



HIV/AIDS Bureau

AUG 9 2011

Dear Colleague,

I am writing to provide clarification on the process of implementing California's section 1115 "Bridge to Reform" waiver project. As many of you are already aware, a final determination has been made by the Centers for Medicare & Medicaid Services (CMS) and the Health Resources and Services Administration (HRSA) that all current Ryan White HIV/AIDS Program (Ryan White) clients who are eligible for the Low-Income Health Program (LIHP) under this waiver must be enrolled in the LIHP program, as under current law, the Ryan White HIV/AIDS Program must serve as the payer of last resort.

This letter is a follow-up to the recent conference calls between HRSA, CMS, and many of you that were facilitated by Michelle Roland. On those calls, you asked a number of questions regarding the implementation process. The purpose of this email is to clarify HRSA policy on those issues.

**1. Timing for eligibility determination for current Ryan White clients:** The standard recertification process for Ryan White clients may be used. During each client's next eligibility determination process, they should be screened for eligibility for the LIHP. It is not necessary to send out a notice of action that there is now a new program. However, those grantees that are able to do so are encouraged to take this additional action.

For enrollment purposes, any period of retroactive eligibility will be defined by the county. If the county's LIHP policy for all enrollees includes coverage that is retroactive to the date when eligibility is determined or some other time period, then any Ryan White services received between the date the client is enrolled in LIHP and the retroactive date will need to be back-billed and reimbursed to the Ryan White Program. HRSA is available to participate in additional discussions with grantees and LIHP regarding back-billing issues raised by any potential delay in enrollment.

We will include this information in the OMB Circular A-133 compliance supplement for HIV/AIDS Programs to inform the auditor of this new requirement.

**2. LIHP Waiting lists:** If the LIHP develops an opening for enrollment, it should be filled according to the order of the waiting list, irrespective of whether the next individual on the list is a Ryan White client. HRSA does not require that Ryan White clients on the LIHP waiting lists be moved to the top of the list to fulfill payer of last resort requirements. Giving preferential status based on health status or diagnosis would be considered a discriminatory practice. Waiting list procedures and status for LIHP enrollment should be articulated plainly, and all persons on the waitlist should be treated pursuant to the articulated policy. As long as a Ryan White client

has submitted an enrollment application, the client may continue to receive Ryan White services until the date that enrollment in LIHP is effective.

**3. Timing for LIHP to assume service expenses for eligible clients:** The Ryan White statute requires that once a current Ryan White client is deemed eligible for LIHP, all services covered by LIHP should be paid for by that program. HRSA encourages careful consideration of this critical access issue in the drafting of provider contracts. LIHP and Ryan White grantees should draft appropriate contract provisions to permit back-billing for uncompensated services provided by Ryan White providers while contracts are being established so as to mitigate disruption to patient care.

**4. Ryan White Part D programs:** As with the other Ryan White grantees, Part D programs that provide primary care services are considered the payer of last resort when payments for such services are available from other sources, including title XIX of the Social Security Act. See section 2671(i) of the Public Health Service Act, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009, Pub. L. 111-87.

We look forward to working with you as Ryan White clients are transitioned into LIHP. If you have further questions, please don't hesitate to contact your project officer.

Thank you for all you continue to do on behalf of people living with HIV/AIDS.

Sincerely,



Deborah Parham Hopson, PhD, RN, FAAN  
Assistant Surgeon General  
Associate Administrator