

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT GUIDANCE FOR PART B CONTRACTORS

This guidance sets forth requirements related to AIDS Institute Ryan White Part B (formerly Title II) contracts as stipulated in the Ryan White HIV/AIDS Treatment Modernization Act and as mandated by HRSA policy and New York State policy. The following information provides guidance for contractors in developing budgets and work plans. Ryan White contracts **must** adhere to these requirements. This guidance includes information on allowable services, client eligibility, time and effort reporting, administration, and payer of last resort/revenue requirements. Please note that these policies may not be applicable to Ryan White Part A (formerly Title I) contracts administered by MHRA.

RYAN WHITE SERVICE CATEGORIES

The Ryan White HIV/AIDS Treatment Modernization Act (RWHATMA) limits the persons eligible for Ryan White services and limits the services that are allowable with Ryan White funds. Activities supported and the use of funds appropriated under the RWHATMA must be in accordance with legislative intent, federal cost principles, and program-specific policies issued by the federal Health Resources and Services Administration (HRSA). HRSA policy related to Ryan White Parts A and B states that no service will be supported with Ryan White funds unless it falls within the legislatively defined range of services. In addition, the RWHATMA stipulates that funds will not be used to make payments for any item or service to the extent that payment can reasonably be expected to be made by sources other than Ryan White funds. HRSA policy states that grantees and their contractors must recognize that Ryan White funds are to be considered dollars of last resort and must make reasonable efforts to secure other funding instead of Ryan White funding whenever possible. In conducting program planning, developing contracts, and overseeing programs, you must comply with legislative intent and HRSA policy regarding allowable services and payer of last resort requirements.

Ryan White Part B funds may be used to support the following services:

CORE SERVICES

- 1. Outpatient/Ambulatory medical care (health services)** is the provision of professional diagnostic and therapeutic services rendered by a physician, physician's assistant, clinical nurse specialist, or nurse practitioner in an outpatient setting. Settings include clinics, medical offices, and mobile vans where clients generally do not stay overnight. Emergency room services are not outpatient settings. Services includes diagnostic testing, early intervention and risk assessment, preventive care and screening, practitioner examination, medical history taking, diagnosis and treatment of common physical and mental conditions, prescribing and managing medication therapy, education and counseling on health issues, well-baby care, continuing care and management of chronic conditions, and referral to and provision of specialty care (includes all medical subspecialties). *Primary medical care* for the treatment of HIV infection includes the

provision of care that is consistent with the Public Health Service's guidelines. Such care must include access to antiretroviral and other drug therapies, including prophylaxis and treatment of opportunistic infections and combination antiretroviral therapies.

- 2. Mental health services for HIV-positive persons.** Psychological and psychiatric treatment and counseling services, including individual and group counseling, provided by mental health professionals licensed by the NYS Department of Education and the Board of Regents to practice within the boundaries and scope of their respective profession. This includes Psychiatrists, Psychologists, Psychiatric Nurse Practitioners, Masters prepared Psychiatric Registered Nurses, and Licensed Clinical Social Workers. All mental health services must be provided in accordance with the AIDS Institute Mental Health Standards of Care.
- 3. Medical nutrition therapy** is provided by a licensed registered dietitian outside of a primary care visit and includes the provision of nutritional supplements. Medical nutrition therapy provided by someone other than a licensed/registered dietitian should be recorded under psychosocial support services.
- 4. Medical case management services (including treatment adherence)** are a range of client-centered services that link clients with health care, psychosocial, and other services. The coordination and follow-up of medical treatments is a component of medical case management. These services ensure timely and coordinated access to medically appropriate levels of health and support services and continuity of care, through ongoing assessment of the client's and other key family members' needs and personal support systems. Medical case management includes the provision of treatment adherence counseling to ensure readiness for, and adherence to, complex HIV/AIDS treatments. Key activities include (1) initial assessment of service needs; (2) development of a comprehensive, individualized service plan; (3) coordination of services required to implement the plan; (4) client monitoring to assess the efficacy of the plan; and (5) periodic re-evaluation and adaptation of the plan as necessary over the life of the client. It includes client-specific advocacy and/or review of utilization of services. This includes all types of case management including face-to-face, phone contact, and any other forms of communication. All case management services must be provided in accordance with AIDS Institute case management standards.
- 5. Substance abuse services-outpatient** is the provision of medical or other treatment and/or counseling to address substance abuse problems (i.e., alcohol and/or legal and illegal drugs) in an outpatient setting, rendered by a physician or under the supervision of a physician, or by other qualified personnel.

SUPPORT SERVICES, defined as services needed to achieve outcomes that affect the HIV-related clinical status of a person with HIV/AIDS. Support services must be shown to improve clinical outcomes. Support services must facilitate access to care. Allowable support services are:

6. **Case management (non-medical)** includes the provision of advice and assistance in obtaining medical, social, community, legal, financial, and other needed support services. Non-medical case management does not involve coordination and follow-up of medical treatments, as medical case management does. In accordance with HRSA HAB policy notice 01-01, this includes transitional case management for incarcerated persons as they prepare to exit the correctional system as part of effective discharge planning, or who are in the correctional system for a brief period, which would not include any type of discharge planning. All case management services must be provided in accordance with AIDS Institute case management standards.
7. **Child care services** are the provision of care for the children of clients who are HIV-positive while the clients attend medical or other appointments or Ryan White Program-related meetings, groups, or training. **NOTE: This does not include child care while a client is at work.**
8. **Emergency financial assistance** is the provision of short-term payments to agencies or establishment of voucher programs to assist with emergency expenses related to essential utilities, housing, food (including groceries, food vouchers, and food stamps), and medication when other resources are not available.
9. **Food bank/home-delivered meals** include the provision of actual food or meals. It does not include finances to purchase food or meals. The provision of essential household supplies such as hygiene items and household cleaning supplies should be included in this item. Includes vouchers to purchase food.
10. **Health education/risk reduction** is the provision of services that educate clients with HIV, including the provision of information about medical and psychosocial support services and counseling to help clients with HIV improve their health status, and education about HIV transmission and how to reduce the risk of HIV transmission.
11. **Housing services** are the provision of short-term assistance to support emergency, temporary or transitional housing to enable an individual or family to gain or maintain medical care. Housing-related referral services include assessment, search, placement, advocacy, and the fees associated with them. Eligible housing can include both housing that does not provide direct medical or supportive services and housing that provides some type of medical or supportive services such as residential mental health services, foster care, or assisted living residential services.
12. **Linguistics services** include the provision of interpretation and translation services.
13. **Medical transportation services** include conveyance services provided, directly or through voucher, to a client so that he or she may access health care services.
14. **Outreach services** are programs that have as their principal purpose identification of people who know their status so that they may become aware of, and may be enrolled in care and treatment services, **NOT** HIV counseling and testing or HIV prevention education. Outreach programs must be planned and delivered in coordination with local HIV prevention outreach programs to avoid duplication of effort; be targeted to populations known through local epidemiologic data to be at disproportionate risk for

HIV infection; be conducted at times and in places where there is a high probability that individuals with HIV infection will be reached; and be designed with quantified program reporting that will accommodate local effectiveness evaluation.

15. **Psychosocial support services** are the provision of support and counseling activities, child abuse and neglect counseling, HIV support groups that improve medical outcomes, caregiver support, and bereavement counseling. Includes nutrition counseling provided by a non-registered dietitian but excludes the provision of nutritional supplements.
16. **Referral for health care/supportive services** is the act of directing a client to a service in person or through telephone, written, or other type of communication. Referrals may be made within the non-medical case management system by professional case managers, informally through support staff, or as part of an outreach program.
17. **Rehabilitation services** are services provided by a licensed or authorized professional in accordance with an individualized plan of care intended to improve or maintain a client's quality of life and optimal capacity for self-care. Services include physical and occupational therapy, speech pathology, and low-vision training.
18. **Respite care** is the provision of community or home-based, non-medical assistance designed to relieve the primary caregiver responsible for providing day-to-day care of a client with HIV/AIDS.
19. **Treatment adherence counseling** is the provision of counseling or special programs to ensure readiness for, and adherence to, complex HIV/AIDS treatments by non-medical personnel outside of the medical case management and clinical setting.

Ryan White funds may also be used to support New York State's Ryan White HIV Care Networks and services that support network activities (e.g., transportation for persons living with HIV/AIDS to attend network meetings), training of providers delivering allowable services that is intended to improve medical outcomes, and consumer education/training that is intended to improve medical outcomes.

Ryan White Part B funds cannot be used to support services that are not included on the above list. Examples of services that are not allowable include:

1. HIV prevention/risk reduction for HIV-negative or at-risk individuals.
2. Syringe exchange programs.
3. HIV counseling and testing.
4. Employment, vocational rehabilitation, or employment-readiness services.
5. Art, drama, music, dance, or photography therapy.
6. Social, recreational, or entertainment activities. **Federal funds cannot be used to support social, recreational or entertainment activities.** Ryan White funds cannot be used to support amusement, diversion, social activities, or any costs related to such activities, such as tickets to shows, movies or sports events, meals, lodging, transportation, and gratuities. Movie tickets or other tickets cannot be used as incentives. Ryan White funds cannot support parties, picnics, structured socialization, athletics, etc.

7. Non-client-specific or non-service-specific advocacy activities.
8. Services for incarcerated persons, except transitional case management.
9. Costs associated with operating clinical trials.
10. Funeral, burial, cremation or related expenses.
11. Direct maintenance expense, loan payments, insurance, or license and registration fees associated with a privately owned vehicle.
12. Local or State personal property taxes.
13. Criminal defense or class action suits unrelated to access to services eligible for funding under the RWHATMA.
14. Direct payments of cash to recipients of services. Where direct provision of the service is not possible or effective, vouchers or similar programs, which may only be exchanged for a specific service or commodity (e.g., food or transportation), must be used to meet the need for such services. Voucher programs must be administered in a manner which assures that vouchers cannot be readily converted to cash.
15. Inpatient services.
16. Clothing.
17. Installation of permanent systems for filtration of all water entering a private residence.
18. Professional licensure or to meet program licensure requirements.
19. Broad-scope awareness activities about HIV services which target the general public.
20. Gift certificates.
21. **Fund raising.** Federal funds cannot be used for organized fund raising, including financial campaigns, solicitation of gifts and bequests, expenses related to raising capital or contributions, or the costs of meetings or other events related to fund raising or other organizational activities, such as the costs of displays, demonstrations, and exhibits, the cost of meeting rooms, and other special facilities used in conjunction with shows or other special events, and costs of promotional items and memorabilia, including gifts and souvenirs. These costs are unallowable regardless of the purpose for which the funds, gifts or contributions will be used.
22. Transportation for any purpose other than acquiring medical services or acquiring support services that are linked to medical outcomes associated with HIV clinical status. Transportation for personal errands, such as grocery shopping, other shopping, banking, social/recreational events, restaurants, or family gatherings is not allowed.
23. Pediatric developmental assessment and early intervention services, defined as the provision of professional early interventions by physicians, developmental psychologists, educators, and others in the psychosocial and intellectual development of infants and children.
24. Permanency planning, defined as the provision of services to help clients or families make decisions about placement and care of minor children after the parents/caregivers are deceased or are no longer able to care for them.
25. Voter registration activities.
26. Costs associated with incorporation.
27. Herbal supplements/herbal medicines.
28. Massage and related services.
29. Reiki, Qi Gong, Tai chi and related activities.
30. Relaxation audio/video tapes.

31. Yoga, yoga instruction, yoga audio/video tapes, yoga/exercise mats.
32. Acupuncture services.
33. Buddy/companion services.
34. International travel.
35. Construction.
36. Lobbying expenses.

Contract work plans and duties descriptions of staff supported by Ryan White funds will be reviewed to ensure that they include only those activities that are fundable under the RWHATMA.

CLIENT ELIGIBILITY

The intent of the RWHATMA is to serve HIV-positive persons. Contractors receiving Ryan White funds must have systems in place to ensure and document client eligibility. **Ryan White contractors must document client eligibility immediately upon client enrollment in a Ryan White service.** Client files must include primary documentation of positive HIV serostatus (e.g., lab results or physician statements) or reference to the primary documentation in the form of a certified referral form or a notation that eligibility has been confirmed, including the name of the person/organization verifying eligibility, date, and nature and location of primary documentation. Contractors must be made aware of this requirement, and contract managers must review documentation of client eligibility during monitoring. **NOTE: Also, please see the first paragraph under “Revenue/Payer of Last Resort” regarding the requirement to screen clients for eligibility to receive services through other payers.**

Non-infected individuals (such as family members) may be appropriate candidates for Ryan White services in limited situations, but these services must always benefit the medical outcome of the HIV-infected client. Ryan White funds may be used for services to individuals not infected with HIV in the following circumstances:

1. The service has as its primary purpose enabling the non-infected individual to participate in the care of someone with HIV. Examples include caregiver training, health and treatment education for caregivers, and practical support that assists in caring for someone with HIV.
2. The service directly enables an infected individual to receive needed medical or support services by removing an identified barrier to care. An example is child care for non-infected children while an infected parent secures medical care or support services.

Ryan White contractors are expected to provide documented, fundable services to eligible clients and to clearly define the scope and nature of such services in the contract work plan.

TIME AND EFFORT REPORTING

Contractors must have systems in place to document time and effort of direct program staff supported by all federal funds. New federal contractors must submit their written policies related to time and effort to HRI for approval. Most often, such systems take the form of a time sheet entry. These time and effort reporting procedures must clearly identify the percentage of time each staff person devotes to contract activities in accordance with the approved budget. The percent of effort devoted to the project may vary from month to month. The employee's time sheet must indicate the percent of effort the employee devotes to each particular project for a given time period. The effort recorded on the time sheet must reflect the employee's funding sources, and the percent of effort recorded for Ryan White funds must match the percentage being claimed on the Ryan White voucher for the same time period. In addition, 100 percent of the employee's time must be documented. In cases where the percentage of effort of contract staff changes during the contract period, contractors must submit a budget modification request to the AIDS Institute.

On audit, contractors will be expected to produce this documentation. Failure to produce this documentation could result in audit disallowances. HRI also has the right to request back-up documentation on any vouchers if they choose to do so. Only indirect staff are not subject to time and effort reporting requirements. Such staff **must** be included in the administrative costs line, rather than in PS.

ADMINISTRATION

The Ryan White legislation imposes a cap on contractor administration. Legislative intent is to keep administrative costs to an absolute minimum. Contractors must keep administrative costs to approximately ten percent of the total budget.

Administration includes the following:

- 1. Management and oversight of specific programs funded under Part B:** This includes staff who have agency management responsibility but no direct involvement in the program or the provision of services. This does not include the direct supervision of program/clinical staff. However, management and oversight of the specific Part B program could be a portion of an individual's responsibilities. For example, a program director or project coordinator might have responsibility for indirect management and oversight of the program along with responsibility for the direct provision of services, supervising day-to-day program operations, or direct supervision of staff involved in the provision of services. In such a case, the former would be considered administrative, while the latter would be considered direct program. Titles that might involve management and oversight duties may include: Executive Director, Deputy Executive Director; Program Manager, Program Coordinator, Clinic Manager, etc.
- 2. Other types of program support, such as quality assurance, quality control and related activities:** This includes staff whose duties relate to agency-wide quality

assurance (e.g., developing agency quality assurance protocols, reviewing a sample of charts to determine the quality of services agency-wide, or participating on an agency's/facility's quality committee). This might not include quality assurance activities related specifically to an HIV program component of an agency; such activities will have to be reviewed on a case-by-case basis. This does not include supervisory quality assurance (e.g., reviewing charts with direct service staff to determine the appropriateness and comprehensiveness of services delivered to the staff person's clients).

3. **Routine contract administration:** This includes proposal, work plan and budget development, receipt and disbursement of contract funds, and preparation of programmatic and financial reports as required by the AIDS Institute.
4. **Audit:** All funds included in the budget's audit line. Please note that under revised federal audit requirements, grantees that expend \$500,000 or more in federal funds must have a single A-133 audit. Federal grantees that spend less than \$500,000 in federal funds annually are prohibited from charging federal funds for single audits. Therefore, only those contractors receiving federal funds of \$500,000 or more may request approval of reimbursement for single audit expenses through their Ryan White contract. However, Ryan White funds may be used to support limited financial review with prior AIDS Institute approval.
5. **Other administrative activities:** This includes fiscal activities, such as accounting, bookkeeping, payroll, etc., and operations responsibilities, such as security, maintenance, etc. Titles that may involve such duties include: Controller, Accounting Manager, Director of Operations, Bookkeeper, Accountant, Payroll Specialist, Finance Coordinator, Maintenance Worker, Security Officer, etc. Some types of insurance are considered program costs (e.g., medical malpractice insurance, insurance for a vehicle used as part of a transportation program), while some are considered administrative (general liability, board insurance).
6. **Indirect:** This includes usual and recognized overhead, including established indirect cost rates. Examples of such costs are rent, utilities, etc. Indirect costs are those shown in the budget's "administrative costs" line.

With regard to numbers 1 through 5 above, contractors must submit detailed duties descriptions. If staff spend portions of the time supported by the contract on administrative activities, contractors must identify the percentage of time devoted to those activities so the AIDS Institute is able to identify the amount of the budget that supports administration. Contractors should also ensure that staff titles are consistent with their duties. For example, the title "Administrative Assistant" should not be used if the majority of the staff person's duties are program related. A more appropriate title might be "Program Assistant." Contract managers will work with contractors to ensure that titles reflect the duties of staff.

The percentage of staff time devoted to administration must be applied to the fringe amount.

That is, if five percent of all personal services is identified as administrative, five percent of the fringe amount would be considered administrative as well. In addition, this percentage must be applied to OTPS lines unless OTPS items are described as specifically related to program. If five percent of all personal services is identified as administrative, five percent of OTPS would be considered administrative. Exceptions would include OTPS items that are 100 percent program-related, which might include: supplies such as educational materials, clinical materials, etc.; space for client services; travel for client transportation or staff travel for the purpose of serving clients.

We recognize that some administrative resources are needed by contractors to support direct service programs, and it is AIDS Institute policy to provide those resources within reason. However, it is important to note that Ryan White funds are meant to support direct services rather than administration. Contract managers will review budgets to determine the amount of funds supporting administration. If it is excessive, contract managers will work with you in revising budgets and work plans if necessary to reduce administrative costs.

REVENUE/PAYER OF LAST RESORT

In order to ensure that Ryan White funds are payer of last resort, contractors must screen clients for eligibility to receive services through other programs (e.g., Medicaid, Medicare, VA benefits, private health insurance), periodically reassess client eligibility for Ryan White services, and document client eligibility. Contractors must have policies and procedures in place addressing these screening requirements. Contract managers will review these policies and procedures as well as documentation of screening activities and client eligibility during contract monitoring.

The Ryan White HIV/AIDS Treatment Modernization Act includes language relating to Medicaid and other third-party revenues. Section 2617(b)(7)(F) of Part B requires assurances from the State that Ryan White funding will not be “utilized to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made...” by programs and sources other than Ryan White.

All HIV service providers entering into contracts with the AIDS Institute agree to the following requirement contained in Attachment B, Paragraph 8, of their contracts:

“The contractor agrees to maximize third-party reimbursement available for HIV counseling, testing, medical care, case management and other funded services, including Medicaid reimbursement for HIV primary care available through participation in the New York State Department of Health’s HIV Primary Care Medicaid Program, and reimbursement for services for the uninsured and underinsured through ADAP Plus. If eligible, Contractor agrees to enroll in the HIV Primary Care Medicaid Program by signing the Provider Agreement contained in the Department of Health Memorandum 93-26 within 60 days of the execution date of this Agreement (if otherwise eligible to provide some or all of the primary care services reimbursable thereunder.) The contractor further certifies that any and all revenue earned during the term of the

Agreement as a result of the services and related activities performed pursuant to this Agreement, including HIV counseling and testing, comprehensive HIV medical examinations, CD4 monitoring and associated medical treatment and case management, will be made available to the program within the health facility generating those revenues and shall be used either to expand those program services or to offset expenditures submitted by the Contractor for reimbursement. The Contractor shall request approval in writing of its proposed uses of these funds. No such revenue shall be allocated without the written endorsement of HRI and the New York State Department of Health AIDS Institute.”

I. Revenue Policy Goals

The AIDS Institute administers funding for HIV services from the New York State budget and Parts A and B of the Ryan White HIV/AIDS Treatment Modernization Act. Ryan White Part A funding is allocated to the AIDS Institute by the New York City Department of Health and Mental Hygiene and the New York City HIV Health and Human Services Planning Council. Ryan White Part B funding is administered directly by the HIV/AIDS Bureau of the Health Resources and Services Administration (HRSA). Revenue policies vary by funding source. The State revenue policy sets forth core requirements. Ryan White revenue policy builds upon the core requirements, adding federally mandated restrictions.

State Revenue Policy

The goal of the revenue policy with regard to State funding is to avoid duplication of payment. The AIDS Institute employs a total budget approach in implementing the revenue policy. The following is a summary of core requirements.

- All grant-funded programs must maximize the revenue available to the program through Medicaid, ADAP Plus and other third-party payers.
- Each grantee is required to track the revenue generated by the grant-funded program and to make such revenue available to the program either to enhance HIV services or to offset other expenses incurred by the contract, which are related to the HIV program.
- AIDS Institute approval is required for allocation of third-party revenues generated by the grant funded program.

Ryan White Revenue Policy

The goal of Ryan White revenue policy is to ensure that Ryan White is the “payer of last resort.” Ryan White HIV/AIDS Treatment Modernization Act Section 2617(b)(7)(F) requires that “...the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made with respect to that item or service under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or by an entity that provides health services on a prepaid basis (except for a program administered by or providing the services of the Indian Health Service).” HRSA policy 97-02 further states that at the individual client level, grantees

and/or their subcontractors are expected to make reasonable efforts to secure other funding instead of Ryan White whenever possible. Ryan White funding may only be used for services that are not reimbursable by Medicaid, ADAP Plus or other third-party payers.

II. Ryan White Revenue Policy as applied to Article 28 Licensed health Facilities

Analysis

Reimbursement for services delivered in licensed health facilities in New York State is based on a medical model. The Medicaid program provides reimbursement only for health services delivered by a licensed physician, physician's assistant or nurse practitioner. The only exceptions are the therapeutic visit available to Designated AIDS Centers and HIV counseling and testing, which may be provided by a trained counselor under the supervision of a physician. Mental health services are reimbursable only when provided by a clinical psychologist or a psychiatrist. As of November 1, 2003, Medicaid will also reimburse individual psychotherapy services provided by licensed clinical social workers in Federally Qualified Health Centers (FQHCs). In general, visits provided by nurses, nutritionists, social workers, health educators are not reimbursable.

The Medicaid program includes two dedicated HIV reimbursement programs. Hospitals with Designated AIDS Centers have access to a seven-tier rate structure that includes a full range of clinical visits. The HIV Primary Care Medicaid Program provides enhanced reimbursement for HIV counseling and testing and a more limited range of clinical visits. The enhanced rates are bundled and priced; they include labor costs for a defined set of diagnostic and treatment procedures as well as the costs of tests and ancillary services commonly needed by persons with HIV. The rates paid by the ADAP Plus uninsured program are based on the two Medicaid rate structures. HIV Medicaid rates for diagnostic and treatment centers, including community health centers and free-standing substance abuse treatment programs, have been frozen since 1995.

There is general recognition among medical and mental health experts of the need to integrate physical and mental health services.¹ In response to this need, HRSA's Bureau of Primary Health Care launched an initiative to integrate physical care and mental health and chemical dependency services in all Section 330 programs. According to Kirk Strosahl, Ph.D., the lead consultant for the HRSA initiative, primary care physicians already provide 50 percent of all mental health care in the United States and prescribe 67% of psychoactive agents and 80% of antidepressants. Moreover, only one in four patients referred to specialty medical health or chemical dependency care make the first appointment.

In New York, mental health services are provided to persons with HIV in Article 28 clinical settings as part of a comprehensive model, which integrates clinical and behavioral services and is consistent with the HRSA Bureau of Primary Health Care model. Mental health services provided in the clinical setting are secondary to the primary HIV diagnosis and include assessment, short-term solution-oriented therapy, and medication management. Patients with

¹ See, for example, Bazelon Center for Mental Health Law, "Effective Public Management of Mental Health Care: View from States on Medicaid Reforms that Enhance Service Integration and Accountability", Milbank Memorial Fund Report, May 2000.

serious psychiatric disorders are referred to specialty mental health programs licensed by the New York State Office of Mental Health.

Uncovered Services

As currently constructed, the ambulatory rates do not include prices for the following services commonly needed by persons with HIV. These services are included in the AIDS Institute's ambulatory care model, which is based on a multidisciplinary team approach to care. The services are:

- Targeted outreach to bring HIV-positive individuals into care;
- Treatment education and adherence monitoring;
- Case management;
- Comprehensive social work services;
- Nutritional services;
- Risk reduction for positives;
- Partner counseling and assistance;
- Mental health services provided by a counselor other than a clinical psychologist, a psychiatrist or a licensed clinical social worker working in a Federally Qualified Health Center.

Health care for persons living with HIV is intensive clinically and behaviorally. HIV clinicians must have the time, free from heavy productivity pressures, to provide both clinical and behavioral interventions. In the HIV ambulatory care model, the physician has the primary responsibility for treatment education, adherence monitoring and risk reduction for HIV-positive individuals. None of these services is included in the Medicaid and ADAP Plus rates, which were developed in the late 1980s. In addition, Medicaid and ADAP Plus do not cover the costs of the following activities, which are expected of clinicians within grant-funded programs:

- Education and training to attain or maintain status as HIV specialists;
- HIV program direction and development, including a dedicated quality improvement program;
- Participation in case conferencing.

Mobile Medical Units

Mobile medical units may be operated out of hospitals or community based ambulatory care programs. In addition to providing services that are not part of Medicaid reimbursement rates such as treatment education, outreach to bring HIV-positive individuals into care, limited case management and risk reduction for positives, mobile outreach programs encounter substantial obstacles in accessing information needed for third party claims.

Mobile Outreach Units serve hard to reach and disenfranchised persons with HIV. Revenue generating opportunities from this venue are typically much more limited than in conventional settings. A high percentage of those served in this setting are inadequately housed, uninsured and often unable to obtain health insurance benefits. In addition, many of the persons who pursue services in this setting wish to maintain their anonymity and are unwilling to provide identifying

information and unable to provide vital documentation such as a social security number, birth certificate, etc. Therefore opportunities to generate revenue either through the Enhanced Medicaid program or ADAP are extremely limited.

Mobile outreach units by design provide episodic care to persons in need while trying to link their patients to continuous care through conventional care settings such as community health centers and hospital based clinics. Once engaged at these more conventional settings, assistance is provided for obtaining Medicaid and other health insurance.

AIDS Institute Ryan White Revenue Policy - Article 28 Facilities

The AIDS Institute's Ryan White revenue policy for health facilities is based on the analysis outlined above.

- The program must meet core state revenue requirements regarding the maximization and tracking of third-party revenues and the reallocation of such revenues to the HIV program with AIDS Institute approval.
- When necessary to ensure full coverage of services for persons with HIV, revenues from both state and Ryan White funding streams will be used to support grant-funded programs.
- Ryan White funding will be used to support members of the multidisciplinary team who provide services not covered by Medicaid and ADAP Plus (see above).
- Ryan White funding may be used to support up to 20 percent of a clinician's time for program development and direction, quality improvement, education and training, provision of adherence and risk-reduction services and case conferencing with other members of the multi-disciplinary team. The 20 percent limit does not apply to clinicians whose job description is primarily programmatic. The budget should reflect the revenue generated by the clinician as an in-kind contribution to the program.
 - Based on a program's capacity to generate Medicaid and ADAP third party revenue, limits on grant funding for physicians, nurse practitioners and physician assistants operating from mobile outreach medical units may be waived.

III. Ryan White Revenue Policy as applied to Article 31 Licensed Mental Health Facilities

Analysis

Mental health services are primarily reimbursed through Medicaid when they are delivered in a facility licensed by the Office of Mental Health (OMH) under Article 31 of the Mental Hygiene Law. Medicaid will pay for services provided in an outpatient setting if it is an OMH certified/licensed or operated program and if those services are listed on the operating certificate of the facility.

OMH licenses programs, not individuals, to provide services. OMH uses a wide band of disciplines to provide services. Staffing patterns are determined by a mix of professional and para-professional staff to adequately serve the client population. Professionals include certified rehabilitation counselors, registered nurses, social workers, psychologists and psychiatrists. (The staffing requirements for mental health services are listed in OMH's "Operation of Outpatient Programs," 14 NYCRR 587.4(d).) All assessment, treatment planning and treatment must either be provided by licensed professional staff or supervised by such staff when services are provided by para-professionals. All clients must receive psychiatric oversight as evidenced by the review and signature of a psychiatrist on their treatment plans. Clearly, all professionals must practice within the scope of their license or discipline.

Medicaid and ADAP Plus HIV rates do not cover the costs of the following activities, which are expected of clinicians within mental health grant-funded programs:

- HIV program direction and development, including a dedicated quality improvement program;
- Participation in case conferencing;
- Provision of services on home visits; and
- Provision of technical assistance to case managers, e.g. education and training on mental health issues in persons living with HIV/AIDS.

In addition, Medicaid and ADAP Plus will reimburse for only one mental health visit per patient per day.

AIDS Institute Ryan White Revenue Policy: Article 31 Mental Health Programs

The AIDS Institute's revenue policy for Article 31 licensed mental health programs is based on the analysis outlined above. AI grant funding may be used by Article 31 licensed mental health facilities for the mental health services listed below.

- AI funding may be used to support same-day clinic visits (for example, a patient has individual and group therapy, and psychopharmacology visit). Medicaid or ADAP Plus must be billed for one visit, and Ryan White funds may support the costs associated with additional visits on the same day. The provider will be required to submit information to the AI that will allow validation of billing dates with either Medicaid or ADAP.
- AI funding may be used to respond to capacity needs and expedite appropriate and timely referrals for psychiatric services (to clear waiting lists). Funding will be used to provide services to HIV-positive clients on waiting lists, so they will be assessed immediately.
- In addition, AI funding may be used for the following mental health services:
 - To subsidize the cost of staff not reimbursed as part of the facility's Medicaid or ADAP Plus rate;

- To assess clients for treatment adherence and risk behavior and provide them with assistance in improving adherence and reducing risk behavior;
- To coordinate services with HIV, medical, mental health and social service providers, community agencies and others; and
- To travel to remote locations with limited services (home visits). This is an infrequent service need, but it is important for programs designed for rural and other hard-to-reach populations.