

Attestation about marijuana use in behavioral health treatment settings

Frequently asked questions for SAMHSA-funded organizations and providers

The federal Substance Abuse and Mental Health Administration (SAMHSA) now requires grantees to attest that the grantee, the state and all grant subrecipients will ensure that SAMHSA funds are not:

- Used to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder, or
- Provided to any individual or organization that provides or permits marijuana use for the purposes of treating substance use or mental health disorders.

The Oregon Health Authority (OHA) must submit this attestation to SAMHSA by November 18, 2019.

This fact sheet answers questions SAMHSA-funded organizations and providers may have about this requirement. If you still have questions about this requirement, email Rusha Grinstead (rusha.grinstead@dhsola.state.or.us).

Why is this happening?

[45 CFR §75.300\(a\)](#) requires the federal Department of Health and Human Services to “ensure that federal funding is expended [. . .] in full accordance with U.S. statutory [. . .] requirements,” such as 21 USC [§812\(c\)\(10\)](#) and [§841](#), which prohibit the possession, manufacture, sale, purchase or distribution of marijuana.

To ensure compliance with these laws, the attestation is now a condition of receiving SAMHSA grant awards. This prohibition does not apply to providers treating patients as part of clinical research if:

- The research is permitted by the DEA under an FDA-approved investigational new drug application, and
- The article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

Does OHA’s attestation apply to all providers in the state?

No. OHA is only attesting compliance with this provision regarding providers who:

- Are subrecipients of OHA for one or more SAMHSA grants, or
- Are subcontractors with a SAMHSA-funded provider or OHA subrecipient.

Organizations that receive federal grant funds directly from SAMHSA would submit their own attestation to SAMHSA.

How do I know whether I am a recipient of SAMHSA grant?

Most counties receive Substance Abuse Prevention and Treatment Block grants (SAPTBG) and Mental Health Block grants (MHBG) through their County Mental Health Program, Local Mental Health Authority and/or Local Public Health Authority. This is usually part of the County Financial Assistance Award (CFAA).

Some counties subcontract with local entities and providers to deliver the services required under the CFAA. SAMHSA also recognizes these subcontractors as SAPTBG and/or MHBG recipients.

Other examples of providers recognized as recipients of SAMHSA funds include grantees and subrecipients of the following grants (and their subcontractors, if any):

- Opioid grants such as State Targeted Response Grant and State Opioid Response Grant
- Project for Assistance in Transition from Homelessness (PATH) grant
- Garrett Lee Smith Suicide Prevention Grant

How it affects Oregon providers

In Oregon, providers don't prescribe marijuana. Instead, an MD or DO writes a physician's statement supporting the patient's medical need for an Oregon Medical Marijuana Program (OMMP) card. Is such a statement considered "permission"?

Yes. An [OMMP physician's statement](#) or any other formal or informal recommendation to use marijuana as part of the treatment plan for a substance use or mental health disorder, is considered "permission" under this provision.

Will OHA's attestation apply to entities receiving Medicaid and/or Medicare dollars?

No, unless they are receiving SAMHSA grant funds as described above.

Can SAMHSA-funded providers write OMMP physician's statements?

A SAMHSA-funded organization can provide statements to support medical marijuana use for all non-behavioral health conditions on [the OMMP diagnosis list](#).

Which behavioral health conditions are on the current OMMP diagnosis list?

Post-traumatic stress disorder (PTSD) is the only behavioral health diagnosis on the current list.

What happens if a SAMHSA-funded provider has written an OMMP physician's statement for the PTSD diagnosis? Does the statement need to be rescinded?

No. But going forward, the provider cannot write such a statement supporting marijuana use to treat PTSD (for example, when the individual wants to renew his or her OMMP card).

If a non-SAMHSA-funded provider wrote an OMMP physician's statement for a patient, can a SAMHSA grant-subrecipient provider treat the same patient for behavioral health disorders?

Yes.

If a SAMHSA grant-subrecipient provider knows their patient uses marijuana to treat substance use and/or mental health disorders, but DID NOT purchase, permit, recommend or provide it, can the provider still serve the individual?

Yes.

How is OHA enforcing this provision?

The contracts OHA holds with all organizations receiving SAMHSA funds require organizations to comply with all federal laws, regulations, provisions, and executive orders applicable to their contract.