



*Strengthening Oklahoma's Safety Net,
One Community At A Time*

Board Bulletin

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FTCA and Risk Management

Oklahoma community health centers (CHCs) are joining Section 330 grantees across the country this month to celebrate National Health Center Week 2011, *Celebrating America's Health Centers: Serving Locally, Leading Nationally*. CHCs, in existence since the mid-60s as part of LBJ's *Great Society Program*, provide access to affordable health care for people in the communities in which they live. Public leaders recognize CHCs as a cost-effective, culturally competent way to address health care and encourage people to engage in preventive care before they have life-threatening issues. So that all patients can be seen regardless of ability to pay, 330 program benefits have been congressionally instituted to foster health center sustainability – including Federal Tort Claims Act (FTCA) which requires eligible CHCs to complete an intensive deeming/redeeming process.

FTCA Program and Deeming Process

As www.bphc.hrsa.gov/ftca/healthcenters/index explains, FTCA “has been the legal mechanism for compensating people who have suffered personal injury by the negligent or wrongful action of employees of the U.S. Government” since its inception in 1946. CHCs became eligible for FTCA through Section 224 of the Public Health Service Act by congressional action in 1992 and 1995. A patient alleging acts of medical malpractice by a deemed health center cannot sue the CHC or the provider directly, but must file the claim against the United States Government. FTCA claims are reviewed by a federal judge rather than a jury, requiring operational systems and documentation to be completely in order. As the number of patients and health centers has grown, so have claims and the need for FTCA fund replenishment. Of the FFY2011 330 CHC appropriation, \$56 Million had to be allotted to FTCA to cover current claims. When CHC funding has to be used for FTCA claims, it diminishes the opportunities health centers have for growth and service expansion – making it imperative that all CHCs practice risk management activities that will minimize claims. To that end, the Health Resources and Services Administration (HRSA) issued Program Assistance Letter (PAL) 2011-05 on May 18, 2011 with updated 2012 process requirements that CHCs must follow when seeking initial deeming or submitting annual redeeming applications. New FTCA application requirements include:

- **Timely Response to Application Issues** – Initial FTCA applicants can submit deeming requests throughout the year. However, CHCs seeking renewal were required to submit applications no later than July 11, 2011. HRSA will conclude its review of applications within 30 days and will then contact grantees via electronic handbook (EHB) if additional information is required. FTCA applicants – initial and redeeming – will have 10 business days from the EHB notification to resubmit their applications with required information. Failure to respond will cause the application to be deemed incomplete and therefore voided.
- **Additional Documentation** – Applicants are required to submit the following additional information:
 1. Minutes from the last six QI/QA [quality improvement/assurance] committee meetings (provide explanation if less than six). This new requirement speaks to HRSA's expectation that CHCs are actively engaged in ongoing quality improvement and boards must ensure that this is happening within their health centers.
 2. Minutes from the last six Board Meetings evidencing oversight of QI/QA activities (explain if less than six).
 3. Credentialing and privileging policies – Documentation of board approval will be required.
 4. Clinical policies and procedures in the following areas: referral tracking, hospitalization tracking, x-ray tracking and lab results tracking. Again, HRSA will be reviewing policies to ensure board approval.
- **Increased Site Visits** – HRSA will increase site visits to more closely evaluate health centers' risk management implementation and ascertain what tangible steps have to be taken to improve quality, increase safety and reduce risk. Site visit teams will thoroughly review QI/QA programs and board-approved policies.

PAL 2011-05 makes it clear that the entire organization – CHC senior management working with the board – be engaged in a QI/QA program that pays greater attention to operational systems that help prevent and mitigate errors. New FTCA requirements clearly demonstrate that board oversight must be documented through meeting minutes and policy development. To review the entire series, visit www.okpca.org and click on the home page *Board Bulletin* link.

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