Free Clinics Federal Tort Claims Act (FTCA) Program Deeming Technical Assistance Webcast for Calendar Year (CY) 2022 Coverage

FTCA Division, Office of Quality Improvement
Bureau of Primary Health Care (BPHC)

Vision: Healthy Communities, Healthy People

Learning Objectives

- Overview of the Free Clinics FTCA Program requirements

- Detail the deeming sponsorship application requirements for CY 2022 Coverage

- Review available resources

AGENDA

- Program Background & Requirements
- Application Process
- Data Reporting
- Important Dates
- Resources

Program Background & Requirements

Program Background & Requirements - Overview

- The Free Clinics FTCA Program extends free medical malpractice liability coverage to individuals who:
  - Meet program and statutory requirements; and
  - Are deemed as federal employees for such purposes.

- Individuals in the following categories may be eligible for the Free Clinics FTCA Program:
  - Volunteer health care professionals;
  - Officers;
  - Governing board members;
  - Employees; and
  - Individual contractors.

Program Background & Requirements - Sponsoring Free Clinics

- An eligible free clinic must be operated by a non-profit, private entity that:
  - Does not accept reimbursement from any third party payer;
  - Does not impose charges on patients; and
  - Is licensed or certified per applicable law to provide health services.

- A free clinic must meet and maintain the following program requirements:
  - Credentialing and Privileging;
  - Risk Management and Quality Improvement/Quality Assurance;
  - Patient Notice of Limited Legal Liability;
  - Review of Medical Malpractice Claims; and
  - Annual Data Reporting.

Frequently Asked Question (FAQ) #1

- My clinic receives grant funding and donations. Does that make us ineligible for the program?

FAQ #1 Answer

- A free clinic can receive grant funding and donations as long as the funding and donations are not for a specific service per person (per capita).

Program Background & Requirements - Individuals (1/2)

- Who is eligible?
  - Volunteer health care professionals;
  - Officers;
  - Governing board members;
  - Employees; and
  - Individual contractors.

- These eligible healthcare professionals:
  - Must be sponsored by an eligible free clinic;
  - Must meet all statutory and program requirements; and
  - Provide a qualifying health service (i.e., medical assistance required or authorized to be provided under Title XIX of the Social Security Act (42 U.S.C. §1396,et seq.).

Program Background & Requirements - Individuals (2/2)

- Eligible healthcare professionals must provide patients with written notification of limited legal liability (if not provided by the free clinic).

- A special note for individual contractors:
  - These individuals must have a contract directly with the free clinic.
  - A contract between a free clinic and a corporation does not provide sufficient basis for deemed status under the Free Clinics FTCA Program.
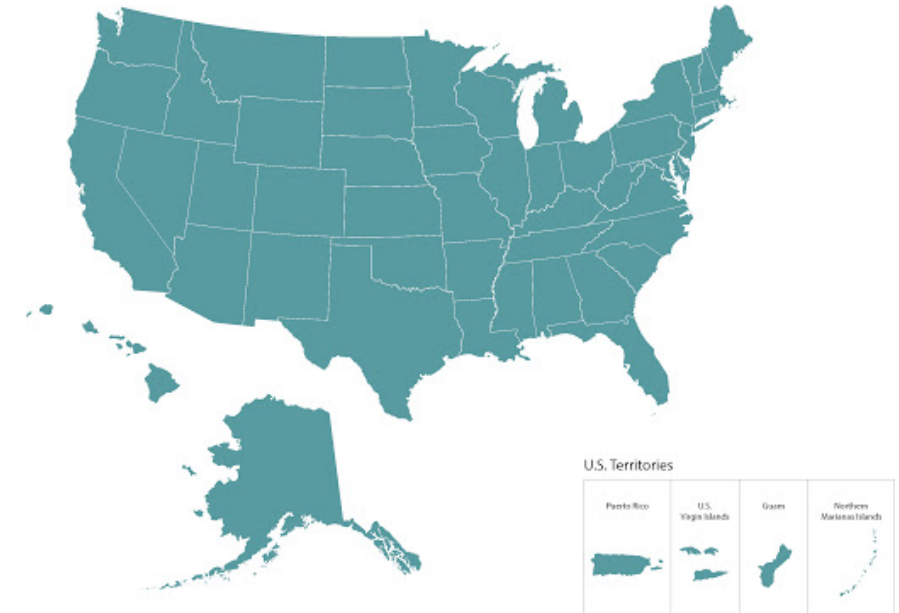
Program Background & Requirements - Coverage Approval

- Medical malpractice coverage under the Free Clinics FTCA Program does not occur automatically.
  - FTCA coverage requires HRSA's approval of applications for deeming of certain individuals from the sponsoring free clinic.
  - FTCA coverage is not retroactive and is not effective until the date shown on the deeming letter.
  - Free clinic coverage does not extend to free clinic entities.

- Coverage is only for medical malpractice claims, specifically medical, surgical, dental, and related functions.

Program & Background Requirements - Impact

- 230 participating free clinics

- 38 states represented

- As of July 2021, the FTCA Free Clinics program processed and approved over 11,291 individuals.

U.S. Territories

| Puerto Rico | U.S. Virgin Islands | Guam | Northern Marianas Islands |

FAQ #2

- Are there a minimum number of hours for providers in order to qualify for the program?

FAQ #2 Answer

- Deemed individuals do not have a requirement for a minimum amount of hours in order to qualify for the program.

FAQ #3

- How do I demonstrate compliance with the Free Clinics FTCA Program areas of risk management, Quality Improvement/Quality Assurance (QI/QA), credentialing & privileging, and claims management?

FAQ #3 Answer

- Review the program policy and application guidance documents online at https://bphc.hrsa.gov/ftca/freeclinics/policies.html:
  - Policy Information Notice (PIN) 2011-02
  - Program Assistance Letter (PAL) 2018-04
  - Program Assistance Letter (PAL) 2021-03
  - Determination of Coverage for COVID19-Related Activities by Free Clinic Providers
  - Application resources & ECRI

Application Process

Application Process - Types of Applications

- Initial Deeming Sponsorship Application
  - Accepted on a rolling basis throughout the year as long as HRSA's Electronic Handbooks (EHBs) system are open to accept applications.
  - The Free Clinic EHB system will be closed for maintenance from Monday, July 26 through Wednesday, August 11, 2021.

- Supplemental Deeming Sponsorship Application
  - Accepted October 15th – December 31st, 2021.

- Annual Redeeming Sponsorship Application
  - For coverage during CY 2022 (January 1, 2022 to December 31, 2022).
  - System open to accept applications **on** August 12, 2021.
  - All applications due **on or before** Friday, October 1, 2021.

Application Process - Initial Deeming

- In addition to a complete initial deeming sponsorship application, the clinic must also submit the following:

  - Documentation of non-profit status;

  - Board-approved QI/QA plan; and

  - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against the free clinic and/or its sponsored individuals within ten (10) years prior to the submission of this FTCA application (including pending claims).

Application Process - Supplemental Deeming

- In addition to a complete supplemental deeming sponsorship application, the clinic must also submit the following:
    - Copy of a new QI/QA plan only if it has changed since the initial deeming or redeeming sponsorship application; and
    - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against any new sponsored eligible individuals within ten (10) years prior to the submission of this FTCA application (including pending claims).

Application Process - Redeeming

- In addition to a complete redeeming sponsorship application, the clinic must also submit the following:
  - Board-approved QI/QA plan; and
  - Description of any and all disciplinary actions and filed medical malpractice lawsuits and claims alleged against any sponsored eligible individuals within five (5) years prior to the submission of this FTCA application (including pending claims).

- The EHBs will be open to receive redeeming sponsorship applications on August 12, 2021.

FAQ #4

- When should we begin our redeeming sponsorship application for CY 2022?

FAQ #4 Answer

- You can begin collecting the information you need for your redeeming sponsoring application at any time.

Application Process - When to Begin for CY 2022

Begin preparing your application NOW!

- While you cannot enter the information into the EHBs prior to August 12, 2021, you can begin collecting and reviewing policies and other information that must be submitted.

- You can also start obtaining the necessary approvals, which may include Board approval.

- You can review all the application questions by reading the Free Clinics FTCA Program application questions found at the end of the PAL.

What's new for CY 2022? COVID-19 Questions – Part 1

- New volunteer data:

  - Is the COVID-19 vaccination volunteer solely administering COVID-19 vaccinations?

  - Estimate how many hours on average the volunteer will work per month.

    - ✓ Redeeming applicants should enter the average number of hours per month worked during the previous calendar year.

    - ✓ Initial and supplemental applicants should enter the estimated or anticipated average number of hours the volunteer plans to work per month for the year that the application is submitted.

What's new for CY 2022? COVID-19 Questions – Part 2

- Licensure and/or Certification Update

- New verification upload option for volunteers solely administering COVID-19 vaccines:

  - Primary source verification of current licensure and/or certification, or

  - Documentation based on state or federal legislation, declaration, or exemption that permits the volunteer to administer COVID-19 vaccinations under a special grant of authority due to the ongoing COVID-19 pandemic.

    - ✓ Note: This includes information regarding the special authority and proof that the person meets those requirements (ex. License or other supporting documents that prove special authority eligibility)

Application Process - Application Sections I-V

- Section I. Contact Information

- Section II. Site Information

- Section III. Sponsoring Free Clinic Eligibility

- Section IV. Credentialing & Privileging Systems

- Section V. Risk Management Systems

Application Process - Application Section VI

- Section VI. Free Clinic Volunteer Health Care Professionals, Board Members, Officers, Employees, and Individual Contractors
  - Individual details
  - Contact information
  - NEW COVID-19 Questions
  - Roles and Specialty
  - Individual Type
  - Service Type
    - Clinical Work activities (Individuals that provide clinical care or participate in the supervision and oversight of clinical care)
    - Non-Clinical Activities (Individuals who conduct purely non-clinical or administrative activities)
  - Credentialing and Privileging (including new COVID-19 questions)
  - Medical Malpractice Claims
  - Enter Your Comments

Section VI. Individual Type Updates

- New or renewal applicant

- Volunteer health care professional, officer/governing board member, employee, or individual contractor

- Licensed or certified

- Upload primary source verification of current licensure and/or certification (if applicable)

- Service Type identification to indicate whether the individual is doing clinical and/or non-clinical activities

Application Process - Application Sections (5/6)

Section VI. Individual Type Updates

- PIN 2011-02, Section V. Program Requirements, A. Credentialing and Privileging

- Licensed and/or Certified Individuals
  - Applicable for volunteers and other individuals providing health care services in your free clinic

- Primary & Secondary Source Verification

- Credentialing & Privileging:
  - Licensed Independent Practitioners
  - Other Licensed or Certified Practitioners

Application Process - Application Sections VII-X

- Section VII. Patient Visit Data

- Section VIII. Attachments

- Section IX. Remarks

- Section X. Signatures

Application Process - Common Application Pitfalls

- Credentialing & Privileging
  - Review PIN 2011-02 to ensure that you are credentialing and privileging individuals according to program requirements.
  - Provide the following information for volunteer health care professionals:
    - ✓ Primary source verification of current licensure and/or certification (or COVID-19 alternative).

- QI/QA Plan or Risk Management Plan
  - Must be approved, signed, and dated on a recurring basis, such as every three years.
  - Include methodology on how to identify concerns.

- Risk Management
  - Do NOT submit the NPDB report.
  - Include credentialing & privileging within the QI/QA plan.

FAQ #5

- How do we complete and submit our application?

FAQ #5 Answer

- Applications must be completed and submitted through HRSA's EHBs.

- If you are a free clinic applying for coverage for the first time as an initial applicant, you must obtain a Data Universal Numbering System (DUNS) number and register with the System for Award Management (SAM) at SAM.gov.

HRSA
Health Center Program

Data Reporting

Data Reporting

- A data report is a statutory requirement and part of the annual redeeming sponsorship application.

- The data collected is defined as follows:
  - Total number of free clinic-sponsored deemed individuals (including practitioners, board members, and officers);
  - Total number of deemed providers; and
  - Total number of "FTCA-covered" patient visits conducted by deemed providers.

Important Dates

Important Dates - CY 2021 Deeming

- Thursday, August 12, 2021: Redeeming cycle opens

- Friday, October 1, 2021: Redeeming application deadline

- Tuesday, November 30, 2021: Anticipate all Notice of Deeming Action (NDA) letters sent

- January 1, 2022: New deeming coverage begins

Resources

Resources

- Website: Free Clinics FTCA Program
  - Webinar recordings
  - Policy documents: PALs 2021-03 and 2020-06, PIN 2011-02
  - Application process
  - COVID related PALs
  - Sample Liability Letters in English and Spanish

- ECRI: Clinical risk management resources (ecri.org)
  - Risk management services provided on behalf of HRSA
  - Services provided at no cost to free clinics, health centers, and look-alikes
  - Free clinics demonstration video
  - Credentialing & privileging and other toolkits

Direct questions to Health Center Program Support

- By phone: 877-464-4772, option 1; or
- Online: http://www.hrsa.gov/about/contact/bphc.aspx.

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