

**COUNTY OF SACRAMENTO
CALIFORNIA**

For the Agenda of:
May 18, 2021
Timed item: 10:30 a.m.

To: Board of Supervisors

Through: Ann Edwards, Interim County Executive
Bruce Wagstaff, Deputy County Executive, Social Services

From: Chevon Kothari, Director, Health Services

Subject: Approve The Department Of Health Services
Recommendation To Implement Assisted Outpatient
Treatment For The Enhancement Of Mental Health Services
In Sacramento County

District(s): All

RECOMMENDED ACTIONS

1. Approve the Department of Health Services (DHS) recommendation to implement Assisted Outpatient Treatment (AOT) for the enhancement of mental health services in Sacramento County.
2. Direct the Director of DHS, or designee, to conduct a program planning process to develop a proposal for Board of Supervisors approval that includes strategies to minimize the concerns identified by opponents of AOT.

BACKGROUND

AOT, also known as "Laura's Law," was passed by the California Legislature in 2002 as AB1421. This law allows for court ordered outpatient treatment for individuals with a mental illness who meet limited legal criteria, such as when treatment would prevent a deterioration that would likely result in grave disability or serious harm to self or others. These criteria are outlined in Welfare and Institutions Code section 5346.

Previously, the State of California has not required counties to provide AOT services, but has allowed them to do so if a county chooses to opt in. Sacramento County has historically not opted in to providing AOT services.

In March 2020, the California Department of Health Care Services provided a report on the current data and efficacy of AOT programs in California (Attachment 1). The report suggested several benefits of participation in AOT programs. For example, prior to AOT, many individuals experienced

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mental health treatment that involved locked facilities or hospitalizations. Upon entering the AOT program, clients adjusted to forming relationships with support staff and receiving intensive services outside of a locked setting. This success was further indicated by minimal use of enforcement mechanisms and most participants adhered to treatment. Additionally, several counties noted an increase in crisis interventions, as opposed to psychiatric hospitalizations of participants.

On September 25, 2020, Assembly Bill 1976 was signed into law, requiring counties to implement an AOT program or to opt out by passing a resolution stating the specific reasons for doing so. Counties are required to make this determination by July 1, 2021.

Court Requirements

AOT is a court ordered outpatient service for adults, ages 18 years and older, who have a serious mental illness and a history of (a) psychiatric hospitalizations, (b) jailings, or (c) acts, threats, or attempts of serious violent behavior towards themselves or others. Consumers must first be offered voluntary treatment within the past 10 days.

Family members, roommates, treatment providers, and law enforcement representatives may request an investigation to determine whether the consumer meets criteria. Only the County mental health director or his or her designee may file a petition with the court. The person named in the petition has a right to a defender appointed by the court.

If a judge finds that the individual meets the criteria, the AOT order would be for a treatment period not to exceed 180 days. After 180 days, the director of the AOT program can apply for an additional 180 days of treatment. If the consumer is not compliant with treatment, the consumer can be transported to a hospital and held up to 72 hours. After 72 hours, the same hospitalization inpatient criteria would still apply (e.g., danger to self, others, or gravely disabled).

The court cannot order involuntary administration of medications. Counties that have implemented AOT use the Full Service Partnership (FSP) or Assertive Community Treatment (ACT) treatment models.

Community Feedback Process

Beginning on September 2, 2020, the pending Assembly Bill 1976 was discussed with the Mental Health Board. On March 10, 2021, the Mental Health Board convened a special meeting to consider potential recommendations on Sacramento County's decision to either implement or

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opt out of AOT. Public comment included eight individuals speaking in favor of AOT and seven individuals speaking against AOT. A motion was made to opt out of AOT. The motion to opt out of AOT did not pass. Two members voted to opt out, three members voted against opting out, and two members abstained. Therefore, the Mental Health Board did not make a recommendation one way or the other.

On March 15 and March 16, 2021, two Community Input Sessions were held. Originally the deadline for submitting public comment was March 22, 2021. Based on feedback that more time was needed, the deadline was extended to April 21, 2021.

There is a question about how AOT would be funded, as the law prohibits reducing voluntary services in order to fund AOT. The question has been raised whether the Mental Health Services Act (MHSA) can fund AOT. While MHSA funds can technically be used for this purpose, the Community Planning Process resulted in a recommendation against this option.

The MHSA Steering Committee (SC) has been charged with the Community Planning Process legally required by the MHSA funding to make recommendations to Sacramento County regarding the use of MHSA funds. On March 18, 2021, this topic was introduced at an MHSA SC meeting, with the intention of taking official action at the April meeting based on community feedback. On April 15, 2021, the MHSA SC voted to recommend that MHSA funds not be used to fund AOT.

On April 19, 2021, a follow up meeting was held to report back to the community on the results of the prior Community Input Sessions held on March 15 and March 16, 2021. In addition, a current AOT provider from San Francisco gave a presentation on this topic. A panel of individuals with opinions on both sides of the issue was also included. The public was invited to ask questions and share their comments.

A total of 280 individuals participated in the survey, and the full report is included as Attachment 2. The report includes all public comments submitted, and Appendix A, a previous report by the Sacramento County Mental Health Board, which reached similar conclusions (Attachment 3). 73% of respondents recommended implementation of AOT, 15% recommended opting out, and 12% were neutral or unsure. The comments were very articulate and clearly well thought out. Out of respect for the fact that members of the public clearly communicated the complexity of the

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issues, it is recommended that these public comments are read in their original format to understand the complexity of the issues.

DHS also consulted with the Sacramento County Courts, Public Defender's Office, District Attorney's Office, and County Counsel, as implementation of AOT would impact their caseload and workload. Orange County, with a population of approximately three million, had approximately 185 individuals per year who were court involved as a part of their AOT program. Based on these numbers, approximately 100 could be court involved each year in Sacramento County. This is consistent with San Francisco's experience, as well.

Considerations

The topic of AOT is difficult to navigate, as it reminds individuals of prior traumatic experiences. Consumers remember times when they have experienced involuntary treatment and experienced a limitation to their civil rights. Family members remember times when they were unable to find a way to get treatment for a family member unwilling, or unable to voluntarily agree, to receive services.

There are passionate and committed advocates on both sides of this issue. Sacramento County has strongly committed Mental Health advocates that consistently come to the table to advise the County and advocate for Behavioral Health services in Sacramento County. Received community feedback will not be a full accounting of all of the advocates in Sacramento County, but it is important to acknowledge that the current and prior Chair of the Mental Health Board, a Co-Chair of the MHSA SC, and both of the CEOs of Sacramento County's consumer operated providers all spoke against the implementation of AOT.

It is also important to acknowledge how many attended the Community Input Session to express that AOT would fill a gap in the services available in Sacramento County. There were 201 out of 274 respondents who expressed that this was a needed program. This number of individuals recommending implementation of AOT included 80 family members who were not consumers (84% of family members who were not consumers), 14 consumers (47% of consumers compared with 33% who recommended to opt out), and 27 consumers who were also family members (69% of consumers who were also family members).

Recommended Action 1 will approve the implementation of AOT in Sacramento County, in alignment with community feedback. Recommended Action 2 will direct the Department of Health Services to conduct a program

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planning process to develop a proposal for Board of Supervisors Approval that includes strategies to minimize the concerns identified by opponents of AOT. It is acknowledged that one key concern relating to the involuntary nature of treatment cannot be resolved. However, other concerns identified can be minimized, including the use of strategies to make sure that court involvement happens as infrequently as possible.

Approval of the Recommended Actions will enhance mental health services and benefit consumers by providing a level of care not currently available in Sacramento County.

FINANCIAL ANALYSIS

Implementation of the recommended actions is estimated to cost approximately \$2.5 million in new funding, which would be required annually to opt in. DHS will continue to pursue all available funding sources, as well as legislative initiatives.

Implementation of AOT will require an exhaustive community planning process to develop an appropriate program design. This process will require several months of work following approval of the recommended actions. Once a community driven program design is developed, DHS will return to the Board of Supervisors with a detailed implementation plan.

Attachments:

RES – Resolution

ATT 1 – DHCS Laura’s Law Legislative Report

ATT 2 – Community Input AOT Report

ATT 3 – Feasibility Study of Alternatives for Individuals with Chronic Untreated Mental Illness in Sacramento County