

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

Policy Clarification Notice (PCN) #13-05 (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 the purchase and maintenance of private health insurance coverage. It also provides RWHAP grantees and subgrantees with additional guidance on using RWHAP funds for premium and cost-sharing assistance.

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. Health insurers also 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

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](https://www.healthcare.gov/what-if-someone-doesnt-have-health-coverage-in-2014). See [HealthCare.gov](https://www.healthcare.gov/what-if-someone-doesnt-have-health-coverage-in-2014), 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 this fee for a client's failure to enroll in minimum essential coverage.

As Affordable Care Act implementation continues, clients will become eligible for and enroll in qualified health plans offered in the Marketplace. The RWHAP will continue to be the payer of last resort and will continue to provide those RWHAP services not covered, or partially covered, by public or private health insurance plans. RWHAP grantees and subgrantees should consider helping individual 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.

RWHAP funds may be used to cover the cost of private health insurance premiums, deductibles, and co-payments to assist eligible low-income clients in maintaining health insurance or receiving medical benefits under a health insurance or benefits program, including high risk pools. However, RWHAP funds may not be used to pay for any administrative costs outside of the premium payment of the health plans or risk pools.

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 health insurance 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 health insurance premium and cost-sharing assistance program, including the methodology used by the grantee to: (1) assure they are buying health insurance 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 insurance 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, has 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.

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

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

ADAP funds may be used to cover costs associated with a health insurance policy, including co-payments, deductibles, or premiums to purchase or maintain health insurance coverage. In order to use Part B ADAP funds to purchase health insurance, State ADAPs must be able to document for HRSA/HAB the methodology used by the State to: (1) assure they are buying health insurance 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 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.

Use of RWHAP Funds for Clients Eligible for Advance Premium Tax Credits

Many RWHAP clients with incomes between 100-400% of the federal poverty level (FPL) without access to certain types of minimum essential coverage⁴ may be eligible for premium tax credits to offset the cost of purchasing a qualified health plan⁵ through their state's Marketplace.⁶ The amount of the premium tax credit is

⁴ "Minimum essential coverage" refers to the type of coverage an individual needs to have to meet the individual responsibility requirement under the Affordable Care Act. This includes employer-sponsored coverage, Medicare, Medicaid, CHIP, TRICARE, and certain other coverage as defined in Internal Revenue Code Section 5000(a).

⁵ A qualified health plan is a health insurance plan that is certified by a Marketplace, provides essential health benefits, follows established limits on cost-sharing (like deductibles, copayments, and out-of-pocket maximum amounts), and meets other requirements. A qualified health plan will have a certification by each Marketplace in which it is sold. See <http://www.healthcare.gov/glossary/q/ghp.html>.

based on the individual's income and the cost of the second-lowest cost silver plan⁷ available to them offered in the Marketplace. Once an individual enrolls in a qualified health plan in the Marketplace, the individual can control how much of the projected tax credit is used to help pay the monthly health plan premiums. The tax credit is sent directly to the insurance company and applied to the individual's premium, so the individual pays less out of his/her own pocket.

Grantees and subgrantees may use RWHAP funds to pay for any remaining premium amount owed to the health insurance company that is not already covered by the RWHAP client's premium tax credits. Grantees and subgrantees should take the following into consideration when operationalizing their health insurance premium and cost-sharing assistance program:

- State-based Marketplaces have flexibility to implement a process for premium payment aggregation. Grantees and subgrantees should work with health insurance issuers and/or the State-based Marketplace to establish a coordinated process that facilitates premium payments by the RWHAP for individual clients.
- In states with a Federally-Facilitated Marketplace, grantees and subgrantees will need to work directly with health insurance issuers to facilitate premium payments by the RWHAP for individual clients.

Use of RWHAP Funds for Clients Eligible for Cost-Sharing Reductions

Many RWHAP clients with incomes between 100-250% FPL who receive the advance premium tax credits may also be eligible for additional cost-sharing reductions to lower their out-of-pocket expenses, such as co-payments and deductibles. In order to receive cost-sharing reductions, individuals must receive a premium tax credit and enroll in a silver level plan offered in the Marketplace.

As discussed above, RWHAP funds may only be used to purchase and maintain health insurance that is cost-effective. In determining which qualified health plan in the Marketplace is the most cost-effective for clients eligible for cost-sharing reductions, grantees and subgrantees are encouraged to analyze the formulary adequacy and other essential medical benefits, the cost of the premium, and the effect of any cost-sharing reductions on the overall cost of the qualified health plan. RWHAP grantees and subgrantees should inform clients regarding these analyses to assist RWHAP clients in enrollment decisions.

⁶ Legal residents with incomes below 100% FPL who have been in the United States for less than five years may also be eligible for advance premium tax credits provided they are not eligible for Medicaid or other minimum essential coverage.

⁷ There are four types of coverage that will be offered in each Marketplace: bronze, silver, gold, and platinum. A silver level qualified health plan (QHP) is a health plan offered in the Marketplace with an actuarial value (AV) of 70 percent. A bronze level QHP has an AV of 60 percent, a gold level QHP has an AV of 80 percent, and a platinum QHP has an AV of 90 percent.

Even if an individual is eligible for cost-sharing reductions, he/she may still incur some cost-sharing in his/her health plan. RWHAP funds may be used to cover any remaining costs of co-payments and deductibles if the grantee has established a Health Insurance Premium and Cost-Sharing Assistance Program and be able to document for HRSA/HAB the methodology used to determine if the program is cost-effective.

Use of RWHAP Funds for Clients Not Eligible for Premium Tax Credits and Cost-Sharing Reductions in a Health Insurance Marketplace

Grantees and subgrantees should consider that some individuals are ineligible for premium tax credits and cost-sharing reductions:

- Clients under 100% FPL in states that do not implement Medicaid expansion;⁸
- Clients with incomes above 400% FPL;
- Clients who have minimum essential coverage other than individual market coverage (e.g., Medicaid, CHIP, TRICARE, employer-sponsored coverage, and certain other coverage defined in Internal Revenue Code Section 5000(a)) available to them, but choose to purchase in the Marketplace; and
- Clients who are ineligible to purchase insurance through the Marketplace.

If resources are available, RWHAP grantees and subgrantees are strongly encouraged to use RWHAP funds for premium and cost-sharing assistance for these individuals when it is cost-effective, as appropriate. As discussed above, the grantee and subgrantee must ensure that use of RWHAP funds for premium and cost-sharing assistance for these clients is cost-effective.

Conclusion

RWHAP funds may be used to help clients purchase and maintain health insurance, if cost-effective and in accordance with RWHAP policy. It is important for grantees and subgrantees to understand the new insurance options available to clients under the Affordable Care Act. Many clients may also be eligible to receive advance premium tax credits and/or cost-sharing reductions to help pay for private health insurance in the Marketplace. RWHAP grantees and subgrantees must take into consideration other sources of premium and cost-sharing assistance when determining how to operationalize a premium and cost-sharing assistance program. Grantees and subgrantees should also work directly with health insurance issuers and/or the Marketplace to coordinate payment of premiums and cost-sharing for clients.

⁸ However, please note that legal residents with incomes below 100% FPL who do not qualify for Medicaid or other minimum essential coverage may be eligible for premium tax credits and cost-sharing reductions.

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>).