



NASTAD™

NATIONAL ALLIANCE OF STATE
& TERRITORIAL AIDS DIRECTORS

COORDINATION OF BENEFITS

ADAP TA Brief No.5

Spring 2009

AIDS Drug Assistance Programs and Cost Containment Strategies: Coordination of Benefits

INTRODUCTION

AIDS Drug Assistance Programs (ADAPs) are state administered programs authorized under Part B of Title XXVI of the Public Health Service Act as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Ryan White Program). The ADAPs provide Food and Drug Administration (FDA) approved medications to low-income individuals with HIV disease who have no other means to obtain these necessary medications. ADAPs are funded in all 50 states, the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

ADAPs, like all Ryan White programs, are required to be the payer of last resort, meaning they can provide prescription drug coverage when it has been determined that no other coverage exists.¹ Grantees are prohibited from using Ryan White Program funds for services that would otherwise be covered by a federal or state health benefits programs. This provision is widely known as “payer of last resort,” and has important implications for ADAPs’ coordination with other payer sources.

WHAT IS COORDINATION OF BENEFITS (COB)?

Coordination of Benefits (COB) is how ADAPs assess program applicants eligibility for existing health coverage payers and/or public or private benefits other than ADAP. ADAP must ensure that before federal funds are used, program applicants are not eligible for any other state or federally funded programs with a prescription drug benefit or a health insurance component (e.g., Medicare, Medicaid, employer provided health insurance, or a state high risk insurance pool). If determined eligible, an ADAP applicant must first access these benefits as the primary payer of medications or insurance. If gaps exist within the benefits (e.g., a limited number of prescriptions provided per

month, a required deductible before benefits begin, or a maximum annual benefit), ADAP can “wrap around” or provide services as a secondary payer to ensure that the applicant receives a comprehensive prescription or health insurance benefit.

ADAP is also responsible for educating clients on payer sources and prescription options in their state beyond ADAP and the Ryan White Program, many of which can provide more comprehensive coverage. While many clients report preferring ADAP services due to ease of accessibility, ADAP enrollment should be considered only as a last resort, after eligibility for other public or private payers has been eliminated. ADAP should ensure that program staff

Examples of ADAP/Medicaid MOU/MOA

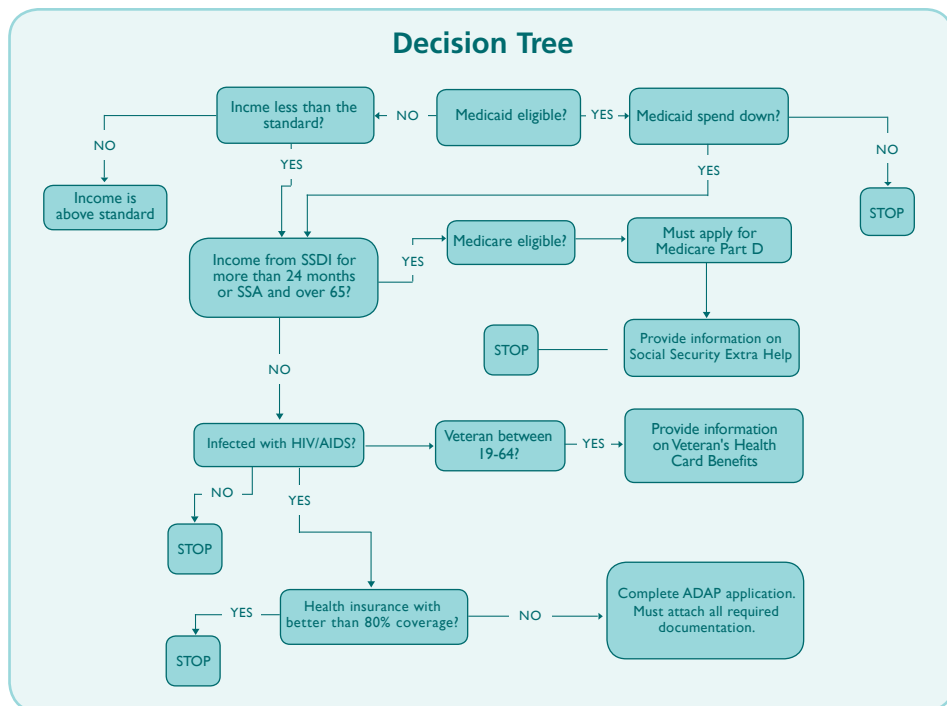
- Communicate HIV/AIDS issues as they arise to the state HIV/AIDS program and allow them to provide input into regulatory changes, standards and quality improvement activities affecting HIV/AIDS specifically.
- Provide a periodic match of ADAP enrollees to Medicaid with a listing of individuals that have Medicaid numbers and the enrollment dates.
- Collaborate with the state HIV/AIDS program to disseminate to Medicaid providers the current standards of care for HIV-positive clients.
- Provide the state HIV/AIDS program with information semi-annually on the amount of money spent on patients enrolled in the HIV/AIDS program and expenditures within the program on HIV related drugs.

are trained in effective screening methods for eligibility in other prescription drug programs. Some ADAPs have created “decision tree”² diagrams to help the client navigate the eligibility screening process and guarantee that all other payers are eliminated prior to ADAP enrollment.

Program grantees specific guidance that states “grantees are expected to make effective use of strategies to coordinate between Part B and third party payers who are ultimately responsible to pay the cost of services provided to eligible or covered persons.” The guidance

that ADAP is the payer of last resort. ADAPs also are encouraged to build strong relationships with their state Medicaid to avoid unnecessary duplication of services. Some examples of this collaboration are:

- ADAPs provide wrap around coverage in states with limited Medicaid formularies for HIV positive Medicaid beneficiaries to ensure that they receive the full complement of needed medications.
- Memoranda of Understanding (MOU) or Agreement (MOA) facilitate effective data sharing across programs to ensure that ADAP is the payer of last resort.
- Data matches are performed regularly to confirm changes in eligibility for ADAP clients and move them onto Medicaid services, as eligible.



FEDERAL REFERENCES REGARDING COORDINATION OF BENEFITS

Payer of Last Resort

Ryan White Program funds “cannot be used to make payments for any item or service if 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 prepaid health care.”³ This provision was first introduced in the 1990 authorization of the Ryan White CARE Act with additional instructions regarding implementation of this requirement addressed in all subsequent grant guidance documents.

Third Party Reimbursement

The Health Resources and Services Administration’s (HRSA) HIV/AIDS Bureau (HAB) provides Ryan White

continues, “Ryan White Program funds may not be used to pay for Medicare or Medicaid covered services for eligible beneficiaries.”

Ensuring payer of last resort / Other possible payers:

Other payer sources exist that could assume responsibility as payer of last resort for a person applying for or enrolled in the ADAP program. Not only should the ADAP consider Medicare, Medicaid, and private insurance, but also determine if the client has access to employer, union, or retiree group health plans; COBRA continuation coverage; VA coverage; access to a safety-net provider; or access to a State Pharmaceutical Assistance Program (SPAP).

PUBLIC AND PRIVATE PAYERS

Medicaid: The priority in collaboration between ADAP and Medicaid is to ensure

Medicare: The HRSA HIV/AIDS Bureau requires ADAPs to ensure that all Medicare Part D eligible clients are enrolled in a prescription drug plan (PDP). Under Medicare Part D, individuals who have incomes above 150 percent of the Federal Poverty Level (FPL) and who do not qualify for the low-income subsidy (LIS) are required to make significant payments to receive their drugs. Therefore, most ADAPs have chosen to provide wrap-around coverage for people with HIV/AIDS enrolled in Medicare Part D in several ways, including:

- Picking up costs for the beneficiaries when they reach the “donut”;
- Paying prescription co-pays;

Data Points to Request from Medicaid

- First effective date of eligibility
- Spend down period
- Spend down amount
- Third party liability (TPL)
- Updates on pending applications
- Patient identification codes
- Current and past eligibility information

Determining Health Coverage Based on Income Sources

| <u>If the individual's income is:</u> | <u>Their health coverage is:</u> |
|---|---|
| <ul style="list-style-type: none"> • Social Security Disability Insurance (SSDI) • Social Security Retirement • Supplemental Security Income (SSI) • Employment or Support from Spouse or Domestic Partner • Unemployment, state disability or short-term disability • Veteran's Compensation/Pension | <ul style="list-style-type: none"> • Medicare. • Medicare. • Medicaid. • Potential Group Insurance Coverage. • Potential COBRA. • Potential VA Health Coverage. |

- Paying monthly premiums; and/or
- Paying insurance deductibles.

State Pharmaceutical Assistance Program (SPAP): SPAPs are state-funded programs that provide financial assistance for prescription drugs to low-income and medically needy senior citizens and individuals with disabilities. In some states, SPAPs have been expanded to include HIV infected individuals or were created specifically for HIV infected individuals. Some of the states with HIV specific SPAPs are Illinois, Colorado, Texas and Virginia.

COBRA continuation coverage: The Consolidated Omnibus Budget Reconciliation Act (COBRA)⁴ gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances (e.g.) voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce and other life event. Qualified individuals may be required to pay the entire premium for coverage up to 102 percent of the cost of the plan.

Income Screening

- It is generally easier for individuals to identify their source of income than it is to identify their source of health coverage.⁵

- Evaluating an individual's source of income will provide a solid indicator of what their health coverage is (see chart above)

Updated Social Security Listing:

In June of 2008, the Social Security Administration implemented revisions to the immune disorders disability criteria, including the criteria for HIV/AIDS related disability.⁶ The last major revision to the Social Security Administration's immune systems disorders criteria, including their HIV/AIDS disability criteria, occurred in 1993.

The revised criteria recognize disabling complications related to HIV and provide improved instructions for HIV/AIDS disability evaluation. The updated criteria clarify disability evaluation instructions, improving definitions of complications related to treatment, treatment resistance, structured treatment interruptions, and recurrence of symptoms and/or conditions. As well, the criteria provide improved instructions regarding evaluating disability based on "new" (post 1993) laboratory tests and diagnostic procedures. The criteria also:

- Define unique complications for women with HIV;
- Clarify complications related to chronic conditions and treatment side-effects; and
- Include criteria for cognitive and mental limitations.

The revision of the HIV/AIDS criteria has the potential to increase the number of persons with HIV qualifying for SSDI, SSI, Medicare, and/or Medicaid. The revision also presents the potential for more efficient adjudication of claims and fewer claims escalating to appeals. Individuals who were denied eligibility under the 1993 disability criteria may consider re-applying under the new criteria. The revision to the criteria also presents an opportunity for HIV/AIDS education for third-party payers.

COORDINATION OF BENEFITS CHECKLIST

When ADAP is coordinating benefits for clients, the ADAP should:

- Provide complete eligibility screening at enrollment and recertification to identify clients who are eligible or have become eligible for other payer sources;
- Collect income and asset information at enrollment and recertification for all clients;
- Re-certify clients as other payer programs update their eligibility criteria in order to transition clients to other payers, if applicable;
- Create and/or conduct training for case managers or other direct client staff on how to effectively screen clients for eligibility in other prescription drug programs; and
- Educate clients on other payer sources and options.

RESOURCES

Medicare Coordination of Benefits

- www.cms.hhs.gov/OBGeneralInformation/
- www.cms.hhs.gov/COBAGreement/
- www.cms.hhs.gov/PrescriptionDrugCovContra/02/RxContracting_COB.asp#TopOfPage

Medicare and Other Health Benefits: Your Guide to Who Pays First

- www.medicare.gov/Publications/Pubs/pdf/02179.pdf

COB Guidance to Part D sponsors

- www.cms.hhs.gov/PrescriptionDrugCovContra/02/RxContracting_COB.asp#TopOfPage

COB Fact Sheets: MSP Claims

Investigation Fact Sheet for Providers

- www.cms.hhs.gov/ProviderServices/Downloads/claimsinvestigation.pdf

Social Security Administration

- www.ssa.gov

Social Security Disability Listing: Immune Disorders

- www.ssa.gov/disability/professionals/bluebook/14.00-Immune-Adult.htm

National Alliance of State and Territorial AIDS Directors (NASTAD)

- www.NASTAD.org

HRSA HIV/AIDS Bureau

- www.hab.hrsa.gov

HRSA Target Center – technical assistance for the Ryan White community

- <http://careacttarget.org/>

Kaiser Family Foundation

- www.kff.org/hiv aids/us.cfm

ADAP listserv sponsored by NASTAD (for state health department staff only)

- NASTADTA@NASTAD.org

Kaiser Family Foundation and National Alliance of State and Territorial AIDS Directors, *National ADAP Monitoring Project Annual Report*. April 2008.

- <http://www.kff.org/hiv aids/7746.cfm>

Ryan White HIV/AIDS Treatment Modernization Act, Pub. L. No 109- 415, (2006).

- <http://hab.hrsa.gov/law/reauth06.htm>

Endnotes

1. The Ryan White CARE Act of 1990 [Pub. L. 101-381; SEC. 2605 (a) 4].
2. Decision Tree figure is reprinted with permission from the Illinois Department of Public Health, AIDS Drug Assistance Program.
3. The Ryan White CARE Act of 1990 [Pub. L. 101-381; SEC. 2605 (a) 4].
4. The original health continuation provisions were contained in Title X of COBRA, which was signed into law (Pub. L. No. 99-272) on April 7, 1986.
5. Health Coverage Based on Income Sources figure is reprinted with permission from Julie Cross.
6. Social Security Administration Disability Listing. Available at www.ssa.gov/disability/professionals/bluebook/14.00-Immune-Adult.htm

NASTAD is funded under HRSA Cooperative Agreement U69HA05543 to provide states with technical assistance on ADAP program administration. States interested in investing cost containment strategies may contact NASTAD at NASTADTA@NASTAD.org to discuss specific technical assistance needs. Part B grantees and ADAPs may also obtain technical assistance through their HRSA project officer.