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MEMORANDUM

TO: New Mexico Magistrate, Municipal, Metro, and District Court Judges

THROUGH: County DWI Program Coordinators and staff

FROM: Julie Krupcale, LDWI Bureau Chief 

DATE: June 16, 2020

RE: Statutory Requirement to use the DFA approved screening program.

This memorandum with the attachments provided herein, will provide you with information to assist your court in complying with 66-8-102L NMSA, 1978, requiring all courts to order convicted DWI offenders to participate in and complete the DFA approved screening program.

The result of the most recent RFP, awarded the contract for the DFA approved screening program to Noble Software Group, LLC and the screening instrument is the Impaired Driving Assessment, (IDA), provided by the American Probation and Parole Association. The screening program encompasses the client tracking and the results of the IDA instrument which should be helpful in determining both the client's needs for supervision levels as well as a basis for treatment needs.

The DWI screening protocol for each county program is a local decision that should be reviewed annually. With a new screening instrument in place, there may be a need for additional adjustments for the protocol for any changes as to how the screening may now be conducted. It is recommended that the protocol be designed in collaboration with the local DWI program and the Courts. Attached for your use are the current Local DWI Grant Program Screening Guidelines.

Additionally, offender data collected from the screening instrument and the client tracking program is reported to the Department of Health/Epidemiology and Response Division (DOH/ERD) who serves as the repository of the data for the LDWI Grant Program. Annually, DOH/ERD provides a report on the DWI offender status and demographics. The DWI offender data is also compiled into the DFA/LDWI Grant Program annual report which is posted on our website at: <http://www.nmdfa.state.nm.us/ldwi-annual-reports.aspx>.

The Department of Finance and Administration/Local DWI Grant Program together with Noble, Software Group, LLC anticipate the roll out of this screening program to begin on or about July 1. Screeners from around the state have received training on the IDA and DWI program staff will train the county users on the database by the end of June.

The LDWI Bureau staff may have the opportunity to present this information and any additional matters related to the DFA approved screening program at the next Magistrate Court Judges conference. For any immediate questions, contact me by phone at (505) 827-4951 or email Julie.krupcale@state.nm.us.

The mission of the Local DWI Grant Program is to reduce the incidence of DWI in New Mexico.

Local DWI SCREENING Program Guidelines

Statute

In order to be eligible for Program funding, it is mandatory for each county to have a screening program in place for use by all courts (district, magistrate, metro, and municipal) pursuant to Section 66-8-102(L) NMSA 1978, which states: “Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred, or taken under advisement.”

The Division defines “screening program” as the screening and tracking program approved by DFA. Screening must be performed by one entity in the county. The screening entity must collaborate with the tracking entity, if these duties/functions are separated. Both screening and tracking must be in the DFA-approved “screening program”.

Per Section 43-3-11(D) NMSA 1978, “Whenever feasible, the screening program shall not be provided by an alcoholism treatment program serving the judicial districts involved in order to avoid conflict of interest in recommending that offenders enter treatment.” If any local DWI program wants their screening program to be implemented by a treatment provider, a written request must be approved by the Division.

All screening programs must adhere to the strict regulations regarding confidentiality as outlined in 42 CFR part 2 and in HIPAA.

Purpose

The screening program determines an offender’s need for treatment. If the results of the screening show that an offender has a need for treatment, local DWI programs will refer the offender to available treatment providers who will determine the length and type of treatment in compliance with minimum statutory requirements.

The screening program also tracks the sentencing requirements, and the completion of those requirements.

Protocol

Every local DWI program must submit a screening protocol to the Division at the beginning of each fiscal year. Updates should be made as necessary and submitted to the Division with the

revision date. Protocols should be developed in coordination with the local DWI planning council and the courts. Protocols should contain, at a minimum, the following information:

- 1) Referral – How clients are referred to the screening program and which courts refer clients to the screening program.
- 2) Intake procedures – Including signing of client confidentiality forms/waivers.
- 3) Screening process flow – Any timelines/deadlines for processing screening results, and procedures on how information (such as judgement & sentence data) is passed from courts to the local DWI program. Also, if there is any policy/procedure for tracking those that are referred for screening but do not show.
- 4) Distribution of DFA-approved screening results – How and when are results provided to the courts? Who else has access to the results, and how are they transmitted, if applicable?
- 5) Next Steps – What happens after the client is screened?
- 6) Roles and responsibilities of local DWI program staff
- 7) Screening fees – The screening program shall be self-funded to the fullest extent possible. A fee for screening services shall be collected from each offender and then used to offset costs of the screening program. How much is charged per screen? Is there a sliding fee scale? Are payment plans allowed?
- 8) Records storage/retention – How are records stored?