COVID-19 Policy and Systems Changes Related to HIV and Substance Use

JUNE 2020

Developed as part of the *Strengthening Systems of Care for People with HIV and Opioid Use Disorder* project, this document contains brief descriptions of federal policy and systems changes due to coronavirus 2019 (COVID-19) that relate to the HIV and substance use systems of care, along with links to websites that are frequently updated for each topic. This resource serves as a reference for state partners participating in the project, as well as a place to document policies and practices in response to COVID-19 that may have implications for long-term systems changes.

For up to date information on each of these topics, go to the links provided in the "resource" sections below.

Contents/Quick Links

Ryan White HIV/AIDS Program (RWHAP) Eligibility Determination

- **No change** to the policy regarding the eligibility determination process.
- PCN 13-02 provides guidance and flexibility, including the ability to conduct required processes electronically and through self-attestation. Processes are **not required** to occur in-person, although many recipients have imposed this as an additional requirement.

- HRSA HAB recommends flexibility in annual certification and recertification processes that support social distancing, such as electronically and through self-attestation.
- Certification and recertification processes are expected to be conducted and documented within a reasonable timeframe.
- Recipients and subrecipients assume the risk of recouping any HRSA RWHAP funds utilized for clients ultimately determined to be ineligible, consistent with PCN 13-02.

RWHAP Eligibility Determination Resources
- HRSA HIV/AIDS Bureau COVID-19 Frequently Asked Questions webpage
- Clarifications on Ryan White Program Client Eligibility Determinations and Recertifications Requirements (PCN 13-02

Guidance for RWHAP Planning Councils and Planning Bodies

- **No change** in federal policy related to the funding or legislative requirements.
- Planning councils are consulting with their state and city attorneys for guidance regarding open meeting requirements.
- Some states have modified in-person meeting requirements to allow planning councils to meet virtually.
    - While the virtual meetings may be possible, not all members may have the necessary resources such as computers, printers, and home internet service that would allow them to meaningfully participate in the planning process. This is particularly challenging for consumer members.
- Some RWHAP Part A staff are working on COVID-19, which poses challenges for the recipient staff to fulfill their roles in the planning process.
    - One particular pre-COVID-19 challenge being exacerbated is timely availability of data needed for service system planning.

RWHAP Planning Councils and Planning Bodies Resources
- HRSA HIV/AIDS Bureau COVID-19 Frequently Asked Questions webpage

Syringe Services Programs and Drug User Health

- There has been **no change** in federal policy related to the funding or operation of syringe services programs; however, both formal and informal policy changes have occurred at the state and local levels.
  - Syringe services and harm reduction programs that serve people actively using drugs have been designated as essential healthcare services, allowing them to remain open.
- Examples of programmatic changes include:
  - Changing or limiting hours of operation,
  - Reducing clinical activities that require close contact (HIV/HCV testing), and
  - Shifting from an indoor, fixed-site model toward outdoor, delivery, mobile, or mail-based services.
- Pharmacies have been engaged to expand sterile syringe access and naloxone rescue kit in some communities.
- In some cases, 1:1 exchange policies (one sterile syringe received for every used syringe returned) have been relaxed or removed in favor of a needs-based distribution model. Provision of additional supplies allows programs to reduce the frequency of direct participant interaction and potential transmission for clients and staff.
  - SSPs are providing additional naloxone, drug checking strips, and other overdose prevention resources for those who might be using alone while observing social distancing guidance.
  - Emergency or crisis response funding allows for the purchase and provision of these additional supplies, and encourages the purchase and distribution of hand sanitizer, alcohol and antibacterial wipes, soap, and personal protective equipment where possible.
- SSPs are advocating for adequate housing and shelter options for those without housing who may require quarantine or self-isolation. This advocacy includes encouraging shelters to allow for bed stability among residents to reduce exposure opportunities, and making washing facilities available in areas that experience public drug use.

SSP and Drug User Health Resources
- CDC COVID-19 Interim Guidance for Syringe Services Programs
- Suggested Health Department Actions to Support Syringe Services Programs (SSPs)
- Practicing Harm Reduction in the COVID-19 Outbreak
- Sample Language for SSP Essential Services Designation

Opioid Treatment Program (OTP) Specific Guidance on Medication for Opioid Use Disorder (MOUD) Prescribing Guidelines

- States may request blanket exceptions for all stable patients in an OTP to receive 28 days of Take-Home doses of the patient's medication for OUD. They may request up to 14 days of Take-Home medication for those patients who are less stable but who the OTP believes can safely handle this level of Take-Home medication.
- OTPs may arrange delivery of MOUD to the homes of patients under quarantine using specified protocols.
- Federal law requires a complete physical evaluation before admission to an OTP. Although SAMHSA has allowed exemption of OTPs from the requirement to perform an in-person physical evaluation (under 42 C.F.R. § 8.12(f)(2)) for any patient who will be treated by the OTP with buprenorphine, this exemption does not apply to new OTP patients treated with methadone.
- Health departments at the state and local level, as well as community-based SSPs, are working with medication for opioid use disorder (MOUD) providers and behavioral health agencies to ensure access to 14-28 day methadone take-homes and telephone/telehealth opioid use disorder (OUD) services.

OTP Specific Guidance on MOUD Prescribing Guidelines Resources
- Opioid Treatment Program Guidance
- OTP Guidance for Patients Quarantined at Home with the Coronavirus
- Access to Buprenorphine in Office-Based Settings
- DEA letter granting MOUD delivery during declared public health emergency
- SAMHA's FAQs: Provision of methadone and buprenorphine for the treatment of Opioid Use Disorder in the COVID-19 emergency
- DEA COVID-19 Information Page

Telemedicine for Substance Use Treatment

- OTPs may dispense, and DATA-waived practitioners may prescribe buprenorphine to new patients with OUD for maintenance or detoxification treatment following an evaluation via telephone calls, without first performing an in-person or visual telemedicine evaluation. This may only be done, however, if the evaluating practitioner determines that an adequate evaluation of the patient can be accomplished via the use of a telephone.

- ○ This additional flexibility under which authorized practitioners may prescribe buprenorphine to new patients on the basis of a telephone evaluation is in effect from March 31, 2020, until the public health emergency declared by the Secretary ends, unless DEA specifies an earlier date.
- On March 19, 2020, under 21 U.S.C. 802(54)(D), the Drug Enforcement Administration (DEA) announced that practitioners may prescribe controlled substances to patients using telemedicine without first conducting an in-person evaluation during this public health emergency.
- Eligibility for reimbursement using telehealth is dependent on state regulations.
- Penalties will not be imposed for noncompliance with the HIPAA Rules in connection with the good faith provision of telehealth using non-public facing audio or video communication products. Patient identifying information under 42 C.F.R. Part 2 may be disclosed to medical personnel, to the extent necessary to meet a bona fide medical emergency in which the patient's prior informed consent cannot be obtained.
  - ○ Under the medical emergency exception, providers make their own determinations whether a bona fide medical emergency exists for purposes of providing needed treatment to patients.

Telemedicine for Substance Use Treatment Resources
- Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency
- COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance

Opioid Supply Chain

- The DEA announced on April 7, 2020, that it is increasing Aggregate Production Quotas (APQ) available to pharmaceutical manufacturers for the production of controlled substance medications that are in high demand due to the COVID-19 pandemic.
- The DEA will also approve increases in imports of medications necessary for patients on ventilators.
  - ○ This includes fentanyl, morphine, hydromorphone, codeine, ephedrine, pseudoephedrine, and certain controlled substance intermediates which are essential to their production.
- The DEA will also increase the APQ for methadone to ensure that opioid treatment programs have sufficient supplies to treat patients with opioid use disorder.

Opioid Supply Chain Resources
- [DEA takes additional steps to allow increased production of controlled substances used in COVID-19 care](#)

HIV Testing and Linkage

- In many places, testing programs have been altered or scaled back to ensure patient and provider safety.
- To ensure that individuals continue to have access to HIV testing, CDC encourages HIV self-testing where possible. HIV self-testing kits enable individuals to take an oral swab sample and see their results within 20 minutes.
- CDC's recently issued guidance for PrEP during COVID-19 suggests using at-home testing kits, if in-clinic testing is not an option, and issuing a 90-day supply of PrEP to minimize pharmacy trips.

HIV Testing and Linkage Resources
- [CDC HIV Self Testing Guidance](#)
- [CDC HIV Self-Testing Information](#)
- [PrEP During COVID-19](#)
- [The COVID-19 Pandemic's Impact of HIV and Hepatitis Programs](#)

Preventing Gaps in Care

- Many individuals have lost their jobs or have had their wages/income reduced in recent weeks, which may have had adverse effects on access to care.
- Programs across HIV/OUD systems are working to ensure that individuals have access to Medicaid, private insurance, or other safety programs.
- Many programs have streamlined eligibility processes across Medicaid, Marketplace coverage, and safety net programs like RWHAP.
- Medicaid in particular will become a particularly important resource for many newly uninsured individuals, and states are using new federal flexibility to expand access.

Preventing Gaps in Care Resources

- State Data and Policy Actions to Address Coronavirus
- COVID-19 Updates and Resources
- COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children's Health Insurance Program (CHIP) Agencies