

Tolling Agreement between the Department of Health Care Services
and the County of Monterey

The Department of Health Care Services (Department) and the County of Monterey (the County) (collectively, the Parties) enter into the following agreement to toll the County's time for pursuing certain judicial review as set forth below:

RECITALS

WHEREAS, California Welfare and Institutions Code section 17612.3 requires that certain calculations regarding Health Realignment Funds be made on an annual basis (the Realignment Calculations);

WHEREAS, subdivision (d) of section 17612.3 sets forth the timeframes and processes for the Department to issue its final determination of the Realignment Calculations for each Public Hospital Health System County ("Public Hospital County") for fiscal years starting in 2013-14, and for an expedited formal administrative appeal process when a Public Hospital County and the Department do not agree on the Realignment Calculations for a given fiscal year;

WHEREAS, subdivision (d) of section 17612.3 provides that the final determinations for the 2013-14 fiscal year were to be issued by December 15, 2015, after which the expedited formal administrative appeal process would commence, resulting in a final decision;

WHEREAS, subdivision (d)(2)(B) of section 17612.3 provides that "If a final decision under this paragraph is not issued by the department within two years of the last day of the subject fiscal year, the public hospital health system county shall be deemed to have exhausted its administrative remedies and shall not be precluded from pursuing any available judicial review."

WHEREAS, pursuant to subdivision (d)(2)(B) of section 17612.3, the Public Hospital Counties will be deemed to have exhausted their administrative remedies relating to the 2013-14 fiscal year Realignment Calculations on June 30, 2016, and the statute of limitations for pursuing judicial review will arguably commence on that date;

WHEREAS, the County and the Department have not yet reached agreement as to the 2013-14 fiscal year Realignment Calculations and now wish to extend the time period for the issuance of a final decision pursuant to the option in subdivision (d)(2)(B) of section 17612.3.

TERMS

The County and the Department agree as follows:

- 1) To give the Parties additional time to reach a final decision with respect to the 2013-14 fiscal year Realignment Calculations before the County is deemed to have exhausted its administrative remedies, the statute of limitations for the County to seek judicial review of

the 2013-14 fiscal year Realignment Calculations shall be tolled effective June 30, 2016 (the Tolling Agreement).

- 2) The Tolling Agreement shall terminate effective July 31, 2016, and the statute of limitations for the County to pursue any available judicial review with respect to 2013-14 fiscal year Realignment Calculations shall begin to run on August 1, 2016, subject to any applicable extensions granted pursuant to subdivision (d)(2)(B) of section 17612.3. Provided that the County files a lawsuit, if any, stemming from the 2013-14 fiscal year Realignment Calculations and does so within the applicable tolled statute of limitations period, the Department agrees not to raise any timeliness or statute of limitations defense with respect to the 2013-14 fiscal year Realignment Calculations.
- 3) The individuals signing below represent and warrant that they are fully authorized to sign this Tolling Agreement on behalf of the entity for which they are signing and that this Tolling Agreement shall be binding on that entity. They also warrant that they have been advised that they can and should seek legal counsel regarding this Tolling Agreement and its terms.
- 4) This Tolling Agreement may be executed in counterparts and a facsimile copy has the same force and effect as an original signature.

Dated: June 30, 2016

By: _____

Lew Bauman, County Administrative Officer

On Behalf of the County of Monterey

Dated: 6/30/16, 2016

By: _____

On Behalf of the Department