

Distributions from the Health Care Initiatives Pool for Poison Control Center Operations

Effective date: 12/23/11

Pursuant to the authority vested in the Commissioner of Health by sections 2500-d, 2807-j and 2807-l of the Public Health Law, and section 40(e) of Part B of Chapter 109 of the Laws of 2010, Section 68.6 of Part 68 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulation of the State of New York is hereby amended effective January 1, 2011, to read as follows:

Section 68.6 - Distributions from the Health Care Initiatives Pool for Poison Control Center Operations is REPEALED and a new Section 68.6 is added to read as follows:

Section 68.6 - Distributions from the Health Care Initiatives Pool for Poison Control Center Operations

(a) The monies available for distribution from the Health Care Initiatives (HCI) Pool for poison control center operations shall be distributed on a semi-annual basis in accordance with the methodology below:

(1) Population density by county, as established by the latest available decennial census data for New York State (NYS) as determined by the U.S. Census Bureau, shall be the basis for allocating available HCI Pool monies for distribution to the regional poison control centers.

(2) Population density applicable to the total county geographic area served by each regional poison control center shall be determined and the center's percentage to total NYS population density shall be calculated.

(3) Available HCI Pool monies shall be distributed proportionally to each regional poison control center based on the center's percentage population density served to total NYS population density.

(b) The Commissioner shall consider only those applications for prospective revisions of the projected pool distributions which are in writing and are based on errors, whether mathematical or clerical, made by the department in the pool distribution calculation process. Applications made pursuant to this subdivision must be submitted within thirty days of receipt of notice of the projected pool distribution for the calendar year.

REGULATORY IMPACT STATEMENT

Statutory Authority:

The statutory authority for the regulation is contained in sections 2500-d(7), 2807-j, and 2807-l(1)(c)(iv) of the Public Health Law (PHL), which authorizes the Commissioner to make distributions from the Health Care Initiatives (HCI) Pool to the Regional Poison Control Centers (RPCCs). This HCI Pool funding is intended to assist the Centers with meeting the operational costs of providing expert poison call response and poison consultation services on a 24/7 basis to health care professionals and the public statewide.

Legislative Objectives:

The enacted 2010/11 New York State (NYS) Budget (10th Extender Bill, Section 13 of Part B of Chapter 109 of the Laws of 2010) decreased total HCI Pool funding to the RPCCs and directed consolidation of PCC services down from five RPCCs statewide to two RPCCs (one upstate and one downstate). To implement consolidation, effective January 1, 2011, the Commissioner has removed the designation of three Centers, thereby eliminating their eligibility for HCI Pool grant funding, and designated two RPCCs, one located at SUNY Syracuse University Hospital as the upstate RPCC and another located at Bellevue Hospital as the downstate RPCC, which remain eligible on an ongoing basis for HCI Pool grant monies. Consolidation down to two RPCCs restructured the geographical service area the surviving RPCCs are now responsible for and rendered the HCI Pool funding distribution methodology contained in section 68.6 of 10 NYCRR obsolete. Under the current methodology a Center's award is fixed at an amount

established based on pre-HCRA (1996) operating costs. The methodology is outdated and provides no sensitivity to reflect current RPCC operations, both from a cost and a programmatic standpoint.

Needs and Benefits:

Effective January 1, 1997, the New York Prospective Hospital Reimbursement Methodology (NYPHRM) system expired and was replaced by a new system established under the Health Care Reform Act (HCRA) of 1996. HCRA substantially deregulated hospital reimbursement, allowing insurers, employers and other health care payers to freely negotiate rates of payment with hospitals, rather than base their payments as previously done on the Medicaid rates. For hospitals that sponsored PCCs, and for Emergency Room (ER) services in particular, the Medicaid ER rate included cost consideration for PCC operations. Under HCRA deregulation and effective January 1, 1997, forward, other payers were no longer obligated to recognize such PCC costs in their reimbursement rates to the sponsoring hospitals, placing financial support for this imperative public health service in jeopardy. To address this concern, enhanced funding for PCC operations was made available to the Centers through HCRA HCI Pool grant funding.

Effective January 1, 1997, forward, the HCI Pool grant amounts calculated for each PCC were determined based on each Center's ratio of projected revenue shortfall created by the expiration of the NYPHRM, plus allocated Medicare costs, to total projected revenue shortfall. PCC cost as reported on the affiliated hospital's 1996 Institutional Cost Report was utilized as the basis for this calculation, and once

established the award amount was fixed for the given PCC at the 1996 determined grant dollar amount. This methodology, in place since the implementation of the HCRA, provides no flexibility to appropriately respond to changes in PCC operations over time or to recognize the impact on operating costs of State mandated PCC restructuring, as provided for in the enacted 2010/11 State Budget.

The proposed amendment repeals the existing obsolete provisions and establishes a new distribution methodology that will allow for more equitable distribution of available HCI Pool funds, as appropriated annually by the legislative/budget process, to the remaining two RPCCs on an ongoing basis, effective January 1, 2011.

COSTS:

Costs to State Government:

There will be no additional costs to State government as a result of implementation of the regulation. To the extent that funds are appropriated annually by a given enacted State budget, the proposed amendment serves only to revise the methodology by which such appropriated Pool funds will be distributed to the RPCCs effective January 1, 2011, forward.

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties.

Costs to Local Government:

There will be no additional costs to local governments as a result of these amendments. The funds are State grants with no local district share of costs (not Medicaid funds).

Costs to the Department of Health:

There will be no additional costs to the Department of Health.

Local Government Mandates:

This regulation does not impose any program, service, duty or other responsibility on any county, city, town, village, school district, fire district or other special district.

Paperwork:

There is no additional paperwork required of providers as a result of these amendments.

Duplication:

These regulations do not duplicate existing State and Federal regulations.

Alternatives:

An alternative was evaluated prior to the selection of the proposed distribution methodology that considered the volume of human exposure calls by county as received by the RPCCs over time. Historically, the Centers have not consistently reported such

data to the Department over the past decade, particularly as it relates to county specific call volume. The Department acknowledges that the American Association of Poison Control Centers (AAPCC) owns and manages a large database on poison information and human exposure calls. However, the reports they produce are generic in nature and do not offer the requisite state specific, by county, information that would be necessary to serve as a basis for Pool fund distributions. Though customized reports are available for sale, it is unknown whether reporting to the database on all calls is a mandatory requirement of PCC nationwide or to what degree the AAPCC database is inclusive of all poison related calls/services for a given PCC/state (by county). Furthermore, any such special reports would come at a cost to the Department and may not appreciably improve decision making relative to distributing HCI Pool grant funding. Population density related to the geographic areas served by the two RPCCs, as determined by the US Census Bureau's latest decennial survey data, provides a common ground that should fairly reflect each Center's scope of obligation for poison call response (exposure calls), poison consultation services (poison information requests) and poison education responsibilities for their respective service areas.

Federal Standards:

The amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

The proposed amendment establishes a revised distribution methodology for HCI Pool grant funds. There is no period of time necessary for regulated parties to achieve compliance with the regulation.

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STATEMENT IN LIEU OF A

REGULATORY FLEXIBILITY ANALYSIS

For

SMALL BUSINESSES AND LOCAL GOVERNMENTS

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required pursuant to Section 202-b(3)(a) of the State Administrative Procedures Act. It is apparent from the nature of the proposed rule that it does not impose any adverse economic impact on small businesses or local governments, and will not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local governments. The proposed rule revises the methodology for determining Health Care Initiatives (HCI) Pool grant distributions to Regional Poison Control Centers (RPCCs). Effective January 1, 2011, poison control center operations statewide will be downsized from five RPCCs to two RPCCs, rendering the existing grant distribution methodology obsolete. The proposed regulation revises the methodology to reflect population density related to the restructured geographic area served by the surviving RPCCs, rather than continue their grant funding at the amounts that were established in 1997 based on poison control service revenue shortfall established for 1997. The HCI Pool grant funds are 100% State dollars, as appropriated for a given calendar year, and the proposed revised distribution methodology will have no impact on small businesses and local governments.

STATEMENT IN LIEU OF A

RURAL AREA FLEXIBILITY ANALYSIS

A Rural Area Flexibility Analysis is not required pursuant to Section 202-bb(4)(a) of the State Administrative Procedure Act. It is apparent from the nature of the proposed rule that it does not impose any adverse economic impact on rural areas, and will not impose any reporting, recordkeeping, or other compliance requirements on public or private entities in rural areas. The proposed rule revises the methodology for determining Health Care Initiatives (HCI) Pool grant distributions to Regional Poison Control Centers (RPCCs). Effective January 1, 2011, poison control center operations statewide will be downsized from five RPCCs to two RPCCs, rendering the existing grant distribution methodology obsolete. The proposed regulation revises the methodology to reflect population density related to the restructured geographic area served by the surviving RPCCs, rather than continue their grant funding at the amounts that were established in 1997 based on poison control service revenue shortfall established for 1997. The HCI Pool grant funds are 100% State dollars, as appropriated for a given calendar year, and the proposed revised distribution methodology will have no impact rural areas.

STATEMENT IN LIEU OF A

JOB IMPACT STATEMENT

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities. The proposed regulation replaces an existing obsolete methodology for determining grant funding to Regional Poison Control Centers. The proposed regulation will have no implications for job opportunities.

EMERGENCY JUSTIFICATION

Section 40(e) of Part B of Chapter 109 of the Laws of 2010 authorizes the Commissioner to issue the proposed regulations on an emergency basis in order to meet the timeframes prescribed by the enacted 2010/11 New York State (NYS) Budget related to implementing a statewide consolidation of Regional Poison Control Center (RPCC) services. Section 13 of Part B of Chapter 109 of the Laws of 2010 (10th Extender Bill enacted June 7, 2010) decreased total Health Care Initiatives (HCI) Pool funding to the RPCCs and directed consolidation of PCC services down from five RPCCs statewide to two RPCCs. To implement consolidation, effective January 1, 2011, the Commissioner has removed the designation of three Centers, thereby eliminating their eligibility for HCI Pool grant funding, and designated two RPCCs (one upstate and one downstate) which remain eligible on an ongoing basis for HCI Pool grant monies. Consolidation down to two RPCCs statewide restructured the geographical service area that the surviving RPCCs are now responsible for and rendered the existing HCI Pool funding distribution methodology contained in section 68.6 of 10 NYCRR obsolete. The proposed amendment establishes a new distribution methodology that will allow for more equitable distribution of available HCI Pool funds to the remaining two RPCCs on an ongoing basis effective January 1, 2011.