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Dear Ms. Kiburi:

The California Office of AIDS has submitted several questions to the HIV/AIDS Bureau (HAB) regarding the usage of Ryan White HIV/AIDS Program funds, AIDS Drug Assistance Program (ADAP) rebates, and the payor of last resort. HAB's responses are as follows:

#### **LIHP Eligible Clients**

**Background:** The California Ryan White HIV/AIDS Program currently pays insurance premiums for clients with private insurance, Pre-existing Condition Insurance Plan (PCIP), and Medicare Part D. The California Ryan White HIV/AIDS Program has requested approval to retain this subset of (Low Income Health Program (LIHP) eligible) clients within the Ryan White HIV/AIDS Program.

1. **Question:** Must the California Ryan White HIV/AIDS Program require this subset of LIHP eligible clients (private insurance, PCIP, and Medicare Part D) to enroll in LIHP?

**Answer:** Yes. All LIHP eligible clients must be moved to LIHP due to the Ryan White HIV/AIDS Program payor of last resort requirement; however Ryan White HIV/AIDS Program funds may be used to pay for LIHP co-pays and deductibles as well as provide eligible services to eligible clients which the LIHP does not provide. LIHP eligible clients may also remain in the Ryan White HIV/AIDS Program in the event of a LIHP waiting list.

#### **California ADAP Rebate Usage**

**Background:** Currently, there is a subset of Ryan White HIV/AIDS Program clients who have health insurance paid for by the Ryan White HIV/AIDS Program (co-pays, deductibles, premiums). These clients are currently in the process of being transitioned to the California LIHP program. California has been informed by their Project Officer that they can no longer use Ryan White HIV/AIDS Program funds to pay for health insurance for these clients given that they are now LIHP eligible, as this would be a violation of payor of last resort.

1. **Question:** Can the California Ryan White HIV/AIDS Program use ADAP rebate dollars (which are generated through a combination of state and Federal funds) to continue to pay for health insurance for these LIHP eligible clients?

**Answer:** No. Funds may not be segregated—both state-contributed funds and grant funds are used for each medication purchase. Therefore, the provision in

the Ryan White HIV/AIDS Program legislation applies to all rebate funds. Section 2616(g) of the Public Health Service Act requires that “any rebates received on drugs purchased from funds provided pursuant to this section” are applied to Ryan White HIV/AIDS Program Part B activities, with priority giving to ADAP; the rebates may not be used for activities that are not supportable by Part B .

2. **Question:** Can Ryan White HIV/AIDS Program dollars be used to pay LIHP co-pays?

**Answer:** Yes. However, recall that if Ryan White HIV/AIDS Program funds are used for the medication co-payments, only one rebate may be collected.

### California Medicaid Share of Cost

**Background:** The California State Medicaid Program requires that some participants pay an out of pocket “share of cost” each month in which they incur service needs prior to becoming eligible for Medicaid.

1. **Question:** In cases where the client cannot pay the share of cost, can the Ryan White HIV/AIDS Program keep these Medicaid eligible clients on Ryan White HIV/AIDS Program ADAP?

**Answer:** Yes. To the extent that a participant has not paid their share of cost for a particular month, they are not eligible for Medicaid services. Therefore, Ryan White HIV/AIDS Program is the payor of last resort.

2. **Question:** In cases where the client cannot pay the share of cost, can the Ryan White HIV/AIDS Program pay the share of cost on behalf of the client?

**Answer:** No. This practice is prohibited by Medicaid policy.

If you have any questions, please contact your Project Officer, Marcus Jackson at [mjackson@hrsa.gov](mailto:mjackson@hrsa.gov) or 301-443-0336

Sincerely,



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