

Imposition of Charges: Not Just an Imposition, It's the Law!

2018 National Ryan White Conference on HIV Care & Treatment

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Health Resources and Services Administration (HRSA) Overview

- Supports more than 90 programs that provide health care to people who are geographically isolated, economically or medically vulnerable through grants and cooperative agreements to more than 3,000 awardees, including community and faith-based organizations, colleges and universities, hospitals, state, local, and tribal governments, and private entities
- Every year, HRSA programs serve tens of millions of people, including people living with HIV/AIDS, pregnant women, mothers and their families, and those otherwise unable to access quality health care



HRSA HIV/AIDS Bureau (HRSA HAB)

Vision

Optimal HIV/AIDS care and treatment for all.

Mission

Provide leadership and resources to assure access to and retention in high quality, integrated care, and treatment services for vulnerable people living with HIV/AIDS and their families.



Ryan White HIV/AIDS Program (HRSA RWHAP)

- Provides comprehensive system of HIV primary medical care, medications, and essential support services for low-income people living with HIV
 - More than half of people living with diagnosed HIV in the United States – more than 550,000 people – receive care through the HRSA RWHAP
- Funds grants to states, cities/counties, and local community based organizations
 - Recipients determine service delivery and funding priorities based on local needs and planning process
- Payor of last resort statutory provision: HRSA RWHAP funds may not be used for services if another state or federal payer is available
- 84.9% of HRSA RWHAP patients were virally suppressed in 2016, exceeding national average of 55%



Source: HRSA. Ryan White HIV/AIDS Program Annual Client-Level Data Report 2016; CDC. HIV Surveillance Supplemental Report 2016;21(No. 4)



Learning Objectives

By the end of this session, participants will be able to:

- Summarize statutory and programmatic requirements related to imposition of charges.
- Review the distinctions between schedule of charges, nominal fee, flat rate, and sliding fee scale.
- Apply statutory and programmatic requirements to common recipient organizational scenarios.
- Identify resources to assist HRSA HAB recipients and subrecipients with implementation of this statutory requirement.



What is it, and Why is it Important?

- “Imposition of Charges” is a term used to describe all activities, policies, and procedures related to assessing RWHAP patient charges as outlined in legislation
- It’s the law!
 - Public Health Service Act Sections 2605(e), 2617(c), and 2664(e)(1)(B)(ii)
 - Based on individual (not family income)
 - Prohibits charges imposed on RWHAP patients with incomes at or below the FPL
 - Requires charges imposed on RWHAP patients with incomes above the FPL
 - Established annual caps on charges
- No RWHAP patient shall be denied service due to an individual’s inability to pay
- HRSA RWHAP statute does not require that patients that fail to pay be turned over to debt collection agencies



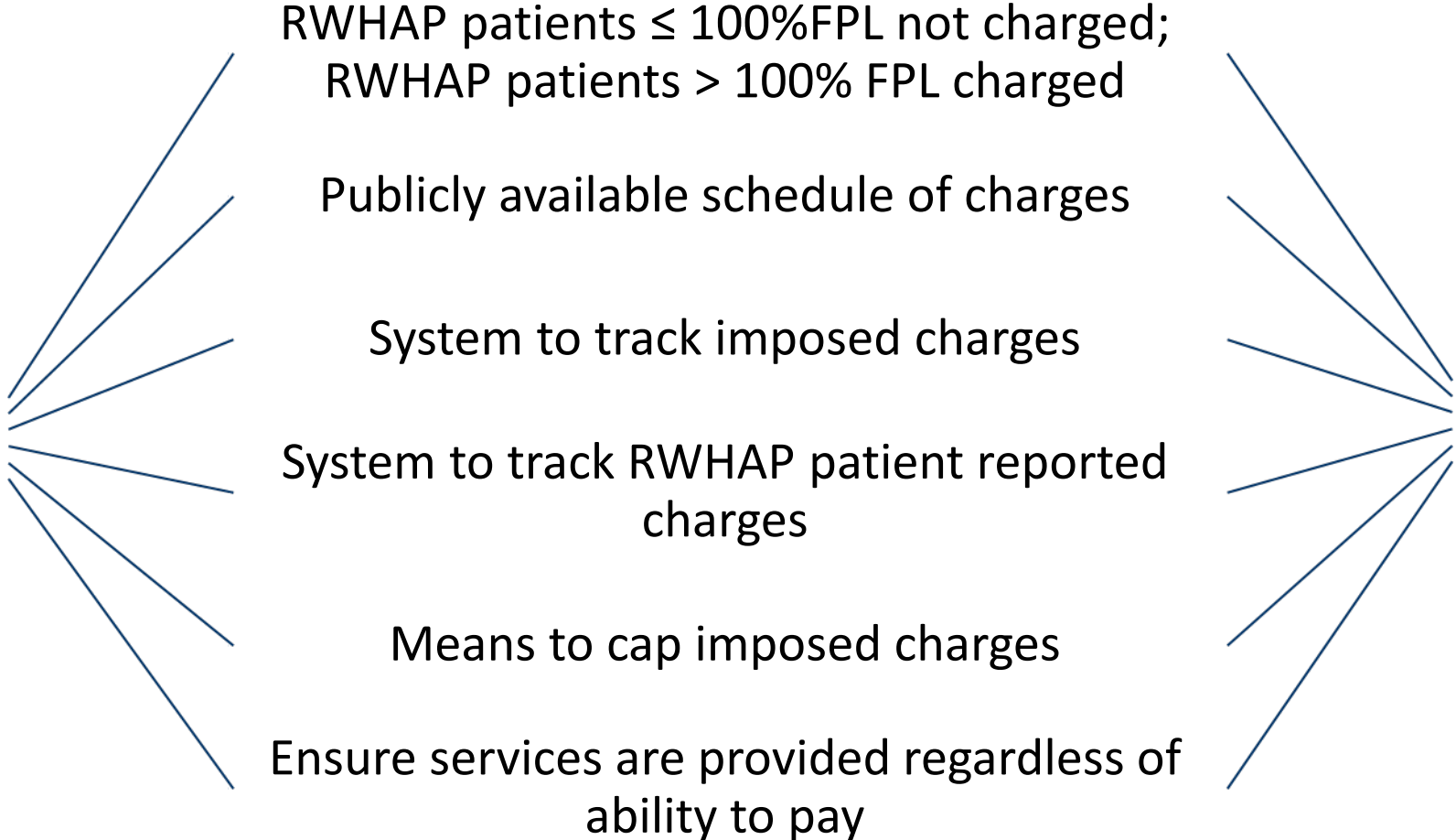
Applicability and Implementation

- Legislative language pertaining to services and applicability:
 - Part A: services with assistance provided under the grant
 - Part B: services with assistance provided under the grant
 - Part C: early intervention services under the grant
- Imposition of Charges applies to those services for which a distinct fee is typically billed within the local health care market
- This is practical, implementable, and in alignment with other Federal programs
- Applies to all HRSA RWHAP Parts A, B, and C; it does not apply to Part D, or ADAP



Role of HRSA RWHAP Parts in Imposition of Charges

Parts A & B
Monitor



Part C &
Subrecipients
Implement



Can My Organization Get a Waiver?

- Recipients operating as free clinics (e.g. healthcare for the homeless clinics) have the option to waive the imposition of charges on HRSA RWHAP patients.
- Only a handful of recipients are operating as free clinics. Therefore, most recipients should be charging RWHAP patients over 100% FPL for services rendered, even if it is only \$1.



AGENDA for Today's Session

- Terminology
- Federal Poverty Level
- Statutory Requirement
 - Schedule of Charges
 - Cap on Charges
 - Imposition of Charges
- Winding Down
 - Looking Forward
 - Resources
 - Q&A



Terminology

Understanding Imposition of Charges Lingo



Important Definitions

- **Fee Schedule:** complete listing of billable services and their associated fees based on locally prevailing rates or charges. *A fee schedule is **not** a schedule of charges.* A fee schedule is not required by the RWHAP legislation, but having one in place is considered a best practice, and is a requirement for BPHC grant recipients.
- **Schedule of charges:** fees imposed on the patient for services based on the patient's annual gross income. A schedule of charges may take the form of a flat rate or a varying rate (e.g. sliding fee scale).
- **Nominal Charge:** fee greater than zero.



Important Definitions

- **Cap on charges:** limitation on aggregate charges imposed during the calendar year based on RWHAP patient's annual gross income. All fees are waived once the limit on annual aggregate charges is reached for that calendar year.
- **Waiver:** recipients operating as free clinics (e.g. healthcare for the homeless clinics) have the option to waive the imposition of charges on RWHAP patients.
 - Only a handful of recipients are operating as free clinics. Therefore, most recipients should be charging RWHAP patients over 100% FPL for services rendered, even if it is only \$1.

Important Definitions

- **Federal Poverty Level (FPL):** an economic measure used to determine eligibility for certain programs.
- **Annual Gross Income**
 - **Gross Income:** total amount of income earned from all sources during the calendar year before taxes.
 - **Adjusted Gross Income:** gross income less deductions.
 - **Modified Adjusted Gross Income (MAGI):** adjusted Gross Income plus certain deductions.



REMINDER!

Throughout this presentation “annual gross income” refers to income earned during the calendar year.

Federal Poverty Level (FPL)

Fundamental to implementing imposition of charges



Federal Poverty Level (FPL) Guidelines

- FPL Guidelines are a measure of poverty based on income
- Varies according to family size and their geographical location
- Commonly used to determine eligibility for certain programs and benefits
- HRSA RWHAP legislation refers to the FPL guidelines to define
 - Who should not have a charge imposed
 - Who should have a charge imposed
 - The cap on charges imposed on an individual during a calendar year
- Issued by HHS: <https://aspe.hhs.gov/poverty-guidelines>
- Providers are expected to update their systems each year to reflect the new guidelines



2018 FPL and Imposition of Charges

PERSONS IN FAMILY/HOUSEHOLD	POVERTY GUIDELINE
1	\$12,140
2	\$16,460
3	\$20,780
4	\$25,100
5	\$29,420
6	\$33,740
7	\$38,060
8	\$42,380

- FPL is based on household size
- Imposition of charges is based on individual income as it relates to FPL
- Poverty level for an individual is \$12,140
- HRSA RWHAP eligibility can be based on individual income or household income

For the 48 States and District of Columbia



2018 FPL: Eligibility vs. Imposition of Charges

PERSONS IN FAMILY/HOUSEHOLD	POVERTY GUIDELINE
1	\$12,140
2	\$16,460
3	\$20,780
4	\$25,100
5	\$29,420
6	\$33,740
7	\$38,060
8	\$42,380

The table is annotated with two callout boxes. A grey box labeled "IMPOSITION OF CHARGES" has a line pointing to the first row (1 person, \$12,140). A green box labeled "ELIGIBILITY" has lines pointing to the remaining rows (2-8 persons).



Converting Percentage of FPL to Income

Who should NOT have a charge imposed

- *Individuals with an income \leq 100% of the official poverty line...*
- Individuals with income \leq **\$12,140**

Who SHOULD have a charge imposed

- *Individuals with income $>$ 100% of the official poverty line...*
- Individuals with income $>$ **\$12,140**

What the annual cap on charges for an individual should be

- *Individuals with an income of 101-200% of the official poverty line...*
- *Individuals with an income of 201-300% of the official poverty line...*
- *Individuals with an income $>$ 300% ...*
- Individuals with an income of **\$12,141 - \$24,280**
- Individuals with an income of **\$24,281 - \$36,420**
- Individuals with an income **$>$ \$36,420**



Percentage Multiples of 2018 FPL

PERSONS IN FAMILY/HOUSEHOLD	100%	150%	200%	250%	300%
1	\$12,140	\$18,210	\$24,280	\$30,350	\$36,420
2	\$16,460	\$24,690	\$32,920	\$41,150	\$49,380
3	\$20,780	\$31,170	\$41,560	\$51,950	\$62,340
4	\$25,100	\$37,650	\$50,200	\$62,750	\$75,300
5	\$29,420	\$44,130	\$58,840	\$73,550	\$88,260
6	\$33,740	\$50,610	\$67,480	\$84,350	\$101,220
7	\$38,060	\$57,090	\$76,120	\$95,150	\$114,180
8	\$42,380	\$63,570	\$84,760	\$105,950	\$127,140

For the 48 States and District of Columbia



FPL & Imposition of Charges – Summary

- To determine whether or not a patient is eligible for HRSA RWHAP services
 - Individual OR household income
- To determine how much to charge a RWHAP patient
 - Individual income only
- To determine the maximum amount a RWHAP patient can be charged in a calendar year
 - Individual income only



Statutory Requirement

The Components of Imposition of Charges



Imposition of Charges



Schedule of Charges

Schedule of Charges



Cap on Charges



Imposition of Charges



Schedule of Charges – Statutory Language

in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

Part A: See § 2605(e)(1) of the PHS Act

Part B: See § 2617(c)(1) of the PHS Act

Part C: See § 2664(e)(1) of the PHS Act



Schedule of Charges – Statutory Language

in the case of individuals with an income greater than 100 percent of the official poverty line, the provider— (i) will impose a charge on each such individual for the provision of such services; and (ii) will impose the charge according to a schedule of charges that is made available to the public

Part A: See § 2605(e)(1) of the PHS Act

Part B: See § 2617(c)(1) of the PHS Act

Part C: See § 2664(e)(1) of the PHS Act



Nominal Charge – Statutory Language

ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this subpart may, in the case of individuals subject to a charge for purposes of such paragraph—assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges

Part A: See § 2605(e)(2) of the PHS Act

Part B: See § 2617(c)(2) of the PHS Act

Part C: See § 2664(e)(3) of the PHS Act

Schedule
of Charges



Schedule of Charges – Layman’s Terms

- **Schedule of charges:** Fees imposed on the patient for services based on the patient’s annual gross income.
 - Prohibits fees imposed on individuals with income \leq **100% FPL**
 - Required fees be imposed on Individuals with income $>$ **100% FPL**
- **Nominal Charge:** fee greater than zero.



Schedule of Charges – Requirements

- May not assess a charge on RWHAP patients with incomes at or below 100% FPL
- Must assess a charge on RWHAP patients with incomes above 100% FPL
- The schedule of charges must be publicly available
- Placement on the schedule of charges is based on individual annual gross income

Schedule
of Charges



Schedule of Charges – Other Considerations

- Applies to uninsured RWHAP patients
- Clinics should decide whether to apply schedule of charges to insured patients
 - If schedule of charges is applied to insured patients, it should be uniformly applied rather than on a case-by-case basis
 - Clinics should also consider how to avoid requiring two payments for the same visit/service for insured patients (one for the insurance copay and one for the schedule of charges fee)
- Since schedule of charges is based on individual income, each RWHAP patient's income must be documented, even if household income is used to determine HRSA RWHAP eligibility
- A RWHAP patient's placement on the schedule of charges will change if there is a change in an individual's annual gross income or the FPL Guidelines
- Examples of ways recipients/subrecipients may establish a schedule of charges for patients with incomes over 100% FPL:
 - Flat Rate – a single fee, regardless of service type
 - Varying Rate - fee or percentage discount based on income (sliding fee scale)

Schedule
of Charges



Schedule of Charges: 3 Examples

	Flat Rate	Varying Rate (e.g. Sliding Fee Scale)	
	<i>Nominal Fee</i>	<i>Nominal Fee</i>	<i>Percent of Fee Schedule</i>
FPL Category	Clinic A	Clinic B	Clinic C
<=100% FPL	\$0	\$0	0%
101-200% FPL	\$5	\$5	10%
201-300% FPL	\$5	\$10	20%
>300% FPL	\$5	\$25	100%



Schedule of Charges – Actors & Roles

HRSA RWHAP Recipients

- Develop a schedule of charges
- Make schedule of charges publicly-available
- Use patient income for placement on schedule of charges
- Inform patient of placement on schedule of charges
- Impose charges on RWHAP patients based on their schedule of charges

HRSA RWHAP Patients

- Provide HRSA RWHAP recipients with income information/documentation as requested



Cap on Charges



Cap on Charges – Statutory Language

in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

Part A: See § 2605(e)(1) of the PHS Act

Part B: See § 2617(c)(1) of the PHS Act

Part C: See § 2664(e)(2) of the PHS Act



Cap on Charges – Layman's Terms

- **Cap on Charges:** limitation on aggregate charges imposed during the calendar year based on a RWHAP patient's annual gross income.
- Cap on charges is based on income as a percentage of FPL:
 - 101-200% FPL – 5% cap
 - 201-300% FPL – 7% cap
 - >300% FPL – 10% cap



Calculating Cap on Charges

- Example: Patient with annual income of \$18,000

HRSA RWHAP FPL Categories	HRSA RWHAP Cap on Charges (Percent of Income)
≤100% FPL	0%
101-200% FPL	5%
201-300% FPL	7%
>300% FPL	10%

2018 Income Equivalent
≤ \$12,140
\$12,141 - \$24,280
\$24,281 - \$36,420
> \$36,420

← \$18,000
 $\frac{x .05}{\$900}$

Cap on Charges



Aggregate Applicable Charges – Statutory Language

...the annual aggregate of charges imposed for such services [during the calendar year] without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges

Part A: See § 2605(e)(3) of the PHS Act

Part B: See § 2617(c)(3) of the PHS Act

Part C: See § 2664(e)(4) of the PHS Act

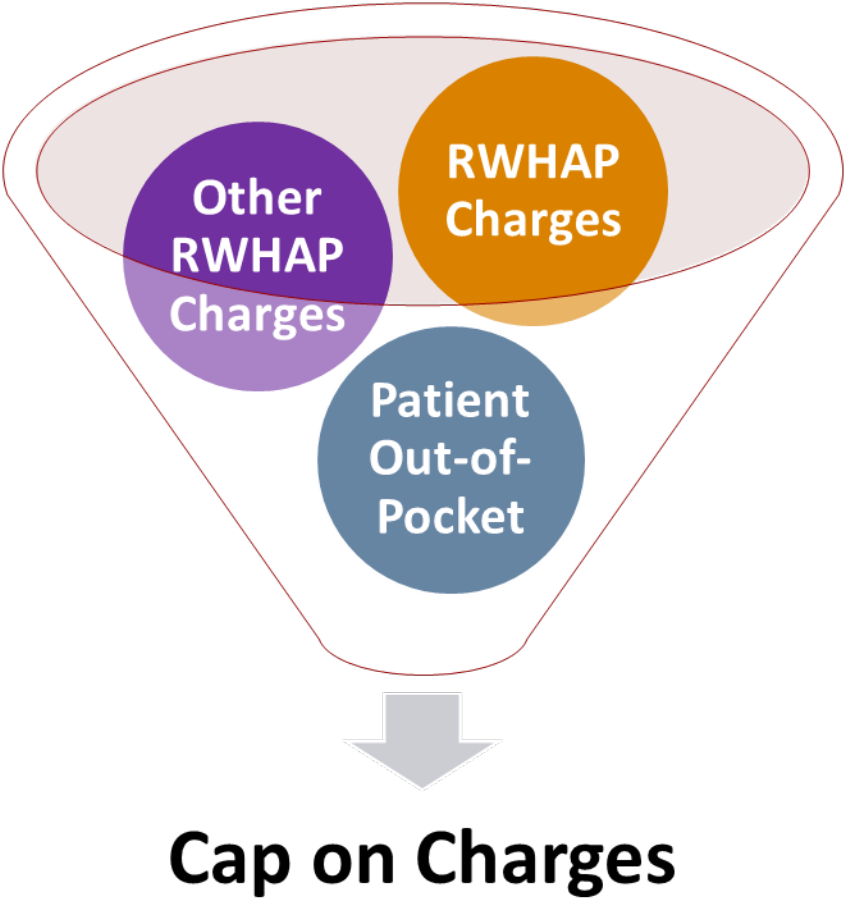


Cap on Charges – Layman’s Terms

- *The aggregate of charges imposed for such services [during the calendar year] without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges*
- Any charge for services provided with “assistance under the grant” for which a distinct fee is typically billed in the local health care market imposed by:
 - ‘You’ the RWHAP provider
 - Other RWHAP providers
- Any charge for HIV-related care to the extent the charge is in the context of (or as a result of) a HRSA RWHAP service



Aggregate Applicable Charges



Cap on Charges – Requirements

- Calculate each RWHAP patient's annual cap based on their individual annual gross income
- Inform the patient of their cap and their responsibility to track all charges
- Aggregate/add up or track all applicable charges
- Stop imposing charges on RWHAP patient when cap is met



Cap on Charges – Other Considerations

- The calculated cap on charges will change if there is a change in an individual's annual gross income or the FPL Guidelines
- Since cap on charges is based on individual annual gross income, each RWHAP patient's income must be documented, even if household income is used to determine HRSA RWHAP eligibility
- Cap on charges applies to all HRSA RWHAP patients, regardless of income or healthcare coverage
- Based on charges imposed on the RWHAP patient, not the actual fee for service
- Applies when services are rendered – not upfront
- Based on the calendar year



Tracking Aggregate Applicable Charges

- Responsibility is on the RWHAP patient to track and report charges incurred
- Providers need to:
 - Inform RWHAP patients of their responsibility to track and submit other RWHAP provider charges or out-of-pocket payments
 - Review documentation of HIV related charges or payments provided by the RWHAP patient to determine if they are allowable
 - Track the charges ‘you’ impose on RWHAP patients **AND** have a process in place, outside of your existing financial management system, that tracks other allowable HIV-related charges as submitted by the patient
 - Have a process in place that will alert the provider that the RWHAP patient has reached the cap and should not be further charged for the remainder of the calendar year



Cap on Charges – Actors & Roles

HRSA RWHAP Recipients

- Calculate cap based on patient's individual income
- Inform RWHAP patients of their cap and their responsibility to track and submit other HRSA RWHAP imposed charges and other related out-of-pocket payments
- Have process must be in place to ensure that the annual cap for each RWHAP patient is not exceeded
 - Track other HRSA RWHAP imposed charges and other related out-of-pocket payments submitted by clients
 - Aggregate all charges
 - Waive any additional charges for the remainder of the calendar year once the cap is met

HRSA RWHAP Patients

- Collect or track other HRSA RWHAP imposed charges and other approved out-of-pocket payments
- Submit other HRSA RWHAP imposed charges and other related out-of-pocket payments to HRSA RWHAP providers



Imposition of Charges



Imposition of Charges Policy

- Schedule of charges that:
 - does not impose a charge to RWHAP patients with income at or below 100% FPL
 - imposes a charge to all RWHAP patients with income over 100% FPL
 - limits aggregate charges during the calendar year for all RWHAP patients (cap on charges)
- Process to capture documentation of RWHAP patient's annual gross income needed to determine placement on the schedule of charges and annual cap on charges
- Process to assess, document, and track the charges the agency imposed on RWHAP patients and charges received from RWHAP patients through an accounting system
- Process to alert the billing system that a RWHAP patient's cap has been reached and should not be further charged for the remainder of the calendar year

Imposition
of Charges



Imposition of Charges Policy, Cont.

- Providers should make materials available to RWHAP patients, explaining their role in the imposition of charges
- Imposition of charges policy may be part of a larger organizational policy
- Providers should ensure staff are aware of and consistently following the established policies and procedures
- Recipients/subrecipients should include these requirements in their provider agreements (i.e. Memorandums of Understanding, contracts, etc.)



Excerpt of RWHAP Recipient Policy

a. WHO is to be charged:

Clients having incomes greater than 100% of the FPL ~~can~~ **must** be charged for services.

Clients with incomes at or below 100% of the FPL **cannot** be charged for services.

b. WHAT services to charge for:

Any service category where a provider is ~~currently~~ charging clients a fee.

Any service or set of services for which a distinct fee is typically billed for separately within the local health care market.

Imposition of Charges



Multi-funded Clinics

	HRSA RWHAP Imposition of Charges	BPHC Sliding Fee Discount Program
Applicability	Any service or set of services for which a distinct fee is typically billed for within the local health care market	All required and additional health services for the HRSA BPHC approved health center’s scope of project for which a distinct fee is typically billed for within the local health care market
Denial of service	No RWHAP patient shall be denied service due to an individual’s inability to pay	No patient shall be denied service due to an individual’s inability to pay
Fee Schedule	Recommended	Required
Basis by which to charge patients	Schedule of Charges (flat or varying rate)	Sliding Fee Scale (varying rate)
Patients eligible for reduced fees/discounts	All HRSA RWHAP-eligible patients may receive a reduced fee.	Only patients at or below 200% FPL may be eligible for discounts.
Assessment of charges	All patients above 100% FPL must be charged, and patients at or below 100% FPL MUST NOT be charged.	All patients above 100% FPL must be charged, and patients at or below 100% FPL <u>MAY</u> be charged.
Cap on charges	Annual limit based on RWHAP patient’s income level	No limit

Imposition of Charges



Multi-funded Clinics (cont.)

- Main difference between HRSA RWHAP and HRSA BPHC legislation: imposing charges and the payor of last resort vs. discount program
- Multi-funded clinics may should assess whether both a schedule of charges AND a separate BPHC sliding fee scale (SFS) is necessary
 - If the existing SFS is in compliance with HRSA RWHAP legislation then recipient/subrecipient may utilize the existing SFS
 - If the existing SFS is not in compliance with HRSA RWHAP requirements, the recipient/subrecipient will need to adopt a schedule of charges specific to the HRSA RWHAP program for HRSA RWHAP-eligible patients
- Multi-funded clinic will be in compliance with both requirements as long as the clinic's sliding fee scale does not charge for those at or below 100% and does not offer a discount for those above 200%

Imposition
of Charges



Strategies - RWHAP Patient Engagement

- Provide RWHAP patients with information and/or tools to help them do their part
- Identify routine opportunities to ask RWHAP patients about income and other imposed charges
 - In some instances, a change in a RWHAP patient's income can change their placement on the schedule of charges
 - A change in RWHAP patient's income can change their cap on charges
 - Ask RWHAP patient for other HRSA RWHAP charges that have been imposed

Imposition
of Charges



Strategies – Engaging across HRSA RWHAP

• Coordination

- Any HRSA RWHAP recipients/subrecipients can coordinate with other recipients/subrecipients
- Identify ways to ‘share’ information or documentation
- Establish a process across multiple recipients/subrecipients to share information

• Data sharing

- All HRSA RWHAP recipients/subrecipients may consider data sharing
- Can occur between recipients and among subrecipients
- HRSA HAB encourages recipients to pursue data sharing agreements
- Reduces burden on all stakeholders, including RWHAP patients

Imposition
of Charges



Winding Down

Next steps, Resources, & Questions



Looking Forward

- Ongoing technical assistance
 - Working across HRSA HAB to identify topics for future training
 - Working with HRSA BPHC on technical assistance for multi-funded recipients
- Implementation strategies
 - Enhancing CAREWare to help manage the 'data' aspect of imposition of charges
 - Encouraging recipients and subrecipients to share your strategies on TARGETHIV



Resource List

- **Your HRSA HAB Project Officer!**
- **BPHC's requirements:** <https://bphc.hrsa.gov/programrequirements/compliancemanual/chapter-9.html#titletop>
- **Federal Poverty Level:** <https://aspe.hhs.gov/poverty-guidelines>
- **Percentage of FPL Table:** <http://www.needyeds.org/poverty-guidelines-percents>
- **FPL Calculator:** https://www.needyeds.org/FPL_Calculator
- **CMS Fee Schedule:** <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/FeeScheduleGenInfo/index.html>
- **TARGET Center:** <https://targethiv.org/>
- **HRSA HAB Website:** <https://hab.hrsa.gov>
- **Statutory References:**
 - **RWHAP:** Sections 2605(e), 2617(c), and 2664(e) of the PHS Act
 - **BPHC:** Section 330(k)(3)(G) of the PHS Act; 42 CFR 51c.303(f), 42 CFR 51c.303(g), 42 CFR 51c.303(u), 42 CFR 56.303(f), 42 CFR 56.303(g), and 42 CFR 56.303(u)



Impositions of Charges Workgroup

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Questions

**Schedule
of Charges**



**Cap on
Charges**



**Imposition
of Charges**

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