

Program Income & Carryover

FY 2018

Citations from statutes and regulations are included after the chart.

	Program Income		Carryover		Comments
	Statute	Regulations	Statute	Regulations	
PADD	The term Program Income is not in the statute, only Judgements, and only in certain cases. Cases against states or instrumentality of a state are restricted to PADD purposes, no matter what year they are received. These funds cannot be used to augment payments to legal contractors or to award personal bonuses.	Attorneys fees are Program Income as defined by the Uniform Guidance, including those received after the period earned and uses the Addition Method.	Grant funds are available during the award year plus one year.	N/A	All awards from cases funded by PADD are restricted Program Income no matter the Period of Performance, is added to your award, and can be carried forward indefinitely.
	T&C FY18:* The Addition Method is noted.		T&C FY18: Program Income does not have to be spent before grant funds and can be carried.		

PAIR	States that Program Income is the same as in PADD, but PADD does not use the words Program Income, only Judgements.	Follows 2 CFR 200.	Grant funds and Program Income are available during the award year plus one year.	Follows 2 CFR 200.	All awards from cases funded by PAIR are Program Income no matter the Period of Performance. Must be spent within the carryover timeframe and before any additional grant funds are drawn down. Period of Performance is the FY for PAIR.
	T&C FY18: The Addition Method is noted.		T&C FY18: Program Income must be spent before any additional grant funds can be used.		
CAP	N/A	N/A	Grant funds and Program Income are available during the award year plus one year.	N/A	Follow rules in 2 CFR 200 except noting that Program Income expires after one additional year.
	T&C FY18: The Addition Method is noted.		T&C FY18: Program Income must be spent before any additional grant funds can be used.		

PAIMI	N/A	N/A	Grant funds are available during the award year plus one year.	N/A	Follow 45 CFR Part 75. PAIMI related court awards for attorney's fees after period of performance are not subject to regulations. PAIMI recipients are still expected to use these funds to supplement PAIMI program. Information about civil, criminal and Administrative proceedings within 5 year period must be reported through SAM semiannually.
	<p>T&C FY18: The Addition Method is noted. PAIMI related court awards for attorney's fees awarded after the period of performance (reference Standard Term - Availability of Funds) are not subject to the regulation as 45 C.F.R. § 1326.23(b). Although such program income is unrestricted and not subject to the same allowable costs requirements, PAIMI recipients are still expected to use these funds in order to supplement, not supplant the PAIMI program. In accordance with the regulatory requirements provided at 45 CFR 75.113 and Appendix XII to 45 CFR Part 75, recipients that have currently active Federal grants, cooperative agreements, and procurement contracts with cumulative total value greater than \$10,000,000 must report and maintain information in the System for Award Management (SAM) about civil, criminal, and administrative proceedings in connection with the award or performance of a Federal award that reached final disposition within the most recent five-year period. The recipient must also make semiannual disclosures regarding such proceedings. Proceedings information will be made publicly available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)). Full reporting requirements and procedures are found in Appendix XII to 45 CFR Part 75.</p>				

PAAT	Information on Program Income is in the Carryover section.	N/A	Grant funds are available during the award year plus one year. Program Income can be carried for two years past the award year.	N/A	Program Income is additive Program Income expires after two additional years.
PATBI	N/A	N/A	Grant funds are available during the award year plus one year.	N/A	Program Income must be deducted from total grant unless permission to Add is received. Follow rules in 2 CFR 200.
	T&C FY18: Does not state Addition Method, therefore must use Deduction Method unless approval received by AIDD.*				
PAVA	N/A	N/A	Grant funds are available until expended.	N/A	Program Income must be deducted from total grant unless permission to Add is received. Follow rules in 2 CFR 200 noting the additional time to expend funds.
	T&C FY18:* Does not state Addition Method, therefore must use Deduction Method unless approval received by AIDD.*		T&C FY18: Grants funds are available for 5 years.		
PABSS	N/A	N/A	Grant funds are available during the award year plus one year.	N/A	Follow rules in 2 CFR 200.
	T&C FY18: The Addition Method is noted.				
SBPSS	N/A	N/A	Grant funds are available during the award year plus one year.	N/A	Follow rules in 2 CFR 200.
	T&C FY18:				

*Special Note about Terms & Conditions (T&C): Always check your T&Cs for current funding restrictions that may affect this information or other guidance you receive.

- T&Cs for PADD, PAAT, PATBI, and PAVA lists both the Uniform Guidance and the 2007 HHS Grants Policy Statement. AIDD noted in a memorandum dated 6/6/16 that where it and the Uniform Guidelines contradict, follow the Uniform Guidance.
- PATBI, and PAVA do not note the Addition Method in the T&Cs. AIDD noted in a memorandum dated 6/6/16 that P&As may seek approval to use it.
- PAAT does not note the Addition Method in the T&Cs and AIDD (in communication with NDRN) believes the Addition Method is noted in the statute.
- A carryover request must be submitted within 30 days of the end of the grant cycle for SBPSS funds.

Program Income in the Uniform Guidance (2 CFR 200)

Subpart A—Acronyms and Definitions

200.1 Definitions

§ 200.77 Period of performance.

Period of performance means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award (see §§ 200.210 Information contained in a Federal award paragraph (a)(5) and 200.331 Requirements for pass-through entities, paragraph (a)(1)(iv)).

§ 200.80 Program income.

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. (See § 200.77 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

See also § 200.407 Prior written approval (prior approval). See also 35 U.S.C. 200-212

“Disposition of Rights in Educational Awards” applies to inventions made under Federal awards.

Subpart D—Post Federal Award Requirements

§ 200.305 Payment.

(b)(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

§ 200.307 Program income.

- (a) General. Non-Federal entities are encouraged to earn income to defray program costs where appropriate.
- (b) Cost of generating program income. If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.
- (c) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income.
- (d) Property. Proceeds from the sale of real property or equipment are not program income; such proceeds will be handled in accordance with the requirements of Subpart D—Post Federal Award Requirements of this Part, Property Standards §§ 200.311 Real property and 200.313 Equipment, or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.
- (e) Use of program income. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply. In specifying alternatives to paragraphs (e)(1) and (2) of this section, the Federal awarding agency may distinguish between income earned by the recipient and income earned by subrecipients and between the sources, kinds, or amounts of income. When the Federal awarding agency authorizes the approaches

in paragraphs (e)(2) and (3) of this section, program income in excess of any amounts specified must also be deducted from expenditures.

(1) Deduction. Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project.

(2) Addition. With prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes and under the conditions of the Federal award.

(3) Cost sharing or matching. With prior approval of the Federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

(f) Income after the period of performance. There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award, unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise. The Federal awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process. See also § 200.343 Closeout.

§ 200.309 Period of performance.

A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or passthrough entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.

Program Income & Carryover in the Statutes and Regulations

PADD

42 USC 15001 - Title I — Programs for Individuals with Developmental Disabilities

§15044. ADMINISTRATION

(b) LEGAL ACTION.—

- (1) IN GENERAL.—Nothing in this title shall preclude a system from bringing a suit on behalf of individuals with developmental disabilities against a State, or an agency or instrumentality of a State.
- (2) USE OF AMOUNTS FROM JUDGMENT.—An amount received pursuant to a suit described in paragraph (1) through a court judgment may only be used by the system to further the purpose of this subtitle and shall not be used to augment payments to legal contractors or to award personal bonuses.

§15042. ALLOTMENTS AND PAYMENTS.—

- (c) UNOBLIGATED FUNDS.—Any amount paid to a system under this part for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year, for the purposes for which such amount was paid.

PADD Regulations:

45 CFR §1386 - FORMULA GRANT PROGRAMS

Subpart B - State System for Protection and Advocacy of the Rights of Individuals with Developmental Disabilities

§1386.23 Non-allowable costs for the Protection and Advocacy System.

- (b) Attorneys' fees are considered program income pursuant to 45 CFR part 75 and must be added to the funds committed to the program and used to further the objectives of the program. This requirement

shall apply to all attorneys' fees, including those earned by contractors and those received after the project period in which they were earned.

PAIR

PAIR and CAP are both a part the Rehabilitation Act, which is a part the Workforce Innovation and Opportunity Act.

29 USC Chapter 16 – Vocational Rehabilitation and Other Rehabilitation Services

The first 18 sections (§701-§718) are General Provisions of the Rehabilitation Act.

§716. CARRYOVER.—

(a) IN GENERAL.—Except as provided in subsection (b) of this section, and notwithstanding any other provision of law-

- (1) any funds appropriated for a fiscal year to carry out any grant program under part B of subchapter I, section 794e of this title (except as provided in section 794e(b) of this title), subchapter VI, subpart 2 or 3 of part A of subchapter VII, or part B of subchapter VII (except as provided in section 796k(b) of this title), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or
- (2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received, shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

29 USC § 794e - Protection and advocacy of individual rights

- (f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—
- (2) have the same general authorities, including access to records and program income, as are set forth in subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.];
- (g) CARRYOVER AND DIRECT PAYMENT.—
- (2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

CAP

PAIR and CAP are both a part the Rehabilitation Act, which is a part the Workforce Innovation and Opportunity Act.

29 USC 732 - Client Assistance Program

There is no mention of Program income or carryover in this section, however, CAP is subject to §716.

29 USC Chapter 16 – Vocational Rehabilitation and Other Rehabilitation Services

The first 18 sections (§701-§718) are General Provisions of the Rehabilitation Act.

§716. CARRYOVER.—

- (a) IN GENERAL.—Except as provided in subsection (b) of this section, and notwithstanding any other provision of law-

- (1) any funds appropriated for a fiscal year to carry out any grant program under part B of subchapter I, section 794e of this title (except as provided in section 794e(b) of this title), subchapter VI, subpart 2 or 3 of part A of subchapter VII, or part B of subchapter VII (except as provided in section 796k(b) of this title), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or
- (2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received, shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

PAIMI

There is no mention of Program Income in the statute.

42 USC Chapter 114 - Protection and Advocacy for Individuals with Mental Illness

§10823. PAYMENTS UNDER ALLOTMENTS— For each fiscal year, the Secretary shall make payments to each eligible system from its allotment under this subchapter. Any amount paid to an eligible system for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year for the purposes for which it was made.

PAAT

Both Carryover and Program Income are dealt with in the Carryover section.

29 USC Chapter 31 - Assistive Technology for Individuals with Disabilities

§3004. STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY—

- (e) CARRYOVER.—Any amount paid to an eligible system for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the subsequent fiscal year. Program income generated from such amount shall remain available for 2 additional fiscal years after the year in which such amount was paid to an eligible system and may only be used to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

PATBI

No mention of Program Income in the statute.

42 USC §300d–52 - State Grants for Projects Regarding Traumatic Brain Injury

42 USC §300d–53 - State Grants for Protection and Advocacy Services

- (f) CARRYOVER.—Any amount paid to a protection and advocacy system that serves a State or the American Indian consortium for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the next fiscal year for the purposes for which such amount was originally provided.

PAVA

No mention of Program Income in the statute.

42 USC Part D, Subpart 5 - Protection and Advocacy Systems

§15462. AUTHORIZATION OF APPROPRIATIONS—

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

PABSS

No mention of Program Income in the statute.

42 USC §1320b-21. State Grants for Work Incentives Assistance to Disabled Beneficiaries

(f) FUNDING.—

(2) CARRYOVER.—Any amounts allotted for payment to a protection and advocacy system under this section for a fiscal year shall remain available for payment to or on behalf of the protection and advocacy system until the end of the succeeding fiscal year.