

## **Section 3.10 Tribal Medical Relief Block Grant – 2011**

This section is applicable to audits of Tribes.

**Funding:** State funded, state identification number 435.180101, CARS profile number 180101

The objectives of the Tribal Relief Block Grant Program are: 1) to provide funds for medical services to eligible American Indians who are recognized by a tribal governing body in this state as a member of a federally recognized Wisconsin tribe or band of Indians to meet their need for medical care, including alcohol and other drug abuse treatment, and 2) to provide medical services under this program in an effective and efficient manner. Tribes cannot use these funds for nonmedical services, only for medical care.

Funds for the Tribal Relief Block Grant Program are based upon an annual contract (federal fiscal year) between each tribe and the Wisconsin Department of Health Services (DHS). Wisconsin statutes (s. 49.029, et. al.), Administrative Rule Ch. 250 (HFS 250), along with each individual Tribal Relief Block Grant Plan contain the requirements and conditions under which these funds may be provided to and under which they can be expended by tribes.

When presenting findings, identify the program and the specific compliance requirement, for example “TMR B. Program risk factors.”

### **Risk assessment**

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#### **TMR A. General risk factors**

- The program has not been audited in at least one of the last two audits.
- The auditor identified significant findings in the most recent audit.
- The auditee has had significant changes in personnel or systems affecting the program.
- The program is new for this auditee or the program requirements have recently changed substantially.
- The program has complex administrative requirements.
- The auditor identified significant problems in performing the general compliance testing for requirements that are relevant to this program (Section 2 of the DHS appendix).

#### **TMR B. Program risk factors**

- Determine whether the tribe has on file a current DHS-approved Plan and a resolution passed by the tribal governing body authorizing participation in the Tribal Relief Block Grant program.
- Test five files and verify that all services paid for are in accordance with those specified in the general relief workplan submitted to the Department. Payment for services that are not identified in the workplan would indicate high risk.
- Test five files and verify that all supporting documentation is present to substantiate program billings. Billing the program without obtaining proper supporting documentation would indicate high risk.

- Test five files and verify that all clients meet the eligibility requirements specified in the general relief workplan submitted to the Department. Providing services to clients that do not meet the eligibility requirements specified in the workplan would indicate high risk.

## **Compliance requirements and suggested audit procedures**

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The program compliance requirements are in s.49.029 and other applicable sections of Chapter 49 Wis. Stats., Administrative Rule 250 (HFS 250), and the individual tribe's sends a Plan DHS for approval and as a requirement for participation in this program. Auditors should review the statutes, rules, and each individual tribe's Plan prior to conducting the audit.

### **TMR C. System for assuring only eligible persons receive medical care under this program**

#### *Compliance requirement(s)*

The tribe or its agent will maintain a record system documenting each person who files an application for medical services. The recipient must have his or her eligibility determined in accordance with the standards listed in each tribe's approved Plan, including verification of income and other resources as outlined in the Plan.

#### *Suggested audit procedure(s)*

Analyze each tribe's record system to identify its ability to document all eligibility determinations. The eligibility determination must be in compliance with each tribe's Plan, Wisconsin Statutes, and Administrative Rules. Test case files, expenditures records and supporting documentation to determine that only eligible recipients received assistance and that the expenditures were allowable. Select one month for testing. Test at least 10 percent of total monthly cases or a minimum of 10 cases for eligibility documentation and allowability of expenditures. Insure that any expenditures that were made for medical services were actually provided. Also insure that each tribe has written criteria for determining dependency as required in the administrative rule under 250.04(2) and has reviewed those criteria annually for appropriateness. In addition, determine if the individual tribe has an appeal process meeting the minimum requirements under administrative rule 250.07. Also insure that no individual receiving benefits under this program is held liable for the difference between the billed costs of health care services and the amount paid to the health care provider by the tribe for the services (s. 49.02 (6g)).

### **TMR D. Subcontracting**

#### *Compliance requirement(s)*

A tribal governing body may provide health care services directly or by contracting with private health care providers, or by a combination of contracting with private health care providers and providing services directly. If a tribe subcontracts, it must meet the conditions outlined under s.49.02 (2), including providing that all records of the health care providers relating to the administration and provision of health care services are open to inspection at all reasonable hours by authorized representatives of the county and department, including this audit.

*Suggested audit procedure(s)*

If a tribe subcontracts, examine appropriate records of the subcontractor in a manner consistent with this audit guide, including the requirement (s. 49.02 (2)(d)) that payment not exceed payment for care for which a Medical Assistance rate exists.

**TMR E. Prior year refunds, billings and recoupments**

*Compliance requirement(s)*

Funds credited to the relief block grant must be tracked and accounted for. Refunds can be from the previous Relief to Needy Indian Person's Program or from Tribal Relief Block Grant Program funds and funds from these two program should be segregated, i.e., tribes should be able to determine which of the two programs retained refunds came from. Refunds are obtained from the Social Security Administration under the Interim Assistance Program, private insurance companies, settlements from accidents, clients and client's estates, and other sources. These funds must be retained by the tribal agency and accounted for appropriately. A tribe may not have such refunds, billings, and recoupments; thus the aforementioned procedures would not apply to these tribes.

*Suggested audit procedure(s)*

The audit should insure funds are separately identified by the two programs identified above.

**TMR F. Supplemental Security Income (SSI) Interim Assistance (IA) program**

*Compliance requirement(s)*

Documentation needs to be reviewed which supports the procedures outlined under the Interim Assistance Program under the Supplementary Security Income (SSI) program sponsored by the Social Security Administration (SSA). Under the SSI Interim Assistance Program, individuals can obtain tribal relief block grant benefits while waiting for SSI benefits or an eligibility determination. Once the individual is determined eligible for SSI, the tribe will then seek a refund from the medical provider, if any, and the provider will bill the Medical Assistance Program for medical costs back to the date of the recipients original application.

*Suggested audit procedure(s)*

Determine:

- Whether the tribe has established procedures to seek refunds from medical providers providing services under GR to patients who are determined to be retroactively eligible for Medical Assistance.
- Whether the proper notices and documentation has been produced and retained in the proper files. This will not be necessary in some small tribes because there will be no SSI Interim Assistance clients.

**TMR G. Determining eligibility**

*Compliance requirement(s)*

The general relief workplan submitted to the Department by each tribe defines the specific recipient eligibility requirements and identifies the level and array of services offered.

*Suggested audit procedure(s)*

Determine, using a sample of cases in the tribe, if the tribe is accurately determining eligibility for medical benefits and providing the type of medical benefits offered according to their tribal plan. Tribes may use funds for alcohol and other drug abuse (AODA) services (see s.49.029 (3)). However, tribes cannot use these funds for other services described under s.51 .42(3)(ar)4, which are generally service for mental disabilities/mental health, other than AODA services.

**TMR H. Prisoners, people in custody of the sheriff or keeper of a jail**

*Compliance requirement(s)*

Relief block grant agencies, including tribes, are not allowed to use benefits under the program to provide medical treatment to prisoners held by local law enforcement officials and claim state reimbursement. It is allowable for a tribe to use locally provided relief block grant funds for the treatment of prisoners as long as they do not claim any state reimbursement for funds used for this purpose. There may be tribes who use their local Tribal Relief or Relief Block Grant Program to provide medical care for prisoners in order to save money, both administrative and medical, because this program generally reimburses providers at the lowest rates and has a ready made administrative structure.

Prisoners are people held by court order or arrested and incarcerated. In many cases, people held in halfway houses and intermediate means of legal restraint short of actual jail, including electronic bracelets, will be eligible for tribal relief block grant medical treatment. The basic rule is that if the person is the direct responsibility of the sheriff or law enforcement officer or keeper of a jail they are not eligible for any form of relief block grant medical care. In such cases the person in charge of the prisoner is responsible for medical costs.

*Suggested audit procedure(s)*

Inquire if any costs claimed for reimbursement were for individuals who were incarcerated. If yes, follow-up on amounts paid and disclose as a questioned cost. If no, document in workpapers.

**TMR I. Medical care cost containment plan**

*Compliance requirement(s)*

Each tribe has submitted a Medical Relief Block Grant Plan that outlines the procedures that each tribe will undertake in mitigating and reducing medical costs.

*Suggested audit procedure(s)*

Examine the tribe's Plan and confirm that the actions indicated in the Plan are taking place and that tribes are adhering to their approved Plan. In particular, determine if each tribe is limiting their liability for health care costs, including emergency care, to an amount that does not exceed the Medical Assistance (MA) rate for care, if such a rate exists. Also determine how each tribe is determining they are complying with this statutory requirement. Tribes and auditors may obtain the MA rates from Electronic Data Systems (EDS) at 608-221-9883. These rates are also available on the Internet (call 608-221-4746 for instructions) or often can be obtained from the providers involved.

Also determine:

1. How the tribe verifies that health care services are actually rendered in keeping with their Plan.
2. How the tribe prevents the inappropriate use of emergency health care services in keeping with the Plan.
3. Determine if a tribe has indicated in their Plan if they have a care management system and if they indicated they do, confirm its operation.

#### **TMR J. Program mandates**

##### *Compliance requirement(s)*

1. Tribes must do the following:
  - a. Disregard Low-Income Energy Assistance benefits during applications.
  - b. Disregard food stamp benefits during applications.
  - c. When a tribe terminates, suspends or reduces the health care services of someone, the notice must provide:
    - i. The effective date.
    - ii. The reason for the action.
    - iii. A statement that the action can be appealed, when and how.
2. Fair Hearings. Tribes must provide for fair hearings if they terminate, suspend or reduce health care services to someone. Upon proper request for a fair hearing, at a date and place convenient to the tribe and the petitioner, the fair hearings shall permit the following:
  - a. The petitioner to have a representative present.
  - b. The petitioner to examine his or her records.
  - c. The petitioner to establish pertinent facts and circumstances.
  - d. The selection of an impartial decision maker.
  - e. The petitioner to subpoena witnesses.
  - f. The petitioner to refute any testimony or evidence.
  - g. If desired by either party, provide for a record of the hearing to be made by a means acceptable to both parties.
  - h. The petitioner or the relief agency to limit the hearing to the written reason for the hearing, the facts in the case and the required remedy sought.
3. Each tribe's Plan must confirm that the tribe has established a protocol to meet each of these requirements.

##### *Suggested audit procedure(s)*

Determine whether

- The notice contains the date, reason and appeal procedures outlined above.
- The tribe permits the items under J.2 immediately above at fair hearings.

#### **Questions**

Please send questions by email to [DHSAuditors@Wisconsin.gov](mailto:DHSAuditors@Wisconsin.gov) and include the identifier for the audit procedure (example - "TMR B. Program risk factors" ) and the name of the auditee in the message.