

22-003 IST Referrals for Growth Cap

Frequently Asked Questions

Questions Received as of January 13, 2023

COUNTY QUESTIONS

- *The letter references that counties will be penalized financially beginning with the 5th IST “determination” that is made. Can someone clarify if the growth cap is based on when the courts find someone IST or is it based upon a referral to DSH for placement?*

The number of determinations is based on court ordered felony IST referrals to DSH regardless of the program the defendant is ordered to. However, we recognize that there may be times where DSH does not receive the court order directly. For example, if a felony IST individual is ordered to and placed into a Diversion program or CONREP prior to DSH referral, that would count as an IST determination. In those cases, DSH will collect and confirm the commitment and add the individual to the county’s growth cap count.

- *Sounds like it’s irrelevant whether individuals are restored at our JBCT, enroll in our DSH diversion program, or die 2 weeks after they are found IST... If an individual is found IST, it will count as an IST and will be compared to the baseline for a potential penalty assessment.*

Yes, regardless of other circumstances, if an individual is determined felony IST, it will count as an IST, be compared to the baseline and potentially subject to a penalty payment.

- *Does the growth cap apply to just the felony IST determination? Or does the potential penalty only apply if an individual is actually committed to DSH?*

The growth cap counts all felony IST determinations made by the Superior Courts. If a felony IST is ordered to outpatient treatment directly by the Community Program Director (CPD) that FIST determination will be included in the county total for the fiscal year.

- *If DSH does a reevaluation at a county jail and finds the patient competent prior to that patient being transported to DSH, does that count as an IST referral for SB 184 purposes, i.e. a referral that counts against our county’s cap even though the patient was never transported?*

Yes, if an individual is declared felony IST by the Superior Courts they will be part of the county's growth cap. Re-evaluation by DSH has no impact on the total number of ISTs counted towards the growth cap.

- *Did DSH count FISTs that were ordered directly to CONREP (not to DSH) in the baseline and Current Year (CY) quarterly counts?*

Yes, the baseline and the annual count include ISTs directly ordered to CONREP and other outpatient programs.

- *If a court finds someone IST in one FY (ex. End of FY 21-22) but DSH doesn't receive the paperwork until the next fiscal year (FY 22-23), which year will that determination be counted in?*

The majority of the felony IST counts for the growth cap are based on when DSH receives the commitment order from the courts which initiates the referral in our system. It is possible a small percentage of patients committed to DSH prior to the end of one fiscal year may be counted in the next fiscal year if there is a delay in the court submitting the commitment notification to DSH.

- *Does it count against the cap if we get the court to grant them diversion, i.e. IST diversion, under our grant, prior to them being transported?*

Yes, every felony IST determination counts against the growth cap, even if the court orders the felony IST to a local Diversion program in lieu of commitment to DSH.

- *Do the DSH county IST caps apply to clients who are committed and transported to a DSH facility or only those admitted to a DSH facility? If it only applies to those admitted to a DSH facility, what facilities are included in that calculation? In other words, are JBCTs and/or CONREP placements included in the growth cap calculation?*

The growth cap calculations count all felony IST determinations made by the Superior Courts, including felony ISTs ordered directly to CONREP.

Transportation to a DSH-funded program or hospital, re-evaluations completed by DSH, and treatment through other DSH IST solutions have no impact on the total growth cap calculations.

- *We are looking for more specific information on our current year DSH numbers. The letter we got yesterday about the growth cap also indicated that in the first quarter of 22-23 we have sent 4 people to DSH. We are hoping to get a list of those names so that we can understand who is actually at DSH from our county and who is on the waitlist in our jails.*



DSH 22-003 IST Referrals for Growth Cap

DSH is working with its Privacy Office to determine how best to facilitate this request. DSH will provide an update to this response in the future.

DSH 22-003 IST Referrals for Growth Cap