

April 3, 2026

Michelle Baass, Director
Department of Health Care Services
Licensing and Certification Division
P.O. Box 997413, MS 2602
Sacramento, CA 95899-7413

Re: Request for Reconsideration of Petition Decision (Gov. Code § 11340.7(c))

Dear Director Baass:

Pursuant to Government Code section 11340.7(c), I respectfully request reconsideration of the Department's April 1, 2026 decision denying my Petition.

This request is narrowly focused on a single dispositive issue arising from the Department's response. Resolution of this issue does not require broad rulemaking, but rather a clear statement of how existing regulations operate when applied together.

I. Dispositive Question Requiring Clarification

The Department's response acknowledges that:

- DUI programs must complete a financial assessment within five (5) days of a participant request;
- Programs may not require payment exceeding a participant's ability to pay under Title 9, California Code of Regulations § 9878; and
- Current regulations do not expressly address whether reduced-fee determinations apply retroactively or prospectively.

These positions give rise to a controlling question:

Where a DUI program fails to complete a financial assessment within the required five-day period, and a participant is later determined to have been eligible for reduced fees during that same period, are fees collected above the participant's actual ability to pay during that period compliant with § 9878?

This question is binary and requires resolution.

II. Internal Inconsistency in Current Interpretation

If the answer is **yes**, then:

- Compliance with § 9878 is determined by administrative timing rather than actual financial condition;
- The five-day assessment requirement lacks enforceable consequence; and

- Programs may collect fees in excess of a participant's true ability to pay without violation, provided assessment is delayed.

If the answer is **no**, then:

- Fees collected above the participant's actual ability to pay during the period of delayed assessment are inconsistent with § 9878; and
- Adjustment or reconciliation is required to bring those fees into compliance.

The Department's denial does not resolve which interpretation governs.

III. Eligibility Exists Independent of Administrative Timing

A participant's eligibility for reduced fees is based on their financial condition during the relevant period, not the date on which the program completes its assessment.

The financial assessment:

- Confirms eligibility;
- Does not create it; and
- Does not alter the participant's actual ability to pay during prior months.

Accordingly, allowing administrative delay to determine the amount charged results in:

Fees being set by timing of verification rather than the participant's actual financial condition.

This is inconsistent with the limitation imposed by § 9878.

IV. Effect of Untimely Assessments

Under the Department's current interpretation, a DUI program may:

- Fail to complete a required financial assessment within the five-day timeframe;
- Continue charging full program fees during the period of delay; and
- Avoid reconciling those charges once reduced eligibility is later confirmed.

This produces a result in which:

Administrative delay directly determines financial liability, rather than the participant's lawful ability to pay.

Such a result undermines both the timing requirement and the substantive limitation contained in § 9878.

V. Reliance on Reactive Process Without Verifiable Oversight

The Department's response relies on program-level compliance mechanisms and participant-initiated requests.

However, as confirmed in the Department's CPRA response (Reference # R006737-111325), DHCS' DUI Section does not maintain records regarding:

- Program termination counts;
- Denied fee reductions; or
- Program-level policies and procedures regarding income verification, termination, or reinstatement.

As a result:

The system relies on participant-initiated action and program-controlled processes without centralized tracking of whether required procedures are timely or consistently implemented.

This is directly relevant to the issue above. Where compliance depends on timely assessment, but delays are neither tracked nor independently verified, inconsistent application is structural.

VI. Practical Impact on Enforcement of § 9878

Because the system:

- Requires participants to initiate financial assessment;
- Allows programs to control the timing and documentation of that assessment; and
- Does not track assessment delays, denials, or enforcement outcomes;

the application of § 9878 becomes dependent on:

Program self-reporting and participant persistence, rather than consistent, verifiable enforcement.

This structure permits:

- Fees to be collected above actual ability to pay;
- Delays in required assessments to go uncorrected; and
- Inconsistent application of indigency protections across programs.

VII. Narrow Basis for Reconsideration

This request does not seek broad regulatory revision. It seeks resolution of the dispositive question presented in Section I.

If the Department maintains that fees collected during periods of delayed assessment remain compliant, it should explicitly state that interpretation.

If the Department determines that such fees are inconsistent with § 9878, it should clarify the corrective obligation required to ensure compliance.

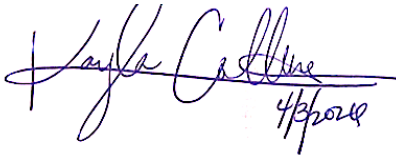
VIII. Request

For the reasons stated above, I respectfully request that the Department:

1. Reconsider its denial; and
2. Provide a clear statement of its interpretation of § 9878 as applied to fees collected during periods in which a required financial assessment was not timely completed.

This issue cannot be resolved through general reference to existing regulations. It requires a direct interpretation of how those regulations operate when applied to the circumstances described.

Sincerely,



Kayla Collins