

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 28, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Service Administration

Community Mental Health Services and Substance Abuse Prevention and Treatment Block Grant Maintenance of Effort Requirements: Exclusion From Future Year Calculations

In keeping with SAMHSA's delegation of authority from the Secretary for Health and Human Services (HHS) and in compliance with section 1915(b)(2) and section 1930(b) of the Public Health Service (PHS) Act as amended by Public Law 106-310, the Substance Abuse and Mental Health Services Administration is issuing the following guidance that will be used in determining whether to approve an exclusion from aggregate expenditures by the State used in the calculation of maintenance of effort requirements under both the Community Mental Health Services (CMHS) Block Grant program and the Substance Abuse Prevention and Treatment (SAPT) Block Grant program.

Summary: Under the CMHS Block Grant program, States are required as a condition of receipt of funds to maintain State expenditures for community based mental health services for adults with serious mental illness and children with serious emotional disturbance at a level that was equal to the average expenditures for such purposes over the previous two years. Under the SAPT Block Grant program, the States are required to maintain State expenditures for the single State agency responsible for substance abuse services at a level that is equal to the average expenditures for such purposes over the previous two years. Under both block grants, the States are required to materially comply with the maintenance of effort requirements.

Public Law 106-310 added sections 1915(b)(2) and 1930(b) to the PHS Act

which explicitly authorize the Secretary, as a matter within his discretion, to exclude from the calculation of the maintenance of effort "funds appropriated to the principal agency for authorized activities which are of a non-recurring nature and for a specific purpose." This exclusion from the maintenance of effort will, among other things, offer States some latitude to try new programs without having to commit themselves to outyear expenditures.

This notice provides guidance to States eligible to request such an exclusion from the maintenance of effort requirements. The State must request the exclusion separate from the yearly application that it submits for funding under both programs and the request must be signed by the State's Chief Executive Officer or by an individual authorized on behalf of the Chief Executive Officer. The State must also submit documentation sufficient to support its request for an exclusion under section 1915(b)(2) or section 1930(b). The documentation must support its position that the funds were appropriated by the State legislature for authorized activities that are of a non-recurring nature and for a specific purpose, indicate the length of time the project is expected to last in years and months, and affirm that these expenditures would be in addition to funds otherwise needed to meet the State's maintenance of effort requirement for the year that it is applying for exclusion. With regard to the last point, if the State is otherwise required to expend \$1,000,000 to satisfy its maintenance of effort requirement, an expenditure of \$100,000 eligible for exclusion under this new authority must be expended in addition to the \$1,000,000. It simply will not be used to calculate future maintenance of effort requirements.

With respect to documentation to support the State's position that the funds were appropriated for authorized activities that are of a non-recurring nature and for a specific purpose, the governor's budget justification would be sufficient unless the appropriation for the principal agency responsible for community based mental health services or substance abuse services is below the budget request, in which case the State should show that the legislature intended to provide funding for the activity at issue. If the State legislature explicitly rejected that activity of the governor's budget, it may not be claimed as an eligible exclusion as funds have not been appropriated for the specific purpose in question.

The length of time of the activity may be for more than one year. The longer the length of the activity, however, the more difficult it will be to determine that the expenditure is non-recurring.

In addition, a State may apply for more than one exclusion in any one year or apply for additional exclusions in other years while other excluded activities are ongoing.

In summary, in order for SAMHSA to approve a request from a State to have excluded from the aggregate State expenditures funds appropriated by the State legislature to the principal agency for authorized activities which are of a non-recurring nature and for a specific purpose, the following is necessary:

1. The State shall request the exclusion separately from the application;
2. The request shall be signed by the State's Chief Executive Officer or by an individual authorized to apply for the SAPT or CMHS Block Grant on behalf of the Chief Executive Officer. SAMHSA will consider such requests for funds appropriated after the date of enactment of Public Law 106-310, October 17, 2000, in the first year for which additional funds are being added to the budget for such activities;
3. The State shall provide documentation that supports its position that the funds were appropriated by the State legislature for authorized activities which are of a non-recurring nature and for a specific purpose, indicates the length of time the project is expected to last in years and months, and affirms that these expenditures would be in addition to funds needed to otherwise meet the State's maintenance of effort requirement for the year for which it is applying for exclusion; and
4. The Administrator of SAMHSA agrees that the criteria for exclusion have been met.

Nothing in this guidance limits a State from requesting more than one exclusion in any one year. If during a particular year the State wishes to submit more than one project for exclusion, it should do so in a single request.

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