



SAMHSA Block Grants

Introduction

Federal grants may be categorized into two types: discretionary grants and block grants. Discretionary grants may be awarded at the discretion of the assigned federal agency, through a competitive review process, to states, local governments, universities, or various organizations. Block grants are grants that must be awarded to qualifying states, territories or federally recognized tribes. The Substance Abuse and Mental Health Services Administration (SAMHSA) ⁱ of the US Department of Health and Human Services ⁱⁱ administers two block grants to address behavioral health issues:

- The Substance Abuse Prevention and Treatment (SAPT) Block Grant; and
- The Community Mental Health Services (CMHS) Block Grant.

General Block Grant Principles

Single State Authority

Each state receiving SAMHSA-administered block grant (BG) funds must designate a Single State Agency (SSA) to administer the funds. ⁱⁱⁱ The Governor has designated the Health and Human Services Commission (HHSC) as the SSA for Texas, and given signatory authority over the grant to the Behavioral Health Associate Commissioner.

Block Grant Activities

The SSA must prepare and submit a biennial (every two years) behavioral health application and plan ^{iv} to provide planning, implementation, and evaluation of:

- Comprehensive community mental health services to adults with a serious mental illness (SMI) and to children with a serious emotional disturbance (SED). ^v These efforts are funded under the CMHS BG which has the following goals:
 - ▶ To ensure access to a comprehensive system of care, including “health and mental health services, rehabilitation services, employment services,

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- housing services, educational services, substance abuse services, medical and dental care, and other support services;”^{vi}
- ▶ To promote participation by consumers and their families in planning and implementing services and programs, as well as in evaluating state mental health systems;^{vii}
 - ▶ To ensure access for underserved populations, including people who are homeless and residents of rural areas;^{viii} and
 - ▶ To promote recovery and community integration for adults with SMI and children with SED.^{vi}
- Prevention of substance misuse and treatment of substance use disorders (SUD)^{ix} and related activities. ^x These efforts are funded under the SAPT BG. This grant has the following goals:
 - ▶ To promote the prevention of substance misuse through Primary Prevention activities;^{xi}
 - ▶ To promote access to SUD treatment services for women who are pregnant or have dependent children;^{xii}
 - ▶ To provide outreach and promote access to SUD treatment for IV drug users;^{xiii} and
 - ▶ To provide specialized SUD treatment services to individuals living with Human Immunodeficiency Virus (HIV) in designated states.^{xiv}
 - ▶ To provide individuals with a recovery-oriented system of care to support their recovery.

In addition to the biennial application, the SSA is responsible for annual reporting^{xv} of BG activities and expenditures, and for responding to any federal audits, inspections, or requests for information^{xvi} related to BG activities.

Set-Asides

States must set aside specific percentages of their SAPT and CMHS allocations for certain services and populations. These include:

- 20 percent of SAPT for Primary Prevention;^{xvii}
- A minimum of \$13,987,893 SAPT (Texas’ allocation) for services to pregnant women and women with dependent children;^{xviii}
- 5 percent of SAPT for HIV services (not currently required of Texas);^{xix}
- 10 percent of CMHS for Children’s services;^{xx} and
- 10 percent of CMHS for First Episode Psychosis (FEP) services.^{xxi}

Maintenance of Effort Requirements

Maintenance of Effort (MOE) requirements are intended to incentivize states to contribute state funding in support of the overall objectives of the BG. Expenditures of state funds must be maintained at a level that is not less than the average level for the two-year period preceding the fiscal year for which the state is applying for the grant.^{xxii} The MOE requirements ensure stability of a state's contribution to those services and populations over time. BG funds may be used to supplement, but not supplant state funds.^{xxiii} Supplementing is defined as adding federal funds to what is already available in state funds. Supplanting is defined as using federal funds to replace existing state funds and is not permitted.

Both the SAPT and the CMHS Block Grants include a MOE requirement:^{xxiv}

- The SAPT services general MOE;^{xxv} and
- The CMHS services general MOE.^{xxvi}

The SAPT Block Grant also requires that states enforce tobacco access laws as required under the Synar Amendment (see below). However, Block Grant funds may not be used to fund this enforcement.^{xxvii} Level funding must be maintained for these expenditures.^{xxviii}

Administrative Costs

States may not spend more than five percent of BG funds on administrative expenses. BG regulations do not specifically define "administrative expenses" thus, the state's processes and procedures apply.^{xxix} This requirement applies to administrative expenses incurred by the state itself; subrecipients and contractors using block grant funds may have different restrictions on administrative costs. Administrative costs are also sometimes referred to as Indirect Costs.

Fiscal Tracking

Title 42 USC §300x-62 and 45 CFR §96.14 require Block Grant funds to be obligated by the end of the Federal Fiscal Year (FFY) appropriated. BG funds are subject to federal requirements, cost principles, and audit requirements for federal awards as expressed in 2 CFR §200 and the Uniform Grant Management Standards (UGMS)^{xxx} as published by the Texas Comptroller of Public Accounts.

Synar Amendment Requirement

States must also comply with the Synar Amendment,^{xxxi} which "was developed in the context of a growing body of evidence about the health problems related to tobacco use by youth, as well as evidence about the ease with which youth could purchase tobacco products through retail sources."^{xxxii} States are required to enact laws prohibiting the sale of tobacco products to persons under 18 years of age,

enforce these laws, monitor enforcement, and submit an annual report detailing enforcement activities. ^{xxxiii} This program has demonstrated successful reduction of youth tobacco use. ^{xxxiv}

Restrictions

Block Grant funds must be used to further the goals and purposes for which the grants were made (see **Block Grant Activities**, above). Any amount charged to one of the Block Grants is subject to review to determine allowability and reasonability. A charge may be considered allowable in that the cost can be demonstrated to have been necessary for furthering the goals and purposes of the grant. Reasonable costs must be consistent with what a reasonable person would incur while conducting the same activities in comparable circumstances.

BG funds cannot be used for any of the following:

- To provide inpatient hospital services; ^{xxxv}
- To make cash payments to intended recipients of health services; ^{xlv}
- To provide individuals with hypodermic needles or syringes; ^{xxxvi}
- To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; ^{xlv}
- To satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; ^{xlv} or
- To provide financial assistance to any entity other than a public or nonprofit private entity. ^{xlv}

Limitations

BG funds may not be used in excess of the following limitations:

- To provide treatment services in penal or correctional institutions, the State shall not expend more than an amount prescribed by section 1931(a)(3) of the PHS Act; ^{xxxvii} and
- To pay the salary of an individual at a rate in excess of Executive Level II of the Executive Salary Schedule^{xxxviii} as published by the National Institutes of Health. ^{xxxix}

Funding of Last Resort

SAPT BG funds must be the funding of last resort for SUD treatment services. ^{xl} Providers of SUD treatment are required to exhaust all efforts to collect payment for services from any eligible Medicaid, private insurance or third party program prior to billing the SAPT block grant for services.

Contracting with “For-Profit” Agencies

Federal rules are not explicit regarding states’ authority to use BG funds for services with “for-profit” agencies. States are restricted from expending grant funds “to provide financial assistance to any entity other than a public or nonprofit private entity.^{xli}” However, in a letter to state substance abuse and mental health directors on August 5, 2009^{xlii}, the Directors of the Center for Substance Abuse Treatment and the Center for Mental Health Services of the US Department of Health and Human Services stated: “Ordinarily, the term ‘financial assistance’ is used to describe a grant relationship as distinguished from an acquisition (or procurement) relationship, typically funded by a contract. While the statute and regulations preclude States and Territories from providing grants to for-profit entities, procurement contracts may be entered into with for-profit entities.” Recent guidance from SAMHSA confirms that states can enter into competitively procured contracts with for-profit entities using block grant funds.

Block Grant Subcommittee to the Behavioral Health Advisory Committee

The state is required to “establish and maintain a state mental health planning council.”^{xliii} with the following duties:

- To review biennial block grant plans developed by the SSA and to submit to the state any recommendations for modifications to the plans;^{xliv}
- To serve as an advocate for adults with a SMI, children with a SED, and other individuals with mental illnesses or emotional problems;^{xlv} and
- To monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the state.^{xlvi}

HHSC has chosen to implement these requirements by establishing a Block Grant Subcommittee to the Behavioral Health Advisory Committee (BHAC). This subcommittee must be comprised of Texas residents,^{xlvii} including:

- State agency representatives^{xlviii} for:
 - ▶ Mental health (HHSC’s Behavioral Health Services section);
 - ▶ Education (Texas Education Agency);
 - ▶ Vocational Rehabilitation (Texas Workforce Commission);
 - ▶ Criminal Justice (Texas Department of Criminal Justice and Texas Juvenile Justice Department);
 - ▶ Housing (Texas Department of Housing and Community Affairs; and
 - ▶ Social services (e.g., Medicaid, CHIP, TANF, SNAP, the Texas Department of Family and Protective Services).
- Public and private entities concerned with the need, planning, operation, funding and use of behavioral health services and related support services;

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- Adults with SMI who are receiving (or have received) mental health services; ⁱ and
 - The families of such adults or families of children with emotional disturbance. ⁱⁱ
 - Additionally, 50 percent of the members of the BHAC are to be individuals who are not state employees or providers of behavioral health services. ⁱⁱⁱ

Conclusion

Administering the Block Grants for Behavioral Health Services is a tremendous responsibility. Through this funding, the State of Texas has the opportunity to substantially improve the lives of many of Texas’ most vulnerable citizens. It is essential that these funds, entrusted to our state by the federal government, be administered wisely, with appropriate controls, and that the programs they fund demonstrate the greatest possible impact. HHSC has committed to the Governor and to the people of Texas that it will carefully listen, deliberately plan, faithfully execute, and painstakingly track all block grant activities, always keeping in mind our most important priority: to improve the lives of the citizens of our state.

ⁱ <https://www.samhsa.gov/>

ⁱⁱ <https://www.hhs.gov/>

ⁱⁱⁱ 42 CFR §431.10(b)(1)

^{iv} 42 USC §300x-1(a) and 45 CFR §96.122

^v 42 USC §300x-1(a)(1)

^{vi} 42 USC §300x-1(b)(1)

^{vii} 42 USC §300x-3(c)(1)(C-D)

^{viii} 42 USC §300x-1(b)(4)

^{ix} While the SAPT Block Grant uses the term “substance abuse,” this term has been superseded by “substance use disorder” in most instances, since the adoption of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)

^x 42 USC §300x-21(b)

^{xi} 42 USC §300x-22(a)(1), 45 CFR §96.124(b), and 45 CFR §96.125

^{xii} 42 USC §300x-22(b), 45 CFR §96.124(c), and 45 CFR §96.131

^{xiii} 42 USC §300x-23(b) and 45 CFR §96.126

^{xiv} 42 USC §300x-24(b) and 45 CFR §96.128; see also footnote ^{xix}, below

^{xv} 42 USC §300x-52 and 45 CFR §96.122

^{xvi} 42 USC §300x-5(g)(2)

^{xvii} 42 USC. §300x-22(a), 45 CFR §96.124(b) and 45 CFR §96.125;

^{xviii} 42 USC. §300x-22(b); 42 USC. §300x-27; 45 CFR §96.124(c); and 45 CFR §96.131; equal to or greater than 1993 base funding;

^{xix} 42 USC §300x-24(b) and 45CFR §96.128; required of designated states; in Texas this was equal to or greater than the 1994 base funding of \$7,235,518. Effective 10/1/2017, the Texas Case Rate fell below the 10 cases per 100,000 persons threshold, making Texas an undesignated state; therefore, this set-aside is not applicable to Texas at this time.

HHSC will continue HIV services through SFY19 with potential extensions at reduced funding to phase out these programs by the end of SFY20.

xx 42 USC §300x-2(a)(1)

xxi FY2016 Omnibus bill, Public Law 114-113, p.129;

xxii 42 USC §300x-4(b)(1), 42 USC §300x-30 and 45 CFR §96.134

xxiii 45 CFR §96.123(a)(10) and 45 CFR §96.134(a)

xxiv The SAPT Block Grant originally included a MOE requirement related to expenditures for tuberculosis and HIV; however, Section 8002(c)(3) of the 21st Century Cures Act (P.L. 114-255) repealed section 1924(d) of Title XIODX, Part B, Subpart II of the Public Health Service Act (42 USC §300x-24(d)). The authorizing legislation was enacted 12/31/2016; therefore, states and jurisdictions are no longer required to report expenditures for tuberculosis and HIV.

xxv 45 CFR § 96.134 and 42 USC §300x-30

xxvi 42 USC §300x-4(b)

xxvii 42 USC §300x-26(c) and 45 CFR §96.130(j)

xxviii 42 USC §300x-26(c)

xxix 42 USC §300x-5(b), 42 USC §300x-30.31 (a)(2)and 45 CFR §96.135(b)(1)

xxx <https://comptroller.texas.gov/purchasing/docs/ugms.pdf>

xxxi "In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act (PL 102-321), which includes an amendment (section 1926) aimed at decreasing youth access to tobacco. This amendment, named for Congressman Mike Synar of Oklahoma, requires states . . . to enact and enforce laws prohibiting the sale or distribution of tobacco products to individuals under the age of 18." (<https://www.samhsa.gov/synar/about>)

xxxii <https://www.samhsa.gov/synar/about>

xxxiii 42 USC §300x-26(b) and 45 CFR §96.130

xxxiv <https://www.samhsa.gov/synar/success>

xxxv 42 USC §300x-5(a); 42 USC §300x-31(a)(1); and 45 CFR §96.135(a)

xxxvi 45 CFR §96.135(a)(6)

xxxvii 42 USC §300x-31(a)(3) and 45 CFR §96.135(b)(2); for Texas, this amount is \$423,124

xxxviii Continuing Appropriations Act, 2018 (Public Law No. 115-56)

xxxix http://grants.nih.gov/grants/policy/salcap_summary.htm

xl 45 CFR §96.124(e) and 45 CFR §96.137(a)(1-2)

xli 42 USC §300x-5(a)(5) and 45 CFR §96.135(5)

xliv https://www.samhsa.gov/sites/default/files/funding_for_for-profit_organizations_r021014a_rev.pdf

xlvi 42 USC §300x-3(a)

xlvii 42 USC §300x-3(b)(1)

xlviii 42 USC §300x-3(b)(2)

l 42 USC §300x-3(b)(3)

li 42 USC §300x-3(c)

lii 42 USC §300x-3(c)(1)(A)(i)

liii 42 USC §300x-3(c)(1)(B)

liv 42 USC §300x-3(c)(1)(C)

lv 42 USC §300x-3(c)(1)(D)

lvi 42 USC §300x-3(c)(2)(B)