

# Compliance 101: Fiscal Responsiveness and Accountability

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# Compliance 101: Fiscal Responsiveness and Accountability

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# Health Resources and Services Administration (HRSA) Overview

- Supports more than 90 programs that provide health care to people who are geographically isolated, economically or medically vulnerable through grants and cooperative agreements to more than 3,000 awardees, including community and faith-based organizations, colleges and universities, hospitals, state, local, and tribal governments, and private entities
- Every year, HRSA programs serve tens of millions of people, including people living with HIV/AIDS, pregnant women, mothers and their families, and those otherwise unable to access quality health care



# HIV/AIDS Bureau Vision and Mission

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## Vision

Optimal HIV/AIDS care and treatment for all.

## Mission

Provide leadership and resources to assure access to and retention in high quality, integrated care, and treatment services for vulnerable people living with HIV/AIDS and their families.



# Ryan White HIV/AIDS Program

- Provides comprehensive system of HIV primary medical care, medications, and essential support services for low-income people living with HIV
  - More than half of people living with diagnosed HIV in the United States – more than 550,000 people – receive care through the Ryan White HIV/AIDS Program (RWHAP)
- Funds grants to states, cities/counties, and local community based organizations
  - Recipients determine service delivery and funding priorities based on local needs and planning process
- Payor of last resort statutory provision: RWHAP funds may not be used for services if another state or federal payer is available
- 84.9% of Ryan White HIV/AIDS Program clients were virally suppressed in 2016, exceeding national average of 59.8%



Source: HRSA. Ryan White HIV/AIDS Program Annual Client-Level Data Report 2016; CDC. HIV Surveillance Supplemental Report 2016;21(No. 4)



# Fiscal Compliance

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- Compliance
  - Definition
  - Requirements
  - Source Documents
  - Testing for compliance



# Definition - Compliance

**Compliance is conforming to a rule:**

- Legislation
- Policy (rules and regulations)
- Standards
- A specification (policy clarification notices)

**Goal of regulatory compliance:** for recipients and subrecipients to ensure that they are aware of, and take steps to comply with relevant laws, regulations, and policies

**Reason for Compliance:** Risk Management



# Source Documents for Compliance Testing

- **Law:** Title XXVI of the Public Health Service Act, 42 USC. Section 300ff-11s as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (P.L.111-87)
- **Policy:** The OMB Uniform Guidance 2 CFR 200/DHHS Title 45 Subtitle A, Sub-chapter A, Part 75
- Department of Health and Human Services (HHS) Grants Policy Statement
- **Specification:** HRSA HAB policy clarification notices, letters, and guidelines
- Manuals and Guidelines issued by HRSA/HAB including the National Monitoring Standards
- Office of Inspector General (OIG) reports and recommendations





# Fiscal Requirements

- 1. Limitations on uses of RWHAP funding
- 2. Unallowable Uses
- 3. Incomes from fees for services performed
- 4. Imposition and Assessment of Client Charges
- 5. Auditing Standards
- 6. Financial Management
- 7. Property Standards
- 8. Cost Principles
- 9. Financial Procedures
- 10. Monitoring



# 1. Limitations on Administrative Costs

- Admin versus Indirect
- Direct Program Costs
- Costs must be tied to the delivery of services
- Hidden Administrative Costs – Rent, Etc.
- Limitation 10% A B C D F (dental)
- Limit of 10% in the aggregate for RWHAP Part A and B subrecipients



# 1. Limitation on Administrative Cost

## *Compliance Testing*

Recipient/subrecipient administrative expenses meet legislative administrative definition.

## *Definition*

2618(b)(3)(D)(i) usual and recognized overhead activities, including established indirect rates for agencies; (ii) management oversight (administration and monitoring); and (iii) quality assurance, quality control, and related activities.

*For subrecipient, same as for recipient but includes all indirect costs*

	Administration	Services
Grant Manager		
Grant Coordinator		
Lead Case Manager		
Case Manager		
Ins Asst. Coordinator		
Data Coordinator		
Eligibility Specialist		
Pharmacy Technician		
MCM supervisor		
Rent Utilities		
Telephone Internet		
Indirect cost		



# 1. Limitation on Administrative Cost

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*For subrecipient, same as for recipient but includes all indirect costs*

	Administration	Services
Grant Manager	X	
Grant Coordinator	X	
Lead Case Manager		X
Case Manager		X
Ins Asst. Coordinator	X	
Data Coordinator	X	
Eligibility Specialist	X	
Pharmacy Technician		X
MCM supervisor		X
Rent Utilities	X	
Telephone Internet	X	
Indirect cost	X	



## 2. Unallowable Uses

Unallowable Uses	Unallowable Uses
Syringe Service Programs*	Clothing
Purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility	Local or State personal property taxes (for residential property, private automobiles, or any other personal property)
Household appliances	Pet foods or other non-essential products
Off-premise social/recreational activities or payments for a client's gym membership	Pre-exposure prophylaxis and Non-Occupational Post-Exposure Prophylaxis*
Funeral, burial, cremation or related expenses	Employment and Employment Readiness*
International travel	Purchase Vehicles without Prior Approval
Purchase of land, construction, or renovations -2612(f)	Cash payments to intended recipients of RWHAP services
Developing materials designed to directly promote or encourage intravenous drug use or sexual activity, whether homosexual or heterosexual- 2684	Funding programs and services that do not comply with state legislative uses (PHS 2604, 2612, 2651)
Funding liability risk pools 2615(b)	



# 3. Income from Fees

(45 CFR §75.2)

- Program income means gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided on 45 CFR §75.307(f).
- Program income includes but is not limited to income from fees for services performed, the use or rental of [sic.] real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds.
- Interest earned on advances of Federal funds is not program income.



## 4. Imposition and Assessment of Client Charges

Recipient has a system in place to implement the following requirements:

- No charges for a client at or below 100% Federal Poverty Level (FPL) Guidelines
- Impose a charge for a client with income greater than 100% FPL Guidelines
- A schedule of charges
- An annual aggregate cap on charges

# 5. Auditing Standards – Single Audit

## Single Audit

- Threshold \$750,000 per year on federal grants
- Selection of auditor
- Review of audited statements & management letter





# 6. Financial Management

- Business Management Systems & Proper stewardship of program funds (45§75.302)
- Tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal regulations (45§75.302 a)
- A financial system that permits the preparation of reports required by general and program-specific terms and conditions (45§75.302 a)
- Identification of accounts, of all Federal awards received and expended (§75.302 b 1)
- Records that identify adequately the source and application of funds for federally-funded activities (§75.302.b.3)
- Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the timeframe for obligation and expenditures of grant funds (302.b.2.PHS 2622).
- Comparison of budget & expenditure for each Federal award (§75.302.B.5)
- Internal controls
- Evaluate and monitor subrecipient for the compliance with statutes, regulations and the terms and conditions of Federal awards (§75.303)



# 6. Financial Management – Compliance

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## Which are Financial Management Findings?

- Insufficient recording and payment of obligations in a timely manner.
- Lack of written procedures for expense documentation and record retention procedures in compliance with
- Insufficient written procedures for expense documentation and record retention procedures in compliance with
- Insufficient accounting/financial system to track receipt and expenditure by RWHAP award, subaward and cost and service category.
- Lack of documentation on procedures to track, monitor, and report various sources of income.
- Failure to expend rebates (RWHAP Part B only) and program income prior to drawing down grant funds.



# 6. Financial Management – Compliance

## Observed – is this a Finding?

- Lack of procedure for routine comparison of expenditures with budgeted amounts
- Comparison of expenditures with amounts are on irregular basis
- Receipt and expenditure of program income relies on the bigger facilities
- Time and effort documents are complete a month after expected
- Failure to expend rebates or program income prior to drawing down grant funds
- Lack of recipient monitoring of subrecipient audit requirements and/or resolution
- A written policy and procedure for cost sharing or matching without numbers
- Payment of obligations to subrecipients is held up by two levels of processing outside the subrecipients and always late
- Insufficient accounting/financial system to track receipt and expenditure by award, subaward, AND cost AND service category



# 7. Property Standards

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- **Equipment and supplies? Threshold is \$5,000**
- **Useful life defined?**
- **Identify federal funding on property? Property records by using the Federal award number?**
- **Vested interest listed?**

# 8. Cost Principles

- Allowable
- Allocable
- Reasonable
- Payments made to subrecipients or contractors must be cost based
- Unit cost as a reimbursement methodology

# 8. Cost Principles – Compliance

- Expenses must be given consistent accounting treatment
- Expenses must not be used to meet cost-sharing requirements of another federal supported activity
- Payments for allowable expenses must be cost based to assure payments are reasonable and equitable

What allocation methodology would assure expenses are given consistent treatment and are reasonable?

Type of expense	Allocation Methodology
Payroll	
Facility	
Occupancy	
Administration	
Communication	

# 8. Cost Principles – Compliance

- Expenses must be given consistent accounting treatment
- Expenses must not be used to meet cost-sharing requirements of another federal supported activity
- Payments for allowable expenses must be cost based to assure payments are reasonable and equitable

What allocation methodology would assure expenses are given consistent treatment and are reasonable?

Type of expense	Allocation Methodology
Payroll	direct or time and effort
Facility	direct or square footage
Occupancy	direct or cost-based, or fee for service
Administration	direct or total dollar
Communication	program/cost-based

# 9. Financial Procedures – Procurement

(45 CFR 75.326 – 75.335)



## General Standards

- Documented policies required, i.e. program income, advances, allocation
  - Documentation of fair & open competition
  - Strict avoidance of conflicts of interest
  - Documentation of cost and price analyses and vendor selection
  - Sufficient Qualified Staff (§75.300)



# 10. Monitoring 45 CFR §75.351 - .353



- **Test of compliance with federal and program regulation and expectations (45CFR75, legislation, PCN, letters)**
- **Technical Assistance**
- **Identifies subrecipient non-compliance issues that might result in future disallowment by auditors**
- **Performed during the grant year to allow for corrective measures**
- **Opportunities for Improvement**

# Policy Clarification Notices

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## Policy clarification notices

- Definition
- Requirements
- Goal
- Testing for compliance

# Policy Clarification Notices

**Policy Clarification Notices:** Office of Management and Budget Circulars are management directives to Federal Agencies. Policy Clarification Notices incorporate HIV/AIDS Bureau program specific requirements into specific OMB directives and legislative requirements.

**Goal:** To administer RWHAP awards in a manner consistent with statute, regulation and program policies, and compliant with legislative and programmatic policies. PCN 16-02 defines and expands both the legislative requirements for the uses of funds and the OMB cost principles by providing a definition for each legislative core and support service.

**Reason for PCN:** To clarify and further define the directives in the OMB circulars and legislative requirements. PCN are used by:

- independent auditors
- auditors from the HHS' Office of the Inspector General
- auditors from the U.S. Government Accountability Office
- Fiscal and programmatic oversight through HRSA monitoring and review of budgets

# Payor of Last Resort

## Legislation

- *“for any item or service to the extent that payment has been made, or can reasonably be expected to be made...” by another payment source*

## Letters

- Ryan White HIV/AIDS Program pays items or services not covered or partially covered by other health care coverage sources

## Policy Notice 13-04

- Recipients must make every effort to ensure that eligible uninsured clients expeditiously enroll in health care coverage –expanded Medicaid or private health coverage
- Recipients need to inform clients of the penalty for not enrolling
- Clients who receive a certificate of exemption from the Internal Revenue Service (IRS) may continue to receive RWHAP services

# Eligibility

## RWHAP Legislation

- HIV infected
- Low income individual as defined by the RWHAP recipient

## National Monitoring Standards

- Recertification every six months
- Documentation
- Insurance verification
- Residency

## Policy Notice 13-02

- Documentation HIV status at initial visit
- CD4/viral load at the discretion of recipient
- P.O. boxes acceptable
- Once a year a client self attestation can be used

## Policy Notice 13-03

- To determine financial eligibility using Modified Adjusted Gross Income (MAGI)
- Align client recertification with Marketplace eligibility
- Recipients can request clients to provide Medicaid/or Marketplace eligibility determination
- Exempt elderly, disabled, social security income (SSI), and medically needy

# Define Monitoring System

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## Monitoring System

- What is monitoring
- Developing a system
- Responsibilities
- Compliance Testing

# What is Monitoring?

- **Tests of compliance** with federal and program regulations and expectations (legislation, 45CFR75, PCN, letters)
- **Technical assistance**
- **Preventing** subrecipient non-compliance issues that might result in future disallowment by auditors
- **Performed during the grant year** to allow for corrective measures
- An opportunity for improvement

# Monitoring Responsibilities

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## Recipient responsibilities to subrecipients include:

- Communicate expectations
- Develop processes, procedures, and systems for programmatic monitoring
- Understand, clarify, and communicate policies and procedures, and allowable services and eligibility requirements



# Developing a Monitoring System

Written documentation pertaining to subrecipient performance maintained and available for review at any time, to include:

- Progress reports
- Site visit reports
- Corrective actions
- Payment and expenditure data
- Memos/written notes of verbal discussions
- Written correspondence

# Monitoring Manual

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## Provides and offers:

- Tools and documents to be use
- Standardizes the monitoring activities of the recipient
- Persons to be interviewed
- Methods used to review requirements and outcome expectations
- Reporting non-compliance and recommending changes
- Use of action plans and follow up to monitor compliance to recommendation for improvement

# Testing - Administrative Cost Caps

## Documents and questions to review

- Fiscal tool
- RWHAP Administrative expenses
- Expense and budget reports

## Interviews

- Accounting Department Staff

## Desired Outcomes

- Subrecipient administrative expenses must be related to services, allocated directly, fee for service or cost-based reimbursement
- Administrative expenses meet “cap”

# Testing - Audit Requirements

## Documents

- Board minutes
- Independent auditors reports
- Management Letter

## Interviews

- Accountant, CFO
- Independent accountant if necessary

## Outcome

- Agency is solvent, has adequate internal controls, and complies with Health Department contract
- Assure agencies spending more than \$750,000 of federal funds have an independent audit
- Audit commission independent body (Board)

# Testing - Imposition of Charges

## Documents & questions to review

- Use tools on section (are billable services billed?)
- Charge master
- Schedule of charges
- Cap on charges

## Interviews

- Billing personnel, case managers, eligibility clerk

## Outcomes

- Charges are current and adequate
- No charges for those with income at or below 100% FPL
- Charges for those above 100% FPL
- Bills insured services and tracks what it collects
- Tracks caps on charges and does not bill once cap is reached

# Testing - Financial Management

## Documents and questions to review

- Those in fiscal tool area (Reports) (Purchasing) (Property)
- Policies and procedures, equipment logs, and journals

## Interviews

- Recipient and/or program accountant

## Desired Outcomes

- Strong management team and an adequate financial structure and internal controls

# Testing - Cost Principles

## Documents and questions to review

- Review invoices, fiscal tool area (accounting) (budget)
- Review contracts

## Interview

- Interview payables/accounting personnel, contract personnel

## Desired Outcome

- Expenses must be given consistent accounting treatment, not used to meet cost-sharing requirements of another federal supported activity
- Payments for allowable expenses must be cost based to assure payments are reasonable and equitable
- Payments made to sub-recipients or contractors must be cost-based
- Reasonable
- Unit cost - Use of unit cost to establish fee for service charges

# Takeaways

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- ✓ Recipients and subrecipients are responsible for knowing federal regulations
- ✓ Recipients must monitor subrecipient for compliance federal regulations
- ✓ Monitoring is mostly compliance testing, not an evaluation of financial statements





# Contact Information

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