



C A L I F O R N I A D E P A R T M E N T O F

Mental Health

1600 9th Street, Sacramento, CA 95814
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July 18, 2005

DMH LETTER NO.: 05-04

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: MENTAL HEALTH SERVICES ACT—NON-SUPPLANTATION

REFERENCE: Implementation of MHSA, Welfare and Institutions Code (WIC)
Sections 5847, 5848, 5891 and 5892

The purpose of this letter is to transmit the County Non-Supplantation policy under the Mental Health Services Act. This policy applies to all components of the Mental Health Services Act and shall be used to guide the interpretation of the Act with regard to local funding issues.

For reference, Welfare and Institutions (W&I) Code Section 5891 implemented as part of the MSHA:

“The funding established pursuant to this act shall be utilized to expand mental health services. These funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act. The state shall not make any change to the structure of financing mental health services, which increases a county’s share of costs or financial risk for mental health services unless the state includes adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Section 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the state General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Section 5892.”

The Department's policy related to county non-supplanting under the MHSA consists of three requirements, all of which must be met in order for an expenditure to be eligible for reimbursement under the MHSA:

1. Funds must be used for programs authorized in Section 5892 of the W&I Code
2. Funds cannot be used to replace other state or county funds required to be used to provide mental health services in fiscal year 2004-05 (the time of enactment of the MHSA)
3. Funds must be used on programs that were not in existence in the county at the time of enactment of the MHSA (new programs) or to expand the capacity of existing services that were being provided at the time of enactment of the MHSA (11/02/04).

Further detail regarding these requirements follows:

1. Programs Authorized in Section 5892 of the W&I Code

Section 5892 of the W&I Code requires that funds under the MHSA must be used for the following programs:

- Education and Training
- Capital Facilities and Technological Needs
- Prevention and Early Intervention
- Services for Children (including Transition Age Youth) and Adults and Older Adults (defined as Community Services and Supports by the Department)
- Innovative Programs
- Local Planning
- State Administration

Services that do not fall under one of the above programs and do not meet DMH MHSA requirements cannot be funded through the MHSA.

2. Replacement of Other State and/or County Funds

Counties cannot use MHSA funds to replace other state and county funds required to be used by the county mental health department to provide mental health services in fiscal year 2004-05 (the time of enactment of the MHSA). Funds required to be used by the county mental health department include all allocations either from or through the State Department of Mental Health, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) State General Fund, and realignment funds allocated for mental health services (excluding

allowable 10 percent realignment transfers). The Department will provide each county with a listing of their fiscal year 2004-05 allocations required to be used for mental health services along with an estimate of fiscal year 2004-05 EPSDT State General Fund based on settled fiscal year 2002-03 EPSDT State general funds. County expenditures will be evaluated against the fiscal year 2004-05 aggregate spending amount net of allowable realignment transfers and county overmatch, which are not required to be used on mental health services.

This does not preclude a county from ceasing to fund programs that no longer meet the needs of the county and its stakeholders as long as the aggregate state and county funds required to be used to provide mental health services are used for such purpose. This also does not preclude a county from using MHA funds to expand the capacity of an existing program beyond the levels funded in fiscal year 2004-05.

Note that counties are still required to comply with existing statutes and regulations regarding the use of funds for mental health services. The Department does not intend to change the structure of mental health financing which would increase a county's share of cost or financial risk for mental health services. Thus, counties are required to use the following funds consistent with current statute, regulations and contracts: realignment funds allocated to the Mental Health Account (excluding the ten percent allowable transfer) for mental health services, the county maintenance of effort on realignment funds for mental health services, managed care State General Fund for mental health services, other Department of Mental Health Local Assistance State General Fund for mental health services, and any other state or county funding sources that are statutorily required to be used for mental health services. (State General Fund for EPSDT specialty mental health services are reimbursements for prior expenditures.) Counties are not required to use county realignment funds that are legally transferred to the Health or Social Services accounts in accordance with W&I Code 17600.20 for mental health services. Counties also are not required to provide county overmatch for mental health services even if this funding was previously provided by the county.

If a county transfers up to 10 percent of realignment funding out of mental health in accordance with requirements in W&I Code 17600.20, documentation of compliance with that statute must be submitted to the Department.

“A county or city or city and county shall, at a regularly scheduled public hearing of its governing body, document that any decision to make any substantial change in its allocation of mental health, social services, or health trust fund moneys among services, facilities, programs, or providers as a result of reallocating funds pursuant to subdivision (a), (b), or (d) was based on the most cost-effective use of available resources to maximize client outcomes.”

A county wishing to transfer 10 percent of realignment funding out of mental health must provide notice to the Department and the required amount will be adjusted accordingly. Annual expenditures of state and county funds must be documented as part of the cost report process to ensure compliance with this requirement.

3. Expansion of Mental Health Services

In accordance with Section 5891 of the W&I Code, MHSA funds must be used to expand mental health services beyond services that were provided or funded at the time of enactment of the MHSA, which was November 2, 2004. The Department has interpreted expansion to represent services not provided or funded in the county at the time of enactment of the MHSA (new services) or expansion of program capacity beyond what existed at the time of enactment of the MHSA (expansion of existing services). Inflationary increases in costs associated with programs in existence at the time of enactment of the MHSA are not eligible for MHSA funding because they do not represent an expansion of services through new services or increased program capacity. Increases in program costs due to expansion of existing services to a larger population are eligible for MHSA funding because they represent an expansion of services through an increase in program capacity.

Compliance

The Department will monitor county compliance with the non-supplanting requirements through the following activities:

1. The Department will provide each county with a listing of their fiscal year 2004-05 allocations required to be used for mental health services (excluding allowable 10 percent realignment transfers if the required documentation is submitted to the Department by the county).
2. The county is responsible for documenting the expenditure of these funds on mental health services through the cost report.
3. The county mental health director is responsible for certifying that the MHSA funding is to be used solely to expand services and that fiscal year 2004-05 funds required to be used for mental health services will be used in providing such services.
4. The county mental health director is responsible for certifying on the annual cost report that funding was actually used solely to expand services and that state and county funds required to be used for mental health services were used in providing such services.

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If you have questions or need additional information, please contact the County Operations staff assigned to your county.

Sincerely,

Original signed by:
Robert Garcia
for

STEPHEN W. MAYBERG. Ph.D.
Director

Enclosures

cc: California Mental Health Planning Council
Chiefs, County Operations Sections