



Substance Abuse and Mental Health  
Services Administration

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July 17, 2020

Dear State Authority for Mental and Substance Use Disorders:

The COVID-19 pandemic has impacted the behavioral health of the nation in that many individuals with existing or newly developing mental and substance use disorders have experienced additional stressors through the declining economy and high unemployment rates. These health conditions will not only affect individuals who are in recovery, but also new individuals with mild to moderate symptoms because of prolonged stress and isolation. Accordingly, treatment providers will likely see increases in the demand for access to services. Additionally, individuals who have lost their employment, and the insurance that was tied to that employment, may result in the SAMHSA block grant funding being more important than ever in assisting states with funding their mental and substance use disorder programs.

SAMHSA recognizes that COVID-19 may have also impacted your state through an economic downturn due to the loss of tax revenue and employment during state stay at home orders. Based on current economic projections, we understand that many states are not generating normal levels of tax revenue. Additionally, due to state closures and stay at home orders, critical services in the behavioral health field may have been impacted due to social distancing guidelines and it is expected that states will have spent less money overall on services this year, which may create additional maintenance of effort (MOE) shortfall considerations. If this is the case, it may be possible that your state will be unable to fulfill your MOE requirement this year.

#### Extraordinary Economic Circumstances Waiver

For both the Substance Abuse Prevention and Treatment Block Grant (SABG) and the Mental Health Block Grant (MHBG) there is a process that allows for the consideration of a MOE waiver for any state that experiences extraordinary economic circumstances in a state fiscal year:

Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions exist in the State, or any part of the State, to justify the waiver.

1930(c)(1), Public Health Service Act (42 USC 300x-30(c)(1))[SABG MOE waiver provision]

The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) in whole or in part if the Secretary determines that extraordinary economic conditions in the State in the fiscal year involved or in the previous fiscal year justify the waiver.

1915(b)(3)(A), Public Health Service Act (42 USC 300x-4(b)(3)(A))[MHBG grant MOE waiver provision]

The Interim Final Rule implementing subparts II and III, part B, title XIX of the Public Health Service Act defines extraordinary economic conditions as “[a] financial crisis in which the total tax revenue declines at least 1.5 percent **AND** either unemployment increases by at least 1 percent, **OR** employment declines by at least 1.5 percent.” (45 CFR 96.134(b)). If your state believes that it will possibly qualify for an economic waiver please indicate this on your 2021 block grant report on the appropriate MOE table. Once your project officer has reviewed your submission you will receive a letter explaining how to apply for a waiver. Waiver requests should be submitted in a formal letter to SAMHSA and should include: 1) a narrative explaining why the MOE was not met; 2) information from your state offices on employment/unemployment numbers; and 3) information on any changes to tax revenue from the previous year. Once your request is received, SAMHSA will verify the official state numbers utilizing records from the Bureau of Labor Statistics and information from the Census Bureau regarding total tax revenue to determine whether your state qualifies for a waiver.

#### Public Health Emergency Waiver

SAMHSA will also consider requests from states who do not meet the extraordinary economic conditions waiver requirements under 45 CFR 96.134(b). This process will be based on SAMHSA’s public health emergency (COVID-19) waiver authority under section 1957 of the Public Health Service Act (42 USC 300x-67), which provides in pertinent part:

In the case of a public health emergency (as determined under section 319), the Secretary, on a State by State basis, may, as the circumstances of the emergency reasonably require and for the period of the emergency, grant an extension, or waive application deadlines or compliance with any other requirement, of a grant authorized under section 1911, or 1921.

If the waiver request is granted, you will receive formal notification. If the waiver is denied for any reason, you will have the option to request a determination of material compliance decision citing other factors that will be outlined in your early notification letter.

Sincerely,



Elinore F. McCance-Katz, M.D., Ph.D.  
Assistant Secretary for Mental Health and  
Substance Use