

**RHODE ISLAND GOVERNMENT REGISTER**  
**PUBLIC NOTICE OF PROPOSED RULEMAKING**

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**AGENCY:** Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH)

**RULE IDENTIFIER:** ERLID 1164

**REGULATION TITLE:** Funding of Matching Grant Programs in Community Mental Health Centers

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILING:** Repeal

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**Date of Public Notice: April 30, 2018**

**End of Comment Period: May 29, 2018**

**SUMMARY OF PROPOSED RULE:**

BHDDH no longer has a matching grant program for community mental health centers.

**COMMENTS INVITED:**

All interested parties are invited to submit written comments concerning the proposed regulations by the end of comment period, 30 days from publication of this notice to the address listed below.

Gail Theriault, Esq., BHDDH, 41 West Road, Cranston, RI 02920

Email Address: [gail.theriault@ohhs.ri.gov](mailto:gail.theriault@ohhs.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

A copy of the proposed repeal will be available from 4/30/18 through 5/29/18 to view in person by request, or by email at the addresses below. Electronic copies of the proposed repeal will also be available on the BHDDH website at [www.bhddh.ri.gov](http://www.bhddh.ri.gov) and Secretary of State's at <http://sos.ri.gov/ProposedRules/>.

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**PUBLIC HEARING INFORMATION:**

In accordance with R.I. Gen. Laws § 42-35-2.8, an opportunity to present oral comments will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. Any request for a public hearing must be received by BHDDH within ten (10) days of this notice.

**FOR FURTHER INFORMATION CONTACT:**

Gail Theriault, Esq., at (401) 462-2401, or at the email or mailing address listed above.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis Summary and Supporting Documentation:**

This is a full repeal of procedures for an obsolete program. For full regulatory analysis or supporting documentation see agency contact person above.

**Authority for This Rulemaking:** R.I. Gen. Laws §42-35-1 et seq.

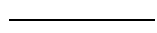
**Regulatory Findings:**

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Repeal:**

The Department of Behavioral Healthcare, Developmental Disabilities and Hospitals proposes to repeal the “Funding of Matching Grant Programs in Community Mental Health Centers” as follows:

**PREFACE**



~~These rules, regulations and standards supersede any and all prior rules, regulations and standards relating to the Community Mental Health Services Act promulgated pursuant to R.I. Gen. Laws Sections 40.1-8.5-1 et seq. They have been promulgated to ensure that the grants from the Department of Mental Health, Retardation and Hospitals to community mental health centers, and the budgets of the centers comply with the requirements of the Act.~~

~~These rules and regulations are in addition to the rules and regulations promulgated pursuant to the Department's licensing authority.~~

~~RULE 1      Applicability~~

~~1.1. The standards contained herein apply to the funding of matching grant programs in community mental health centers pursuant to R.I. Gen. Laws 40.1-8.5-1 et seq.~~

~~RULE 2      Definitions~~

~~2.1. "AICPA" means the American Institute of Certified Public Accountants.~~

~~2.2. "Board" means community mental health board responsible for the assessment of mental health needs and for the planning, coordination and delivery of mental health services provided by the mental health services unit for which it is the governing body.~~

~~2.3. "Center" means the mental health service unit governed by a community mental health center within a catchment area organized for the purpose of providing community based comprehensive mental health services, and which is funded, licensed and regulated by the Department.~~

~~2.4. "Department" means the Department of Mental Health, Retardation and Hospitals.~~

~~2.5. "Director" means the Director of the Department of Mental Health, Retardation and Hospitals.~~

~~2.6. "Rhode Island State Mental Health Plan" means the plan developed by the Department's Rhode Island Division of Mental Health.~~

~~RULE 3      Failure to Comply with Rules and Regulations, Department Action~~

~~3.1. The Director, after notice and opportunity for hearing to the center, is authorized to decrease or suspend funding in any case in which he/she finds that there has been failure to comply with the Rules and Regulations. Such notice is effected by registered or certified mail or by personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than thirty days from the date of such mailing or service, at which time the center is given an opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the center, the~~

~~Department will make a determination specifying its findings of fact and conclusions of law. A copy of such determination is sent by registered or certified mail or by personal service. The decision to decrease or suspend funding becomes final thirty (30) days after it is so mailed or served, unless the center within such thirty (30) day period, appeals the decision to the Superior Court.~~

~~3.2 The procedure governing hearings authorized by this section will be in accordance with Department's policy on administrative hearings.~~

~~RULE 4      Inspections and Investigations~~

~~4.1. The Director or designee has the right of entrance as necessary and appropriate, the privilege to inspect, and access to all records for the purpose of ascertaining that the requirements of these rules and regulations are being met.~~

~~RULE 5      Power of Enforcement~~

~~5.1. The Director has the power to enforce the provisions of these Rules and Regulations.~~

~~RULE 6      Planning~~

~~6.1. The center shall submit an Annual Implementation Plan which shall be developed in accordance with the Rhode Island State Mental Health Plan and regional priorities as determined by the center board. The Annual Implementation Plan shall be approved by the Department's Office of the Executive Director, Division of Mental Health and Community Support Services.~~

~~6.1.1. All matching grant programs purchased and/or provided by the Center shall be in accordance with the Annual Implementation Plan.~~

~~RULE 7      Fiscal Management~~

~~7.1. The center shall submit an annual budget to the Department.~~

~~7.2. The budget shall be prepared on forms provided by the Department.~~

~~7.3. The budget shall be approved by the Board and signed by the Board President or designee, prior to submission to the Department.~~

~~7.4. The budget shall be reviewed by the Department and approved by the Director prior to payment to the center of funds appropriated pursuant to R.I. Gen. Laws 40.1-8.5—1 et seq. This review shall be prompt to ensure timely payments.~~

~~7.5. Funds provided by the Department pursuant to R.I. Gen. Laws 40.1—85—1 et seq. shall be applied to expenditures approved by the Department after all non-matchable revenue has been expended.~~

~~7.6. Unexpended revenue shall be carried forward into the next fiscal year as non-matchable revenue and its use determined by the center board, subject to approval by the Executive Director of the Division of Mental Health.~~

~~7.7. Any modification which alters or increases the budget as approved by the Department by more than ten percent (10%) in its matching grant program shall be made only with written approval of the Department.~~

~~7.8. The center shall submit periodic program, income and expenditure reports on a schedule and in a format specified by the Department.~~

~~7.9. The center shall have an annual audit of its financial accounts conducted by a certified public accountant. The audit shall be submitted to the Department within 120 days following the end of each fiscal year and shall be in accordance with AICPA Standards and applicable state and federal regulations and guidelines.~~

~~7.9.1. The center's audit shall include the full financial disclosure of all assets, liabilities, fund balances, revenues and expenditures by program with a minimum display of two years financial data in any audit report.~~

~~7.9.2. Each center's audit shall provide for full financial disclosure for all corporations affiliated and/or associated with the center which receive funds from the center, use~~

~~any space, or equipment, or provide services to or receive services from the center, and over which the center exercises control, as defined in Rule 7.9.3. below.~~

~~7.9.2.1. An affiliated corporation shall be any corporation which has one or more board members who are also members of the center's board.~~

~~7.9.2.2. An associated corporation shall be any corporation which shares some resources, including staff, with the center.~~

~~7.9.3. Full financial disclosure for public and non-profit agencies receiving the benefits of public funds shall be taken to apply to each community mental health center in accordance with AICPA principles governing the requirement to provide "combined" financial statements. These circumstances are: 1) Control of the affiliate organization ("control" means the direct or indirect ability to determine the direction of the management and policies through ownership, by contract, or otherwise) and 2) the presence of any of the following: a) Separate entities solicit funds in the name of and with the expressed or implicit approval of the reporting organization, and substantially all of the funds solicited are intended by the contributor or are otherwise required to be transferred to the reporting organization or used at its discretion or direction; b) A reporting organization transfers some of its resources to another separate entity whose resources are held for the benefit of the reporting organization; c) A reporting organization assigns functions to a controlled entity whose funding is primarily derived from sources other than public contribution.~~

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~~7.9.4. Those centers which control other organizations as defined according to the above criteria shall provide the Department with financial statements of the controlled organizations. When the above criteria are not satisfied, centers shall provide a list of those agencies, organizations or corporations in which they have a related interest, involving center staff work or governing board membership.~~

~~7.9.5. The center's Certified Public Accountant (CPA) audit shall include a separate management letter addressing weaknesses not appearing in the audit report. This management letter shall be the same letter provided by the auditor to the center's governing body.~~

~~7.9.6. The center's CPA audit shall include a verification of matchable revenue as hereinafter defined for the year reviewed.~~

~~7.10. Programs funded with grants herein provided shall not refuse services because of a client's inability to pay or contribute to services provided.~~

~~\_\_\_\_\_ RULE 8 \_\_\_\_\_ Grants to the Centers \_\_\_\_\_~~

~~8.1. The Department shall make grants to the center from funds appropriated pursuant to the Community Mental Health Services Act, R.I. Gen. Laws 40.1—8.5—1 et seq.~~

~~8.1.1. These grants shall be known as "General Outpatient Services" grants, and shall serve the purpose of providing a mechanism by which the Department, local governments and local human service agencies share in the responsibility for supporting community mental health services to mentally disabled adults who are unable to pay for such services.~~

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~~8.2. What is considered matchable revenue for "General Outpatient Services" grants shall include both unrestricted and restricted funds as defined below.~~

~~8.2.1. Unrestricted funds are funds whose commitment is at the full discretion of the center. These funds shall come to the center completely free of any conditions attached, either expressed or implied, governing their disbursement. Unrestricted funds are those that have been appropriated to the center by the municipalities in its catchment area, net proceeds from fund raising and unrestricted donations.~~

~~8.2.2. Restricted funds are understood to carry with them conditions, either expressed or implied, governing their disbursement.~~

~~8.2.3. Municipal funds are funds disbursed by the treasurer of a municipality within the State of Rhode Island.~~

~~8.2.4. Funds received by the center as herein defined must be intended for use by the center for mental health services and in conformity with plans such services as determined by the center and the Department.~~

~~8.2.5. Municipal funds initially going to a local agency which in turn gives the funds to the center with restrictions shall not be matchable unless such funds are clearly intended for use in the support of mental health services.~~

~~8.2.6. “Fund raising” shall not include activities in which mental health services are provided as consideration in return for a “contribution” regardless of whether or not the fair market value of the services is less than the amount of the “contribution” requested.~~

~~8.2.7. Net proceeds from fund raising are matchable and shall mean profit realized from the activities after all costs associated with the generation of such have been deducted.~~

~~8.2.8. Net proceeds from fund raising activities conducted by any agency other than the center shall be treated as a “donation”~~

~~8.2.9. A donation must be in the form of cash. Donations in the form of equipment, materials, real estate, services are not matchable.~~

~~8.2.10. Donations from center affiliated~~

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~~corporations or entities, center associated corporations or entities, center affiliated trust funds, and center associated trust funds shall not be matchable.~~

~~8.2.11. Federal Community Development Block Grant (CDBG) funds received from a municipality are clearly intended for use by the center in support of mental health services are matchable.~~

~~8.3 Local funds determined to be matchable in accordance with RULE 8.2 above shall be matched by the state, subject to annual appropriation, in an amount not to exceed a ratio of \$1 (local): \$4 (state).~~

~~8.3.1 In the calculation of the award to each center, the Department shall first distribute the total amount available for match purposes in proportion to the “adjusted adult population” for the catchment area. This initial distribution will be considered the targeted matchable amount allocable to the center. In order to receive this amount, the center will then need to certify that it has an amount at least equal to the targeted amount to qualify for the indicated award. Failure to meet the targeted minimum amount by a center will result in reduced funding by the state to the center and the redistribution of the difference to the other centers~~

~~8.3.2 Fiscal Year 1996 shall be considered the hold-harmless year of transition to the altered method for calculating the distribution among centers. For FY’96, the allocation among the centers will be the same as for FY ’95. For each of the succeeding years (i.e.: FY ’97; FY ’98; FY’99; FY ’00; and FY ’01), there shall be an annual, incremental phase-in equal to 20% of the targeted adjusted percent share based on population.~~



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