

## CMH State Financing

(October 1996)

I. SUMMARY:

To establish standards regarding the eligibility of community mental health program expenditures for state financing.

II. APPLICATION:

All community mental health services operated directly by or under contract with a Community Mental Health Services Program (CMHSP).

III. POLICY:

A. State financing as specified in the Mental Health Code is provided through the allocation of the available appropriation for the net cost of community mental health services.

B. 100% state financing is provided for the net matchable costs of certain programs approved by the Legislature.

C. Only expenditures that are considered legal, prudent and ethical and which conform to DCH policy will be considered for state financial support.

## 1. Measures by which prudent is determined include:

- evidence of careful management with consideration to economy.
- offer value to the community mental health services program.
- not obviously and manifestly extravagant.
- providing a discernable benefit to the community mental health services program, in relation to cost.
- contributing to the established outcomes of the Community Mental Health Services Program.
- consistency with standards of comparability.
- reflecting consideration of alternatives and a conscious choice from those alternatives.
- representing the less expensive option for similar or the same outcomes or products.
- comparability to the expenditures of other CMHSP or entities for similar outcomes or products.

2. Measures by which **ethical** is determined:
    - conforming to the standards of conduct of an applicable professional group.
    - expenditures have not been rejected as improper and based on subsequent audit, have been made for purposes related to the legitimate performance of approved mental health program.
    - conformance with the policies of the community mental health services program.
  3. **Legal** is determined by whether practices conform with law and applicable administrative rules.
  4. Measures by which **policy conformance** would be determined
    - conform with contractual requirements.
    - conform with requirements of the certifying body of the CMHSP.
- D. The purpose of these standards is to establish the eligibility of community mental health program expenditures for state funding. A CMHSP may request and negotiate waivers. A CMHSP may appeal findings of non-compliance using the appropriate appeal procedures as identified in Administrative Directive 01-C-1116(h)AD-01, Audit Resolution & Review (October 11, 1994).

#### IV. DEFINITIONS

- A. **Net Cost** - Net cost is equal to the gross cost of all programs less: 1) the costs of non-approved programs, 2) nonmatchable costs, 3) the portion of matchable approved program costs financed from other state or federal funds, 4) fees (except fees collected under the provisions of P.A. 423) and local funding as applicable under standards V-A-1, Local Funding, collected from individuals, relatives, or third-party payers for services provided by the CMHSP and by agencies contracting with the CMHSP for the net cost of services, and 5) other amounts earned by the CMHSP in providing services.
- B. **100% State Funded Programs**
  1. Specialized residential services established by or transferred to the CMHSP after March 31, 1981, in accordance with provisions of Act 423, P.A. of 1980 (Section 309 of the Mental Community Health Code). To qualify for 100% state financing, the specialized residential services must:
    - a. Have previously been under contract with the Department of Community Health (DCH) and transferred to the CMHSP

after March 31, 1981; or

- b. Have been established or have increased the capacity in existing homes after March 31, 1981, and be administered under the authority of the CMHSP in accordance with Chapter 2 of the Mental Health Code; and
  - c. Have been approved by DCH through the CMH allocation process and operated in conformance with the policies, standards and guidelines referenced in the DCH/CMH contract.
2. Programs for which responsibility is transferred to the CMHSP and the state is responsible for 100% of the cost of the programs, consistent with the Michigan Constitution.
  3. Other programs specifically approved for 100% state financing.

V. **STANDARDS:**

A. **Local Funding**

1. Local funds include:

- a. Appropriations of general county funds to the CMHSP by the county Board of commissioners;
- b. Appropriations of funds to the county mental health services program or its contract agencies by cities or townships; funds raised by fee-for-service contract agencies as part of the agency's contractual obligation, the intent of which is to satisfy and meet the local match obligation of the CMHSP, as reflected in the operative master contract between the CMHSP and DCH, provided that the funds are raised consistent with A.2.a.
- c. Grants, bequests, donations, gifts from local nongovernmental, charitable institutions, or individuals. Gifts which specify the use of the funds for any particular individual identified by name or relationship may not be used as local match.
- d. Funds of participating CMHSP's from the community mental health grant fund consistent with Section 226a of the Mental Health Code.
- e. Interest earned on funds deposited or invested by or on

behalf of the CMHSP;

- f. Interest earned on DCH funds by agencies as specified in their contracts with the CMHSP to provide mental health services on a net cost basis can be used to fund local match;
- g. Revenues from other county departments/funds (such as child care funds) and from public or private school districts for CMHSP mental health services, as long as the source of the revenues is not federal or state funds;
- h. Revenues in excess of expenses for CMHSP mental health and non-mental health services provided by persons other than recipients to agencies/businesses other than those identified in V-A-1-g, as long as federal or DCH state funds are not paid to and/or used by the CMHSP to pay for any costs, including administrative costs of those mental health services.

CMHSP's should be expected to comply with IRS and Unrelated Business Income Tax regulations and should seek the appropriate legal opinion as needed.

2. Local funds exclude grants or gifts received by the county, the CMHSP, or agencies contracting with the CMHSP from an individual or agency contracting to provide services to the CMHSP.

An exception may be made, where the CMHSP can demonstrate that such funds constitute a transfer of grants or gifts made for the purposes of financing mental health services, and are not made possible by CMHSP payments to the contract agency which are claimed as matchable expenses for the purpose of state financing.

#### **B. Nonmatchable Programs**

1. Programs which are considered the responsibility of other state, federal or local agencies and are not matchable for state financing. Such programs include special education services and substance abuse services except for DCH-approved Dual Diagnosis programs.
2. The cost of programs/services provided by the CMHSP or agencies contracting with the CMHSP which are wholly or in part financed by other federal or state agencies, are not matchable unless approved by DCH for state financing. Programs included in the CMHSP's annual program description

are approved unless disallowed by DCH in writing. CMHSPs may request approval from DCH on specific programs at any time.

If DCH does approve such programs for state financing, the financing provided by other state or federal agencies shall be indicated as revenue and deducted from the cost of services to determine the matchable cost. The basis for DCH funding is the percentage of gross program costs attributable to mental health.

3. CMHSP expenses and revenues for the operation of an AIS/MR program under an earned revenue contract with a DCH facility are nonmatchable. The local portion of the net cost of these services is billed to the counties in the same manner as inpatient costs, or services provided by DCH.
  4. The costs of nonmatchable programs are reported as nonmatchable expenditures in determining the amount of state financing for community mental health programs. Any revenues received by the CMHSP in providing nonmatchable programs are not reported in determining the net cost of matchable programs, but are reported separately as revenues received for nonmatchable programs.
  5. The cost of any nonmatchable program must include an appropriate distribution of CMHSP indirect costs with the exception of grants from DCH.
- C. **Required Contract Provisions with Agencies Providing Client Services** - The CMHSP may enter into fee-for-service or net cost contracts. Contracts for AIS/MR services may be on a fee-for-service or net cost basis. The CMHSP will be required to cost settle the entire program with the Medicaid State agency.
1. **Fee-for-Service Contracts.** Fee for service contracts shall include a rate per unit of service based upon CMHSP budgeted costs for providing the service, competitive bids, or an average of local provider rates for like services. Such contracts do not require cost settlement.
    - a. In establishing contract rates, indirect, including administration costs, are allowable only for the percentage that is directly attributable to CMHSP service delivery.
    - b. The rates charged by the provider should not be greater than the lowest rate paid by any other user of the provider's services of the same intensity to meet the

same severity of needs of clients. However, a higher rate can be justified based upon clinical need or the low volume of services used in comparison with other users.

2. Net Cost Contracts. The CMHSP may contract with providers on a net cost contract basis as defined by IV-A. The contract should be on a net cost basis as defined in this document and provide for cost settlement, in accordance with this document.

All net cost contracts must meet the same requirements as services provided directly by the CMHSP.

3. Vouchers

- a. Vouchers issued to consumers for the purchase of treatment services provided by professionals may be utilized in non-contract agencies which have a written referral network agreement with the Board that specifies credentialing and utilization review requirements. The agreement must contain provisions for compliance with recipient rights and treatment dispute mechanisms. Voucher rates for such service shall be pre-determined by the CMHSP using actual cost history for each service category and average local provider rates for like services.
- b. Voucher arrangements for purchase of consumer directed supports delivered by non-professional practitioners, may be made through a cost settled contract or fee for service arrangement. Provisions for compliance with recipient rights and treatment dispute mechanisms shall be included.

4. Other Contracts

If any costing and/or settlement is based upon any method other than those listed in 1. and 2. and 3. above, the method must:

- a. be specifically approved in writing by DCH prior to implementation;
- b. be supported by acceptable accounting methods.

5. Criteria for Identification of CMHSP Clients

All Contracts shall specify the criteria for determining whether the clients of the contract agency are clients whose services are chargeable to the CMHSP pursuant to the

contract.

6. Collections from Third Party Payers

All Contracts shall specify which party is responsible for determining client eligibility and applying for benefits; and for billing and collecting from insurers, Medicare or Medicaid, when the agency is a qualified provider and the client is eligible for those benefits. The cost of services which could have been funded from other sources including insurers, Medicare, and Medicaid, will not be matchable for state financing.

D. Minimum Administrative Requirements for State Financing

1. Standards for Medicaid Mental Health Services

Programs operated by the CMHSP and its contract agencies must be in substantial compliance with applicable Medicaid Mental Health Clinic Standards.

2. Equipment Inventory and Disposition

The CMHSP must maintain written policies/procedures for the control and disposition of equipment items purchased with CMH funds. Such policies/procedures must similarly require net cost contract agencies to inventory and dispose of equipment. The reasonable value of any items sold, traded, or transferred for other than local or state mental health program use shall be subtracted from net matchable costs in determining state financing.

3. Audits and Compliance Reviews of Providers Under Contract or Accepting Vouchers

The CMHSP is responsible for assuring that all agencies under contract to the CMHSP comply with the provisions of their contract and with those DCH policies and procedures contained in the CMH/DCH contract.

The CMHSP shall assure that agencies under net cost contract with the CMHSP to provide services in the previous fiscal year have been audited for fiscal and contract compliance. This requirement does not apply to:

- a. Net cost contract agencies with a gross budget under \$500,000 are subject to fiscal audit at intervals not to exceed three (3) fiscal years. Audits of such agencies shall cover all fiscal years since the previous audit. In choosing to exercise this option,

it is explicitly understood that the CMHSP retains responsibility for the state share of any funds owed to the department.

- b. Agencies under a fee for service contract or a referral network agreement accepting vouchers shall be reviewed for compliance with the terms of the contract/agreement and utilization data. Residential service contract providers shall be audited according to the standards contained providing services in licensed settings in the DCH/CMHSP contract.
- c. State matching funds for the costs of fiscal audits of contract agencies are contingent upon the following:
  - 1) Fiscal audits must be conducted by individuals with at least two years of experience in accounting, or auditing of private or public agencies. Audits may not be conducted by employees of a contract agency for that contract agency.
  - 2) The audit shall specifically address the contract agency's compliance with generally accepted accounting principles and the terms of the contract with the CMHSP for the previous state or CMHSP fiscal year, including the accuracy of expenses and revenues reported to the CMHSP;
- d. Costs for the special audits of CMHSP contract agencies are matchable if approved by the CMHSP and DCH.

#### 4. Records Retention

The CMHSP must maintain, via hard copy or electronic storage/imaging, in a legible manner, financial and clinical records necessary to fully disclose and document the extent of services provided to recipients. The records are to be retained for a period of seven (7) years from the date of service regardless of any change in ownership or termination of service for any reason. This requirement is also extended to any CMHSP contract agencies.

E. Limited Expenditures for Approved Matchable Programs. The following expenditures are matchable for state funding only when the specified criteria are met.

- 1. Retroactive Pay Settlements are matchable when they were entered into in good faith during a previous fiscal year up to the amount encumbered for these purposes.



2. Certain community mental health services program (CMHSP) expenditures are considered matchable for state funding when the CMHSP has a written policy that addresses the specific category of expenditure. Policies must be available and must be followed in order for the expense to be matchable. All such policies must be: approved by the governing body of the CMHSP; consistent with the state Mental Health Code, applicable county(ies) regulations, and federal Internal Revenue Service regulations; and consistent with the specific minimum requirements identified below.
  - a. Per Diem Payments - policy must define persons to receive payments, identify per diem expenses covered, and specify limitations on payments.
  - b. Staff Recruitment Costs - policy must define eligible staff, specify covered costs, and identify limitations on costs.
  - c. Staff Compensation - all components of staff compensation must be defined in an ongoing written compensation plan which must be approved in advance. This includes one-time pay settlements or adjustments.
  - d. Purchasing - policy must include conditions for purchasing including requirement for public ownership of any purchases, and mechanisms for purchasing including approval, bidding, and selection processes, and procedures for purchasing.
  - e. Professional Organization/Society Costs - policy must include definition, conditions (including a requirement that costs are not matchable if they only benefit the professional and not the CMHSP), and procedures.
  - f. Professional Liability Insurance Costs - policy must include definition, conditions (including a requirement that insurance costs for services provided to consumers other than consumers of the CMHSP or a contract agency are not covered), and procedures.
3. Reserve Accounts - Such accounts may be established for the purpose of securing funds needed to meet expected future expenditures for the indicated purpose of the account. Accounts must be established by CMHSP policy which addresses all of the following:
  - a. All programs of the CMHSP shall be charged their proper share of the costs.

- b. The reserve must be maintained in an account separate from other operating funds.
- c. The reserve must restrict the use of the funds to the defined purpose. Such purposes are identified in the Mental Health Code. Reserves for equipment may be established only by CMHSPs with Authority status. All expenses, for the purposes intended to be financed from the reserve, must be made from this fund. No expenses from this fund will be matchable, only the contribution to the fund will be matchable. No other expenditures may be made from the reserved funds. CMHSPs with current equipment fund accounts consistent with guidelines in effect in FY 96, have until September 30, 1997 to liquidate those accounts or to achieve authority status.
- d. The CMHSP must define a procedure for increasing deposits to a reserve account in the event that the reserve becomes inadequate to meet expected future expenditures.
- e. Deposits to the reserve account must be based upon a reasonable determination of need such as actuarial determination, actual vested level, etc. If the reserves proved to be excessive, the contribution must be reduced to correct the reserve within one fiscal year. Any excess amount will be remitted to MDCH.
- f. When the reserve account is dissolved, any remaining funds must be used to reduce the reported expenses of the CMHSP after all liabilities of the plan are paid.

#### 4. Payments of Legal Claims

Certain payments of legal claims against CMHSP's are considered matchable for state funding when the payments are for out-of-court settlements, quasi-judicial resolutions, or resolutions in advance of, during, or after governmental hearings involving claims against the CMHSP when the payments are made based upon advice provided to the CMHSP by the county prosecutor, county corporate counsel, or CMHSP counsel.

#### 5. Network Formation

Expenditures related to formation and operation of networks of CMHSP's intended to improve efficiency or prepare for risk based financing mechanisms are matchable when DCH has been notified and has approved any agreements prior to entering into agreements. Notification shall include a copy of the agreement.

**F. Nonmatchable Expenditures for Approved Matchable Programs**

1. Applicability - These standards identify expenditures which are considered not matchable for state funding. Unless otherwise specifically identified, these standards apply to:
  - a. expenditures for services provided directly by the CMHSP;
  - b. expenditures by the CMHSP to agencies contracting with the CMHSP to provide mental health services on a net cost basis.
  - c. expenditures by the CMHSP to agencies contracting with the CMHSP to provide mental health services on a fee-for-service basis, where the CMHSP anticipates providing half or more of the agency's revenue.
  - d. These standards for non-matchable costs do not apply to standard flat rate (Type A) residential contracts, state facility contracts, and fee-for-service where the CMHSP is contracting to pay for less than half of the services of the agency.

**2. Nonmatchable Costs**

- a. Rental, lease, lease/purchase, purchase and actual ownership costs in excess of fair market/rental value as referenced in Sections 241, 242, and 313 of the Mental Health Code. The CMHSP shall determine fair market value based upon an independent appraisal from a licensed appraiser. If appraisals are not readily obtainable, the CMHSP shall determine fair market value based upon comparisons of costs for similar structures in the market area. CMHSP's must supply comparative cost figures upon request of DCH.

Upon request by the CMHSP, DCH will provide criteria utilized by the Michigan Department of Management and Budget in establishing state facility leasing costs in the area.

- b. Rent paid to the county by CMHSP's for county-owned facilities that exceed fair market rental as defined in 2.a. and costs of administrative support services provided by the county to CMHSP's for purchasing, accounting, facility maintenance, and other functions of the CMHSP, when the costs the county charges either directly or through an indirect cost plan, exceed the cost CMHSP's would incur for these same services if provided directly by the CMHSP or through independent contract by the CMHSP. Expenses to finance facility construction are matchable in accordance with the

guidelines defined in 2.a. (above) for fair market/rental value.

- c. Fees incurred by the contract agency for legal services for actions initiated by the contract agency against the CMHSP and/or the state, or for actions initiated by the CMHSP against the state. Also, fees incurred to defend against suits from other state agencies.
- d. Amounts for services provided to individuals which could reasonably have been collected from or billed to consumers, or third party payers.
- e. Interest and penalties from governmental units for nonpayment, or late payment of liabilities (i.e., failure to submit quarterly tax reports), except if the late payment is due to delays in DCH payments to CMHSP.
- f. Expenditures by CMHSP's to purchase any good or services that were initially developed by another CMHSP using state-matched funds are not matchable.

### 3. Reporting of Costs for State Financing

Nonmatchable costs of approved matchable programs shall be reported as nonmatchable expenditures on expenditure reports submitted to DCH.