

Determining Client Eligibility & Payor of Last Resort in the Ryan White HIV/AIDS Program

Number: Policy Clarification Notice 21-02

Replaces: HRSA HAB Policy Clarification Notice 13-02 *Clarifications on Ryan White Program Client Eligibility Determinations and Recertification Requirements*

Issue Date: October 19, 2021

I. Purpose

This Policy Clarification Notice (PCN) outlines the Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB) guidance for Ryan White HIV/AIDS Program (RWHAP) recipients and subrecipients for determining client eligibility and complying with the payor of last resort requirement, while minimizing administrative burden and enhancing continuity of care and treatment services.¹

II. Scope and Applicability

This PCN applies to RWHAP Parts A, B, C, D, and Part F when funding supports direct care and treatment services. As of the effective date, this PCN applies to competing continuation, non-competing continuation, and new awards.

III. Effective Date

The effective date of this PCN is October 19, 2021.

IV. Eligibility Requirements for RWHAP Services

People are eligible to receive RWHAP services when they meet each of the following factors:

1. HIV Status

- A documented diagnosis of HIV.² (Note: People who do not have an HIV diagnosis are eligible to receive certain services as outlined in HRSA HAB PCN 16-02 *Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds*,³ and as otherwise stipulated by HRSA HAB.)

2. Low-Income

- The RWHAP recipient defines low-income. Low-income may be determined based on percent of Federal Poverty Level (FPL),⁴ which can be measured in several ways (e.g., Modified Adjusted Gross Income,⁵ Adjusted Gross Income, Individual Annual Gross Income, and Household Annual Gross Income).

¹ RWHAP recipients (including AIDS Drug Assistance Programs) and subrecipients may collect additional information as necessary for program administration.

² HIV Clinical Guidelines: Adult and Adolescent ARV. <https://clinicalinfo.hiv.gov/en/guidelines/adult-and-adolescent-arv/whats-new-guidelines>

³ HRSA HAB Policy Clarification Notice 16-02 *Ryan White HIV/AIDS Program Services: Eligible Individuals & Allowable Uses of Funds* https://hab.hrsa.gov/sites/default/files/hab/program-grants-management/ServiceCategoryPCN_16-02Final.pdf

⁴ U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs. <https://aspe.hhs.gov/poverty-guidelines>

⁵ HRSA HAB Policy Clarification Notice 13-03 *Ryan White HIV/AIDS Program Client Eligibility Determinations: Considerations Post Implementation of the Affordable Care Act*. <https://hab.hrsa.gov/sites/default/files/hab/Global/pcn1303eligibilityconsiderations.pdf>

3. Residency

- The RWHAP recipient defines its residency criteria, within its service area.

Note: Immigration status is irrelevant for the purposes of eligibility for RWHAP services.⁶ RWHAP recipients or subrecipients should not share immigration status with immigration enforcement agencies.

Guidance on Determining RWHAP Eligibility

Policies and Procedures for Establishing RWHAP Eligibility

HRSA HAB expects all RWHAP recipients and subrecipients to establish, implement, and monitor policies and procedures to determine client eligibility based on each of the three factors outlined above, including documentation requirements. HRSA HAB does not require documentation to be provided in-person nor be notarized.

RWHAP recipients and subrecipients are expected to develop protocols to facilitate the rapid delivery of RWHAP services, including the provision of antiretrovirals for those newly diagnosed or re-engaged in care. If services are initiated prior to eligibility being established, RWHAP recipients and subrecipients must conduct a formal eligibility determination within a reasonable timeframe and reconcile (i.e., properly account for) any RWHAP funds to ensure that they are only used for allowable costs for eligible individuals.

Policies and Procedures for Confirming RWHAP Eligibility

RWHAP recipients and subrecipients must conduct timely eligibility confirmations, in accordance with their policies and procedures, to assess if the client's income and/or residency status has changed. RWHAP recipients and subrecipients are permitted to accept a client's self-attestation of "no change" when confirming eligibility, although HRSA HAB does not recommend that recipients and subrecipients rely solely on client self-attestation indefinitely. RWHAP recipients and subrecipients should not disenroll clients until a formal confirmation has been made that the client is no longer eligible.

Best Practices to Promote Continuity of Services and Care in the RWHAP

RWHAP recipients and subrecipients should consider adopting the following best practices when designing their eligibility policies and procedures.

RWHAP recipients and subrecipients should conduct periodic checks to identify any potential changes that may affect eligibility, and require clients to report any such changes. Recipients and subrecipients should use electronic data sources (e.g., Medicaid enrollment, state tax filings, enrollment and eligibility information collected from health care marketplaces) to collect and verify client eligibility information, such as income⁷ and health care coverage (that includes income limitations), when possible. RWHAP recipients and subrecipients should first use available data sources to confirm client eligibility before requesting additional information from the client. If the RWHAP client still meets the eligibility criteria based on recent, reliable, available data, recipients and subrecipients may renew that client's eligibility without requesting additional information from the individual.

⁶ See 8 U.S.C. § 1182(a)(4); Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28, 689 (Mar. 26, 1999). <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13202.pdf>

⁷ Federal Low-Income Programs: Use of Data to Verify Eligibility Varies Among Selected Programs and Opportunities Exist to Promote Additional Use. <https://www.gao.gov/products/gao-21-183>

RWHAP recipients and subrecipients should identify opportunities to streamline eligibility determination policies and procedures across service categories and RWHAP parts within the service area. In addition, RWHAP recipients and subrecipients are encouraged to develop data-sharing strategies with other RWHAP recipients and relevant entities to reduce administrative burden across programs.

V. Payor of Last Resort

Once a client is eligible to receive RWHAP services, the RWHAP is considered the payor of last resort, and as such, 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 under. . . any State compensation program, under an insurance policy, or under any Federal or State health benefits program. . . , or by an entity that provides health services on a pre-paid basis.”⁸

Guidance on Complying with the Payor of Last Resort Requirement

RWHAP recipients and subrecipients must ensure that reasonable efforts are made to use non-RWHAP resources whenever possible, including establishing, implementing, and monitoring policies and procedures to identify any other possible payers to extend finite RWHAP funds. RWHAP recipients and subrecipients must maintain policies and document their efforts to ensure that they assist clients to vigorously pursue enrollment in health care coverage and that clients have accessed all other available public⁹ and private¹⁰ funding sources for which they may be eligible. RWHAP recipients and subrecipients can continue providing services funded through RWHAP to a client who remains unenrolled in other health care coverage so long as there is rigorous documentation that such coverage was vigorously pursued. RWHAP recipients and subrecipients should conduct periodic checks to identify any potential changes to clients' healthcare coverage that may affect whether the RWHAP remains the payor of last resort, and require clients to report any such changes.

Coverage of Services by the Ryan White HIV/AIDS Program

RWHAP funds may be used to fill in coverage gaps for individuals who are either underinsured or uninsured in order to maintain access to care and treatment services as allowable and defined by the RWHAP. RWHAP funds may be used for core medical and support services if those services are not covered or are only partially covered by another payer, even when those services are provided at the same visit.

This guidance does not have the force and effect of law and is not meant to bind the public in any way, except as authorized by law or as incorporated into a contract. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

⁸ Sections 2605(a)(6), 2617(b)(7)(F), 2664(f)(1) of the Public Health Service (PHS) Act. See also 2671(i) of the PHS Act. The Indian Health Service is statutorily exempted from the payor of last resort provision.

⁹ HRSA HAB Policy Clarification Notice 13-01 *Clarifications Regarding Medicaid-Eligible Clients and Coverage of Services by the Ryan White HIV/AIDS Program*. <https://hab.hrsa.gov/sites/default/files/hab/Global/1301pcnmedicaideligible.pdf>

¹⁰ HRSA HAB Policy Clarification Notice 13-04 *Clarifications Regarding Clients Eligible for Private Health Insurance and Coverage of Services by Ryan White HIV/AIDS Program*. <https://hab.hrsa.gov/sites/default/files/hab/Global/pcn1304privateinsurance.pdf>