Clarifications Regarding Use of Ryan White HIV/AIDS Program Funds for Premium and Cost-Sharing Assistance for Medicaid

*Policy Clarification Notice (PCN) #*13-06 (Revised 6/6/2014)
Relates to HAB Policy #'s 10-02 and 7-05

Scope of Coverage: Ryan White Parts A, B, C, D, and Part F where funding supports direct care and treatment services.

Purpose of PCN

This policy clarification notice reiterates HRSA policy regarding the use of Ryan White HIV/AIDS Program (RWHAP) for premium and cost-sharing assistance for clients eligible for Medicaid. It also provides RWHAP grantees and subgrantees with additional guidance on using RWHAP funds for premium and cost-sharing assistance in the context of the Affordable Care Act.

Background

Under the Affordable Care Act, beginning January 1, 2014, options for health care coverage for PLWH have been expanded through new private insurance coverage options available through Health Insurance Marketplaces (also referred to as Exchanges) and the expansion of Medicaid in States that choose to expand. Additionally, health insurers will be prohibited from denying coverage because of a pre-existing condition, including HIV/AIDS. An overview of these health care coverage options may be reviewed at http://hab.hrsa.gov/affordablecareact/keyprovisions.pdf.

By statute, RWHAP funds may not be used "for any item or service to the extent that payment has been made, or can reasonably be expected to be made…" by another payment source.[1] This means grantees must assure that funded providers make reasonable efforts to secure non-RWHAP funds whenever possible for services to individual clients. Grantees and their contractors are expected to vigorously pursue enrollment into health care coverage for which their clients may be eligible (e.g., Medicaid, CHIP, Medicare, state-funded HIV/AIDS programs, employer-sponsored health insurance coverage, and/or other private health insurance) to extend finite RWHAP grant resources to new clients and/or needed services.

Grantees and subgrantees must also assure that individual clients are enrolled in health care coverage whenever possible or applicable, and informed about the consequences for not enrolling. [2]

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[1] *See* Sections 2605(a)(6), 2617(b)(7)(F), 2664(f)(1), and 2671(i) of the Public Health Service Act.

[2] Under the Affordable Care Act, starting in 2014, if someone can afford it but doesn't have health insurance coverage in 2014, they may have to pay a fee. *See* HealthCare.gov, What if someone doesn't have health insurance?, https://www.healthcare.gov/what-if-someone-doesnt-have-health-coverage-in-2014. Under no circumstances may RWHAP funds be used to pay the fee for a client's failure to enroll in minimum essential coverage.

States that also expand their Medicaid programs may enroll their newly-eligible Medicaid populations into Medicaid managed care plans. The RWHAP will continue to be the payer of last resort and will continue to pay for Ryan White HIV/AIDS Program services not covered, or partially covered, by Medicaid. RWHAP grantees and subgrantees may also consider helping clients pay for premiums and/or cost-sharing, if cost-effective.

Requirements and Expectations for RWHAP Grantees and Subgrantees

By statute, RWHAP funds awarded under Parts A, B, and C may be used to support a Health Insurance Premium and Cost-Sharing Assistance Program, a core medical service, for eligible low-income HIV positive clients.[3] Consistent with the RWHAP statute, "low-income" is to be defined by the EMA/TGA, State, or Part C grantee. RWHAP Part D grantees may also use funds to purchase and maintain health insurance, if cost-effective. Therefore, RWHAP funds may be used to cover the cost of Medicaid premiums, deductibles, and co-payments.

If resources are available, Part A planning bodies and Ryan White Part B, C and D grantees may choose to prioritize and allocate funding to Medicaid premium and cost-sharing assistance for low-income individuals in accordance with Section 2615 of the Public Health Service Act. The grantee must determine how to operationalize the Medicaid premium and cost-sharing assistance program, including the methodology used by the grantee to: (1) assure they are buying health coverage that at a minimum, includes at least one drug in each class of core antiretroviral therapeutics from the HHS Clinical Guidelines for the Treatment of HIV/AIDS as well as appropriate primary care services; and (2) assess and compare the aggregate cost of paying for the health coverage option versus paying for the full cost for medications and other appropriate primary care services. The grantee may consider providing the resource allocation to the Part B/AIDS Drug Assistance Program (ADAP) which currently operates the health insurance continuation programs in some States and therefore, have the infrastructure to verify coverage status and process payments to health plans for premiums, co-payments and deductibles, and to pharmacies for medication co-payments and deductibles.

Requirements and Expectations Specific to Part B AIDS Drug Assistance Program (ADAP)

ADAP funds may be used to cover costs associated with Medicaid, including co-payments, deductibles, and premiums. In order to use Part B ADAP funds to purchase and maintain health coverage, State ADAPs must be able to document for HRSA/HAB the methodology used by the State to: (1) assure that the health insurance plan, at a minimum, includes at least one drug in each class of core antiretroviral therapeutics from the HHS Clinical Guidelines for the Treatment of HIV/AIDS as well as appropriate primary care services; and (2) assess and compare

[3] *See* Section 2604(c)(3)(F), Section 2612(c)(3)(F), and Section 2651(c)(3)(F) of the Public Health Service Act.

the aggregate cost of paying for the health insurance option versus paying for the full cost for medications.

Grantees should refer to *HAB Policy Notice 07-05, "The Use of Ryan White HIV/AIDS Program Part B ADAP Funds to Purchase Health Insurance"* (http://hab.hrsa.gov/manageyourgrant/files/partbadapfundspn0705.pdf).

RWHAP Premium and Cost-Sharing Assistance and the Affordable Care Act

The Affordable Care Act increases access to affordable health insurance by establishing a Health Insurance Marketplace in every state where individuals may purchase private health insurance. Many individuals may be eligible for premium tax credits and cost-sharing reductions to help pay for private health insurance offered in the Marketplace. Consequently, RWHAP grantees and subgrantees should take into consideration other sources of premium and cost-sharing assistance when determining how to operationalize a premium and cost-sharing assistance program, as discussed below. (*See also* Policy Clarification Notice #13-05, "*Clarifications Regarding Use of Ryan White HIV/AIDS Program Funds for Premium and Cost-Sharing Assistance for Private Health Insurance*" http://hab.hrsa.gov/manageyourgrant/pinspals/pcn1305premiumcostsharing.pdf).

Use of RWHAP Funds to Pay for Medicaid Premiums and Cost-Sharing

Some Medicaid programs may require some beneficiaries to pay premiums, co-payments, and/or deductibles consistent with Medicaid regulations. RWHAP funds can be used to offset any cost-sharing that Medicaid programs may impose on a beneficiary consistent with federal regulations and RWHAP policy.

Medicaid Premium and Cost-Sharing Assistance for Private Health Plans in the Marketplace

States can use federal and state Medicaid funds to deliver Medicaid coverage through the purchase of private health insurance. Most commonly, states have used premium assistance to help Medicaid-eligible families pay for available employer-based coverage that the state determines is cost-effective. There are cost-sharing assistance and benefit wrap-around coverage requirements, to the extent that the insurance purchased with Medicaid funds does not meet Medicaid standards. In Medicaid, premium assistance is authorized for group health coverage, and under some authorities, for health plans in the individual market, which, in 2014 would include qualified health plans available through the Marketplace.[4] State Medicaid programs may use premium assistance to enroll a Medicaid eligible individual or family in a qualified health plan through the Marketplace. The premium tax credit is

[4] *See* sections 1905(a) and 2105(c) of the Social Security Act.

not available to help cover the cost of a qualified health plan for individuals enrolled using Medicaid funds.

In cases where states elect to use federal and state Medicaid funds towards the purchase of private health insurance, RWHAP funds may **not** be used to pay for premiums or cost-sharing assistance for private health plans that are paid for or reasonably expected to be paid for by Medicaid.[5] However, RWHAP funds may be used to pay for any remaining premium and/or cost-sharing amounts not covered by Medicaid.

Conclusion

Depending on income level, Medicaid-eligible clients may incur some premium expenses and/or cost-sharing depending on the state in which they live. As discussed above, RWHAP funds may be used to cover the cost of Medicaid premiums, deductibles, and co-payments, if applicable. RWHAP grantees and subgrantees should take into consideration other sources of premium and cost-sharing assistance when determining how to operationalize a premium and cost-sharing assistance program (*See also* Policy Clarification Notice #13-05, "*Clarifications Regarding Use of Ryan White HIV/AIDS Program Funds for Premium and Cost-Sharing Assistance for Private Health Insurance"* http://hab.hrsa.gov/manageyourgrant/pinspals/pcn1305premiumcostsharing.pdf). Grantees and subgrantees are strongly encouraged to work directly with Medicaid to coordinate payment of premiums and cost-sharing for clients.

To learn more about the Affordable Care Act, grantees are encouraged to visit the HIV/AIDS Bureau's Affordable Care Act website (http://hab.hrsa.gov/affordablecareact/) and HealthCare.gov (http://www.healthcare.gov).

[5] Section 2615(b)(2) of the Public Health Service Act.