



HIV/AIDS Bureau

Rockville MD 20857

MAR 23 2007

Dear Parts A, B, and C Colleagues:

Title XXVI of the Public Health Service (PHS) Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 requires that grantees funded under Parts A, B, and C use not less than 75 percent of funds available for core medical services that are needed in the service area. Grantees are not required to fund all core medical services listed in the legislation. The statute also includes a waiver provision from the 75 percent core medical services expenditure requirement for grantees in limited instances. Although the Health Resources and Services Administration (HRSA) expects few grantees to request waivers, this letter communicates the standards that must be met in order to receive approval from HRSA for a waiver from the 75 percent core medical services expenditure requirement in fiscal year (FY) 2007.

The statute specifies two criteria for waiver eligibility. The criteria are:

- There are no waiting lists for AIDS Drug Assistance Program (ADAP) services within the state; and
- Core medical services are available within the relevant service area to all individuals with HIV/AIDS identified and eligible under Title XXVI of the PHS Act.

With regard to the second criterion, the statute is silent as to which of the core medical services must be available to beneficiaries for grantees to be eligible for a waiver. However, for FY 2007, we have determined that applicants for waivers may satisfy the core medical service requirement by providing certification that all core medical services funded under the applicant's Ryan White program grant are available to all eligible individuals in the area.

To be considered for a 1- year waiver from the 75 percent core medical services expenditure requirement in FY 2007 grantees must submit:

- Certification from the Part B State grantee that there are no ADAP waiting lists in the State. This certification also must specify that there are no waiting lists for a particular core class of antiretroviral therapeutics established by the Secretary, e.g. Enfuvirtide (Fuzeon); and
- Certification that all core medical services funded under the applicant's Ryan White program grant are available to all eligible individuals in the area.

Grantees requesting waivers must submit their written request as soon as possible, but no later than August 15, 2007. The request for a core medical services waiver must be signed by the fiscally responsible agent for the grantee. For Part A and Part B, this requires signature by the chief elected official (CEO) or by the CEO's official delegate. Part C waivers must be signed by the fiscally responsible agent who signed the grant application. HRSA will not consider a waiver request for FY 2007 from a grantee that has already submitted a FY 2007 grant application which budgeted at least 75 percent of the award towards core medical services.

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Prior to requesting a waiver, grantees should consider carefully the requirements for obligation of funds imposed by Parts A and B of the amended legislation to ensure that a waiver will not detrimentally affect the grantee's ability to obligate the award within the time period allotted. In considering and granting waivers for this fiscal year, HRSA reiterates the importance that HRSA and the Ryan White program legislation place on the funding of core medical services.

Please be advised that HRSA intends to publish a notice in the Federal Register which will provide the standards for approving and the process for applying for a core medical services requirement waiver in FY 2008. Because immediate implementation of the changes to the Ryan White program was required, the FY 2007 is considered a phase-in; in FY 2008, HRSA expects to impose, subject to analysis of any comments submitted, more stringent standards that better implement the 75 percent requirement. HRSA will seek public comment on the more stringent standard and the appropriate documentation required to support it.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Parham Hopson".

Deborah Parham Hopson, Ph.D., R.N.
Assistant Surgeon General
Associate Administrator