*** § 41.49 Community based mental health services for seriously emotionally disturbed children.**

1. As used in this section:

"Seriously emotionally disturbed children" shall mean persons under the age of eighteen who have a serious, persistent disability which:

(i) is caused by a medically determined mental illness as evidenced by a primary psychiatric diagnosis by a physician, or is caused by other serious emotional disturbance as defined by regulations of the commissioner of mental health;

(ii) has continued or is likely to continue for a period of at least one year;

(iii) would cause substantial risk of psychiatric hospitalization in the absence of community based mental health services; and

(iv) results in substantial functional limitations in two or more of the following areas: (A) self-care at an appropriate developmental level, (B) receptive and expressive language, (C) learning, (D) self-direction, and (E) capacity for living in a family environment.

2. The commissioner of mental health is authorized, within appropriations made therefor, to make grants to local governmental units for one hundred percent of the net operating costs of community based programs approved by his office to serve seriously emotionally disturbed children. Grants provided under this section shall only be used to expand existing services or to create new services for seriously emotionally disturbed children and shall not supplant existing services for such individuals. The commissioner shall promulgate rules and regulations for the operation and funding of such programs. Such rules and regulations shall include but not be limited to, eligibility and program requirements, and standards for reimbursement. Such programs shall be designed to provide mental health services to seriously emotionally disturbed children in the community who, absent such services, would experience substantial risk of new or additional psychiatric hospitalization, or would experience substantial risk of serious functional disability as a result of their mental illness.

3. Nothing in this section shall be deemed to diminish the education

department's responsibility for the education of children with handicapping conditions.

4. Notwithstanding any other provision of this article, in order to qualify for one hundred percent state aid pursuant to this section, local governmental units shall assure that local contributions for expenditures in any local fiscal year for local services provided to mentally ill persons made pursuant to this article, as applicable, shall be equal to or greater than the amount expended by such local governmental unit in the last complete local fiscal year preceding the effective date of this section. The commissioner shall be authorized to reduce payments made to local governmental units which have received grants pursuant to this section, in the following local fiscal year, for failure to maintain expenditures in accordance with this subdivision.

5. The commissioner of mental health shall, no later than October first, nineteen hundred eighty-nine and every year thereafter, issue a report to the governor and the legislature regarding the implementation of the section.

* NB There are 2 § 41.49's