Sub-recipient and Service Contractor (Subcontractors) Agreements

Collaborations are an essential aspect of a successful Federally Qualified Health Center. Coordination and integration with other providers in the health center's service area is encouraged by the Health Resources and Services Administration (HRSA) policies and Section 330 legislation. Through collaborations a health center accomplishes many mission-oriented tasks, such as facilitating and improving the continuum of care, ensuring timely and appropriate level of care, and enhancing existing programs, all within their restricted budgets.

These collaborations to provide services can be achieved with a sub-recipient or a subcontractor. The organization that will provide services for the FQHC will have a Memorandum of Agreement/ Understanding (MOU/MOA) with the sub-recipient or subcontractor. A FQHC should be familiar with the two different types of relationships and contracts. Many programs use the terms interchangeably. We would like to clarify this in terms of the resources provided on this website, including the sub-recipient and subcontractor agreement templates.

According to PIN 99-08, a **sub-recipient** is defined as 'an entity (not an individual contractor) that receives a grant or a contract from a deemed health center to provide the full range of health services on behalf of the deemed health center and only for those services under the scope of the project.' A sub-recipient must also be identified as a part of the health center's approved scope of project. Sub-recipients must be compliant with all of the requirements of Section 330 to be eligible to receive FQHC reimbursement for both Medicare and Medicaid[i]. All other organizations that provide individual services, such as lab tests, dental care, or pharmacy and physician services and that do not fall under the definition of a sub-recipient can be considered a **subcontractor**.

Additionally, from HRSA Governance PIN 2014-01: *A subrecipient is an organization that "is receiving funding from such a grant under a contract with the recipient of such a grant, and meets the requirements to receive a grant under section 330 of such Act . . .". Subrecipients must be compliant with all of the requirements of section 330 to be eligible to receive FQHC reimbursement from both Medicare and Medicaid. The subrecipient arrangement must be documented through a formal written contract/agreement.*

For the FQHC all *required services*[ii] must be provided within the health center's HRSA-approved scope of project whether those services are provided directly, through the sub-recipient or through other established written purchase agreements (the grantee pays/ bills) or referral arrangements (the grantee does not pay/bill). The referred service is available equally to all health center patients, regardless of ability to pay. The referred service is available on a sliding fee discount scheduled for all health center patients.

In a *formal* referral arrangement, the grantee does not pay or bill, but maintains responsibility for the patient's treatment plan and will be providing and/or paying/billing for appropriate follow-up care based on the outcome of the referral. By 'informal referral', the grantee does not pay. For all required services provided by an outside organization, either through agreement or formal referral, at a minimum, the contract or written agreement (e.g., MOU/MOA) in place should describe services and fees or the manner by which the referral will be made and managed, and the process for referring patients back to the grantee for appropriate follow-up care. For formal referral arrangements, the outside organization or provider should offer the service to health center patients based on a sliding fee discount schedule, and the service should be available equally to all health center patients, regardless of ability to pay. Policies and procedures need to be in place that will describe the method of verifying the license of the outside provider and the certification of the lead provider. *Informal* referral arrangements are not acceptable for the provision of a required service.

Sub-recipient and subcontractor arrangements must be documented through written contracts/agreements and updated as changes occur in the arrangements. It is best practice in developing MOU/MOA to fully and clearly define the services to be provided by the organization such as the cost, location, and providers involved, as well as document the responsibilities and authorities over the organization by the FQHC. These should also include information on appropriate monitoring and oversight of the services, how the services will be provided and documented in the patient record, and the payment and billing process.

An MOU/MOA, or other formal agreement exists that, at minimum, describes the manner by which the referral will be made and managed, and the process for referring patients back to the health

center for appropriate follow-up care. For formal contracts and other legal documents, it is recommended to receive counsel from your health center attorney and policy staff. It is suggested that at a minimum the MOU/MOA should provide detailed descriptions of the following:

Parties- The MOU/MOA should name the individuals or organizations entering into the agreement.

Contracts- The MOU/MOA should stipulate the number and type of contracts covered by the agreement.

Scope- The scope and purpose of each contract covered by the agreement should be described.

Duration- The MOU/MOA should specify how long the agreement would be in place.

Roles- The MOU/MOA should identify those responsible for specific activities, and provide a time-line for delivery of services or obligations. The MOU/MOA should specify responsibilities for any activities that require extensive collaboration among a number of parties, such as a Statewide drug utilization review or other project.

Costs- If any costs are to be accrued, the MOU/MOA should describe how they are allocated and the means of paying them. Grantees should use the monitoring process to reinforce and underscore mutual obligations between the funding agency and the contractor.

Contractual/Affiliation Agreements- Health center exercises appropriate oversight and authority over all contracted services, including assuring that any sub-recipient(s) meets Health Center Program requirements.

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[i] PIN 2008-01

[ii] A list of *required services* is listed in the Health Center Site Visit Guide - For HRSA Grantees, which can be found in the on the HRSA website (www.hrsa.gov).