

PROGRAM ASSISTANCE LETTER

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DOCUMENT TITLE: Dual Status - Health Centers that are both FQHC Look-Alikes and Section 330 Grantees

DATE: APR 24 2006

TO: All Consolidated Health Center Program Grantees
All Federally Qualified Health Center Look-Alikes

Purpose

The purpose of this Program Assistance Letter is to: define dual status, identify situations where dual status occurs, clarify programmatic requirements in the FQHC Look-Alike Program and section 330 of the Public Health Service Act (PHSA), as amended, and convey the Health Resources and Services Administration's (HRSA) expectations for dual status health centers.

Definition of Dual Status

HRSA is aware of several cases in which grantees currently funded under section 330 of the PHSA, as amended, have sought to attain Federally Qualified Health Center (FQHC) status for new sites that are not included in the approved scope of project for their section 330 grant, by applying for FQHC Look-Alike designation for these sites.

"Dual status" occurs when an organization receives a grant under section 330 as well as maintains a FQHC Look-Alike designation. In such a case, a health center receives grant funding under section 330 for sites in the grant's approved scope of project and, at the same time, operates other sites under a FQHC Look-Alike designation. The organization maintains separate and distinct scopes of project for the FQHC Look-Alike designation and section 330 grant funds.

Only those activities that are a part of the health center's approved scope of project under either the grant or FQHC Look-Alike designation are entitled to enhanced FQHC Medicaid and Medicare reimbursements and section 340B Drug Pricing benefits. For purposes of reimbursement, the Centers for Medicare and Medicaid Services (CMS) does not distinguish between FQHC Look-Alikes and section 330 grantees. Both types of health centers are considered FQHCs and therefore, are treated in the same manner with regard to receiving enhanced Medicaid (under Prospective Payment System or an alternative method) and Medicare FQHC reimbursement rates, and adhering to Medicare and Medicaid reporting requirements. In

fact, when a FQHC Look-Alike is selected for section 330 funding, its FQHC Medicaid and Medicare numbers do not change. **Although FQHC Look-Alikes and section 330 grantees adhere to the same requirements, HRSA does distinguish between the two types of health centers.** This is elaborated upon later in the document.

Examples of Dual Status

The following are examples of situations when dual status occurs.

1. A FQHC Look-Alike health center receives New Access Points (NAP) funding for two of their four sites. When the NAP application is funded, only the site(s) listed in the NAP application are included in the grant scope of project. The remaining two sites operated by the organization will remain under the FQHC Look-Alike designation. The health center will therefore have site(s) receiving NAP funding and site(s) that are FQHC Look-Alikes.
2. A section 330 grantee decides to open a new site and to maximize its funding, making a strategic decision to apply under an announced NAP opportunity. It submits a NAP application for the new site and, at the same time, it submits a FQHC Look-Alike application for the same site. If the FQHC Look-Alike designation and NAP application are approved, HRSA will terminate the FQHC Look-Alike designation. If the NAP application is not successful, the health center can: 1) add the site to the scope of project for the section 330 grant and, in doing so, have the FQHC Look-Alike designation terminated; or 2) keep the FQHC Look-Alike designation.

Impact of Dual Status

The following table compares and contrasts FQHC Look-Alike and section 330 requirements and benefits and describes the impact of dual status on each.

Issue	FQHC Look-Alike	Section 330 Grantees	Impact of Dual Status
Compliance with Statutory Requirements	Designated FQHC Look-Alikes must comply with all requirements stated in section 330 of the PHSA.	Section 330 grantees must comply with all requirements stated in section 330 of the PHSA unless they are granted a waiver for requirements under governance for (h), (g) or (i) projects.	Although HRSA may approve a waiver of one or more section 330 requirements for the grant scope of project, the health center would have to demonstrate compliance with all section 330 requirements for the FQHC Look-Alike scope of project.
Federal Tort Claims Act (FTCA) Coverage	Designated FQHC Look-Alikes cannot apply for malpractice coverage under the FTCA.	Section 330 grantees are eligible to apply for malpractice coverage under the FTCA.	Sites in the FQHC Look-Alike scope of project would have to maintain separate malpractice insurance.
Receipt of Grant Funds	Designated FQHC Look-Alikes do not receive section 330 grant funds.	Section 330 grantees receive section 330 grant funds.	Section 330 grant funds could not be used to operate sites and services included in the FQHC Look-Alike scope of project. The FQHC Look-Alike is treated as another line of business.

Medicaid and Medicare Reimbursement	Designated FQHC Look-Alikes receive enhanced FQHC Medicaid and Medicare reimbursement.	Section 330 grantees receive enhanced FQHC Medicaid and Medicare reimbursement.	No impact.
340B Drug Pricing Program	Designated FQHC Look-Alikes are eligible to participate in the 340B Drug Pricing Program.	Section 330 grantees are eligible to participate in the 340B Drug Pricing Program.	No impact.
Health Professional Shortage Area (HPSA) Designation	Designated FQHC Look-Alikes receive an automatic HPSA designation.	Section 330 grantees receive an automatic HPSA designation.	No impact.
Reporting Requirements	Designated FQHC Look-Alikes do not submit Uniform Data System (UDS) data; instead they have their own separate annual reporting requirements.	Section 330 grantees annually submit UDS data.	The health center would need a data system to collect and report data by site to adhere to two separate reporting requirements - one for the FQHC Look-Alike Program and the other for the section 330 grant.
Audits	Designated FQHC Look-Alikes must submit an annual audit.	Section 330 grantees must submit an annual audit.	No impact.
Anti-kickback Safe Harbor	Designated FQHC Look-Alikes are not covered by the anti-kickback safe harbor, which protects arrangements between health centers and other providers/suppliers of services that maintain or expand accessibility or reduce the cost of services provided to health center patients.	Section 330 grantees are covered by the anti-kickback safe harbor.	Sites in the FQHC Look-Alike scope of project are not protected under the anti-kickback safe harbor.
Maintaining FQHC Status	Designated FQHC Look-Alikes must submit a recertification application annually to maintain their FQHC status.	Section 330 grantees must submit a non-competing continuation application annually and a competing application every 3 to 5 years depending on the length of their project period.	Annually the health center would have to submit two applications - one to recertify for the FQHC Look-Alike Program and the other to receive continuation funds for its section 330 grant.
HRSA Project Officer	Project officer resides in HRSA/Bureau of Primary Health Care (BPHC)/Division of Policy and Development (DPD).	Project officer resides in HRSA/BPHC/Division of Health Center Management (DHCM).	The health center would be responsible for communicating with two HRSA project officers - one responsible for monitoring for the FQHC Look-Alike Program and the other for the section 330 grant.
Site Visits	No site visit is performed by HRSA/Office of Performance Review (OPR).	A site visit is performed by HRSA/OPR at least every 5 years.	The health center would have at least one site visit during a 5-year period for those sites and services included in its section 330 grant.

HRSA's Expectations of Dual-Status Health Centers

The following are HRSA's expectations in complying with statutory and regulatory requirements.

Financial Management

Managing a health center with dual status is a complex process. HRSA requires the health center to install appropriate financial safeguards to assure that no Federal grant funds or program income are used to support any part of the FQHC Look-Alike operation. The health center is responsible for the financial cost of software capable of creating firewalls and managing sophisticated financial systems.

Malpractice Insurance

FTCA does not cover FQHC Look-Alike sites. If deemed under FTCA, the health center receiving funding under section 330 must maintain appropriate malpractice insurance for the sites and activities not included in the section 330 grant scope of project. HRSA's Division of Clinical Quality maintains a list of all grantees with dual status and a dual status health center must indicate which sites are FQHC Look-Alike sites not covered by FTCA. Please contact Aida Stark at 301-594-4442 for any questions regarding FTCA and/or obtaining gap insurance.

Data Reporting

Dual status health centers are responsible for adhering to the reporting requirements for both the section 330 grant and FQHC Look-Alike Program and submitting the documents through the appropriate mechanisms. FQHC Look-Alike health sites are required to submit annual recertification applications that include updated data for Tables 1-5, and a summary of any changes that have occurred during the previous year to the FQHC Look-Alike Project Officer. Please refer to Policy Information Notice 2003-21 for specific instructions. It can be accessed at: <http://www.bphc.hrsa.gov/pinspals/pinsarchive.htm>. Section 330 grantees are required to submit an annual UDS report, grant continuation application, response to conditions on their Notice of Grant Award, and project summary reports. For specific instructions, please refer to <http://www.bphc.hrsa.gov/uds/> and/or contact Angela Damiano-Holder at 301-594-4184.

Change in Scope of Project Requests

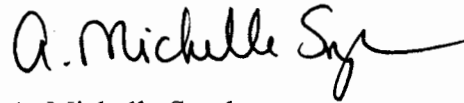
FQHC Look-Alikes and section 330 grantees must obtain prior approval from the BPHC of any changes to their approved scope of project. This is done by submitting a change in scope request to add or delete site(s) and/or services to their approved scope of project. Section 330 grantees submit this request electronically to their project officer located in HRSA/BPHC/DHCM while FQHC Look-Alikes submit a paper copy to their project officer located in HRSA/BPHC/DPD.

Conclusion

It is HRSA's responsibility to assure CMS that dual status health centers meet the requirements under both section 330 of the PHSA and the FQHC Look-Alike Program. Health centers with dual status must recognize the differences in the programs' requirements as highlighted in this document (e.g., financial

and data reporting requirements, malpractice insurance coverage, change in scope of project requests, use of grant funds, and coverage under the anti-kickback safe harbor.)

Section 330 and FQHC Look-Alike Project Officers will share information on dual status grantees. If you have questions, please contact Elizabeth Darling and/or Greg Grass, at 301-594-4300 and edarling@hrsa.gov or ggrass@hrsa.gov respectively. In addition, you can contact your section 330 project officer. Please refer to your Notice of Grant Award for their contact information.

A handwritten signature in black ink that reads "A. Michelle Snyder". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

A. Michelle Snyder
Associate Administrator
Bureau of Primary Health Care