



Federal Tort Claims Act (FTCA) Coverage for Individuals at Free Clinics

Technical Assistance Call
PAL 2011-09

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA)
Bureau of Primary Health Care (BPHC)
Office of Quality & Data (OQD)
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II. Overview of FTCA Coverage



- Established by Section 194 of HIPAA adding section 224(o) of the Public Health Service Act, covering volunteer health professionals
- Expanded by the Affordable Care Act in 2010 to include board members, officers, employees, and individual contractors



II. Overview of FTCA Coverage



- Provides Medical Malpractice Coverage for deemed individuals providing medical, surgical, or dental services
- Eligible Individuals must be sponsored by a Free Clinic
- Free Clinic entity is NOT covered by FTCA
- NOT general liability coverage



II. Overview of FTCA Coverage



- FTCA coverage is similar to an occurrence policy – coverage is for any incidents that occur during time the individual is covered under FTCA
- No specific coverage limit
- Punitive damages not allowed
- Cases defended by the United States in Federal court



III. Requirements



Sponsoring Clinics:

- Must be a nonprofit organization
- Cannot accept third party reimbursement
- May not impose charges on patients
- May accept donations
- Are licensed or certified in accordance with applicable state law



III. Requirements



Major Requirements for Deeming:

- Credentialing and Privileging System
- Risk Management System
- Patient Notification of Limited Liability
- Medical Malpractice Claims Review
- Data Reporting



III. Requirements



Risk Management

- Quality Improvement/Quality Assurance Plan (QI/QA Plan)
 - Identifies Free Clinic's plan to mitigate risk and improve quality care for patients
 - Should map out plan for identification and evaluation of concerns, education plan for staff members, and responsibilities of management
 - Also include Free Clinic's credentialing and privileging processes



III. Requirements



Review of Medical Malpractice Claims

- Used to ensure appropriate policies and procedures are in place to reduce risk of medical malpractice
- Report any medical malpractice claim or disciplinary action taken by licensing board
 - Report for past **ten years** for new applicants
 - Report from past **five years** for renewal applicants



III. Requirements



Annual Data Reporting

- Occurs the first quarter of each year
- Examples of information requested:
 - Number of visits per clinic by covered individuals
 - Number of patients per clinic by covered individuals



IV. Eligible Individuals



Eligible Individuals:

- Volunteer Health Professionals
- Board Members
- Officers
- Employees
- Individual Contractors
 - Must have individual contract between individual and clinic



VII. Resources and Contact Information



For more information on the Free Clinic deeming application or FTCA coverage, please contact the Bureau of Primary Health Care (BPHC)

- 877-974-BPHC (877-974-2742)
- The Helpline is available 8:30 AM to 5:00 PM (ET) business days
- FreeclinicsFTCA@hrsa.gov
- <http://bphc.hrsa.gov/ftca/freeclinics/>