November 16, 2015

To: CLHO Board of Directors

Fr: Morgan Cowling, Executive Director

Re: Employee Benefits and Payroll Structure

On September 22nd, Rob Bovett, AOC Legal Counsel, informed both the Association of Oregon Community Mental Health Programs and the Coalition of Local Health Officials that our current arrangements for payroll and benefits would no longer be workable. Mr. Bovett outlined three options for moving forward. Cherryl, Rob and myself agreed to a timeline that requires a decision on one of the three options that Mr. Bovett outlined to move forward at the November Board meeting.

* October 2015: Educate our respective Boards about the situation, and explore the options.
* November 2015: Option decisions by the AOCMHP and CLHO Boards.
* December 2015: Execution of any documents necessary to carry out the decisions.
* January 1, 2016: The new or revised status for each organization goes into effect.

Here are the three options as presented by Rob Bovett:

1. Convert into an intergovernmental entity pursuant to ORS chapter 190 by way of ordinances enacted by at least two counties, take on their own employees (thus being able to maintain their status as public employees, with CIS benefits, etc), and then enter into an intergovernmental agreement (IGA) with AOC to continue to provide support services, such as payroll processing, personnel, CIS benefit selection assistance, etc.

Both Cherryl Ramirez, AOCMHP, and I had several conversations with county counsels and current intergovernmental entities structured under the ORS 190 statute and not a single person that we spoke to thought this would be a workable solution for either AOCMHP or CLHO. This would not be workable due to that fact that we have members who have seats on our Board of Directors representing non-profit organizations, not just governmental entities.

Jeff Wilson, the County Counsel in Crook County, reviewed the statute and found that the ORS 190 statues are silent on the issue of non-profit entities on Intergovernmental entities’ structures. Here is his review - “According to the rules of statutory construction, where there is ambiguity, you look to the legislative intent.  To determine intent, the general rule is that you do not add to, or take away from the existing statutory language.  Since the statute is silent, the safe approach is not to appoint non-county officials to the new board.”

1. Continue as an Oregon non-profit mutual benefit corporation with Internal Revenue Code section 501(c)(6) status, take over their own employees (thus converting them from public employees to non-profit employees), with non-governmental benefit packages that they secure outside of AOC/CIS, and take over their own finances and operations, or contract with an entity that provides such services to non-profits.

I am currently researching how we would be able to provide health insurance, retirement and payroll to current CLHO staff as this option outlined.

1. Continue as an Oregon non-profit mutual benefit corporation with Internal Revenue Code section 501(c)(6) status, and enter into a contract with AOC to provide AOC employees to staff the non-profit. The contract would need to specify terms, and provide for lines of supervision and accountability back to AOC for AOC employees. This option was not viewed as optimal by either Executive Director, or me, for that matter.

During our conversation with Mr. Bovett he said that this would not really be an option if CLHO if AOCMHP would like to retain the organizational autonomy of their Board of Directors.

Staff recommendation: Option #2 is the only option under these three scenarios. I was hopeful that I would be able to outline payroll, health benefits and retirement options at the Board meeting. We either need to recruit and appoint a benefits committee or ask the Executive Committee to work with the Executive Director on the next steps prior to our December meeting.