



PROGRAM ASSISTANCE LETTER

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DATE: July 21, 2014

DOCUMENT NAME: Notice of
Federal Tort Claims Act (FTCA)
Health Center Policy Manual Update

TO: Health Center Program Grantees
Primary Care Associations
Primary Care Offices
National Cooperative Agreements

I. PURPOSE

This Program Assistance Letter (PAL) is intended to announce, and disseminate the clarifications and updates that will be published in the Federal Tort Claims Act (FTCA) Health Center Policy Manual which will supersede Policy Information Notice (PIN) 2011-01.

II. BACKGROUND

The FTCA Health Center Policy Manual is the primary source for information on the FTCA program for the Health Center Program grantees and related stakeholders. It is currently being updated to reflect recent amendments to the FTCA Health Center regulations, set forth in Code of Federal Regulations, title 42, part 6 (42 CFR part 6).

The updated FTCA Health Center Policy Manual supersedes PIN 2011-01, which consolidated and incorporated the content of various listed Policy Information Notices (PINs) and Program Assistance Letters (PALs). Accordingly, any references to the listed issuances that are found in other Health Resources and Services Administration (HRSA) publications or guidance should be deemed as referring to the updated FTCA Health Center Policy Manual.

The FTCA Health Center Policy Manual will be amended, as needed, to incorporate future FTCA policy change and clarifications. While this FTCA Policy Manual is intended to be the principal Health Center Program resource on FTCA matters, please note that if

there are any conflicts between its content and FTCA law as interpreted by the courts (including federal statutes, regulations, and case law), the law prevails.

III. FTCA POLICY MANUAL CLARIFICATIONS AND ADDITIONS

The FTCA Health Center Program regulations were updated in a Final Rule entitled *Federal Tort Claims Act (FTCA) Medical Malpractice Program Regulations: Clarification of FTCA Coverage for Services Provided to Non-Health Center Patients* published in Federal Register Volume 78, Number 184 (Monday, September 23, 2013, Pages 58202-58204). The Final Rule made the following clarifications and additions, which have been incorporated into the updated version of the FTCA Health Center Policy Manual in section C.4 on pages 9 and 10, "Covered Services to Non-Health Center Patients":

- 1) Clarifications (language changes from previous policy set forth in the September 1995 FRN are underlined)

Health Fairs: On behalf of the health center, health center staff conduct or participate in an event to attract community members for purposes of performing health assessments. Such events may be held in the health center, outside on its grounds, or elsewhere in the community.

Immunization Campaigns: On behalf of the health center, health center staff conduct or participate in an event to immunize individuals against infectious illnesses. The event may be held at the health center, schools, or elsewhere in the community.

- 2) Additions

Coverage in Certain Individual Emergencies:

A health center provider is providing or undertaking to provide covered services to a health center patient within the approved scope of project of the center, or to an individual who is not a patient of the health center under the conditions set forth in this rule, when the provider is then asked, called upon, or undertakes, at or near that location and as the result of a non-health center patient's emergency situation, to temporarily treat or assist in treating that non-health center patient. In addition to any other documentation required for the original services, the health center must have documentation (such as employee manual provisions, health center bylaws, or an employee contract) that the provision of individual emergency treatment, when the practitioner is already providing or undertaking to provide covered services, is a condition of employment at the health center.

The following technical clarifications were also updated in the policy manual:

(1) An address change has been made on pages 20, 26 and 27 to reflect the following information:

U.S. Department of Health and Human Services
Office of the General Counsel
General Law Division
Claims and Employment Law Branch
U.S. Dept. of Health and Human Services
330 C Street, SW
Attention: CLAIMS
Switzer Building, Suite 2600
Washington, D.C., 20201
Phone: (202) 691-2369
Fax: 202-619-2922
HHS-FTCA-Claims@hhs.gov

The updated Health Center FTCA Health Center Policy Manual will be published in its entirety on the FTCA website. To view the updated Policy Manual please go to <http://bphc.hrsa.gov/ftca/about/ftcapolicies.html> .

IV. FTCA POLICY MANUAL CLARIFICATIONS AND ADDITIONS

If you have any questions or require further guidance, please contact:

FTCA/BPHC Help Line
Phone: 1-877-974-BPHC (877-974-2742)
9:00 AM to 5:30 PM (ET)
Email: BPHChelpline@hrsa.gov

James Macrae
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