



TO: FTCA 42 U.S.C. 233(o) Program Free Clinics

FROM: Associate Administrator, Bureau of Primary Health Care

SUBJECT: Determination of Coverage for COVID19-Related Activities by Free Clinic Providers under 42 U.S.C. § 233(o)

Background

Section 224(o) of the Public Health Service (PHS) Act, 42 U.S.C. § 233(o), provides eligibility for certain liability protections, including medical malpractice liability coverage under the Federal Tort Claims Act (FTCA), for the performance of medical, dental, surgical, and related functions by qualified individuals for whom a free clinic deeming sponsorship application has been approved when they provide a “qualifying health service” on behalf of a free clinic. Section 224(o)(5) of the PHS Act applies subsection 233(g) of the PHS Act, with certain limited exceptions, to a health care practitioner for this purpose “to the same extent and in the same manner as such subsections apply to an officer, governing board member, employee, or contractor of an entity described in subsection [233(g)(4)]” (i.e., a HRSA-funded health center).

The President of the United States declared a national emergency on March 13, 2020, and the Secretary of Health and Human Services declared that a public health emergency as a result of confirmed cases of 2019 Novel Coronavirus (2019 nCoV)(COVID-19) has existed nationwide since January 27, 2020. Accordingly, the Bureau of Primary Health Care (BPHC) encourages free clinic health care practitioners, employees, and contractors who have been deemed as Public Health Service employees through the Free Clinics FTCA Program to provide COVID-19-related health services through emergency response activities to the extent possible. Such health services include, but are not limited to, screening, triage, testing, diagnosis, and treatment.

Determination of Coverage

This sets forth my determination, in accordance with 42 U.S.C. § 233(o)(5), that the provision of a qualifying health service by individuals who have been deemed as Public Health Service employees through the Free Clinics FTCA Program to prevent, prepare or respond to COVID-19 (including, but not limited to, screening, triage, testing, diagnosis, and treatment) to individuals who are not established patients of the free clinic, whether at the free clinic or through responsive offsite programs or events carried out by the free clinic, and both in-person and through telehealth, benefits patients of these entities and general populations that could be served by these entities through community-wide intervention efforts within the communities served by such entities and therefore is eligible for liability protections for the provision of such services under section 42 U.S.C. § 233(o).

Services provided by deemed free clinic providers must continue to comply with applicable Free Clinic FTCA Program requirements. The free clinic should also maintain a medical record of each encounter that identifies the patient, the service(s) provided, the location where services were administered, the name of the provider(s) administering the services, and the date and time the services were administered.

If you have any questions, please contact:

Health Center Program Support
Phone: 1-877-464-4772, Option 1

[BPHC Contact Form](#)

8:00 a.m. to 5:30 p.m. ET, Monday through Friday (except Federal holidays)

Sincerely,

/James Macrae/

James Macrae
Associate Administrator