

Ryan White HIV/AIDS Program (RWHAP) Legislative Overview August 29, 2017

Elizabeth H. Saindon

Senior Attorney

U.S. Department of Health and Human Services (HHS)

Office of the General Counsel, Public Health Division



RWHAP Legislative Overview

Legislative History

- Enacted on August 18, 1990
- Reauthorizations
 - 1996
 - 2000
 - 2006
 - 2009



RWHAP Legislative Overview

Grants under the RWHAP

- Part A—Mandatory awards to specific cities
- Part B—Mandatory awards to States/Territories
- Part C – Discretionary, competitive awards to providers
- Part D – Discretionary, competitive awards to providers with focus on women, infants, children and youth
- Part F –SPNS, AETCs, Dental Programs and MAI



RWHAP Legislative Overview

Part B

- **Part B – Mandatory Awards to States**
 - Part B Base formula
 - AIDS Drug Assistance Program (ADAP) formula
 - ADAP Supplemental Formula
 - Emerging Communities (EC) Formula
 - Minority AIDS Initiative (MAI) Formula



RWHAP Legislative Overview

Part B Continued

- Part B Supplemental
 - Competitive with statutory priority

Other Grants

- Emergency Relief Funding – Discretionary, competitive awards to States



RWHAP Legislative Overview

Part B Base Formula

Part B Base Formula

- Includes a minimum award for certain states/territories
- Attempts to address potential double-counting for those States that also contain an area that receives funding under RWHAP Part A



RWHAP Legislative Overview

Statutory Requirements

RWHAP Part B Programs must comply with various statutory requirements

- Core medical services
- Comprehensive planning processes, which include public input
- Focus on Early Identification of Individuals with HIV/AIDS
- Maintenance of effort
- Payer of last resort
- Administrative cost caps
- Clinical Quality Management

See §§ 2617, 2618 of the PHS Act

See HAB Policy Notice 15-01



RWHAP Legislative Overview

Core Medical Services Requirement

- Requirement to use not less than 75 percent of funding for Core Medical Services (defined) unless waiver is granted
- Secretarial waiver is permitted if:
 - No waiting lists for ADAP and
 - Core Medical Services are available to all individuals identified and eligible in an applicant's service area

See § 2612(b) of the PHS Act

See HAB Policy Notice 13-07



RWHAP Legislative Overview

Obligation and Expenditure of Funds

Obligation and Expenditure of Grant Funds

- Added to address the issue of very large unobligated balances (UOB) in cities and States, even as the epidemic was increasing
- To implement, RWHAP Part A and Part B funds have three-year availability (unusual for HHS funds)
 - “For carrying out title XXVI of the PHS Act with respect to the Ryan White HIV/AIDS program, \$2,318,781,000, of which \$1,970,881,000 shall remain available to the Secretary through September 30, 2019, for parts A and B of title XXVI of the PHS Act, and of which not less than \$900,313,000 shall be for State AIDS Drug Assistance Programs under the authority of section 2616 or 311(c) of such Act.”

See § 2622 of the PHS Act

See HAB Policy Notice 12-02



RWHAP Legislative Overview

Obligation and Expenditure of Funds Continued

- **Obligation and Expenditure of Grant Funds**
 - Gives the Secretary the authority to recoup unused funds, and re-award them without violating appropriation law
 - Creates onerous tracking responsibilities on all parties (recipients, POs, and GMOs)

See § 2622 of the PHS Act
See HAB Policy Notice 12-02



RWHAP Legislative Overview

Obligation and Expenditure of Funds Exception

- **Obligation and Expenditure of Grant Funds**
 - Exception
 - If the UOB is a result of the expenditure of rebate funds, which are required to be spent prior to grant funds, no UOB penalty is imposed.

See § 2622 of the PHS Act
See HAB Policy Notice 12-02



RWHAP Legislative Overview

Match Requirement

- **Match Requirements**

- States with more than 1% of the total HIV/AIDS cases in the U.S. are required to match (PR is statutorily excluded)
- Match applies to **Part B Base**, **ADAP** and **EC**
 - Match varies, depending on length of match, but years do not need to be consecutive

- **ADAP Supplemental Match**

- Required at \$1:\$4 by all recipients, unless request waiver.
- Waiver permitted only if required to meet Part B Base match and do meet that match

- **For both matches, recipients may request an award amount less than they would otherwise be entitled to, up to the amount that they can match**

See § 2617(d) of the PHS Act

See § 2618(a)(2)(F)(ii)(III) of the PHS Act



RWHAP Legislative Overview

Part B Supplemental

Part B Supplemental

- Eligibility:
 - Submission of application
 - No UOB > 5% in prior fiscal year (FY)
- Award based on demonstrated need
- Competitive award

See § 2620 of the PHS Act



RWHAP Legislative Overview

Emergency Relief Funding

Emergency Relief Funding – Discretionary awards to States

- Awarded under § 311(c) of the PHS Act pursuant to appropriation law
- Three-year availability of funds
- Competitive/formula
- Separate application process
- Not part of title XXVI of the PHS Act, but supports the ADAP activities



RWHAP Legislative Overview

Recipient Expense Categories

- **Planning and evaluation (P&E): capped at 10%**
- **Administrative costs: capped at 10%**
 - Combined (P&E) plus administrative costs: capped at 15% (or one full-time-equivalent employee)
- **Clinical Quality Management: capped at 5% or \$3,000,000**

See § 2618(b) of the PHS Act

