

IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED
JUL 14 1997
NOEL K. DESSAINT
CLERK SUPREME COURT
BY *DK*

In the Matter Of:)
)
DRUG TREATMENT AND)
EDUCATION FUND ADMINISTRATION)
REQUIREMENTS)
_____)

Administrative Order
No. 97- 34

Pursuant to Public Laws 1997, Chapter 246, Arizona Revised Statutes Annotated Section 13-901.02 created the Drug Treatment and Education Fund (DTEF). The Administrative Office of the Courts is responsible for the administration and distribution of this fund to Superior Court probation departments to cover the costs of placing persons convicted of specified drug-possession crimes into drug-education or treatment programs.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the attached administrative requirements of this fund be established.

Dated this 14th day of July, 1997.

CHARLES E. JONES
Vice Chief Justice

ADMINISTRATIVE REQUIREMENTS
FOR THE DRUG TREATMENT AND EDUCATION FUND

Pursuant to Administrative Order No. 97- 34

A. Purpose

1. The Drug Treatment and Education Fund (DTEF) funds shall be distributed by the Administrative Director of the Courts to Superior Court probation departments to cover the costs of placing persons in drug education or treatment programs administered by a probation department or a qualified agency or organization that provides such programs. Such programs shall give priority to persons who abuse controlled substances and are placed on probation pursuant to A.R.S. § 13-901.01. This includes any person convicted for the first time of personal possession or use of controlled substances defined in A.R.S. § 36-2501, or any person placed on probation under provisions of A.R.S. § 13-901.01. It also includes persons who are determined by the court to be in violation of probation, or any person who is convicted a second time of personal possession or use of a controlled substance as defined in A.R.S. § 36-2501. Treatment may also be provided to other substance-abusing probationers who are identified as needing treatment by the use of the standard substance abuse screening assessment system.

2. DTEF monies shall be allocated to superior court probation departments according to a formula based on a composite index used to predict likely probation caseloads. These monies shall be used to supplement, not supplant, existing monies available to the department.

B. General Administrative Requirements

1. Administration of the DTEF shall be under the direction of the Administrative Director of the Courts, who is authorized to prescribe and adopt policies, procedures, guidelines, forms, and standards consistent with the law and these requirements, as necessary for the operation and administration of the DTEF. The Administrative Director is authorized to monitor local DTEF programs and to inspect, audit (or have audited) the records of the Superior Court in any county, adult probation department or any subcontractor using DTEF funds. Any subcontracts for services shall include a provision acknowledging the authority of the Administrative Director to conduct such inspections and audits.

2. At the end of each fiscal year, the Administrative Director shall prepare, or have prepared, an accountability report detailing the cost savings realized from the diversion of persons from prison to probation. A copy of this report shall be submitted to the governor and the legislature, and a copy of the report shall be sent to each public library in the state.

3. The Administrative Office of the Courts shall receive reimbursement from the DTEF for any administrative costs it incurs administering the DTEF.

C. Expenditure Plan

1. The presiding judge of the Superior Court in any county wishing to receive DTEF funds shall submit a proposed expenditure plan each year to show how funds allocated would be spent. The plan shall be in a format and on forms as required by the Administrative Director and must be submitted by the established date and approved prior to distribution of funds. The plan shall include defined goals and objectives sought to be achieved by use of the DTEF, as well as the data to be collected and retained for evaluation and review of the program. The plan shall be consistent with all applicable laws and these administrative requirements.

2. Expenditure plans from the Superior Court in a participating county shall be limited to those categories necessary to support and operate a drug-education and treatment program. The categories which may be authorized include substance-abuse education and treatment personnel, employee-related expenses, and outside contractual services to provide substance-abuse education or treatment, support staff or administrative personnel, travel, operating expenses, and equipment or other expense directly related to the support of drug-education and treatment programs. The presiding judge of the Superior Court in a participating county, or the Administrative Director, may enter agreements with qualified human services agencies to provide the services required by A.R.S. § 13-901.02, pursuant to the Judicial Branch Procurement Rules, or applicable local procurement policies.

3. All expenditure plans shall be supported by adequate justification and explanation as required by the Administrative Director.

4. The Administrative Director is authorized to approve those expenditure plans and modifications which are in conformity with the applicable laws and these requirements and which enhance the adult probation services system by providing drug education and treatment for adult offenders placed on supervised probation or intensive probation by the Superior Court. Any plan which is not in conformity with the statute or these requirements shall be returned to the presiding judge of the submitting court with a written explanation of how the plan fails to comply either with the statute or these requirements.

5. The Administrative Director, with the assistance of the Committee on Probation, shall approve a standard substance-abuse screening assessment system to be utilized by each participating probation department.

6. The treatment provider agencies or organizations contracted for by the Administrative Director or the Superior Court in a participating county shall be licensed by the Arizona Department of Health Services, Office of Behavioral Health Licensure. The clinical staff employed by such agency or organization shall be certified by the Arizona Board of Behavioral Health Examiners as a Certified Substance Abuse Counselor (CSAC), or certified by the National Accreditation of Alcohol and Drug Abuse Counselors (NAADAC), or other professionally-recognized substance-abuse counseling accreditation as approved by the Administrative Director.

D. Financial Management

1. Upon approval of the plan and availability of funds, the Administrative Director shall enter a written funding agreement with the submitting court for distribution of the allocated funds. The Administrative Director shall have authority to alter the funding agreement if such action is necessary due to a lack of funds, a lack of financial need for the court, or due to a failure to comply with the applicable statutes, the approved plan, or these requirements.

2. Funds received by the Superior Court pursuant to these administrative requirements shall be deposited in a special DTEF revenue fund with the county treasurer established pursuant to the procedures provided in Section III.B. and IV.E of the Auditor General's Uniform Accounting Manual for Arizona Counties.

3. State funds appropriated to the Supreme Court for distribution to the Superior Court in all counties shall be used only for the support and operation of approved drug-treatment and education programs. Upon entering a funding agreement with any one or more participating courts, the Administrative Director may withhold funds allocated to such courts, may authorize direct expenditures for the benefit of such courts, and/or redistribute those funds as deemed necessary. The Administrative Director may also reallocate funds during a fiscal year, when circumstances justify such action.

4. The Superior Court in each participating county shall submit a closing financial report and a program activity report related to the plan of the Superior Court in each county as of June 30. Funds remaining in the DTEF account which are unencumbered as of June 30, and unspent as of July 31, shall be reported and may be kept in the local DTEF account for use in the following year's programs.

5. In the event that the Superior Court in a county declines to receive funding, the funds for that county will be allocated to the Superior Court in the counties participating.

6. Any expenditures made by the probation department in excess of the amount allocated shall be the responsibility of the local department.

7. The Superior Court in each participating county shall establish a process to ensure services have been rendered by the contract provider before payment for services is made. The Superior Court in each participating county shall be responsible for the costs incurred for services rendered which are disallowed under the purpose of this fund listed in Section A of these requirements or the approved program expenditure plan.

8. Pursuant to A.R.S. § 13-901.01, each person enrolled in a drug-treatment or education program shall be required to pay for participation in the program to the extent of the person's financial ability, as determined by each probation department. Monies received by the Superior Court in a participating county pursuant to this section shall be deposited in the special DTEF

revenue fund which is established according to Section D 2. of these requirements. Reports detailing payments made by probationers shall be provided to the Administrative Office of the Courts pursuant to section F. 1. of these requirements.

E. Records Management

1. The presiding judge of the Superior Court in each participating county shall submit reports setting forth actual financial and program activity related to the plan in the Superior Court of each county. These reports shall be submitted to the Administrative Office of the Courts, as required.

2. The Superior Court in each participating county and its probation department shall maintain and provide to the Administrative Office of the Courts such data and statistics as may be required. Such data shall include, at a minimum, the information necessary for the accountability report required by A.R.S. § 13-901.02 and individual program data as specified in the approved program expenditure plan. The Administrative Director shall have the authority to withhold disbursement of funds and/or reallocate funds if the Superior Court in a participating county fails to provide such data as required by this section.

3. The Superior Court in each participating county and its probation department shall retain all financial records, applicable program records, and data related to each approved plan in accordance with the Adult Probation Records Management Records Retention and Disposition Schedule and any other law or directive that may apply.

F. Evaluation and Monitoring

The Administrative Office of the Courts shall evaluate each-drug treatment and education program to ensure program accountability and compliance with all appropriate laws and the policies. The Superior Court in each participating county shall cooperate with all program evaluations.