

January 30, 2016.

Dear AA's

The HIV Care Services Group has learned of challenges with respect to adhering to the current standards of care for Emergency Financial Assistance (EFA) and Local Pharmaceutical Assistance Program (LPAP) in situations where a client's only apparent need for EFA is to obtain Antiretroviral (ARV) medications during Affordable Care Act (ACA) enrollment and the Texas AIDS Drug Assistance Program (ADAP) eligibility process. This correspondence is intended to offer guidance to Administrative Agencies (AA) in addressing this challenge.

**The Challenge:** In some HSDAs, following the DSHS EFA standards apparently presents a barrier to efficiently linking clients to ARV medications while the client's application for enrollment into the Texas HIV Medication Program (THMP) is pending approval, or while the client is awaiting enrollment in an ACA insurance plan. This scenario is complicated by the HRSA HIV/AIDS Bureau (HAB) Ryan White HIV/AIDS Program (RWHAP) policy that explicitly forbids using Local Pharmaceutical Assistance Program (LPAP) funding to provide medications during the ADAP enrollment period. HAB RWHAP EFA guidelines further mandate that EFA funds, rather than LPAP funds, must be used for short term or emergency medication needs (see HAB PCN 16-02).

**The Solution:** Pending the next formal revision of the DSHS EFA and LPAP standards of care, the following interim guidance is offered to AAs in administering these service categories in their respective service delivery areas.

An AA may implement an HSDA-wide policy that a prescription (Rx) for ARVs during the ADAP application window is defined as a "hardship." No further assessment of need is necessary for EFA that is only intended for ARV medications. If the client has submitted an ADAP application, that shall be deemed to have met the requirement that it is a "hardship" respective to eligibility for EFA.

Notwithstanding the above exception, clients needing case management (CM) services should be referred to CM. This is true regardless of the reason a client is seeking EFA assistance and is a best practice. If the assessment for and referral to CM is performed by the agency providing the prescription for ARV medications (e.g. the OAHHC provider), the EFA provider does not need to repeat the assessment and referral to CM services for clients whose only need for EFA is ARV medications while awaiting his/her ADAP enrollment.

An AA may make it an HSDA-wide policy that a client receiving EFA only for ARVs to bridge the gap until the client has completed the ADAP enrollment process and received ADAP medications does not need to be reassessed to refill their ARV Rx while awaiting ADAP enrollment. DSHS recommends limiting this to an initial ARV Rx fill and one (1) refill if the client is receiving a 30-day supply per Rx. This will allow for up to 60 days of ARV medications during the ADAP application window. So long as the local area is submitting accurate and complete ADAP applications, a 60-day supply should be an adequate bridge to ensure the client has ARV medications until their initial ADAP Rx is filled.

While the current EFA Standards of Care mandate EFA providers have (no more than) three business days to approve or deny requests, AAs may mandate a shorter timeframe when necessary. Therefore, an AA may require their EFA provider(s) to ensure that EFA requests for ADAP medications are given priority and be filled within one (1) business day of receipt. Because of the wide variation in how EFA services are

configured across the state, each AA must determine what will work best in their HSDA(s) and circumstances. In areas with Planning Councils (PC), AAs are encouraged to collaborate with their respective PC in implementing changes in EFA business rules.

In terms of required documentation for a client seeking EFA for an ARV Rx during his/her ADAP application process, please keep in mind the following:

- Payer of Last Resort (PoLR) guidelines must be followed. EFA for medications may not be offered to clients when other payers are available (e.g. a client with health insurance). If the client has been screened for 3rd party payer eligibility per DSHS PoLR policy by the referring agency (e.g. the OAH provider who wrote the Rx), the EFA provider may rely on that documentation to justify providing financial assistance for ARV medications during the ADAP application process.
- EFA used for ADAP medication dispensing fees must be documented. While this situation applies to clients who are already enrolled in ADAP, EFA providers must document all instances of paying ADAP dispensing fees.
- In situations where the only identified need for EFA is to bridge the gap between the client's application to and enrollment in the ADAP, the AA may institute a local policy deeming the referral for EFA for ADAP bridge medications an acceptable documentation of a "hardship."
- Please keep in mind the following documentation requirements remain, notwithstanding a local determination to use EFA for ADAP bridge medications:
  - EFA provided during the ADAP eligibility determination period must be documented in the client record including the date(s) EFA was provided, the amount paid and method of payment.
- In situations where the only need for EFA is for ARV medications during the ADAP enrollment window, there is no need for an ongoing assessment by EFA agency staff of the outcome of the emergency assistance.
- The referring agency (e.g. the OAH provider) for clients seeking EFA for ARV medications during the ADAP enrollment window must maintain documentation in the client's primary record of efforts made to access client assistance programs with pharmaceutical companies, private or public insurance programs a client may have or be eligible for and other community resources that may provide ARV medications during the ADAP enrollment period. Prescribing agencies must document they have done their due diligence with respect to PoLR requirements before referring a client to EFA for ADAP bridge medications.

Clients seeking prescription assistance should complete an application for insurance under the ACA. During the enrollment period, LPAP funds may be used to pay for client medications. If the client is deemed not eligible for ACA insurance, the client must complete an attestation form stating that they are not eligible to enroll in any ACA plan. This attestation form must be included in the client file. Once all required documentation is obtained, LPAP funds may be used to purchase pharmaceuticals for the client.

Administrative Agencies that elect to deploy a streamlined methodology for EFA to provide ARV medications during the ADAP application window and/or use LPAP funds during the ACA enrollment process must provide their HIV Care Services Group consultant with a local policy and procedure on prescription assistance during the ADAP and ACA enrollment period prior to implementation. So long as the streamlined policy is consistent with all points above, upon DSHS review and approval, the AA may

proceed with implementation. If DSHS has questions or concerns those must be addressed promptly by the AA upon receipt. DSHS intends to compile the policies for streamlining access to ARV medications during the ADAP and ACA application window submitted by AAs and incorporate best practices into the EFA and LPAP standards of care when next formally revised.

See enclosed flow chart for more information titled:

**EFA-ADAP-LPAP-ACA FLOW CHART**