

Frequently Asked Questions and General Guidance Regarding Problem-Solving Court (PSC) Response to COVID-19

Grant Questions

- 1.) **When will grants for all program types open and when are they due?**
Abbreviated grant applications for fiscal year 2021 funding are available in WebGrants and will remain open until July 1, 2020. Questions regarding grant applications and funding can be sent to courtservices@courts.mi.gov.
- 2.) **Will grant funded employee's salaries and fringe benefits be reimbursed by the grant when they are not working as a result of COVID-19?**
Regular compensation and fringe benefits paid to employees during periods of authorized absences from the job are allowable if all of the following criteria are met:
 - They are provided under established written leave policies;
 - The costs are equitably allocated to all related activities, including federal and state awards; and,
 - The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the Grantee or specified grouping of employees.Courts are encouraged to review and update their written leave policies to address “unexpected or extraordinary circumstances” and to maintain copies of the leave policies and cost documentation to substantiate the charging of salaries and benefits during interruption of operations or services.
- 3.) **Will the grant reimburse for “hazardous pay (time and one-half)” for employees classified as essential that are required to report to work during COVID-19?**
Yes, however written approval from the funding unit, for the hazardous pay at time and one-half should be provided to the State Court Administrative Office (SCAO) as part of the backup documentation in the claim. Additionally, a list of essential employees for verification purposes should be provided when submitting for reimbursement.
- 4.) **Have any expenses previously allowed or disallowed changed in the midst of the pandemic?**
In response to the COVID-19 pandemic, allowable expenses for the Michigan Drug Court Grant Program, the Michigan Mental Health Court Grant Program, the Michigan Veterans Treatment Court Grant Program, Swift and Sure Sanctions Probation Program grant program, and Edward Byrne Memorial Justice Assistance Grant program now include the following:
 - Additional Zoom licensing for problem-solving court staff to conduct probation appointments and other program related business. This funding is limited to one license per program, not to exceed \$20 per month.
 - Personal Protective Equipment (PPE) and cleaning/disinfecting/safety precaution products including gloves, masks, and thermometers. These items also fall under office supplies which are not to exceed \$500 per grant.

These allowable expenses will be retroactive starting March 1, 2020, and extended to the end of the 2020 fiscal year - September 30, 2020. *These additional allowable expenses do NOT apply to those programs receiving Office of Highway Safety Planning grants.*

Data Entry Questions

- 5.) **If drug testing, monitoring, and/or review hearings are limited or suspended, how should data be entered into DCCMIS?**
Use the “excused” option for drug testing and review hearings if the event was scheduled but excused. In the notes section indicate “due to COVID-19”. If a participant is monitored remotely for check-in, use “Contact Made No Violation” for the monitoring appointments.

Drug Testing Questions

- 6.) **What parameters should be in place if the court decides to continue in-person drug testing?**
If in-person drug testing resumes at the court or at an agency, testing should be conducted following all sanitary procedures to protect the health of those involved and should abide by local, state, federal, and Centers for Disease Control and Prevention (CDC) guidelines. Additionally, courts should abide by MSC [Administrative Order 2020-14](#) when considering returning to full capacity. Guidance on returning to full capacity can be found [here](#).
- 7.) **What alternatives are available for drug testing that maintain CDC Guidelines?**
Per Paul Cary (toxicology expert) consider using a sweat (transdermal) drug patch. Participants can apply the patch while being monitored by the court via video. Also, the courts may consider alternatives to close proximity PBT testing such as using ethyl glucuronide (EtG) testing in accordance with CDC guidelines. Additionally, instant oral swab testing could be conducted via video. Encourage self-disclosure and consider employing only therapeutic adjustments for self-reported use.
- 8.) **A participant has become unemployed because of the pandemic. Can the drug testing fees be waived?**
If the court conducts the testing, they have the option to waive the fee and assume the cost of the test. If testing is conducted by an agency, the court does not have the option to waive the fee outright, but can assume the cost of the test. In both instances the court can request reimbursement for the test if the program is funded by an SCAO grant.

Monitoring Questions

- 9.) **Should we monitor participants using in-person reporting?**
To the extent possible, in-person monitoring appointments should be conducted remotely by telephone, Skype, Zoom, or other technologies allowing for social distancing.
- 10.) **How can our team maintain participant communication and monitoring during the crisis?**
Teams can schedule check-in times by phone, conduct random calls to participants, or use smartphone monitoring. Some ways to use phone technology are included below:
Team members using their personal cell numbers can type in *67 before the participant's phone number to ensure their number is shown as private.
Google Voice is a free google app that provides a phone number that works for any device connected to the internet that has a microphone and speakers. Teams can access it at: https://play.google.com/store/apps/details?id=com.google.android.apps.googlevoice&hl=en_US. This would not provide a device to staff, but it would give them an assigned work number instead of their personal phone number.
Another alternative app is Google Duo <https://duo.google.com/about/> which is reportedly similar to Zoom.
Participants with a cell phone (or a device with speakers, microphone, camera, and internet connection) can download the Zoom application for free and teams can use their judicial zoom account (provided by SCAO) to monitor participants.
- 11.) **Should a probationer who is unable to meet conditions of probation due to unavailability of services receive a violation?**
Probationers may report an inability to satisfy certain conditions of probation such as community service, treatment, or employment-related requirements. We recommend that probation departments remain flexible with probationers and avoid issuing violations of probation that are a result of newly enforced community restrictions. We recommend that the court not issue amended orders of probation for each case to extend time-bound conditions. Instead, probation staff should continue to communicate with probationers, monitor the circumstances of the case, and follow up with probationers as access to community resources are normalized. We recommend that judicial and probation staff discuss and formulate a plan that is right for each court.

12.) What considerations are there when requiring participants to continue with community service?

Courts should adhere to Administrative Order 2020-12 and any local or state restrictions on mobility. When considering community service, compliance with local, state, federal, and CDC guidelines is essential to protect the health of participants and those in the community.

13.) What alternatives to in-person community service are available?

Online opportunities can be found using [Virtual Volunteer Opportunities](#). Additionally, other community service ideas include: participants making masks; writing thank you notes for essential health care workers and writing letters to patients in nursing homes; delivering meals to seniors and checking in on neighbors using CDC precautions; and other weekly reporting that required positive engagement and pro-social activity.

Treatment Questions

14.) Should in-person treatment sessions continue?

Consult with your treatment agency on guidance toward continued therapy sessions.

15.) How can a participant continue on Medication Assisted Treatment during the pandemic?

Please see [SAMSHA Guidance for Medication Assisted Treatment](#).

16.) Are remote treatment sessions HIPAA compliant?

Consult with your treatment agency on guidance regarding telehealth and compliance with HIPAA. Also, see [U.S. Dept. of HHS- Guidance on Telehealth](#).

Ancillary Services Questions

17.) Are there remote options that allow participants to attend ancillary services in person?

The National Association of Drug Court Professionals (NADCP) recommends using virtual services where available nationwide (e.g., online AA/NA or SMART Recovery meetings, and phone meetings). Here is a listing of [Online Recovery Meetings](#). Sample guidelines for recovery meetings can be found at [Digital Recovery Support Meeting Safety Guidelines and Procedures](#).

18.) How do we track participant attendance in online recovery support meetings?

A few tips for consideration include writing down the steps they are working on, how it applies to their recovery, having the participant take a picture of their screen while in the session, and/or having participants obtain verification from the meeting leader.

Review Hearing/Staffing Meeting Questions

19.) How can remote PSC review hearings comply with court proceedings being open to the public?

According to the [Michigan Trial Courts Virtual Courtroom Standards and Guidelines](#) and [Administrative Order 2020-06](#), courts are encouraged to establish a live stream of the court proceedings to facilitate access to public court proceedings. These guidelines require that the public have access to court proceedings either during the proceeding, or immediately after through access to a video recording of the proceeding. This recording is not the official court record and does not need to be retained through the live stream service once the hearing is concluded. More guidance related to remote PSC review hearings [can be found here](#).

Phase Advancement/Graduation Question

20.) Should PSCs be conducting graduations and phase advancements?

If the court has suspended program services, then teams can consider temporarily suspending any graduations. If a graduation or phase advancement is postponed, it is recommended that courts are clear with participants as to why they are being postponed. Courts can consider providing a special type of graduation celebration within budget constraints once the risk is over. However, if courts are able to provide program services toward compliance and recovery, the court can consider graduating

successful participants virtually. Also, courts may consider statutory limitations on probation terms when considering discharges.

Program Admission Question

21.) Should we continue to admit participants into the PSC program?

The court may consider suspending all new intakes and waitlist any new referrals, if the court has suspended all program services. However, if services are not suspended, the team can consider conducting screenings via remote methods, and admissions when appropriate.

Violations/Sanctions Question

22.) How should program violations be handled?

Courts should abide by Administrative Order 2020-14. Courts may want to consider sanctions other than jail, such as house arrest or GPS tethers, to protect the health of the offender and those already incarcerated. Courts may also want to consider increasing support and using therapeutic adjustments as an alternative to punitive sanctions, as participants are more likely to suffer from anxiety, PTSD, or relapse during these times. Also, courts may consider postponing termination hearings.

23.) Is it permissible for Swift and Sure Sanction Probation Programs to depart from the 72 hour requirement for an appearance for a violation?

MCL 771A.5 reads, “Provide for an appearance before the judge or another judge for any probation violation as soon as possible but within 72 hours after the violation is reported to the court, unless a departure from the 72-hour requirement is **authorized for good cause** as determined by criteria established by the state court administrative office.” Due to the COVID pandemic and associated state furlough days, it is reasonable and within good cause to waive the 72-hour time frame for sanctions during this time. However, it is imperative to ensure that sanctions are administered as swiftly as possible.

Further Resources

- [Return To Full Capacity Webpage](#)
- [Return To Full Capacity Guide](#)
- [MI Supreme Court – COVID 19 Webpage](#)
- [NADCP COVID-19 HOT TOPICS](#)
- [MATCP COVID 19- Judicial Impact](#)
- [SAMSHA Virtual Recovery Resources](#)
- [NADCP – Treatment Courts & COVID 19](#)
- [American Probation and Parole Association- COVID 19](#)
- [DEA and SAMHSA Buprenorphine and Telemedicine COVID-19 Guidance](#)
- [FAQ's - Provision of Methadone and Buprenorphine for the Treatment of Opioid Use Disorder in the COVID-19 Emergency](#)
- [SAMHSA's "COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance"](#)
- [Tracking Participant Progress During COVID-19—What to Collect and Why](#)
- [OCR Issues Guidance on Telehealth Remote Communications Following Its Notification of Enforcement Discretion](#)