor-Controller.

i. Health Care Services

A host of complex insurance and governmental regulations, standards and procedures, governs the health care insurance industry. In addition, various contracts and agreements obligate the County to accept partial payments from certain governmental payers as payment in full for health care services. Billing and collection practices are governed and regulated by both State and Federal regulations. Such billing and collection regulations are dynamic in nature and are subject to frequent revision beyond the scope and control of the County. In practice, each payer type requires a unique claims process and payment time frame. Additionally, a hierarchy of payers exists that require claims to be submitted for payment or denial by a certain payer before a claim can be submitted to the next level payer.

The HHSA has primary responsibility for collection on these accounts. Due to the complex nature of these claims and the requirement for a unique skill set on the part



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of the payment processor, HHSa may utilize the services of the Treasurer-Tax Collector or may contract with a third party billing entity to provide initial and delinquent payment processing and billing services.

In many cases, the County is legally and/or contractually prohibited from collecting an amount greater than the amount authorized by a governmental payer (i.e. Medi-Cal and Medicare). In those instances, HSD or its designee is authorized to adjust (decrease) the balance due based on the maximum payment authorized by such payer as a collection allowance, exclusive of any client "share of cost" or co-pay amount. As an example, Medi-Cal claims are paid at the State Maximum Allowable Rate (SMA) which is typically less than the billed amount. The difference between the original billing and the SMA payment would be adjusted as a collection allowance.

II. REFERRAL TO TREASURER-TAX COLLECTOR FOR COLLECTION

- a) All Departments are required to complete the Revenue Recovery Referral Form when forwarding debts to the Treasurer-Tax Collector for collection enforcement.
- b) The Treasurer-Tax Collector shall review each request and either accept or reject the debts. If an account is rejected it shall be returned to the requesting Department for further action.
- c) Following referral of debt to the Treasurer-Tax Collector, should the Department receive oral or written notice that a debtor has filed an action or proceeding in bankruptcy of any type, the Department shall immediately notify the Treasurer-Tax Collector.
- d) The County Department responsible for administering County collections shall be authorized to collect and retain fees for the full cost of operating collections, including indirect costs and the cost of legal counsel assigned to county debt collection matters. Fees will be based on a methodology approved by the Auditor-Controller.



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Departments will be notified of this fee on an annual basis.

- e) After a debt is referred to the Treasurer-Tax Collector for collection, any negotiations to settle accounts must be handled by Treasurer-Tax Collector staff.
- f) The decision to allow a Department to recall a case that was referred to the Treasurer-Tax Collector will be made on a case-by-case basis at the discretion of Treasurer-Tax Collector management staff.

III. REFERRAL OF CERTAIN DEBT TO COUNTY COUNSEL

- a) Any Department receiving oral or written notice that a debtor of the County has filed an action or proceeding in bankruptcy of any type should immediately refer the case to County Counsel for legal advice if the debt has not previously been referred to the Treasurer-Tax Collector for collection.
- b) Collection of the full amount of legal obligations shall be accomplished to the greatest extent practicable, taking into account the totality of circumstances relating to any particular case including but not limited to the reasonableness of enforcement and the best interests of the public. For matters in litigation or pending litigation, County Counsel shall have authority to resolve any collection matter in which the original claim is less than twenty-five thousand dollars (\$25,000.00) upon determination that such action is in the best interests of the public.



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IV. DISCHARGE OF ACCOUNTABILITY

Government Code Section 25257 to 25259.5

These code sections govern the discharge of accountability of debts due and payable to the County. The law allows the Board of Supervisors to make an order discharging the department, officer, or employee from further accountability and if appropriate may direct the County Auditor-Controller to adjust any charge against the department, officer, or employee in a like amount.

The discharge from accountability does not constitute a release of any person from liability for payment of any amount.

- a) When County debts are determined to be uncollectible for any of the following reasons, the accounts shall be presented to the Board of Supervisors annually for discharge from further accountability to collect the debts:
1. The amount owing is too small to justify the cost of collection;
 2. Death of the debtor;
 3. Bankruptcy;
 4. Statute of Limitations has expired.
- b) The application for discharge of accountability shall include the following:
1. The amount owing;
 2. The names of the debtors or persons liable and the amounts owed by each, except where disclosure of such information is prohibited by state or federal law;



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3. The specific reason (under Section a) for the request to discharge the debt;
4. A verification by the applicant that the facts presented are true and correct.

V. IMPLEMENTATION

Each department, to the extent permitted by law, shall review its internal policies, practices and procedures to ensure consistency with this policy and to avoid further services or additional assistance to debtors who currently owe repayment or are in default of an obligation to that department or to the County.

VI. JOINT AND SEVERAL OBLIGATIONS

It shall be the County policy that obligations imposed by law as “joint and several” shall be enforced accordingly, i.e., where the law specified one or more parties are responsible for payment of an obligation, no “splitting” is to be utilized and the debt is to be enforced fully against each and every party until paid in full.

VII. RATES AND FEES

Unless otherwise provided by law, the rate used to calculate the amount obligated to be repaid by responsible parties shall be that rate established and in effect at the time the obligation is incurred. For matters that have proceeded to judgment, the judgment amount together with any additional charges or fees is the amount of the obligation. For matters that are in litigation or pending litigation, the established rate may be adjusted to conform to law or the sufficiency of proof.



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Absent a judgment or written agreement between the County and the debtor to the contrary, payments shall be credited as to debts first incurred and legally enforceable and thereafter to subsequent obligations accrued against a debtor.

VIII. ABILITY TO ASSIGN OR SELL ACCOUNTS RECEIVABLE

Government Code Section 16585 and 26220(a)

The Board of Supervisors may, by a four-fifths vote of its members, assign, sell or transfer a part or all of its accounts receivable to a private debt collector, private persons, or other entity. Such purchaser will be selected based on a competitive bidding process. In order to complete the sale of any Health Services Department receivables, the purchaser must certify that HIPAA guidelines will be followed and that the County will be indemnified from any action arising from collections activity.

To facilitate the sale of any accounts receivable, the County must first provide notice to the debtor in writing at the address of record, notifying the debtor that unless the accounts receivable debt is paid or appealed within a specific time period of sixty (60) days, the debt will be transferred or sold. The County is prohibited from assigning, selling or transferring accounts receivable if a debt has been contested.

Primary Departments: County Counsel and Treasurer-Tax Collector

Authority Cited: California Constitution Article XVI, Section 6

Government Code §§ 16585, 25257 through 25259.5 and 26220(a)

Next Review Date: May 2021