

December 28, 2010

Dear Ryan White HIV/AIDS Program Grantees:

The Affordable Care Act provides people living with HIV/AIDS additional options for health care coverage, now and in the future. Starting in 2014, Americans can no longer be denied coverage or charged more based on their health status when they enroll in a health plan. New “Health Insurance Exchanges” will be established to help individuals and small businesses shop for coverage and easily compare plan options based on price, benefits and services, and quality. Coverage will include essential health benefits, limit annual out-of-pocket expenditures, and provide the health security that all Americans, including those living with HIV/AIDS, need.

In the meantime, the Affordable Care Act provides assistance to people needing health care, including temporary coverage for eligible people without insurance who have a pre-existing condition. This program is known as the “Pre-Existing Condition Insurance Plan” or the PCIP program. Because people living with HIV and AIDS may be eligible for enrollment in the PCIP program, the Health Resources and Services Administration's HIV/AIDS Bureau and the Office of Consumer Information and Insurance Oversight (OCIIO), both within the U.S. Department of Health and Human Services (HHS), are providing the following information to help Grantees and other interested stakeholders understand how this new program affects Ryan White program beneficiaries.

Section 1101 of the Affordable Care Act establishes the PCIP program, which is a “temporary high risk health insurance pool program” to provide health insurance coverage to certain currently uninsured individuals who have a pre-existing health condition. The PCIP program is a transitional program that makes health coverage available to those with a pre-existing condition who have gone without coverage for at least six months, at premiums that are adjusted based on age but are not based on an individual’s health status. The cost of coverage for people living with HIV/AIDS is often out of reach for most Americans who buy their own insurance. The PCIP program covers a broad range of health benefits, with no waiting period or exclusions for pre-existing conditions, and is designed as a temporary bridge to 2014 for people with pre-existing conditions who cannot obtain health insurance coverage in today’s private insurance market.

Ryan White HIV/AIDS Program Grantees have raised questions regarding the PCIP program and its impact on people living with HIV/AIDS and Ryan White HIV/AIDS Program-related issues. The following are responses to frequently asked questions and additional information regarding the important role Ryan White HIV/AIDS Program Grantees have with regard to implementation of the Affordable Care Act.

**Q: Does the PCIP program place limits on Ryan White HIV/AIDS Program grantees' ability to pay for deductibles or cost sharing for eligible enrollees in the PCIP program?**

No. Program Grantees may subsidize out-of-pocket benefit costs of Ryan White program beneficiaries who are enrolled in the PCIP program. Out-of-pocket benefit costs can include annual deductibles, coinsurance requirements, and copayments. In addition, Grantees will continue to serve an important role assisting beneficiaries navigate the health care system and helping to enroll eligible beneficiaries in the PCIP program if the beneficiary is not enrolled in other sources of creditable coverage. We encourage Grantees to assist clients to ensure they receive the health care services they need. Because the rules differ among State-administered PCIP programs, we encourage you to visit HHS's new consumer website, [www.HealthCare.gov](http://www.HealthCare.gov), for State-specific information.

Additionally, the Affordable Care Act changed what expenses count as true out-of-pocket (TrOOP) costs for the annual Medicare Part D Drug Plan Threshold. Beginning January 1, 2011, AIDS Drug Assistance Programs (ADAPs) will become what the Centers for Medicare & Medicaid Services (CMS) refers to as "TrOOP included entities." Medicare Part D Plan sponsors will be required to include ADAP expenditures for Part D drugs toward the TrOOP limit of Medicare Part D enrollees. Consequently, ADAP clients who are Medicare Part D enrollees will now be able to move through the coverage gap phase into the catastrophic coverage phase where Part D covered drugs will be available at a nominal cost. Prior to this change, it was difficult, if not impossible, for ADAP members to reach the catastrophic phase. This new policy will help Program Grantees to better meet the health care needs of people living with HIV/AIDS.

**Q: Is it permissible to have the Ryan White HIV/AIDS Program Grant funds pay for the premiums?**

The PCIP program is a unique, temporary program intended to provide coverage to eligible uninsured individuals who are unable to access coverage at a standard premium due to pre-existing conditions between now and 2014, when new affordable options become available to all Americans with pre-existing conditions. As such, as described in a federal bulletin published on December 28, 2010, HHS does not expressly prohibit but is closely monitoring potentially significant concerns about premium payments for enrollees in the PCIP program made by third-party sources (examples: government payers, charities, other non-governmental organizations, employers, medical providers, drug assistance programs, drug manufacturers, or organizations funded by such manufacturers). Among other things, HHS recognizes there may be an incentive for third-party payers to cost shift to the PCIP program. For example, a government program that pays for a defined, limited set of benefits for individuals with a specified disease may opt instead to pay the PCIP premium on behalf of such individuals, if the premium is below the cost of the set of benefits provided by the government program. This may result in an accelerated depletion of the fixed \$5 billion allocated to the PCIP program, limiting its ability to serve as a bridge for uninsured people with pre-existing conditions to the new choices available in 2014. As such, HHS is closely monitoring program enrollment and tracking the extent to which PCIP enrollment results from third-party payments. If these payments are found to result in an undue risk of greater than projected spending from the limited Federal funding appropriated by

Congress for the PCIP program, HHS anticipates issuing further guidance that restricts or even prohibits third-party payments for premiums.

It is important to note that the PCIP program may accept premium payments from the individual enrolled in the program, a family member, a guardian or another authorized legal representative. Because the rules differ among State-administered PCIP programs, please check the rules in your State.

**Q: Does the receipt of medical care services from a Ryan White HIV/AIDS Program funded clinic constitute creditable coverage under the PCIP program?**

No. These are grant programs, not insurance programs. Receiving medical care services from a Ryan White HIV/AIDS Program funded clinic does not disqualify an individual from being eligible for the PCIP program.

**Q: If a person was covered by health insurance paid for by Ryan White HIV/AIDS Program Grant funds prior to the creation of the PCIP program, could such creditable coverage disqualify the person from PCIP eligibility?**

Yes. Individuals with creditable insurance coverage, irrespective of whether it is paid for with Ryan White HIV/AIDS Program Grant funds or another source, are ineligible for the PCIP program. Creditable coverage includes, but is not limited to: COBRA, job-based coverage, individual market coverage, State high risk pools, and most other public programs (e.g., Medicaid, Medicare). To be eligible for the PCIP program, an individual must lack creditable coverage for the six months prior to applying for the PCIP program.

While all uninsured Americans with pre-existing conditions who meet the eligibility criteria can join the PCIP program, the specific rules for the PCIP program vary by State. In order to determine if a client is eligible for the PCIP program, please visit [www.HealthCare.gov](http://www.HealthCare.gov) for State-specific information.

The Ryan White HIV/AIDS Program will always play a role in serving people living with HIV and AIDS. The role may change over time as implementation of the Affordable Care Act moves forward and we transition to an improved health care system. As questions arise, we will continue to work with Ryan White HIV/AIDS Program Grantees to provide technical assistance and ensure a seamless transition and continuous quality care for people living with HIV and AIDS. If you have additional questions or need more information, please discuss with your project officer.

Sincerely,

Deborah Parham Hopson, PhD, RN, FAAN  
Assistant Surgeon General  
Associate Administrator  
HIV/AIDS Bureau

Richard Popper  
Director - Office of Insurance Programs  
Office of Consumer Information and Insurance Oversight