HEALTH SERVICES DEPARTMENT

PUBLIC HEALTH DIVISION

Healthy People Living in Healthy Communities Throughout El Dorado County

Neda West, Director / Olivia C. Kasirye, MD, MS, Public Health Officer
931 Spring Street, Placerville, CA 95667 (530) 621-6156 / Fax (530) 626-4713

July 19, 2011

Mr. Raymond J. Nutting, Chairman
and Members of the Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Subject: Review of Structure of and Consideration of Options for County Service Area #7's Ambulance Transport Services

Honorable Chairman and Members of the Board of Supervisors:

On August 14, 1999, a former Board of Supervisors adopted the County of El Dorado Emergency Medical Services (EMS) Plan. In that Plan the County's non-exclusive ambulance operating areas were maintained. On December 14, 1999, following extensive review of the issue of exclusive operating areas, the Board directed staff in Public Health to take appropriate steps to establish an exclusive operating area for 911 ambulance transport services in County Service Area (CSA) #3 and to leave CSA #7 as a non-exclusive area. Over the past decade, there have been discussions with your Board regarding the benefits and the disadvantages of the non-exclusive status for ambulance transport services in CSA #7. The following report outlines the history of ambulance services in CSA #7, background on exclusive operating areas, and options for your Board's consideration pertaining to future ambulance transport service system design in CSA #7.

History of Ambulance Transport Services in CSA #7

In the County of El Dorado, the County was and has remained the provider in County Service Area #7 under a public utility model, as the County has maintained control of the critical components of the system including the arrangement of services, the financing of services, and the delivery of services. Originally, the County employed the ambulance employees under County Service Area #7. The County was liable for health and retirement benefits for these employees. The County further owned the assets inclusive of the ambulances and other equipment. It housed the employees and their equipment at fire stations in accordance with agreements with fire districts. The County did all of the purchasing of goods and rolling stock. The County, as the provider, billed Medicare and Medi-Cal under the County's provider identification number. The County provided dispatch services, provided the funding of the transport and

dispatch services through the County Service Area #7 budget, and retained administrative oversight of the ambulance function.

In 1995, the County Department of Public Health convened a Redesign Committee to review the organizational structure and operations of CSA #7. In 1996, a report developed out of that process recommending that the County develop an EMS Plan and a long range revenue and funding plan. In 1996, the County and the newly-formed El Dorado County Emergency Services Authority Joint Powers Authority ("JPA") entered into a contract for the JPA to furnish coordinated transport services to the County. The County retained its public utility model and contracted with certain districts to cover the cost of the CSA #7 unfunded liabilities arising from workers compensation and medical retirement relative to the transition of ambulance workers from County employees to district employees.

Subsequently in 1999, the County considered a comprehensive EMS Plan that was later filed with and approved by the State EMS Authority. In the development of the EMS Plan which culminated at the December 14, 1999 Board of Supervisors' meeting, there was extensive evaluation of whether all or a part of the County was or should be an exclusive operating area, whether any city or fire district or then current provider (i.e. Lake Tahoe Ambulance) could claim "grandfathered" status under Health and Safety Code section 1797.224, and whether any cities or fire districts were eligible to continue to serve in the same manner and scope as they had continuously done pursuant to Health and Safety Code section 1797.201. Input from the fire districts, the JPA, Lake Tahoe Ambulance, Inc., various law firms representing the parties, the State EMS Authority, and members of the public was received by the County.

At the end of this eligibility evaluation process, the County concluded that no entity, inclusive of the individual fire districts or the JPA, had "201 rights." Additionally, the County concluded that the individual fire districts and the JPA were not eligible to claim exclusivity under the "grandfather" provisions of Health and Safety Code section 1797.224. Only the County was eligible for "grandfathered" status. The County therefore set up an exclusive operating area in CSA #3 with the County as provider under a public utility model, and the Board of Supervisors directed staff to create a competitive process to contract for the management of transport and dispatch services. The County maintained CSA #7 as a non-exclusive operating area with the County as the provider and continued the subcontract of transport and dispatch services to the JPA. The EMS Plan reflected the Board of Supervisors determination.

Background on Exclusive Operating Area (EOA)

Health and Safety Code section 1797.224 is an implementation provision that relates to the designation of exclusive operating areas and the selection of providers to serve such areas. This section allows a county, in its discretion, to create one or more exclusive operating areas in the development of a local EMS Plan *if* the selection of the provider or providers is done according to the provisions of the statute. The county may select a provider through either (1) a competitive process; or (2) by "grandfathering" an existing provider, if that provider has been providing continuous service without interruption since January 1, 1981, in the same manner and scope as the services to be provided under the EMS Plan. The County, under the public utility model, was and is the only provider and the only entity entitled to claim "grandfathered" status to CSA #7 as an exclusive operating area pursuant to Section 1797.224.

As stated previously, ambulance services within CSA #7 of the County of El Dorado have been provided

continuously and in the same manner and scope since the late 1970's, directly by the County through a public utility model EMS system design. The County Medical Director oversees all medical direction functions required by state law. The direct provision of ambulance transportation is arranged through an operations contract with the JPA. Dispatch services are provided through contracts between the ambulance operations contractor and public communications centers. The County has maintained the arrangement of services and has financed and continues to finance the services through distinct sources of County revenue including a special tax and transport charges. The County's Medicare and Medi-Cal provider number is used for billing and the County maintains independent oversight for the billings and collections function, and the County controls costs through the budget and contracting processes.

Future Ambulance Transport Service System Design in CSA #7

The County is tasked with the obligation to establish an organized and efficient EMS response system that assures reasonable countywide response time reliability, clinical competence and financial performance. It is also imperative for the County to assure that the operational, clinical and economic advantages of the current system are not lost to fragmentation of the market and "cherry picking" of service areas from a *laissez-fare* arrangement that does not serve the critical public health and safety needs of the citizens of the County. To continue to meet these obligations, the County should periodically review the structure of the system and consider if structural changes are necessary or desirable.

Because CSA #7 is a non-exclusive operating area for all services, inclusive of ALS service, critical-care transports, and interfacility transports, a third-party provider may apply to contract with the County to furnish any or all of those services within the CSA #7 boundaries. The County would have an obligation to review the ability of the provider to meet the EMS medical control requirements. If they met certain requirements to operate within the 911 system, the provider would provide the emergency ambulance transport and/or interfacility transport services, but would not necessarily be eligible for any compensation from the County, whether from the special tax, or otherwise[1]. One concern with this approach is that it could fragment the service delivery system. When the system is fragmented and uncoordinated, it results in conflicts among providers, inefficiencies, and a lower level of care to the patient. Further, the financial stability of the fire districts may erode as revenue to the current contractor could decrease with no accompanying decrease in resources needed to provide ambulance transport services to all areas of the County, requiring ongoing use of fund balance to support the system. Duplication of services will often lead to duplication of costs as well as loss of revenue to the County. Finally, the County should weigh the threat and costs of anti-trust litigation which often follows multiple providers serving in a non-exclusive area.

If the Board determines it is in the best interest of the County to establish CSA #7 as an EOA, the Board will need to determine who the operations contractor will be and how it will be selected. Since the County has provided continuous service as the sole provider of ambulance services within CSA #7 under the public utility model since 1976, the County is entitled to invoke its "grandfathered" status under the provisions of Health and Safety Code section 1797.224 to designate itself as the exclusive provider. If the County invokes its grandfathered status, it is possible that the State EMS Authority will challenge the

[1] The County and a provider could mutually agree in a contract to a subsidy, which would come from the General Fund.

County's contention that it is able to use this legal mechanism to establish itself as the exclusive provider of services in the newly-established EOA.

A second option would be the use of a competitive process, such as the one conducted in 2001 and again this past spring for CSA #3, to select an operations contractor. A competitive process must be repeated at least every ten years. In either case, the establishment of an exclusive operating area in CSA #7 will require revision of the County's EMS Plan.

Respectfully submitted,

Neda West
Director of Health Services

C: Terri Daly, Chief Administrative Officer
Patricia Beck, Principal Assistant County Counsel
Joe Harn, Auditor-Controller
Richard W. Todd, EMS Agency Administrator
Marty Hackett, Executive Director, West Slope JPA
David Shrader, The Polaris Group