



Ryan White HIV/AIDS Program (RWHAP) Legislative Overview

RWHAP Part B Administrative Reverse Site Visit

October 23, 2019

Elizabeth H. Saindon
Senior Attorney

HHS Office of the General Counsel, Public Health Division

Vision: Healthy Communities, Healthy People



Disclaimers

- The views expressed do not necessarily reflect the views of the Department of Health and Human Services or the Office of the General Counsel
- Use at your own risk
- Keep out of reach of children
- Contains small parts, may not be suitable for children under the age of 3
- This presentation is not a toy, and should never be placed over mouth and nose
- Unsafe at any speed
- Do not operate heavy machinery while viewing this presentation
- May cause drowsiness

RWHAP Legislative Overview

- **Ryan White Comprehensive AIDS Resources Emergency Act-enacted on August 18, 1990**
- **Reauthorizations**
 - 1996-Ryan White CARE Act Amendments of 1996
 - 2000-Ryan White CARE Act Amendments of 2000
 - 2006-Ryan White HIV/AIDS Treatment Modernization Act of 2006
 - 2009-Ryan White HIV/AIDS Treatment Extension Act of 2009
- **Codified in title XXVI of the Public Health Service (PHS) Act, referred to as the Ryan White HIV/AIDS Program (RWHAP)**

RWHAP Legislative Overview Continued

- **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 –Special Projects of National Significance (SPNS), AIDS Education and Training Centers (AETCs), Dental Programs and Minority AIDS Initiative (MAI)

- **Other Grants**

- Emergency Relief Funding (ERF) – Discretionary, competitive awards to States
- Ending the HIV Epidemic

RWHAP Legislative Overview

Part B Components

- Part B base formula funding
 - Mandatory award; all States and Territories eligible
- AIDS Drug Assistance Program (ADAP) formula funding
 - Mandatory award; all States and Territories eligible
- ADAP supplemental formula funding
 - Limited eligibility

RWHAP Legislative Overview

Part B Components Continued

- Part B supplemental funding
 - Competitive award with statutory priority
 - Limited eligibility
- Emerging Communities (EC) formula funding
 - Limited eligibility
- MAI formula funding

RWHAP Legislative Overview

Specific Statutory Provisions

- Core medical services
- Comprehensive planning processes which include public input
- Maintenance of effort
- Payor of last resort
- Obligation and expenditure of grant funds
- Match
- Administrative and clinical quality management caps

See §§ 2617, 2618, 2622 of the PHS Act

See HAB Policy Notices 16-02, 13-07, 12-02, 15-01, 15-02,

RWHAP Legislative Overview

Part B

- **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

Part B Continued

- **Other formulas (ADAP, ADAP supplemental, EC) are relative case distributions based on living HIV/AIDS cases**
- **MAI formula is relative distribution based on living minority HIV/AIDS cases**
 - For supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to medications under ADAP

RWHAP Legislative Overview

Part B: Supplemental Funding

- Eligibility:
 - Submission of application
 - No Unobligated Balances (UOB) > 5% in prior FY
- Competitive process
- Annual notice of funding opportunity describes the review criteria
- HRSA's Division of Independent Review (DIR) conducts the objective review process
- Priority funding
 - Funds used to address the decline or disruption of services related to a decline in formula funding as compared to FY 2006
 - Calculated by HRSA as a relative distribution of living HIV/AIDS cases

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

Ending the HIV Epidemic

- **Notice of Funding Opportunity HRSA-20-078 published August 13; applications due October 15**
 - Only specified RWHAP Part A and Part B recipients are eligible to apply
- **All awards are contingent on Congressional appropriation and authorization; in the absence of either one, no awards will issue**
- **Statutory conception in House appropriations bill affords the Secretary the ability to impose appropriate RWHAP statutory limitations on the funds, and at the same time affording additional flexibility to direct funds where they are most needed**

RWHAP Legislative Overview

Specific Statutory Provisions

- Core medical services
- Comprehensive planning processes which include public input
- Maintenance of effort
- Payor of last resort
- Obligation and expenditure of grant funds
- Match
- Administrative and clinical quality management caps

See §§ 2617, 2618, 2622 of the PHS Act

See HAB Policy Notices 16-02, 13-07, 12-02, 15-01, 15-02

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 Clarification Notice 13-07

RWHAP Legislative Overview

Payor of Last Resort Requirement

- By statute, RWHAP funds may not be used *“for any item or service to the extent that payment has been made, or can reasonably be expected to be made. . . under any State compensation program, under an insurance policy, or under any Federal or State health benefits program. . . . or by an entity that provides health services on a prepaid basis”*
- Statutory exception for Indian Health Service
- Recipients must vigorously pursue enrollment in other relevant funding sources
- RWHAP recipients must assess individual clients that are not eligible for public programs for eligibility for private insurance
- The RWHAP will continue to pay for items or services received by individuals who remain uninsured or underinsured

See § 2617(b)(7)(F) of the PHS Act

RWHAP Legislative Overview

Obligation and Expenditure of Funds

- **Added to address the issue of very large unobligated balances (UOB) in cities and States, even as the epidemic was increasing**
- **To implement, Part A and Part B funds have 3-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, 2021, 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

- 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
 - Project Officers or POs
 - Grants Management Specialist or GMS

See § 2622 of the PHS Act

See HAB Policy Notice 12-02

RWHAP Legislative Overview

Obligation and Expenditure of Funds

- **Formula funds may be carried over (if request submitted before the end of the grant year)**
 - The FFR must note carryover request
 - HRSA's Division of Grants Management Operations (DGMO) must also be notified
- **Supplemental funds may NOT be carried over**
- **Exception for Rebates**
 - If the UOB is a result of the expenditure of rebate funds, which are required to be spent prior to grant funds, UOB penalty is reduced

RWHAP Legislative Overview

Part B: Match Requirement

- States with more than 1% of the total HIV/AIDS cases in the US 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 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

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

RWHAP Legislative Overview

- Statute contains significant detail. Look there first, it may have the answer you need
- Also look to HRSA HAB Policy Clarification Notices (PCNs) and Program Letters for interpretive guidance on how to implement the statute.
- <https://hab.hrsa.gov/program-grants-management/policy-notices-and-program-letters>
- Contact your project officer for additional training and technical assistance needs



Connect with HRSA

To learn more about our agency, visit

www.HRSA.gov



Sign up for the HRSA *eNews*

FOLLOW US:

