

MEMORANDUM

State of Alaska Department of Law

TO: Karl R. Brimmer, M.Ed.
Director
Division of Mental Health
and Developmental Disabilities

DATE: March 9, 1999

FILE NO.: 663-98-0159

TELEPHONE NO.: 465-3600

SUBJECT: Request for Opinion
Concerning the Reporting
of Grant Income

FROM: Shannon K. O'Fallon
Assistant Attorney General
Human Services Section-Juneau

You have asked for an opinion about whether community mental health grantees who receive funds from the Department of Health and Social Services (department) through the Division of Mental Health and Developmental Disabilities (DMHDD) are required to report to the department and DMHDD all income they receive, including Medicaid, insurance claims, cash, and any other third-party payments.

The short answer is yes. Grantees are required to disclose all funding sources, apart from the grant awarded by the department, if the income is earned by the grant project. Insurance reimbursements are encompassed in the definition of grant income. The disclosure of funding sources is required in a number of different contexts. First, grantees, when applying for departmental grants, must give the department an overall picture of their program through annual reports from the preceding fiscal year, long-range planning documents, and budget statements. Second, the department has the authority to audit its grantees, and it can require the reporting of grant income at any time. Third, a grantee must submit grant project performance reports and financial reports when requested by the department.

In 1975, the Community Mental Health Services Act (CMHSA) was passed to develop community-based mental health services. AS 47.30.520. The expressed legislative purposes, in pertinent part, are to

(2) assist communities in planning, organizing, and financing community mental health services through locally developed, administered, and controlled community mental health programs;

(3) better develop and use resources at both state and local levels;

...

(8) provide a means of allocating money available for state mental health services according to community needs;

(9) encourage the full use of all existing public or private agencies, facilities, personnel, and funds to accomplish their objectives; and

(10) prevent unnecessary duplication and fragmentation of services and expenditures.

AS 47.30.520.

The department was given the responsibility of administering the CMHSA and AS 47.30.530(a) requires that the department

(3) develop budgets and receive and distribute state appropriations and funds in accordance with the [CMHSA];

...

(6) develop a standardized system for measuring and reporting to the department the types, quantities, and quality of services; and develop a cost accounting system that will demonstrate the cost of various levels and qualities of care;

...

(8) review each local community plan and require each plan to include

(A) an affirmative showing that the most effective and economic use will be made of all available public and private resources in the community . . .

An entity that is eligible for CMHSA funds must

(3) conform to a state cost accounting system showing the true cost of services rendered . . . ;

...

(5) furnish . . . the department an annual report of the preceding fiscal year, including an evaluation of the effectiveness of the previous year's programs and their costs; and

(6) furnish . . . the department satisfactory needs assessments for the population and area it serves and an annual update of a long-range planning and budget statement that describes program goals, the steps and resources necessary to implement the goals, the projected means by which these resources will be secured, and the procedures necessary to evaluate the program.

AS 47.30.540(b). In addition, the department was charged with the task of promulgating regulations that require a grantee providing community mental health services to agree " . . . as a condition of [grant] approval, that it will not supplant existing local fund support of community mental health services with funds received under . . . [the CMHSA]" AS 47.30.570.

The CMHSA provides a cost-sharing formula that sets out the percentage of the eligible costs that a CMHSA grantee can receive from the department, depending on whether the area to be served is designated as a poverty area. AS 47.30.550. The department can exceed these percentages if it "determines that sufficient funds from other sources are unavailable." AS 47.30.550(c).

This statutory framework allows the state to provide the support needed for communities to establish community mental health centers. However, the framework also clearly envisions a system whereby community mental health centers seek funding from other sources to augment funding received from the department through a CMHSA grant. Grants from the department are not a sole source of funding for any grantee. In order to determine proper levels of funding from the department, the department must review budgets prepared by entities applying for funding as stated in AS 47.30.540(b)(6). These budgets must identify

other available resources that will enable the entity to carry out its program. In addition, entities applying for funding must submit a report from the previous year, outlining the effectiveness of the programs and their costs. AS 47.30.540(b)(5). This report would have to include any other funding source that helped pay for the provision of community mental health services.

The department has implemented regulations that require grantees to disclose all income received, pursuant to the CMHSA. 7 AAC 78.210 provides that "[a] grantee shall report grant income to the grant agency, on a form designated by the grant agency." 7 AAC 78.210. "Grant income" is defined as

income earned by a grant project during the grant period including, but not limited to, proceeds from the sale of products or services such as laboratory tests or computer time, payments received for medical or hospital services, fees received for personal services, proceeds from the sale of assets of the grant project, and royalties from copyrights or publications.

7 AAC 78.320(10) (emphasis added). A grant project is defined as "a project for which the grant has been awarded." 7 AAC 78.320(13). If a grantee requests funding for the operation of a community mental health center, the grant project is the operation of a community mental health center, even if the department only funds a part of the operation.¹ The grant period is defined as "the time period for which the grantee has been awarded a grant." 7 AAC 78.320(11).

The regulations also direct the use of grant income. Actual grant income received during the grant period that exceeds anticipated grant income must be used

[t]o further the objectives of the grant project, including but not limited to, uses which will

(1) increase the number of persons served by the grant project;

¹ Of course, if the department were only funding a discrete project within a community mental health center, and not funding the operation of the community mental health center itself, requests for income information could be limited to that discrete project.

- (2) increase the services provided by the grant project;
- (3) improve the quality of the services provided by the grant project;
- (4) establish a reserve fund for use in off-setting underestimates of financing needs for the grant project;
- (5) improve the capabilities of the grant project to generate reimbursement for services from a source other than the grant agency or the clients or patients of the grant project;
- (6) establish a fund, which may not exceed the amount of the grant, to generate income for the program; or
- (7) satisfy requirements under the grant program for matching contributions from the grantee.

7 AAC 78.210(b).

The request for proposals (RFP) that goes out every year to potential grantees gives notice that financial information will be sought. In the department's FY 98 RFP for community mental health grants, section C states that a summary should be included which "describes the services to be provided . . . how the service(s) will be provided . . . the total cost of the project, and the sources of all funds that will be applied to the project." Appendix A of the FY 98 RFP explains that budget preparation guidelines and the grant project budget detail must include all sources of funding, including grants from the department, federal funds, funds earned as a result of this award (*i.e.*, grant income), in-kind contributions, city or local funds, other state funds, donations, and client fees and/or contributions to cost of care. It is important to note that receipt of a grant from the department to operate a community mental center may be the mechanism through which an entity becomes eligible to bill Medicaid for services rendered. Thus, funds "earned as a result" of a grant award would include Medicaid reimbursements.

As the CMHSA states, the department has numerous reasons to require the reporting of all grant income earned by a grant project: (1) by obtaining information about private, federal, or local funding secured or earned by community mental health center grantees, the state can ensure the efficient and effective use of public funds; (2) accessing

information that shows the true need for state-funded services allows the state to shift funds into areas where the need is greater; (3) the ability of the department to track all funding sources of its grantees is necessary for the department to accomplish the statutory objectives of the CMHSA, such as ensuring program compliance, establishing grantee accountability, and planning for service capacity; (4) in order for the department to adequately evaluate a proposal for funding under the CMHSA the department must have information about sources of funding available to a proposed grantee in order to determine the level of funding and to measure the effectiveness of a program; and (5) requiring periodic reports from grantees on the status of grant income enables the department to track the appropriate use of excess grant income such as the expansion of services.

The department has the authority to require a community mental health center grantee to report funding sources of a grant project through budget documents, periodic reports, and audits.² Without this information, the department cannot carry out its duties under the CMHSA.

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² The department should keep in mind that some grantees may have limited staff and resources. Requests for financial information should not be done in such a way that a grantee is unreasonably burdened by the amount of information requested, or the frequency of the requests.