



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

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April 21, 2008

DMH INFORMATION NOTICE NO.: 08-12

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

SUBJECT: COMMUNITY SERVICES AND SUPPORTS GENERAL SYSTEM
DEVELOPMENT HOUSING

SUPERCEDES: DMH INFORMATION NOTICE: 08-05

REFERENCE: WELFARE & INSTITUTIONS CODE SECTION 5847 (d), SECTION
5878.3, SECTION 5892, SECTION 5893 AND CALIFORNIA CODE
OF REGULATIONS SECTION 3315

This Department of Mental Health Information Notice clarifies the circumstances when housing is an eligible expenditure under Community Services and Supports (CSS) General System Development (GSD). To the extent that there are differences between this Information Notice and prior DMH publications, the requirements in this notice will prevail.

Background

Under current regulations, allowable expenditures for Full Service Partnerships (FSPs) include, "Housing, including but not limited to, rent subsidies, housing vouchers, house payments, residence in a drug/alcohol rehabilitation program, and transitional and temporary housing." (California Code of Regulations (CCR), Title 9, Division 1, Chapter 14, Section 3620(a)(1)(B)(iii)). In addition, under existing regulations, Outreach and Engagement funds may be used for "Food, clothing, and shelter, but only when the purpose is to engage unserved individuals, and when appropriate, their families, in the mental health system." (CCR 3640(b) (2)). The housing expenses allowed under both the FSP and Outreach and Engagement service categories, described above, are individually based. This means that these housing expenses are tied to the specific service needs of an individual, and when appropriate, their family. The section below titled, GSD Housing, further explains allowable, non-individual-based housing costs, i.e., project- based housing expenditures.

GSD Housing

GSD is defined in CCR 3200.170 as "... the service category of the CSS component of the Three-Year Program and Expenditure plans under which the County uses Mental Health Services Act (MHSA) funds to improve the County's mental health service delivery system for all clients and/or to pay for specified mental health services and supports for clients, and/or when appropriate, for their families." Consistent with this definition, housing expenditures under GSD are allowable when they expand housing resources to support and improve the County's mental health service delivery system. GSD funds may be used to develop project-based housing resources. Such project based housing resources are non-client specific and may include a range of housing options. All proposed GSD housing expenditures need to support the County's approved CSS component and demonstrate consistency with the identified needs and priorities in the County's Three-Year Program and Expenditure Plan. The requirement that Counties direct a majority of their funds to FSPs continues to apply (CCR 3620(c)).

Examples of project-based and individual-based housing costs are included in Enclosure 1.

GENERAL REQUIREMENTS

Allowable GSD expenditures include:

- acquisition, renovation and/or construction of housing that is dedicated for the intended use for a minimum of 20 years
- master leasing of housing, including costs of repairs needed to restore a unit damaged by a MHSA tenant upon vacating
- project-based operating subsidies for housing units acquired with GSD funds
- housing trust fund only when an irrevocable transfer of GSD funds is made to a local government entity for a specific housing project, e.g., County Housing Authority holds and disburses funds to purchase land and construct new housing for a specified housing development

Housing expenses not allowed under GSD include:

- housing trust funds, other than as described above
- acquisition, construction, and renovation of a treatment facility
- predevelopment costs for a development in the MHSA Housing Program
- individual-based housing expenses, e.g., rental subsidies, motel vouchers

Capital costs for 24-hour treatment facilities including, but not limited to, crisis residential, child group homes, and adult residential treatment facilities are not allowable under GSD but may be eligible for MHSA funding under the Capital Facilities segment of the Capital Facilities and Technological Needs component. See Information Notice 08-09, MHSA Capital Facilities and Technological needs Component Three-Year Program and Expenditure Plan Guidelines, dated March 18, 2008, for additional details and requirements.

SPECIFIC REQUIREMENTS

Below are additional requirements for the use of GSD funds for housing development i.e., acquisition, renovation, or construction:

- All housing developed with GSD funds shall comply with federal, state and local laws and regulations including zoning and building codes and requirements; fair housing law; licensing requirements, where applicable; fire safety requirements; environmental reporting and requirements; hazardous materials requirements; the Americans with Disabilities Act (ADA), California Government Code Section 11135 and other applicable requirements.
- The County shall ensure that housing developed with GSD funds is updated to comply with applicable requirements, and maintained as necessary, and that appropriate fire, disaster, and liability insurance coverage is maintained.
- The County will be subject to the following reporting requirements for the project:
 - The County will submit an annual report on the status of the project, including the number of clients housed, the types of services provided, and a list of project expenditures.
- The County must complete Enclosures 2 and 3 when submitting the project as part of an update to the County's Three-year Program and Expenditure Plan. Enclosure 4 should be submitted annually.
- It is recommended that the County establish a project manager with duties such as:
 - Monitoring construction and/or renovation of housing.
 - Supervising maintenance of the development.
 - Regulating the eligibility and terms of agreement between the developer and the residents.
 - Maintaining all records and information, including budget information, required to fulfill reporting and audit requirements.
 - Monitoring project expenditures to ensure that all expenditures serve a public purpose.
 - Monitoring the project to ensure it continues to serve a primary public purpose.

If the County uses GSD funds for housing development (i.e., acquisition, renovation or construction, not master leasing) that is not owned by a government entity, the County must comply with the following additional requirements:

- The County must document that the primary purpose of the project is to serve the public by providing necessary housing to individuals with serious mental illness and/or serious emotionally disturbance who are homeless or at risk of homelessness and any benefit to private developer(s) is merely incidental to the primary public purpose.
 - The County must provide a written explanation of the project's primary public purpose to include a description of the local need for the particular type of project, the population to be served, and a description of MHSA services, if any, that individuals/families accessing the housing project will receive.
- The County shall ensure that the project establishes a regulatory agreement, a covenant or a deed restriction that requires the housing project to be used for the

public purpose identified and described by the County and approved by the Department for a period of at least 20 years and requires the developer to refund used and unused GSD funds upon a finding by the County or DMH that this requirement has been violated.

- The County must report to the Department within 60 days any finding by the County project manager that expenditures have been made that do not serve a public purpose.
- The County and project may be subject to audit by the Department
 - Both the developer and the County project manager must maintain all records and information required for the audit and produce them upon request of a DMH auditor.
- If the Department determines that the project is not serving primarily a public purpose, either through an audit or on the basis of other information, the County may be required to return all or part of the GSD funds used for the project.

Plan Updates

Plan updates are needed to add or modify programs, to request approval of housing acquisition/renovation and/or construction, and to request approval of additional funding available within the County's planning estimate. Enclosures 2 and 3 shall be submitted along with the County's update.

Consistent with MHSAs statutory requirements in Welfare and Institutions Code Sections 5848(a) and (b) and Title 9, California Code of Regulations Section 3300 and 3315(b), updates to the county's Three-Year Program and Expenditure Plan shall be developed with local stakeholders and made available in draft form and circulated for review and comment for at least 30 days to representatives of stakeholder interests and any interested party who has requested a copy of the update. The County shall submit a summary and analysis of any substantive revisions made as a result of stakeholder input. Approved updates will result in a modification to the County's MHSAs Agreement to reflect the change to the County's approved Three-Year Program and Expenditure Plan.

If you have any questions, please contact your County Liaison identified on the following internet site: <http://www.dmh.ca.gov/CountyOps/contact.asp>.

Sincerely,

Original signed by

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosures