

# Background on DPHHS Administrative Rules Implementing HB 130

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## Background

HB 130, 2009, provided for state matching funds to be granted to counties for crisis intervention, jail diversion, involuntary pre-commitment, and short-term inpatient treatment costs for persons with mental illness. Counties may apply alone, or with other counties, to implement a plan for community-based or regional emergency or court-ordered detention and examination services, and short-term inpatient treatment that includes a commitment to use local resources. Grants will be awarded according to a sliding scale with high use [of the state hospital] counties receiving a lower percentage of the match rates.<sup>1</sup> HB 130, partially codified at 53-21-1203, MCA, requires that the sliding scale be based upon two components: historical county use of the state hospital vs. total state use (in the statute identified as commitments, should have said admissions<sup>2</sup>) and county population vs. total state population. Counties were asked to submit letters of intent to participate in the program; 37 counties responded identifying local matching funds available to enable requests of \$3.25 million in matching grants. The available appropriation is \$1 million.<sup>3</sup> HB 130 specifies that grants must be allocated based on available funding. The department determined that the responding counties represent 727,663 residents so the available funding was prorated for each eligible county<sup>4</sup> (\$1 million divided by 727,663 ppl = \$1.37 per resident).

## Timeline

HB 130 became law on May 9, 2009. The proposed administrative rules were filed with the Secretary of State on October 19, 2009. Upon request, the department extended the comment period until December 17, 2009. Due to concerns raised by members of the CFHHS Interim Committee at their November 16, 2009 meeting regarding the proposed rules, a letter was sent to the department on November 23, 2009 asking for the department's response via conference call to 10 comments raised by CFHHS. The department's response was received January 13, 2010, too late for a conference call prior to the committee's January 25, 2010 meeting.

## Department Response to CFHHS Concerns Regarding Administrative Rules (abbreviated)

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<sup>1</sup>Matching funds will be awarded on a scale of 70% - 50%, decreasing in 5% increments with low use counties receiving 70% match and high use counties receiving 50% match.

<sup>2</sup>All parties are in agreement that the intent of the bill was to use total admissions for the count, rather than just commitments. Emergency and court-ordered detentions where an individual can only be detained and treated for a short time are different than commitments where an individual can be held for 90 days.

<sup>3</sup>1.2 million was allocated in HB 2, 2009, to fund mental health crisis intervention services--the department is using \$1 million of that to fund HB 130. In addition, HB 645 included a one-time appropriation of \$500,000 general fund, with \$475,000 allocated specifically to implement HB 130.

<sup>4</sup>My understanding of the funding process for these grants: Counties submit an application which must be approved by the department, then a contract is drawn up and reviewed by the department. Once that is approved, the county invoices the department for the funds and based on that invoice, the money is distributed to counties.

1. What categories of commitments will be reimbursed by the department?

RESPONSE: All admissions to Montana State Hospital will be used in calculating the match rate (see footnote 2).

2. Why can't the department use the matching grant formula established in HB 130?

RESPONSE: The department is using this formula: a ratio of admissions (county vs. state) to population (county vs. state) to compute the match rate.

3. The department's method of fund distribution on a pro rata basis by county population conflicts with the sliding scale requirement contained in HB 130.

RESPONSE: Disagree. The department used the sliding scale formula of populations and admissions to determine the match rate, then used a prorated distribution system that would consider the number of residents in all the counties submitting a letter of intent and divided this total by the total amount of funding available.

4. HB 130 uses the word "commitments"--the department is using "admissions." Please comment.

RESPONSE: All parties, including the bill sponsor, agree the intent was to use admissions including emergency and court ordered detentions. (NOTE: Should likely have a clean-up bill to change "commitments" in the statute to "admissions").

5. Clarify whether grant amounts will be distributed across the state or directed towards specific areas that may already have programs in place.

RESPONSE: HB 130 directs the department to make grants to "each eligible county" and does not stipulate that grants be prioritized in any way. A county with an existing program would not necessarily receive a larger grant than one with a startup proposal. However, the existence of a "track record" would make it easier to evaluate the effectiveness of a program as well as the likelihood of future cost savings.

6. Are crisis intervention team training and crisis response team expenditures eligible for match?

RESPONSE: Yes, HB 130 charges the department to look at factors in awarding grants that will reduce admissions to the state hospital. Crisis intervention teams and crisis response teams are effective in reducing admissions for court ordered and emergency detentions.

7. Which counties have submitted letters of intent to seek matching grants and what are the department's funding numbers?

RESPONSE: See chart attached to the rule comment response. (37 counties have responded with letters of intent at this time).

8. Will the department commit half of the biennial appropriation for this program in the FY2010 budget?

RESPONSE: Yes, the department has allocated approximately 50% of this biennial appropriation to funding these programs in FY2010. Unspent funds will be available for program implementation in FY2011. The appropriation for matching grants was included in HB 2 and was not designated as one-time-only funding. The sustainability will depend on future appropriations.

9. Are some counties slated to receive a larger grant amount than was asked for?

RESPONSE: No county will receive a larger grant amount than requested. The department will clarify this in the final rules. Also, if the county can't identify funds for a match, then no grant.

10. HB 130 directed the department to adopt rules for implementation by August 1, 2009 and fully implement the grant program by September 1, 2009. Please address the delay.

RESPONSE: The department believes that the grant program was fully implemented by the September 1, 2009 deadline. All counties received information on matching grants availability

and the application process in an August 4, 2009 letter to MACO. The department acknowledges it did not meet the August 1 deadline for adoption of rules; it was a time-consuming process.

Current Information

The rulemaking process does not involve the availability of funds for county grant applicants. Per the invoice submitted and approved, \$264,858.30 was transferred via electronic funds transfer to Yellowstone County on January 20, 2010.

In addition, the following counties have submitted applications:

Ravalli County – contract routing for review/approval within DPHHS

Missoula – final application received, contract being drafted

Lewis & Clark (Jefferson, Broadwater, Meagher) - final application received, contract being drafted

Valley County – initial application received, under review

Cascade – initial application received, under review

Gallatin – initial application received, under review

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