



**State of New Jersey  
Executive Order #77**

**Acting Governor Richard J. Codey**

WHEREAS, it has been the priority of my Administration to restore the traditional role of government by helping those citizens who need it the most; and

WHEREAS, throughout my years of public service and my tenure as Governor, I have strived to better the lives of those persons with mental illness and to improve New Jersey's mental health system; and

WHEREAS, working cooperatively with many dedicated non-profit providers, the State of New Jersey, through its Department of Human Services, has made great strides in caring for those citizens in need of assistance; and

WHEREAS, despite those accomplishments, there remains much to be done by the State in fostering improvements to our current system and in assisting the non-profit contractual providers in developing sufficient reserves or working capital to assist them in such endeavors as upgrading or replacing infrastructure, or defraying short-term liabilities;

NOW, THEREFORE, I, RICHARD J. CODEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Department of Human Services (the Department) shall develop a pilot program of Operational Incentives for its Division of Mental Health Services (DMHS) contracts.
2. This Operational Incentives Pilot Program shall apply to all DMHS non-profit, non-hospital and non-governmental agencies with cost reimbursement contracts. Fixed price and fixed rate contracts shall not be included in this pilot program, nor are contracts with hospital-based or governmental organizations.
3. The Department shall establish this pilot program that will allow the contract provider to earn an Operational Incentive when the provider's final contract expenditure report indicates that a net contract surplus exists. Providers should be allowed to retain 100 percent of the current contracts net savings identified from contract deficiencies. The Department shall establish reasonable restrictions and limits on the earned incentives, including an annual cap and a provision that federal funds cannot be included in the Operational Incentive.

4. The Operational Incentive shall be utilized by the provider agencies as a savings reserve, available to meet cash flow needs as working capital and for assisting the provider agency in meeting its mission. The guidelines adopted by the Department shall prohibit providers from utilizing the Operational Incentive funds to expand programming that would require ongoing funding, thereby creating obligations for future budget cycles. The guidelines shall also prohibit providers from utilizing Operational Incentive funds for executive management staff bonuses.
5. The guidelines adopted by the Department shall further provide that, upon termination of the contractual relationship with DMHS, or upon dissolution of the provider's corporate entity, the provider shall refund to DMHS all remaining funds in the Operational Incentives reserve account.
6. The Department may expand the pilot program established by this Order to include providers under contract with the Department's Division of Developmental Disabilities, or any of the other Divisions within the Department.
7. This Order shall take effect immediately, and shall be retroactive to DMHS contracts entered into on or after July 1, 2005.

GIVEN, under my hand and seal this 13th day of January, Two Thousand and Six, and of the Independence of the United States, the Two Hundred and Thirtieth.

/s/ Richard J. Codey

Governor