

Substance Abuse Prevention and Treatment Block Grant
Maintenance of Effort
Title XIX, Part B, Subpart II of the Public Health Service Act

As a condition of receiving an annual Notice of Block Grant Award from Substance Abuse and Mental Health Services Administration (SAMHSA), the States and Jurisdictions are required to demonstrate compliance with MOE requirement. Title XIX, Part B, Subpart II of the Public Health Service Act (42 USC 300x-30) and the Substance Abuse Prevention and Treatment Block Grant; Interim Final Rule (45 C.F.R. 96.134) require the principal agency of a State (or Jurisdiction), i.e., the Single State Agency (SSA) for substance abuse prevention and treatment services, to maintain aggregate State expenditures for authorized activities to prevent and treat substance abuse at a level that is greater than or equal to the average level of such expenditures maintained by the State for the 2-year period preceding the year for which the State is applying for a grant.

In the event that a State or Jurisdiction reports a Maintenance of Effort (MOE) deficiency (shortfall) in the Annual Uniform Application for the Substance Abuse Prevention and Treatment (SAPT) Block Grant that is submitted to SAMHSA on or before October 1 of the Federal fiscal year for which a State or Jurisdiction is applying for Block Grant funds, SAMHSA's Center for Substance Abuse Treatment (CSAT) disseminates a letter to the State or Jurisdiction indicating that the reported expenditures for authorized activities to prevent and treat substance abuse for the State fiscal year (SFY) involved are less than the amount required by Title XIX, Part B, Subpart II of the PHS Act and the Interim Final Rule. The letter also provides guidance to the State or Jurisdiction regarding the procedure to follow regarding the submission of a request for waiver to the SAMHSA Administrator.

A State or Jurisdiction may request a waiver of the MOE requirement if the State can demonstrate that the MOE deficiency was the result of extraordinary economic conditions in the State during the State fiscal year(s) (SFY) involved (See 42 U.S.C. 300x-30(c), Waiver, and 45 C.F.R. 96.134(d)). In order to demonstrate that such conditions existed, a State or Jurisdiction must provide the economic data for the SFY involved and the immediate preceding SFY. The State's waiver request must include a narrative description and summary statistics prepared by the units of State government responsible for collecting, analyzing, and reporting such data.

The Secretary of the Department of Health and Human Services (HHS) has delegated the authority to the Administrator of SAMHSA to make eligibility determinations for waiver of the MOE requirement. SAMHSA/CSAT review the supporting documentation submitted by a State or Jurisdiction as well performing confirmatory analysis of economic data reported by the Bureau of the Census within the U.S. Department of Commerce and the Bureau of Labor Statistics within the U.S. Department of Labor. If a State or Jurisdiction can demonstrate that extraordinary economic conditions existed during the applicable SFY involved and SAMHSA/CSAT confirms such conditions existed, SAMHSA/CSAT prepares and submits a decision memorandum to the SAMHSA Administrator with a recommendation to approve the request for waiver.

Further, the Secretary delegated the authority to the SAMHSA Administrator to make determinations of material compliance with the MOE requirement when any State or Jurisdiction reports a MOE deficiency (shortfall) for authorized activities which are < 3 percent of the amount required by Title XIX, Part B, Subpart II of the PHS Act and the Interim Final Rule.

In the event that any State or Jurisdiction reports a MOE deficiency (shortfall) for such activities which are \geq 3 percent than the amount required by Title XIX, Part B, Subpart II of the PHS Act and the Interim Final Rule, SAMHSA/CSAT prepare and submits a decision memorandum from the SAMHSA Administrator to the HHS Secretary is prepared and submitted to the Office of the Secretary.

If the Secretary makes a determination that a State or Jurisdiction failed to comply with the MOE requirement, a State or Jurisdiction may be penalized in an amount equal to the amount of the MOE deficiency (shortfall) for the applicable fiscal year. Any amount of Federal SAPT Block Grant funds withheld from a State or Jurisdiction for non-compliance with the MOE requirement are re-distributed to the other States and Jurisdictions in accordance with the formula (See 42 USC 300x-33, Determination of Amount of Allotments and 42 U.S.C. 300x-54(b)(4), Specification of Amounts). The Secretary must provide a State or Jurisdiction with an opportunity for a hearing prior to making a final determination of non-compliance with the MOE requirement. SAMHSA published a notice

in the April 10, 1995 edition of the Federal Register (See 60 FR 18137, Hearing Procedures for Certain Issues Related to the Substance Abuse Prevention and Treatment and Community Mental Health Services Block Grant Programs) which describes the procedures and timeline for making determinations of non-compliance and penalties.

No State or Jurisdiction has been penalized for non-compliance with the MOE requirement.

Resources

1. Section 1916(c)(11)(A) of Title XIX, Part B, Subpart I of the Public Health Service Act (See 42 USC 300x-4(c)(11)(A))
2. Section 1930(a) of Title XIX, Part B, Subpart II of the Public Health Service Act (See 42 U.S.C. 300x-30, Maintenance of Effort regarding State Expenditures)
3. Section 1933 of Title XIX, Part B, Subpart II of the Public Health Service Act (See 42 U.S.C. 300x-33, Determination of Allotments)
4. Section 1944(b) of Title XIX, Part B, Subpart III of the Public Health Service Act (See 42 U.S.C. 300x-54(b), Specification of Amounts)
5. March 31, 1993 notice published in the Federal Register Substance Abuse Prevention and Treatment Block Grant; Interim Final Rule (See 45 C.F.R. 96.134, Maintenance of Effort Regarding State Expenditures)
6. MOE Deficiency Notification Letter Template
7. Addendum to the MOE Deficiency Notification Letter Template
8. May 25, 1999 and January 13, 2004 Delegation of Authority Letters