

Air Act. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian Tribes and thus will not impose substantial direct costs on Tribal governments or preempt Tribal law.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 17, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 5

#### Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Negotiated Rulemaking Committee meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

**DATES:** Meetings will be held on March 8, 2011, 9:30 a.m. to 6 p.m.; March 9, 2011, 9 a.m. to 6 p.m.; and March 10, 2011, 9 a.m. to 4 p.m.

**ADDRESSES:** Meetings will be held at the Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 920-8600.

**FOR FURTHER INFORMATION CONTACT:** For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-9027, E-mail: [npatterson@hrsa.gov](mailto:npatterson@hrsa.gov) or visit <http://www.hrsa.gov/advisorycommittees/shortage/>.

**SUPPLEMENTARY INFORMATION:** *Status:* The meeting will be open to the public.

*Purpose:* The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas (Committee) is to establish criteria and a comprehensive methodology for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield consensus among technical experts and stakeholders on a new rule for designation of medically underserved populations and primary care health professions shortage areas, which would be published as an Interim Final Rule in accordance with Section 5602 the Affordable Care Act, Public Law 111-148.

*Agenda:* The meeting will be held on Tuesday, March 8; Wednesday, March

9; and Thursday, March 10. It will include a discussion of various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Thursday meeting will also include development of the agenda for the next meeting. Members of the public will have the opportunity to provide comments during the meeting on Thursday afternoon, March 10.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the first day of the meeting, Wednesday, March 8. The meeting will be open to the public as indicated above, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

The Committee is working to meet the requirement in the Affordable Care Act under tight timeframes. As work has progressed, it has been determined that more time will be needed to complete the assignment due to its complexity, resulting in the Committee's decision to extend planned meetings. As a result, the logistical challenges encountered with extending planned meetings and scheduling additional meetings hindered an earlier publishing of the meeting notice.

Dated: February 23, 2011.

**Reva Harris,**

*Acting Director, Division of Policy and Information Coordination.*

[FR Doc. 2011-4388 Filed 2-25-11; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 6

**RIN 0906-AA77**

#### Federal Tort Claims Act (FTCA) Medical Malpractice Program Regulations: Clarification of FTCA Coverage for Services Provided to Non-Health Center Patients

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federally Supported Health Centers Assistance Act of 1992, as amended in 1995 (FSHCAA), provides for liability protection for

certain grantees of the Public Health Service and for certain individuals associated with these grantees. The Health Resources and Services Administration (HRSA) is the operating division within the Department responsible for administering certain aspects of FSHCAA. HRSA proposes replacing the current regulations with the key text and examples of activities that have been determined, consistent with provisions of the existing regulation, to be covered by the FTCA, as previously published in the Sept. 25, 1995 **Federal Register**. In addition, HRSA proposes adding an example of services covered under the FTCA involving individual emergency care provided to a non-health center patient and updating the September 1995 Notice immunization example to include events to immunize individuals against infectious illnesses. When finalized, the amended regulation will supersede the September 1995 Notice.

**DATES:** Written comments must be received on or before April 29, 2011. Subject to consideration of the comments submitted, the Department intends to publish final regulations.

**ADDRESSES:** You may submit comments, identified by the Regulatory Information Number (RIN) 0906-AA77, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [OQDComments@hrsa.gov](mailto:OQDComments@hrsa.gov). Include "RIN 0906-AA77" in the subject line of the message.

- *Mail:* Correspondence should be marked "Health Center FTCA Program Regulation Comments" and mailed to: Office of Quality and Data, Bureau of Primary Health Care, Health Resources and Services Administration, U.S. Department of Health and Human Services, 5600 Fishers Lane, Room 15C-26, Rockville, Maryland 20857.

**Instructions:** All submissions received must include the agency name and RIN for this rulemaking. All comments received will be available for public inspection and copying without charge at Parklawn Building, 5600 Fishers Lane, Room 15C-26, Rockville, Maryland 20857, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Suma Nair, Director, Office of Quality and Data, Bureau of Primary Health Care, Health Resources and Services Administration, U.S. Department of Health and Human Services, 5600 Fishers Lane, Room 15C-26, Rockville, Maryland 20857, Phone: (301) 594-0818.

**SUPPLEMENTARY INFORMATION:** Section 224(a) of the Public Health Service (PHS) Act (42 U.S.C. 233(a)) provides that the remedy against the United States provided under the Federal Tort Claims Act (FTCA) resulting from the performance of medical, surgical, dental or related functions by any commissioned officer or employee of the PHS while acting within the scope of his office or employment shall be exclusive of any other related civil action or proceeding. The Federally Supported Health Centers Assistance Act of 1992 (Pub. L. 102-501), as amended in 1995 (FSHCAA), provides that, subject to its provisions, certain entities receiving funds under section 330 of the PHS Act, as well as any officers, governing board members, and employees, and certain contractors of these entities, shall be deemed for the purposes of medical malpractice liability to be employees of the PHS within the exclusive remedy provision of section 224(a) of the PHS Act.

A final rule implementing Public Law 102-501 was published in the **Federal Register** (60 FR 22530) on May 8, 1995, and added a new part 6 to 42 CFR chapter 1, subchapter A. This rule describes the eligible entities and the covered individuals who are or may be determined by the Secretary to be within the scope of the FTCA protection afforded by the Act.

Section 6.6, also published in the May 8, 1995 rule, describes acts and omissions that are covered by FSHCAA (covered activities or covered services). Subsection 6.6(d) restates the statutory criteria that may support a determination of coverage for services provided to individuals who are not patients of the covered entity.

Subsection 6.6(e) provides examples of situations within the scope of subsection 6.6(d). Questions were raised, however, about the specific situations encompassed by 6.6(d) and 6.6(e) and about the process for the Secretary to make the determinations provided by those subsections.

HRSA decided that it would be impractical and burdensome to require a separate application and determination of coverage for certain situations described in the examples set forth in 6.6(e), as further discussed in the September 1995 Notice (60 FR 49417). For those situations, the Department has set forth its determination that coverage is provided under 42 CFR 6.6(d) without the need for a separate application, so long as other requirements for coverage are met, such as a determination that the entity is a covered entity, a determination that the individual is a covered individual,

and that the acts or omissions by those individuals occur within the scope of employment.

HRSA proposes including the key text and examples of the September 1995 Notice in 42 CFR 6.6(e), replacing the current regulatory text at 42 CFR 6.6(e). HRSA also proposes updating the "Immunization Campaign" example to clarify that this covered situation includes events to immunize individuals against infectious illnesses and does not limit coverage to only childhood vaccinations. In addition, HRSA proposes adding the following additional new example as subsection 6.6(e)(4) to set forth its determination of FTCA coverage for services to non-health center patients in certain individual emergency situations. This addition is expected to provide assurance of FTCA coverage in these situations and encourage reciprocal assistance by non-health center clinicians for health center patients in similar emergencies.

We will consider comments on this proposed rule that are received within 60 days of publication of this notice in the **Federal Register**. After the comment period closes, we will publish a final rule in the **Federal Register**. The document will include a discussion of any comments we receive and any changes.

### Federalism

HRSA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. HRSA has determined that the proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, HRSA has concluded that the proposed rule does not contain policies that have Federalism implications as defined in the Executive Order and, consequently, a Federalism summary impact statement is not required.

### Other Impacts

HRSA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health

and safety, and other advantages; distributive impacts; and equity). HRSA believes that this proposed rule is not a significant regulatory action under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule simply updates an existing regulation to add further details to the description of certain situations that are covered by the FTCA, and because such coverage is provided for under Federal law, HRSA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year." HRSA does not expect this proposed rule to result in any one-year expenditure that would meet or exceed this amount.

#### Paperwork Reduction Act

This rule does not contain any new information collection or recordkeeping requirements that fall under the purview of the Paperwork Reduction Act of 1995. The recordkeeping requirements contained in this rule are part of normal business practice and do not require the collection of new information or impose additional requirements beyond current routine practice.

#### List of Subjects in 42 CFR Part 6

Emergency medical services, Health care, Health facilities, Tort claims.

Dated: May 27, 2010.

Mary Wakefield,

Administrator, Health Resources and Services Administration.

Approved: January 24, 2011.

Kathleen Sebelius,  
Secretary.

For the reasons stated in the preamble, we are proposing to amend 42 CFR part 6 as follows:

#### PART 6—FEDERAL TORT CLAIMS ACT COVERAGE OF CERTAIN GRANTEEES AND INDIVIDUALS

1. The authority citation for part 6 continues to read as follows:

**Authority:** Sections 215 and 224 of the Public Health Service Act, 42 U.S.C. 216 and 233.

2. In § 6.6, revise paragraph (e) to read as follows:

#### § 6.6 Covered acts and omissions.

\* \* \* \* \*

(e) For the specific activities described in this paragraph, when carried out by an entity that has been covered under paragraph (c) of this section, the Department has determined that coverage is provided under paragraph (d) of this section, without the need for specific application for a coverage determination under paragraph (d) of this section, if the activity or arrangement in question fits squarely within the examples of activities listed below; otherwise, the health center should seek a particularized determination of coverage under paragraph (d) of this section.

(1) *Community-Wide Interventions. (i) School-Based Clinics.* Health center staff provide primary and preventive health care services at a facility located in a school or on school grounds. The health center has a written affiliation agreement with the school.

(ii) *School-Linked Clinics.* Health center staff provide primary and preventive health care services, at a site not located on school grounds, to students of one or more schools. The health center has a written affiliation agreement with each school.

(iii) *Health Fairs.* Health center staff conduct an event to attract community members for purposes of performing health assessments. Such events may be held in the health center, outside on its grounds, or elsewhere in the community.

(iv) *Immunization Campaigns.* Health center staff conduct an event to immunize individuals against infectious illnesses. The event may be held at the health center, schools, or elsewhere in the community.

(v) *Migrant Camp Outreach.* Health center staff travel to a migrant farmworker residence camp to conduct intake screening to determine those in need of clinic services (which may mean health care is provided at the time of such intake activity or during subsequent clinic staff visits to the camp).

(vi) *Homeless Outreach.* Health center staff travel to a shelter for homeless persons, or a street location where homeless persons congregate, to conduct intake screening to determine those in need of clinic services (which may mean health care is provided at the time of such intake activity or during

subsequent clinic staff visits to that location).

#### (2) *Hospital-Related Activities.*

Periodic hospital call or hospital emergency room coverage is required by the hospital as a condition for obtaining hospital admitting privileges. There must also be documentation for the particular health care provider that this coverage is a condition of employment at the health center.

(3) *Coverage-Related Activities.* As part of a health center's arrangement with local community providers for after-hours coverage of its patients, the health center's providers are required by their employment contract to provide periodic or occasional cross-coverage for patients of these providers.

(4) *Coverage in Certain Individual Emergencies.* A health center provider is providing or undertaking to provide covered services to a health center patient within the approved scope of project of the center, or to an individual who is not a patient of the health center under the conditions set forth in this rule, when the provider is then asked, called upon, or undertakes, at or near that location and as the result of a non-health center patient's emergency situation, to temporarily treat or assist in treating that non-health center patient. In addition to any other documentation required for the original services, the health center must have documentation (such as employee manual provisions, health center bylaws, or an employee contract) that the provision of individual emergency treatment, when the practitioner is already providing or undertaking to provide covered services, is a condition of employment at the health center.

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 1, 20, and 43

[WCB: WC Docket Nos. 07-38, 09-190, 10-132, 11-10; FCC 11-14]

#### Modernizing the FCC Form 477 Data Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission considers whether and how to reform the Form 477 data program, which serves as the Commission's primary tool for collecting broadband and local telephone data. The Commission