



HIV/AIDS Bureau

Rockville MD 20857

MAY 25 2007

Dear Colleague:

Improving access and care for American Indians (AIs) and Alaska Natives (ANs) affected by HIV disease remains important to the overall objective of Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Ryan White Program). The following new language in the act highlights the importance of providing access to services for AI/AN:

- Indian Health Services (IHS) Facilities or those operated by the IHS are now eligible to apply as direct grantees for Part C and Part D under the Ryan White Program (in addition to previously authorized Urban Programs and 638 Tribal Facilities under Policy Notice 00-01);
- Programs administered by or providing services of the IHS are exempt from the “Payer of Last Resort” restriction for Parts A, B, and C;
- Planning Council representation under Part A should include members from Federally recognized Indian tribes as represented in the population; and,
- Language was added that specifically names “Native Americans” as person(s) to be trained under the AIDS Education and Training Centers (AETCs).

To incorporate the new language, we are revising Policy Notice 00-01 and issuing Policy Notice 07-01, *The Use of Ryan White Program Funds for American Indians and Alaska Natives and Indian Health Service Programs*, to further encourage and enhance health care access and services for AIs and ANs affected by HIV disease. A companion Question and Answer guide is also attached to clarify commonly asked questions raised by organizations and AIs/ANs wanting to access the services offered through the Ryan White Program.

Please ensure that this policy is communicated and distributed to all grantees and potential providers of HIV related services for AIs/ANs affected by HIV disease. If you have further questions about this correspondence or related policies, please visit the Health Resources and Services Administration, HIV/AIDS Bureau (HAB) website at <http://hab.hrsa.gov/> or contact your HAB project officer.

Sincerely,

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

Attachments

## **Policy Notice 07-01: The Use of Ryan White Program Funds for American Indians and Alaska Natives and Indian Health Service Programs**

The following policy establishes guidelines for allowable expenditures under Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Ryan White Program): 1) to provide services to American Indians and Alaska Natives (AIs/ANs); and 2) for health care services provided by the Indian Health Service (IHS) programs directly or under contract or compact. The purpose of all Ryan White Program funds is to ensure that eligible HIV-infected persons and families gain or maintain access to medical care.

AIs/ANs can claim Ryan White Program services for which they are eligible where they choose, regardless of the availability of services that may also be available to them (e.g., through IHS, tribal, or urban Indian health programs and services). This policy ensures that AIs/ANs have direct and unfettered access to Ryan White Programs. In addition, this policy clarifies the circumstances under which the IHS may and may not receive funds under the Ryan White Program.

### **I. Coverage of American Indians and Alaska Natives under the Ryan White Program Who are Eligible for Services Provided by or Supported by the Indian Health Service**

A. Any AI or AN who is otherwise eligible to receive Ryan White Program -funded services from any Part may request and must receive those services regardless of whether or not they are also eligible to receive the same services from the IHS, and regardless of whether or not those IHS services are available and accessible to the AI or AN. A Ryan White program grantee or provider cannot deny services based on AI/AN status. However, individuals must meet the same established eligibility criteria as all other individuals receiving care through a Ryan White Program funded grantee or provider.

B. AIs/ANs may seek care at a Ryan White Program funded facility without referral or a purchase order from the "IHS operated" or "638 contract" or compact facility. The Ryan White Program funded facility or provider should follow established procedures to determine health care coverage as it usually does as the payer of last resort program; programs administered by or providing services of the IHS are exempt from the payer of last resort restriction for Parts A, B, and C. The IHS is not obligated to reimburse a Ryan White Program grantee or provider for services provided to an AI or AN who requests services without a purchase order referral from the IHS. However, the grantee or provider must seek payment from other payers (e.g. Medicaid) first.

### **II. Eligibility of Indian Health Service or Tribally Operated Facilities to Receive Ryan White Program Funds**

#### **A. "IHS-operated" facilities:**

1. Are not eligible to receive direct funds under Part A or B of the Ryan White Program but may apply and be awarded funds under Parts C or D as a direct grantee.

2. Are eligible to receive funds as sub-contractors under Parts A, B, C, and D, as long as the IHS-operated facility can demonstrate that the provision of Ryan White Program services to Ryan White Program eligible individuals supplements and does not supplant IHS-funded programs, and the IHS-operated facility adheres to the requirements of the grantee or provider from which the sub-contract is awarded.

B. "638 contract" facilities:

1. Parts A and B: "638 contract" facilities are not eligible to receive grant funds as a direct grantee under Part A or B of the Ryan White Program. However, "638 contract" facilities are eligible to receive funds as a subcontractor under Parts A or B of the Ryan White Program if they meet the statutory criteria as appropriate entities. Financial assistance (as a subcontractor) may be made "to public or nonprofit private entities or private for-profit entities if such entities are the only available provider of quality HIV care in the area ..." (Section 2604(b)(2) of Title XXVI of the Public Health Service Act).

2. Part C: "638 contract" facilities are eligible to receive direct grant funds under Part C of the Ryan White Program under the criteria set forth in Section 2652(a)(1)(E) of Title XXVI of the Public Health Service Act as "health facilities operated by or pursuant to a contract with the Indian Health Service."

In addition, if the tribe has (or receives) nonprofit status, it is eligible as a nonprofit private entity. A tribe is required to produce a copy of its "638 contract" with the IHS/DHHS to establish its status as owner and operator of the facility. In addition, a tribe claiming non-profit status is required to produce a letter from the appropriate Federal, State, or local entity as proof of such status.

3. Part D: "638 contract" facilities are eligible to receive direct and subcontractor grant funds under Part D of the Ryan White Program if they meet the criteria in Section 2671(a) of Title XXVI of the Public Health Service Act as "public and nonprofit private entities (including a health facility operated by or pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care (directly or through contracts) for women, infants, children, an youth with HIV/AIDS."

4. The "638 contract" facilities and services must meet established eligibility criteria of the Ryan White Program. Thus, for Ryan White Program services provided to eligible individuals who present for services, a "638 contract" facility must serve those individuals without regard to their status as non-AI or non-AN.

C. Urban Indian Health Programs Designated by the IHS:

1. Urban Indian health programs designated by the IHS are not eligible to receive direct funds under Parts A and B.

2. Urban Indian health programs designated by the IHS are eligible to receive direct funds under Parts C and D. However, the Urban Indian health programs must meet established eligibility criteria of the Ryan White Program. Thus, for Ryan White Program services provided to eligible individuals who present for services, an Urban Indian health program must serve those individuals without regard to their status as non-AI or non-AN.

3. Urban Indian health programs designated by the IHS are eligible to receive sub-contract funds under Parts A, B, C, and D as long as they meet the established Ryan White Program criteria for those Parts, and if they meet the statutory criteria as appropriate entities. Financial assistance (as a subcontractor) may be made "to public or nonprofit private entities or private for-profit entities if such entities are the only available provider of quality HIV care in the area ..." (Section 2604(b)(2) of Title XXVI of the Public Health Service Act).

4. The Urban Indian health programs must meet established eligibility criteria of the Ryan White Program. Thus, for Ryan White Program services provided to eligible individuals who present for services, an urban Indian health program must serve those individuals without regard to their status as non-AI or non-AN.

With the exception of programs administered by or providing services of the IHS under Parts A, B, and C, the Ryan White Program must be the payer of last resort. Grantees must be capable of providing the HAB with documentation related to the use of funds as payer of last resort and the coordination of such funds with the tribes and with the IHS as applicable, and other sources of payment (e.g., Medicaid, Medicare, Department of Veterans Affairs, State funded programs, etc.).

# Ryan White Program and Services for American Indians and Alaskan Natives

## Questions and Answers for Policy Notice 07-01

1. Are Federally-recognized American Indians (AI) and Alaskan Natives (AN) eligible to receive services funded under the Ryan White Program?

Yes. AIs/ANs can claim Ryan White Program services for which they are eligible where they choose, regardless of the availability of other services that may also be available to them (e.g., through Indian Health Service (IHS), tribal, or urban Indian health programs and services).

2. What are the eligibility criteria?

Persons infected with the Human Immunodeficiency Virus (HIV) and those who have clinically defined Acquired Immune Deficiency Syndrome (AIDS) are eligible. Some States/Territories may require additional financial, residential, and medical criteria to establish eligibility. Non-infected individuals, in limited situations, may be eligible for services but only if these services have at least an indirect benefit to a person with HIV infection.

3. Are AIs/ANs eligible for the AIDS Drug Assistance Program (ADAP) under Part B?

Yes. ADAP provides funding for medications for the treatment of HIV disease. Each State and territory establishes its own eligibility criteria. All require that individuals document their HIV status and meet established income eligibility criteria. ADAPs operate under either a pharmacy reimbursement model similar to Medicaid or may directly purchase and distribute drugs for and to enrollees. Clients can enroll in ADAP in one of two ways depending on the state of enrollment; either by applying directly through state ADAP offices or submitting applications through their case manager, physician, nurse, or other service provider.

4. If Ryan White Program services are utilized by AIs/ANs, will services accessed through IHS and other providers be limited/restricted?

There are no restrictions that prohibit clients from tailoring their health care program utilizing various providers and services for which they are eligible to meet their individual health care needs.

5. Will providing Ryan White Program services to eligible populations infringe upon existing resources meant for AI/ANs?

Ryan White Program services cannot be denied to clients who are not AI/ANs. By IHS law, IHS and tribal facilities who receive Ryan White Program funds, however, are not required to provide individuals whom are not AI/AN access to existing resources that are meant for AI/ANs. As the Ryan White Program and IHS eligibility for services are separate health care programs, clients presenting for care are eligible for care/services as prescribed by each individual programs' existing eligibility rules. Those clients, who are not AI/AN, who receive services not covered by the Ryan White program from IHS-operated, 638 contract, or Urban Indian Health Programs should follow the facilities' established procedures for determining health care coverage and payment for these services.

6. Can the Ryan White Program be used to provide additional services at facilities that already provide HIV related services?

Ryan White Program services must not supplant (replace a service already offered and available) other funded services but may be used to supplement services which are unavailable for clients who require the service.

7. If an AI/AN receives Ryan White Program-funded services from a non-IHS provider, must they obtain a referral or purchase order from IHS or a 638 contract facility to cover the costs of services provided by the non-IHS provider or grantee?

No. The IHS is not obligated to reimburse a Ryan White Program grantee or provider for services provided to an AI or AN who requests those services. IHS services are a separate entitlement from Ryan White Program services. IHS facilities are also exempt from the "Payer of Last Resort" restriction for Parts A, B, and C.

8. Who covers the cost of the services received at a Ryan White Program-funded service provider?

Ryan White Program funds cover the cost of the care. With the exception of programs administered by or providing services of the IHS under Parts A, B, and C, - who are exempt from payer of last resort restrictions - if a patient is eligible or has other health service coverage, e.g., Medicaid, the grantee or provider must seek payment from that payer first and should follow established procedures to determine health care coverage as it usually does under the payer of last resort program.

9. What services are eligible for payment under the Ryan White Program?

The Ryan White Program can cover the cost of an array of HIV/AIDS health and related supportive services. Health services can include primary health care, including the ADAP, early intervention services, and dental services. In addition, the Ryan White Program covers critical health related support services needed for individuals with HIV/AIDS to achieve their medical outcomes. Support services might include respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services.

Payment for these services must be sought from all other sources, Medicaid, private insurance, and other third party reimbursement plans, prior to grantees seeking reimbursement from the Ryan White Program. With the exception of programs administered by or providing services of the IHS under Parts A, B, and C, - who are exempt from payer of last resort restrictions - Ryan White Program funding is the payer of last resort. Grantees must be capable of providing the HIV/AIDS Bureau (HAB) with documentation related to the use of funds as payer of last resort and the coordination of such funds with the tribes and with the IHS as applicable and other sources of payment (e.g., Medicaid, Medicare, Department of Veterans Affairs, State funded programs, etc.).

10. How do IHS operated facilities, 638 contract facilities, and Urban Indian Health Programs differ in eligibility to receive Ryan White Program funds?

<b>Ryan White Program</b>	<b>IHS Operated Facilities</b>	<b>638 Contract Facilities &amp; Urban Indian Health Programs</b>
<b>Parts A &amp; B</b>	May only receive funds as a subcontractor	May only receive funds as a subcontractor
<b>Parts C &amp; D</b>	May receive funds as a direct grantee or subcontractor	May receive funds as a direct grantee or subcontractor

11. What is a 638 contract facility?

A 638 facility is operated by a tribal organization that is recognized by the Federal government, under a funding agreement with IHS.

12. How should a IHS operated facility, 638 contract facility, or Urban Indian Health program apply to become a Ryan White Program grantee?

Facilities, Tribes, and Urban Indian Health programs interested in applying as a direct grantee should periodically check <http://www.grants.gov/> as all program guidances are released and applicants must apply electronically via this site. Interested programs should also review the necessary steps on

<http://www.grants.gov/> to apply for grants and use the information provided to prepare themselves as a competitive applicant.

13. What types of facilities and/or organizations can subcontract from a grantee to provide HIV related services?

Subcontractors can include hospitals (including Department of Veterans Affairs' facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, rural health centers, homeless health centers, substance abuse treatment programs, faith based organizations, and mental health programs that can provide HIV related services. Private for-profit entities may provide services as a subcontractor if they are the only available provider of quality HIV care in the specified area.

Facilities and/or organizations interested in providing services as a subcontractor, should directly contact Ryan White Grantees. For a list of current grantees under Parts A, B, C, and D, see the grantee lists at <http://hab.hrsa.gov/programs.htm>.

<b>Ryan White Program Components</b>	
<b>Part A</b>	Eligible Metropolitan Areas (EMAs) with the largest numbers of reported cases of HIV/AIDS and Transitional Grant Areas (TGAs), to meet emergency service needs of people living with HIV disease.
<b>Part B</b>	All states, the District of Columbia, and eligible U.S. Territories (Guam, Puerto Rico, and the Virgin Islands) to improve the quality, availability, and organization of health care and support services for individuals living with HIV disease and their families (Part B includes funding for the ADAP program).
<b>Part C</b>	Public and private nonprofit entities to support outpatient early intervention HIV services for people living with HIV disease (PLWH).
<b>Part D</b>	Public and private nonprofit entities for the purpose of providing family-centered care involving outpatient or ambulatory care for women, infants, children, and youth with HIV/AIDS.
<b>Part F</b>	Special Projects of National Significance (SPNS) supports the development of innovative models of HIV/AIDS care to quickly respond to emerging needs of persons receiving assistance from the Ryan White Program, SPNS models are designed to be replicable and have a strong evaluation component; AIDS Education and Training Centers (AETC) conduct education and training for providers; the HIV/AIDS Dental Reimbursement Program assists accredited dental schools and post-doctoral programs with uncompensated costs incurred in providing oral health treatment to PLWH; Minority AIDS Initiative (MAI) to evaluate and address the disproportionate impact of HIV/AIDS on racial and ethnic minorities under Parts A, B, C, D and the AETCs under Part F; and, the Community Dental Program links Dental School programs and community dental providers to grants which fund dental services for PLWH.