

# Ryan White HIV/AIDS Program Addressing the Opportunities and Challenges Afforded by Program Income and Pharmaceutical Rebates

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Holly Berilla, Public Health Analyst, Division of Policy and Data  
Glenn A. Clark, ADAP Advisor, Division of State HIV/AIDS Programs  
Connie Jorstad, Public Health Analyst, Division of Policy and Data  
Michelle Li, Sr. Policy Advisor, Division of Community HIV/AIDS Programs

Department of Health and Human Services  
Health Resources and Services Administration  
HIV/AIDS Bureau, Division of Community HIV/AIDS Programs

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**Presenters have no financial interest to disclose.**

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# Learning Objectives

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At the conclusion of this activity, the participant will be able to:

1. Describe RWHAP Policy Clarification Notices (PCN) 15-03 and 15-04 related to RWHAP-related program income and pharmaceutical rebates
2. Understand of how to use the program guidance in RWHAP PCNs 15-03 and 15-04 in program implementation.
3. Discuss strategies to appropriately use RWHAP-related program income and pharmaceutical rebates in a manner consistent with RWHAP PCNs 15-03 and 15-04

# Agenda

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- Overview of session
- Highlights of RWHAP PCN 15-03
- Highlights of RWHAP PCN 15-04
- Allowable uses of RWHAP-related program income and rebates
- Questions and Answers

# 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.

# HIV/AIDS Bureau Priorities

- **National HIV/AIDS Strategy (NHAR) 2020/President's Emergency Plan For AIDS Relief (PEPFAR) 3.0** - Maximize HRSA HAB expertise and resources to operationalize NHAS 2020 and PEPFAR 3.0
- **Leadership** - Enhance and lead national and international HIV care and treatment through evidence-informed innovations, policy development, health workforce development, and program implementation
- **Partnerships** - Enhance and develop strategic domestic and international partnerships internally and externally
- **Integration** - Integrate HIV prevention, care, and treatment in an evolving healthcare environment
- **Data Utilization** - Use data from program reporting systems, surveillance, modeling, and other programs, as well as results from evaluation and special projects efforts to target, prioritize, and improve policies, programs, and service delivery
- **Operations** - Strengthen HAB administrative and programmatic processes through Bureau-wide knowledge management, innovation, and collaboration

# Definitions

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Both PCNs define key terms:

- **Rebate** – a return of a part of a payment
- **Program income** – gross income earned that is generated by activity(ies) supported by a Federal award
- **Refund** – amount of money given back to someone who has returned a product or paid too much

# Purpose and Timeliness of Policy Clarification Notices 15-03 & 15-04

- With the issuance of the Uniform Guidance, HAB needed to clarify use of program income
- Further, given the increased number of Ryan White HIV/AIDS Program (RWHAP) clients with health insurance, recipients and subrecipients may generate increased program income as access to health care coverage increases
- Amounts of pharmaceutical rebates have increased substantially and states may benefit from additional guidance
- Generation, use, and reporting of program income and pharmaceutical rebates can be complex
- Clarification was needed on how to use program income and pharmaceutical rebates



# Policy Clarification Notice 15-03

*Clarifications Regarding the Ryan White  
HIV/AIDS Program and Program Income*

# PCN 15-03: Expenditure of Program Income

## RWHAP recipients and subrecipients must:

- “Disburse all program income before requesting additional cash payments”

*Speaks to the order in which resources must be obligated*

**and**

- “Estimate accrued program income and determine RWHAP funds that will be needed during current performance period”

*Speaks to the importance of estimating program income for planning and budgeting purposes*

- **There are no exemptions from unobligated balances penalties due to the expenditure of program income**

# PCN 15-03: Acceptable Uses of Program Income

- Program income must be used for the “purposes for which the award was made”
  - Can only be used for otherwise allowable costs under the award – See PCN 16-02 *RWHAP Services: Eligible Individuals & Allowable Uses of Funds*
  - Not limited to allowable costs in approved project budget
- RWHAP Parts A, B, C, & D can use program income for the following
  - Core medical services
  - Support services
  - Clinical quality management
  - Administrative expenses, including planning and evaluation
- RWHAP Part F is limited to statutory provisions

# PCN 15-03: Flexibility in Using Program Income

Program income is not subject to these statutory provisions

- Minimum 75% distribution of funds for core medical services
- 10% administrative cap
- Cap on clinical quality management
- Not limited to allowable costs in approved project budget

# PCN 15-03: Timing for Using Program Income

## Recipients cannot control when program income is received

- To extent it is available, program income must be spent first – before drawing funds from PMS
- Recipients and subrecipients should strive to estimate the program income accrued during a project period
- Recipients and subrecipients will then be better able to plan for the allocation and utilization of award funds
- Program income obligated for a contract awarded during the project period, the expenditure has been recognized (program income has been spent)

# PCN 15-03: Reporting of Program Income

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- Recipients are required to track source and use of program income received and expended and report it annually on the federal financial report (FFR)
- Recipients are also required to monitor the program income of their subrecipients – though they do not need to report it on the FFR

# Policy Clarification Notice 15-04

## Utilization and Reporting of Pharmaceutical Rebates

# PCN 15-04: Expenditure of Rebates

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- **To extent they are available, rebates must be spent first – before requesting RWHAP funds**
  - Rebate projections should be incorporated into the jurisdiction’s planning for services for effective allocation of RWHAP funds during the project period
- **Rebates received at the end of a project period are to be expended before requesting and expending RWHAP funds awarded in the subsequent project period**



# PCN 15-04: Acceptable Use of Rebates

Rebates must be applied to the RWHAP Part B – priority should be given, but is not required, to placing rebates back into ADAP

- Rebates may be used for otherwise allowable costs not included in the RWHAP Part B implementation plan – See PCN 16-02 *RWHAP Services: Eligible Individuals & Allowable Uses of Funds*
- Rebates can be used to meet a state’s match requirement and/or maintenance of effort requirement
- The same rebate dollars may also be used to meet a state’s match and maintenance of effort requirements

# PCN 15-04: Unacceptable Uses of Rebates

AIDS Drug Assistance Program (ADAP) rebates cannot be used for services and costs that are not allowed by RWHAP Part B (e.g., PrEP) and cannot be shared with other entities, including:

- RWHAP Part A recipients
- Medicaid
- Any other state or Federal program
- Marketplace insurance plans

# PCN 15-04: Timing for Using Rebates

## Recipients cannot control when rebates are received

- Recipients should strive to estimate the rebates accrued during a project period
- Recipients will then be better able to plan for the allocation and utilization of award funds
- Rebates must be expended in the project period during which they are received
  - If rebates are received at the end of the project period then they can be used in the next project period
- Rebates obligated for a contract awarded during the project period, the expenditure has been recognized (rebates have been spent)

**There is an exemption from the Unobligated Balance (UOB) penalties for states that spend rebates first**

# Side-by-side: Program Income & Rebates

|  | Program Income   | Rebates  |
|--|--|--|
| <b>Reporting</b>   | <ul style="list-style-type: none"> <li>Recipients report received and expended program income (not that of subrecipients) in FFR</li> <li>Recipients must monitor subrecipients' program income but do not need to report it in FFR</li> </ul> | <ul style="list-style-type: none"> <li>States report received and expended rebates in the FFR and ADR</li> </ul>   |
| <b>“Additive Alternative” – because it is added to the award</b> | <ul style="list-style-type: none"> <li>Must be used for the purposes for which the original award was made</li> <li>May be used for otherwise allowable costs under the award</li> </ul>   | <ul style="list-style-type: none"> <li>Must be used for the purposes for which the original award was made</li> <li>May be used for otherwise allowable costs under the award</li> </ul> |
| <b>Unobligated Balance Penalty</b>                               | <ul style="list-style-type: none"> <li>Failure to expend award due to spending program income first <i>may</i> impact a future actual award</li> </ul>   | <ul style="list-style-type: none"> <li>Failure to expend award due to spending rebates first <i>may</i> impact a future actual award</li> </ul>  |

# Acceptable Uses for Program Income & Rebates (non-exhaustive list)

|   | Program Income   | Rebates  |
|---|--|--|
| <b>Services that support a comprehensive system of care</b> | <ul style="list-style-type: none"> <li>• Core medical services</li> <li>• Support services</li> </ul>  | <ul style="list-style-type: none"> <li>• Medications</li> <li>• Core medical services</li> <li>• Support services</li> </ul>   |
| <b>Administrative expenses</b>                              | <ul style="list-style-type: none"> <li>• Routine grant administration &amp; monitoring activities</li> <li>• Development and establishment of reimbursement and accounting systems</li> <li>• Compliance with grant conditions and audit requirements</li> <li>• Subrecipient monitoring activities</li> <li>• EHB infrastructure</li> </ul> | <ul style="list-style-type: none"> <li>• Routine grant administration &amp; monitoring activities</li> <li>• Development and establishment of reimbursement and accounting systems</li> <li>• Compliance with grant conditions and audit requirements</li> <li>• Subrecipient monitoring activities</li> <li>• EHB infrastructure</li> </ul> |
| <b>Clinical Quality Management</b>                          | <ul style="list-style-type: none"> <li>• Infrastructure (e.g., staffing)</li> <li>• Performance measurement (e.g., analyzing data)</li> <li>• Quality Improvement</li> </ul>   | <ul style="list-style-type: none"> <li>• Infrastructure (e.g., staffing)</li> <li>• Performance measurement (e.g., analyzing data)</li> <li>• Quality Improvement</li> </ul>   |

# Conclusions - Major Points

- **Program income and rebates must be used before RWHAP funds**
  - This is not new guidance
- **Program Income and rebates must be used for the “purposes for which the award was made”**
  - Can only be used for otherwise allowable costs under the award
  - Not limited to allowable costs in the budget for the project
- **Program income and rebates are not subject to statutory caps**
  - Minimum 75% distribution of funds for core medical services
  - Minimum 50% distribution of Part C funds for EIS
  - 10% administrative cap
  - Cap on clinical quality management
- **Rebates must be used for RWHAP Part B program, with priority given to ADAP**

# Relevant PCNs

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- **15-03 Clarifications Regarding the RWHAP and Program Income**  
[http://hab.hrsa.gov/healthcarelandscape/pcn\\_15-03\\_program\\_income.pdf](http://hab.hrsa.gov/healthcarelandscape/pcn_15-03_program_income.pdf)
- **15-04 Utilization and Reporting of Pharmaceutical Rebates**  
[http://hab.hrsa.gov/healthcarelandscape/pcn\\_15-04\\_pharmaceutical\\_rebates.pdf](http://hab.hrsa.gov/healthcarelandscape/pcn_15-04_pharmaceutical_rebates.pdf)
- **16-02 RWHAP Services: Eligible Individuals & Allowable Uses of Funds**  
[http://hab.hrsa.gov/healthcarelandscape/service\\_category\\_pcn\\_16-02\\_final.pdf](http://hab.hrsa.gov/healthcarelandscape/service_category_pcn_16-02_final.pdf)
- **15-01 Treatment of Costs under the 10% Administrative Cap for Ryan White HIV/AIDS Program Part A, B, C, and D**  
<http://hab.hrsa.gov/healthcarelandscape/pcn1501.pdf>

# Questions

**What questions do YOU have?**



**For additional questions, please email:  
[AskHAB@hrsa.gov](mailto:AskHAB@hrsa.gov)**

## **Thank You to:**

**Holly Berilla, Public Health Analyst, Division of Policy and Data**

**Glenn A. Clark, ADAP Advisor, Division of State HIV/AIDS Programs**

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