



Federal Tort Claim Act Medical Malpractice Program

Office of Quality and Data/BPHC
Department of Health and Human Services
Health Resources and Services Administration



Overview



- FTCA Program Background
- FTCA Requirements and Guidelines
- FTCA Program Update



FTCA Program History and Results



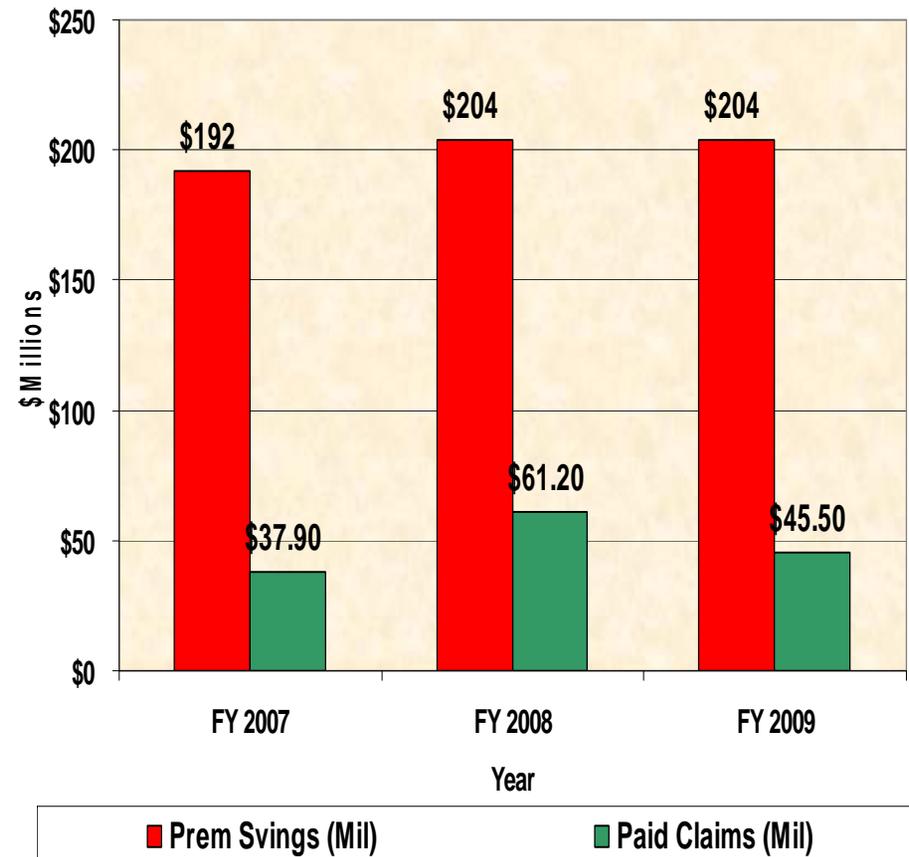
- **Congressional Study**

- In 1992, Congress determined that in Fiscal Year (FY) 1989, health centers had paid over 40M in malpractice insurance premiums while less than 10 percent of that amount had been paid in claims on their behalf

- **Federally Supported Health Centers Assistance Act/FTCA**

- provides free malpractice coverage for health centers
- increases the availability of funds for providing primary health care services
- reduces the expenditure of grant funds for malpractice insurance premiums
- establishes the act of making the staff of “deemed” health centers Federal employees for the purpose of medical malpractice
- established a no-year appropriation - Judgment Fund

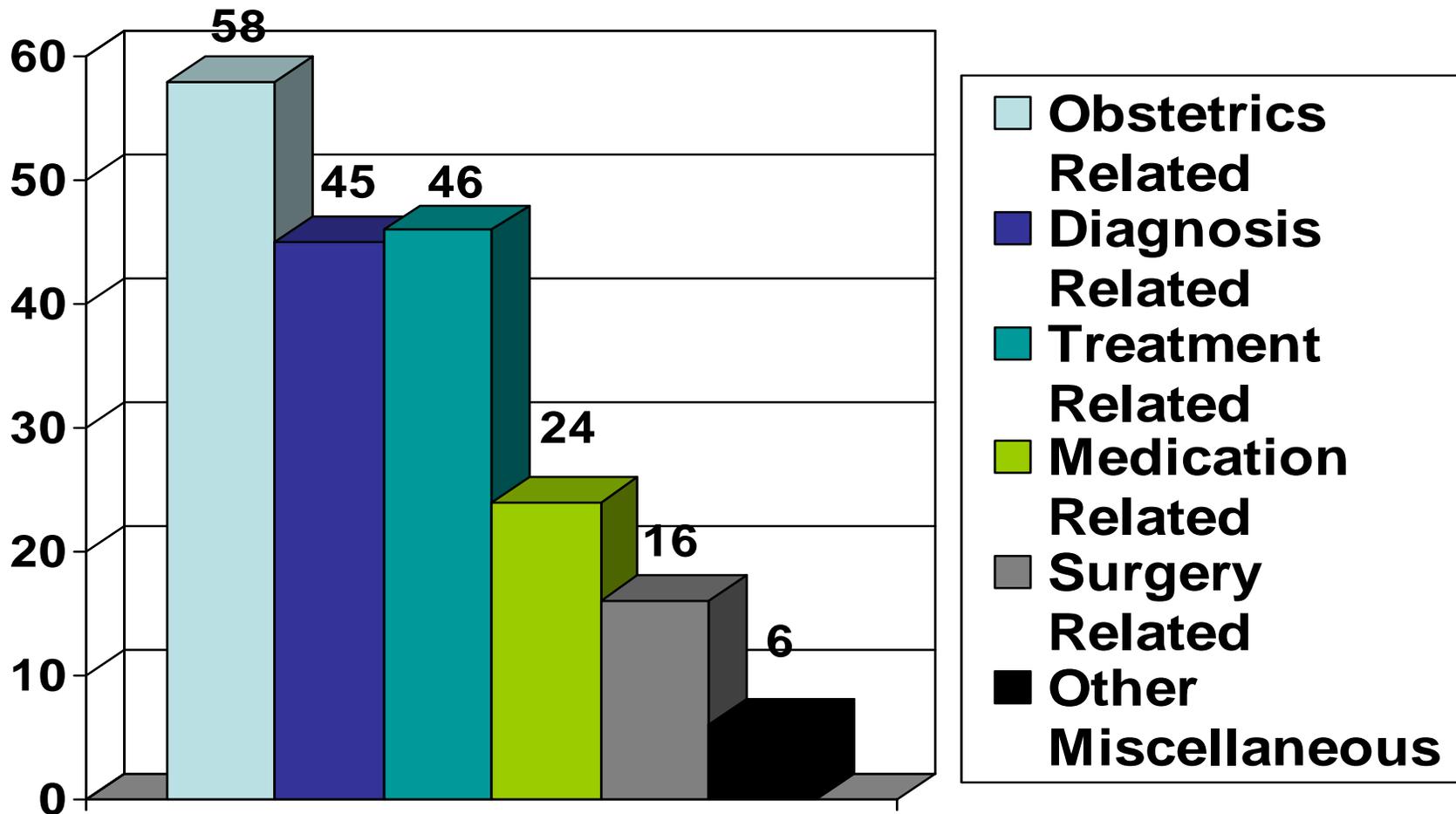
FTCA Premium Savings and Paid Claims in Millions





FTCA Malpractice Claims Summary

Nature of Allegation, 2009



Occurrences/Allegations N=195



Benefits of Coverage



- Supports patient access by offering medical malpractice liability protection to health centers
 - Avoids the need to purchase coverage in the commercial marketplace for sites and services within the scope of the grant project
 - Eliminates the cost of premiums and allows health centers to redirect the cost avoidance to support their programs and patients
 - Supports the ability to attract and recruit workforce by offering malpractice coverage thus expanding access for vulnerable populations
- Reduces burden by avoiding costs associated with securing an individual occurrence policy
 - Limitless monetary coverage per incident and in aggregate
 - Provides coverage of costs associated litigation
 - Eliminates the need for tail coverage for protection during the period of employment at the health center
 - Provides specific protections when providing services on behalf of the health center



Eligibility and Coverage



- Health Care Personnel
 - Employees
 - Contractors – Full Time Individuals
 - Contractors – Part Time Individuals
 - Family Medicine, Internal Medicine, Pediatrics, OB/GYN
- Scope of Project
 - Services rendered at sites approved within scope
- Scope of Employment
 - Documented provisions of employment between health center and staff
- Services rendered on behalf of the health center at alternate settings
 - Hospital on-call arrangements
 - Cross coverage arrangements
 - Community outreach/interventions
 - Emergencies due to natural disaster
 - Health Fairs
 - Experiential/Hands - on clinical training



Program Expectations



- **Systems and Documentation**
 - **Credentialing** - a consistent and systematic approach to assessing health care personnel's credentials, training, competency, practice history and ability to perform within their scope of practice
 - **Quality Assurance/Improvement** – establishment of an institutionalized quality program
 - **Risk Management** – policies and procedures to minimize the risks associated with the provision of health care services
 - **Service Arrangements** – documentation and oversight of employment agreements, cross-coverage activities, activities related to securing/maintaining hospital privileges, and individual contracts
- **Reporting**
 - **Deeming Application** - Risk Management Systems, Credentialing Systems, Professional Liability History and Services to Non-Health Center Patients
 - **Site Visit Reports** – to ensure compliance, provide TA and assist with initial deeming decision



Quality Assurance/Improvement



- Board Approved Quality Improvement Plan
- Peer Review Activities
- Medical Record Management
 - maintained for every patient receiving care at the health center
 - Periodic assessment of medical records to ensure completeness and legibility
- Assessment of Patient Data to drive Quality Improvement
 - Periodic assessment of the appropriateness of the utilization of services and the quality of services provided currently and in the future
 - “Right care at the Right time”



Program Expectations



- **Approvals**
 - Touhy Regulations - to participate in the malpractice legal process as an expert witness that gives testimony or provides documentation
 - Scope of Project – obtain Project Officer approval to change the scope of project and provide clarity on federal policies
- **Claims Management**
 - Incident Management – to perform root cause analysis of the event and develop and implement strategies to prevent similar incidents from occurring in the future
 - Claims/incident management within the health center should follow existing board approved QA/Risk management policies and procedures to preserve and legal protection from discovery that may exist
 - Insure that medical record is secured and available (indefinitely) to HHS
 - Narrative – provide clinician and health center feedback
 - Human Resource - maintain forwarding addresses for FTCA covered staff (for five years minimum)



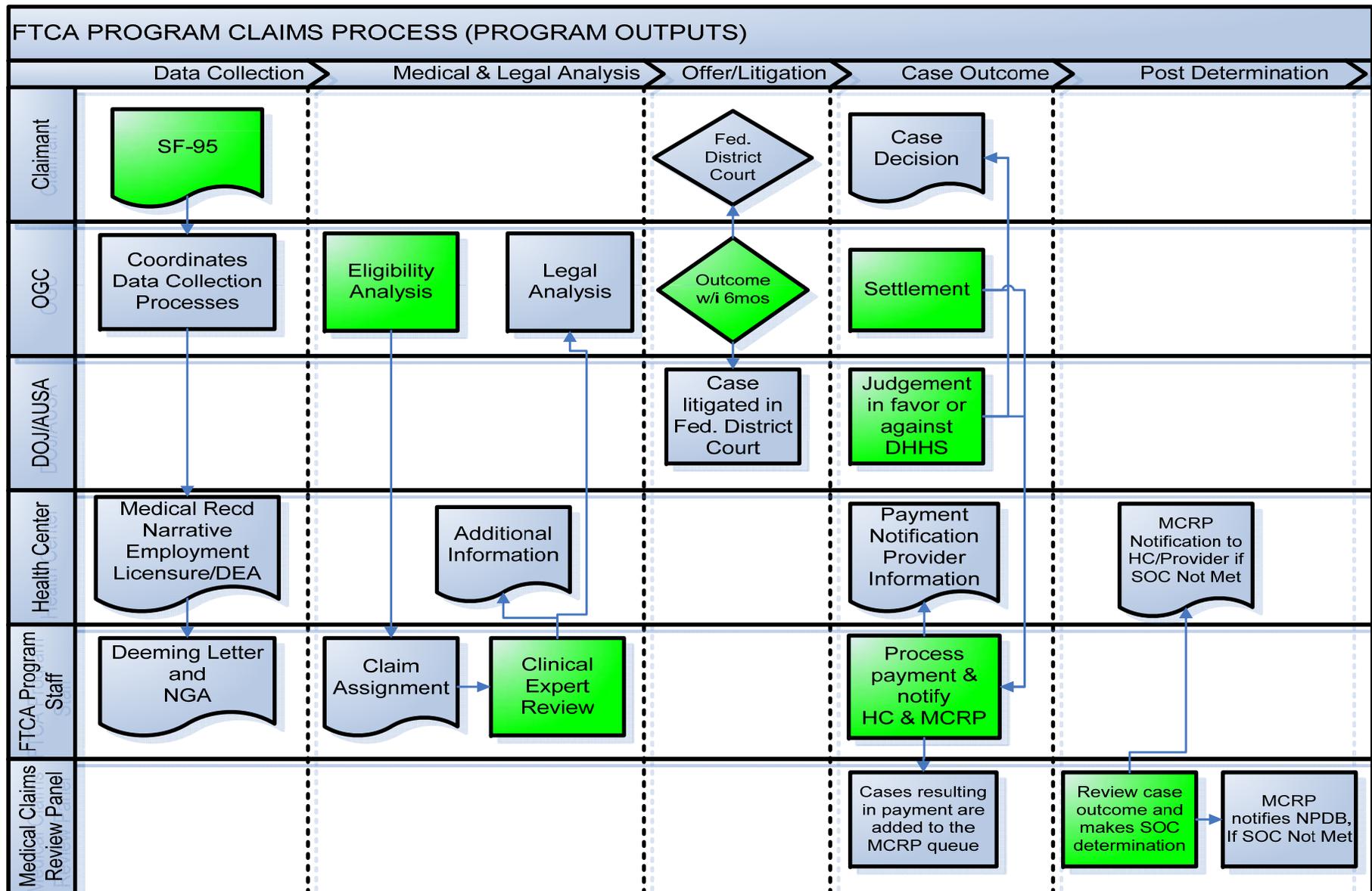
Claims Management Process



- Six Participants
 - Claimant
 - Office of General Counsel
 - Department of Justice
 - Health Center
 - FTCA Program Staff
 - Medical Claims Review Panel
- Five Phases
 - Data Collection
 - Medical and Legal Analysis
 - Offer/Litigation
 - Case Outcome
 - Post Determination



FTCA Program Claims Process





FTCA Program Update



- CY2010 Deeming Highlights
 - 912 Health Centers were redeemed for CY2010 which covers over 48,000 healthcare providers
 - 35 Health Centers were newly deemed for CY2010
 - Electronic application submission, review, and deeming process
 - Notice of Deeming Application available in EHB



FTCA Program Update



- Health Center FTCA Policy Manual
 - Available at: <http://bphc.hrsa.gov/policy/pin1101/>
 - Purpose is to convey guidance regarding existing policy and current processes, and to serve as the principal policy resource on FTCA
 - Any changes to policy will be integrated into the Policy Manual
 - Policy Manual does not include the annual deeming application PAL



FTCA Program Update



- FTCA Projects In Progress
 - Development of a comprehensive, user-friendly website
 - Development of FTCA-related tools and resources
 - Improved customer service through streamlined processes that can be tracked
 - Increased access to most frequently asked questions and information



FTCA Program Update



- Quality Improvement & Risk Management
 - Development of a QI Plan that includes clinical risk management
 - Risk Management web resource that includes free CME
 - Expansion of the Accreditation Initiative
 - Risk Management Site Visits



FTCA Program Update



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Clinical Risk Management Services

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Welcome To Clinical Risk Management Services

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Guidance

Access evidence-based reviews of patient safety and risk management issues and self-assessment tools for practice development, standards and guidelines to support clinical decision-making, and e-newsletters covering current topics in patient safety and risk management.



- ▶ [Guidance Articles](#)
- ▶ [Self-Assessment Questionnaires](#)
- ▶ [E-News Archive](#)
- ▶ [Standards and Guidelines](#)

Education

Easy-to-use, ACCME-accredited online courses provide CME credits. Learn about common risks to patient care and safety in the ambulatory setting through Webinars and audioconferences to help clinicians and staff understand effective strategies to reduce risks and improve safety.



- ▶ [Login to ECRI Institute's E-Learn](#)
- ▶ [Education and Training Tools](#)
- ▶ [Upcoming Webinars and Audioconferences \[coming soon\]](#)
- ▶ [Webinar and Audioconference Archive \[coming soon\]](#)
- ▶ [Discussion Forum \[coming soon\]](#)

Toolkits

Use the Event Reporting Toolkit and Risk Management Plan for step-by-step guides to implement these key programs, and review the Sample Policies and Tools library for templates and examples.



- ▶ [Event Reporting Toolkit \[coming soon\]](#)
- ▶ [Risk Management Plan \[coming soon\]](#)

Event Reporting

Coming Soon!

- ▶ [Implement an effective healthcare center event reporting system](#)
- ▶ [Report events and near misses for risk mitigation and analysis](#)
- ▶ [Improve patient care before serious harm occurs](#)

Risk and Safety E-News

[Web-Based Education Module Increases Awareness and Management of Diabetes](#)

[Early-Childhood Developmental Delays Predicted Using Neurobehavioral Scale](#)

[Recommendations Issued for NSAID Use in Primary Care](#)

[X-Ray Technicians Awarded \\$2.8M Jury Verdict](#)

[FDA Approves High-Dose Seasonal Flu Vaccine for People Age 65 or Older](#)



This site is maintained by ECRI Institute on behalf of the Health Resources and Services Administration.



FTCA Program Resources



- HRSA FTCA Program

Office of Quality and Data

U.S. Department of Health and Human Services

Health Resources and Services Administration

Bureau of Primary Health Care

(301) 594-0818

- FTCA Helpline - 866-FTCA-HELP (866-382-2435)
- FTCA Website: <http://bphc.hrsa.gov/FTCA/>