§ 41.47 Community support services program.

(a) As used in this section:

(1) "Approved reimbursable rate" means the maximum rate of payment per unit of service established by the commissioner of mental health pursuant to subdivision (e) of this section, or the actual unit cost of providing community support services, whichever is less, minus revenue.

(2) "Core services" means the daily managing and monitoring of the implementation of the community support services program within a defined geographical area.

(3) "Designated adult home" means an adult care facility which is licensed by the commissioner of social services pursuant to article seven of the social services law, and which has been designated by the commissioner of mental health as containing a significant number of mentally ill persons who are in need of community support services.

(4) "Designated shelter for the homeless" means a shelter for the homeless which is licensed by the commissioner of social services pursuant to article seven of the social services law, and which has been designated by the commissioner of mental health as containing a significant number of mentally ill persons who are in need of community support services.

(5) "Designated single room occupancy residence" means a single room occupancy, as such term is defined in the multiple dwelling law or multiple residence law, whichever is applicable, which has been designated by the commissioner of mental health as containing a significant number of mentally ill persons who are in need of community support services.

(6) "Functionally disabled as a result of mental illness" means a person who has a severe, chronic disability which:

(i) is caused by a medically determined mental illness, as evidenced by a primary psychiatric diagnosis;

(ii) is likely to continue for a prolonged period; and

(iii) results in substantial functional limitations in three or more of the following areas: (A) self-care, (B) social functioning, (C) activities of daily living, (D) economic self-sufficiency, (E) self-direction, and (F) ability to concentrate.

(7) "Provider of services" means the local governmental unit, voluntary agency, proprietary agency, association, or corporation which

provides the community support services.

(8) "Qualified residence" means a community residence, residential care center for adults, family care home, or residential treatment facility for children and youth which is licensed or operated by the office of mental health.

(9) "Revenue" shall include:

(i) reimbursement for operating costs for community support services received from other local governmental units or from state agencies other than the office of mental health, provided that revenue shall not include money received from any source, in the form of grants, awards or contracts, for purposes other than the support of such operating costs;

(ii) federal aid received for such operating costs;

(iii) fees received from patients, or on their behalf, from public and private health insurance and medical aid programs;

(iv) other income received from the operation of the community support services program; and

(v) interest and dividends accruing from funds received pursuant to this section.

(b) The community support services program shall include services and programs such as: case management services, advocacy services, clinic services, day treatment, day training, continuing treatment, homemaker services, housekeeping services, on-site rehabilitation services, sheltered workshop and other vocational programs, psychosocial clubs, neighborhood drop-in centers, transportation services, non-residential crisis services, outreach services, and other services approved by the commissioner.

(c) (1) The commissioner may, upon the application of a local governmental unit, and within the limits of appropriation therefore, grant state aid to such local governmental unit for one hundred percent of the approved costs of providing community support services to eligible persons, which shall not exceed the approved reimbursable rate, and the approved costs of providing core services. Local governmental units which receive state aid pursuant to this subdivision either shall directly provide community support services or shall enter into contracts with providers of services for the provision of such services. Such local governmental units may also provide core services or contract with voluntary agencies for the provision of such core services.

(2) Persons who are otherwise ineligible to receive community support services pursuant to subdivision (d) of this section, shall be considered to be eligible to receive such services for purposes of paragraph one of this subdivision, if they are certified pursuant to subdivision (d) of this section to be eighteen years of age or older, to be functionally disabled as a result of mental illness and to have an ability to remain in the community which would be seriously jeopardized without the provision of community support services, but who do not meet the eligibility criteria of paragraph two or three of subdivision (d) of this section, provided however, that the provider of services shall make a reasonable effort to determine such persons' eligibility and, provided further, that no more than ten percent of the persons served by a local governmental unit or a provider of services which directly contracts with the office of mental health shall be otherwise ineligible persons.

(d) (1) Persons who shall be eligible for community support services shall include individuals who are eighteen years of age and older, who are functionally disabled as a result of mental illness, whose ability to remain in the community would be seriously jeopardized without the provision of community support services, and who satisfy the criteria in either paragraph two or three of this subdivision. Such eligibility shall be certified by a licensed psychiatrist, nurse, psychologist, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker who is approved by a local governmental unit, a core service agency, or the commissioner to certify individuals as being eligible for community support services.

(2) Persons who may be certified as permanently eligible to receive community support services pursuant to paragraph one of this subdivision shall include individuals who are determined to be eligible pursuant to regulations promulgated by the commissioner of mental health and shall include but not be limited to: (i) persons who have received inpatient psychiatric services in a hospital, or who have resided in a qualified residence or a designated adult home for a period or periods of time as established in such regulations of the commissioner; (ii) persons who are in receipt of supplemental security income benefits or social security disability insurance benefits pursuant to the federal social security act, provided that individuals who are in receipt of

supplemental security income benefits must have been determined to be eligible for such benefits prior to reaching sixty-five years of age; (iii) persons who are receiving community support services on the effective date of this act pursuant to the regulations of the commissioner in effect on such date, who were determined to be eligible for such services based upon a prior history of inpatient hospitalization; and (iv) other persons who have received specified psychiatric services, as established pursuant to the regulations of the commissioner.

(3) Persons who may be certified as eligible to receive community support services pursuant to paragraph one of this subdivision shall include individuals who are residing in a designated adult home, a designated shelter for the homeless, a designated single room occupancy residence, a qualified residence, or who are homeless mentally ill persons. Such persons shall be considered eligible for community support services for the duration of their participation in such community support services, and such persons who need such services shall continue to be eligible to receive such services for a period of one year after receiving any such services.

(4) Notwithstanding the provisions of paragraph three of this subdivision, persons who are residing in designated adult homes or in designated shelters for the homeless, or who are homeless persons, may receive on-site rehabilitation services or outreach services provided under this section without a determination of eligibility as otherwise required under this subdivision.

(e) (1) The commissioner shall annually establish a schedule of maximum rates of payment per unit of service for reimbursable community support services. In establishing such maximum rates of payment per unit of service the commissioner may consider geographical variations and other relevant considerations. Such rates shall equal the medical assistance rates established pursuant to section 43.02 of this chapter, when applicable. Upon the application of the local governmental unit or a provider of services which directly contracts with the office of mental health to provide community support services, the commissioner may authorize additional reimbursement for a period of three local fiscal years after the effective date of this act, upon a showing of extraordinarily high costs of providing community support services and

extraordinarily high revenue receipts, which have been demonstrated to be appropriate.

(2) The commissioner shall establish revenue goals for services, provided, however, the commissioner may approve local services plans or may enter into direct contracts with providers of services which substitute alternative revenue goals for individual providers of services based upon appropriate documentation and justification, as required by the commissioner.

(f) Prior to entering into contracts for the provision of community support services, the office of mental health and local governmental units shall consider the following:

(1) the service needs of mentally ill persons in the geographical area in which the community support services program operates;

(2) the capacity of the program to meet identified service needs;

(3) the current availability of services for mentally ill persons in the area, including the special needs of ethnic minorities and non-English speaking mentally ill persons;

(4) the extent to which community support services authorized by the contract will be integrated with other available services in the area to more effectively maintain mentally ill persons in the community;

(5) the availability of resources for such services;

(6) the extent to which the community support services authorized by the contract are consistent and integrated with the applicable local services plan of the area to be served; and

(7) the extent to which such contracts conform with the minimum contractual requirements as established by the commissioner.

(g) The commissioner may enter into a direct contract for the provision of community support services when the commissioner determines, after the approval of the local services plan and the allocation of state aid therefore, that such direct contract is necessary to assure that additional community support services are available to persons who are functionally disabled as a result of mental illness and are eligible for community support services. Before entering into a direct contract with a provider located within the geographic area of a local governmental unit which receives state aid for community support services pursuant to this section, the commissioner shall notify the local governmental unit and give the director of the local

governmental unit an opportunity to appeal the need for such direct contract. Such appeals shall be informal in nature and the rules of evidence shall not apply.

(h) In order to qualify for one hundred percent state aid pursuant to this section in any local fiscal year local governmental units shall assure that the local tax levy share of expenditures for net operating costs pursuant to an approved local services plan for services provided to mentally ill persons pursuant to section 41.18 of this article shall be equal to or greater than the local tax levy share of such expenditures under an approved local services plan in the last complete local fiscal year preceding the effective date of this section, provided, however, any such required maintenance of expenditures under this subdivision for local governmental units may be reduced to reflect the local governmental share of revenue applicable to increased payments made by governmental agencies pursuant to title eleven of article five of the social services law, which are a result of increased efficiencies in the collection of such revenue and which represent an increased proportion of the total local services operating costs from the prior local fiscal year. The commissioner shall be authorized to reduce payments made to local governmental units pursuant to this article, in the following local fiscal year, for failure to maintain expenditures in accordance with this subdivision.

(i) The provisions of subdivision (h) of this section shall not apply to a local governmental unit in any local fiscal year in which the total amount of state aid granted to the local governmental unit for net operating costs under section 41.18 of the article is less than such amount of state aid granted in the local fiscal year preceding the effective date of this section, or in any local fiscal year in which the total amount of state aid granted to the local governmental unit under this section, plus the total amount of direct contracts entered into between the commissioner and providers of services for the provision of community support services to eligible residents of such local governmental unit, shall be less than the total amount of such aid and direct contracts in the first local fiscal year following the effective date of this section.

(j) The commissioner is authorized and empowered to make inspections and examine records of a local governmental unit receiving state aid

under this section or a provider of services which directly contracts with the office of mental health for the provision of community support services. Such examination shall include all medical service and financial records, receipts, disbursements, contracts, loans and any other moneys relating to the financial operation of the community support services program.

(k) A local governmental unit in receipt of a grant for the provision of community support services pursuant to subdivision (c) of this section, which is a unit of a local government with a population of less than one hundred thousand or which has total program expenditures for mentally ill persons under this article equal to five hundred thousand dollars or less in a local fiscal year, shall be permitted to commingle such funds and the clients receiving community support services with other local mental health program funds or clients, including local mental health program funds and clients of other local governmental units. Such local governmental unit shall be required to submit a plan to the commissioner which shall describe how the goals and objectives of the community support services program shall be maintained under such an arrangement, and such plan must be approved by the commissioner prior to its implementation.

(l) No provision of this section shall be interpreted to create an entitlement for any individual to receive community support services.

(m) The commissioner is authorized to promulgate regulations to implement the provisions of this section.