



Substance Abuse and Mental Health
Services Administration

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FEB 11 2020

Dear Commissioner:

It has recently come to our attention at the Substance Abuse and Mental Health Services Administration that there is some confusion about whether Community Mental Health Services Block Grant (MHBG) funds can be used in the care and treatment of individuals with serious mental illness who have interactions with the criminal justice system including incarceration or who have a criminal case pending. This letter serves to clarify that treatment during incarceration is an allowable use of the MHBG, provided that the treatment services as well as provider of such services meets the statutory requirements of the MHBG.

The purpose of the MHBG is to provide community-based mental health services. The MHBG statute requires states to provide comprehensive services through appropriate qualified community programs. The providers of services for which MHBG funds can be used include community-based mental health centers, child mental health programs, psychosocial rehabilitation programs, mental health/peer support services, and mental health primary consumer-directed programs. Mental health centers principally serve individuals in a defined geographic area, provide outpatient services to those with serious mental illness, children with serious emotional disturbance, and those recently discharged from an inpatient level of care and needing intensive outpatient services. Allowable services include 24-hour a day crisis intervention services, day treatment/partial hospital, intensive outpatient treatment, and psychiatric rehabilitation services. Further, funding may be used to screen individuals who may be in need of state hospital services for psychiatric care. Funds may not be used to pay for inpatient services, to make cash payments to intended recipients of health care services, to purchase land or improve structural facilities or to purchase major medical equipment, to use as a required match for other federal programs, or to provide financial assistance other than to a public or private, non-profit entity.

One of the primary aims of these funds is to provide for care and treatment of those living with serious mental illness who may face severe limitations on their ability to successfully navigate community living as a result of the severity of their mental illness. Too often, such individuals lack insight into their illness and reject traditional treatment approaches. With worsening symptoms, infractions of criminal codes may occur which lead to the arrest and incarceration of the seriously mentally ill. Such individuals are in great need of behavioral healthcare services including psychiatric medical services and other supports such as psychotherapeutic interventions. Provision of mental health services during incarceration using block grant funds that pay for services which are provided by community-based mental health practitioners has been thought to be prohibited. Further, in some instances, an individual with serious mental illness may be in need of services that have been referred to as “competency restoration” so that they can understand charges against them and participate in their own defense. This term, and the fact that in some cases, the individual is not able to post a bond to be released until the time

of their trial, has also resulted in a decision path that has denied them access to federal block grant funding to assist in their treatment and recovery. Competency restoration is a legal term. In medical terms it entails evaluation, treatment of the psychiatric disorder, and community recovery services. All of these services are allowable uses of these block grant funds. Further, these services can be delivered either in the community or in the jail/prison/forensic setting when provided by a community mental health service provider who otherwise meets the criteria outlined above.

It is imperative that MHBG funds to the states be used to serve those in greatest need—the most vulnerable Americans with serious mental illness. Jails and prisons for too long have been de facto mental health facilities, in part, because of a misunderstanding of how the mental health block grant funds can be used. I urge all states to examine their current approach to the issue of providing mental health services to the incarcerated seriously mentally ill population including those also receiving what has been termed ‘competency restoration’ services and re-define these services as those basic to serving our most seriously mentally ill citizens. States should structure the provision of MHBG funded services in communities to routinely include community-based mental health service providers going into jails and prisons to render necessary psychiatric services. This would entail the delivery of comprehensive, individualized treatment and recovery services to those serving sentences as well as to those receiving services that have a history of being termed ‘competency restoration,’ both for those incarcerated and those living in the community. To do so will make a major contribution to addressing the plight of those with mental illnesses so severe that they are unable to care for themselves and who, too often, are incarcerated where they are currently unlikely to receive appropriate services.

SAMHSA stands ready to assist states in these efforts. Your questions are welcome. We look forward to working with you on this important goal.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. F. McCance-Katz', with a date '(12/13/11)' written to the right of the signature.

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