



# REPORT ON MAINTENANCE OF EFFORT REQUIREMENTS IN FEDERAL GRANTS

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
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ISSUE BRIEF

## SUMMARY

During its 2016 General Session, the Legislature passed intent language requiring the Departments of Health, Human Services, and Workforce Services, and the Utah State Office of Rehabilitation to prepare and submit to Legislative staff a report on maintenance of effort (MOE) requirements for all major federal grants over \$500,000 annually along with other relevant MOE requirement information. Each of these agencies submitted the requested items by the due date. There were 39 grants over \$500,000 in these four agencies totaling \$2.7 billion in funding with nine of the grants requiring MOE of \$118 million in order to draw down \$124.8 million in federal funds. The largest of these MOE requirements involves two grants, totaling \$27.5 million, in the Department of Human Services (DHS) where DHS is obligating \$59.3 million in MOE. MOE obligation can have the effect of removing Legislative budget flexibility. The Mental Health Block Grant (MHBG) is a prime example of the issues created for state budgeting by current federal MOE requirements. FY 2015 MHBG was only \$3.2 million but the agency provided an MOE obligation of \$29.3 million for the MHBG grant, thus restricting budget flexibility with that large amount. In addition, the Utah State Office of Rehabilitation, in an effort to cover a structural deficit in FY 2015, increased its MOE level significantly in order to draw down additional federal funding. USOR will now have its federal Vocational Rehabilitation grant reduced by \$5.2 million as a penalty in order to bring its MOE requirement back down to a more sustainable level. Staff from the Office of the Legislative Fiscal Analyst have reviewed these submissions and subsequently listed: a) four grants for which the agency is spending more than the minimum MOE to draw down federal funds (page 2); b) one grant where there has been a significant change to its MOE requirements. (page 2); and c) one grant (TANF) where there is an active federal proposal to reduce the use of outside third party MOE (page 3).

## LEGISLATIVE ACTION

1. The Social Services Appropriations Subcommittee consider sponsoring a joint resolution requesting Utah's congressional delegation to submit federal legislation amending federal block grant maintenance-of-effort (MOE) requirements by adding the following language to each MOE statutory requirement: "In no wise shall the state amount obligated as a maintenance-of-effort calculation exceed the amount of federal funding provided through the grant."
2. Direct those agencies that are currently paying more than the minimum MOE to explore strategies to reduce their MOE to the minimum amount required and report back to the Social Services Appropriations Subcommittee by October 1, 2016.

## DISCUSSION AND ANALYSIS

### **Background**

The reports from the Departments of Health, Human Services, and Workforce Services, and the Utah State Office of Rehabilitation are in response to the following intent language passed by the Legislature in H.B. 7, *Social Services Base Budget*, items 1, 11, 16, and 22 from the 2016 General Session:

*The Legislature intends the Departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation report to the Office of the Legislative Fiscal Analyst by June 1, 2016 on maintenance of effort (MOE) requirements for all major federal*

*grants over \$500,000 annually. The report shall include at a minimum a five year history (2011 to 2015) of: (1) maintenance of effort payments for each grant, including showing how much was paid above the minimum required levels, (2) the appropriate federal references with key language regarding each grant's MOE requirements, (3) how much state funding has been replaced, if any, with third party expenditures for maintenance of effort and how that state funding was used, (4) what is the minimum federally-required MOE for each grant, (5) options for how to reduce MOE annual amounts while continuing to comply with federal MOE requirements, and (6) how MOE requirements have changed and the impacts of those changes.*

The Departments of Health, Human Services, and Workforce Services, and the Utah State Office of Rehabilitation obligated \$118 million for MOE requirements for nine grants that allowed them to draw down \$124.8 million in federal grants in FY 2015.

### ***For Which Federal Grants Are Agencies Obligating More Than the Minimum Maintenance of Effort Requirements?***

The federal grants below are where agencies are obligating more than the minimum MOE requirements to draw down federal funds. The amount of the federal grant is listed along with the name of the grant.

1. Maternal and Child Health Block Grant (\$6.1 million) – the Department of Health is spending \$2.1 million more than the minimum MOE. The department explains this as follows: “the Department of Health is able to count state funding of various programs under the Director of the Division of Family Health and Preparedness as MOE for this block grant. Due to this ability, the block grant has well above the required minimum of \$3.8.”
2. Mental Health Block Grant (\$3.2 million) – the Department of Human Services is spending \$1.1 million more than the minimum MOE.
3. Substance Abuse Prevention and Treatment Block Grant (\$16.5 million) – the Department of Human Services is spending \$1.3 million more than the minimum MOE.
4. Vocational Rehabilitation (\$40.7 million) – the Utah State Office of Rehabilitation paid more than the minimum MOE for fiscal years 2011 through 2014.

### ***What Options Exist to Lower Minimum Maintenance of Effort Obligations?***

The four agencies are currently obligating \$118 million for MOE in order to draw down \$124.8 million in federal funds. Two potential options to reduce the MOE obligation include:

1. Change federal statutory requirements through Utah’s congressional delegation.
2. Direct agencies currently spending more than the minimum MOE to explore strategies to bring MOE payments down to the minimum and report back to the subcommittee on these efforts.

### ***Significant Changes to Maintenance of Effort Requirements***

The federal grant listed below is the only one currently where there has been a significant change to maintenance of effort requirements in the last five years. The amount of the federal grant is listed along with the name of the grant.

1. Vocational Rehabilitation Grant (\$51.7 million) – the minimum MOE has increase from \$11.3 million in FY 2011 to \$16.2 million in FY 2015. USOR indicated it was in a deficit MOE position of \$5.2 million for FY 2015. This MOE deficit was reviewed in the USOR audit by the Office of the Legislative Auditor General: [A Performance Audit of USOR's Budget and Governance](#) (beginning on page 19).

USOR will have its federal Vocational Rehabilitation grant reduced by \$5.2 million as a penalty in order to bring its MOE requirement back down to a more sustainable level.

### ***Maintenance of Effort Requirements met through Third Party Expenditures***

The Department of Workforce Services counted the following third party expenditures in FY 2015 towards meeting the basic MOE requirement of grants:

1. \$3.5 million in from the Department of Human Services and the LDS Humanitarian Center for the Temporary Assistance for Needy Families (TANF) program.
2. \$0.9 million from some of the state's expenditures on kindergarten for the Child Care and Development Fund.

### ***Any Risks to Using Third Party Expenditures to Meet Maintenance of Effort Requirements?***

The Temporary Assistance for Needy Families in the future may not be allowed to use third party expenditures to meet MOE requirements. Below is a discussion of what the agency would do in case third party MOE is disallowed and the penalty associated with not meeting the MOE requirements.

- Temporary Assistance for Needy Families (TANF) (\$20.4 million) – the U.S. House of Representatives Ways and Means Committee has heard [H.R. 2959, TANF Accountability and Integrity Improvement Act](#), which prevents “States from Gaming the System by Counting More Outside Spending as Their Own.”
  - a. If third party expenditures could not be used to meet maintenance of effort requirements, the Department of Workforce Services would need an ongoing General Fund appropriation in an amount equal to the third party expenditures.
  - b. The penalty for not meeting the basic TANF MOE requirement consists of a reduction of the State's Federal TANF grant for the following fiscal year in the amount of the difference between the State's qualified expenditures and the State's basic MOE requirement (42 USC §609(a)(7)(A); 45 CFR §263.8). If application of a penalty results in a reduction of Federal TANF funding, a State is required in the immediately succeeding fiscal year to spend from State funds an amount equal to the total amount of the reduction, in addition to the otherwise required basic MOE. Such expenditures may not be claimed toward meeting the basic MOE requirement (42 USC §609(a)(12); 45 CFR §§263.6(f) and 264.50).

### ***Links to More Information***

For more information, please see the full report below by each department:

1. Department of Health - <http://le.utah.gov/interim/2016/pdf/00002486.pdf>
2. Human Services - <http://le.utah.gov/interim/2016/pdf/00002509.pdf>
3. Workforce Services - <http://le.utah.gov/interim/2016/pdf/00002494.pdf>
4. Utah State Office of Rehabilitation - <http://le.utah.gov/interim/2016/pdf/00002541.pdf>