



March 2, 2023

Dear Ryan White HIV/AIDS Program Colleagues,

The Coronavirus Disease 2019 (COVID-19) public health emergency continues to pose significant challenges for Ryan White HIV/AIDS Program (RWHAP) recipients, providers, and clients to provide and access care. The Consolidated Appropriations Act, 2023, Pub. L. 117-328, Division H, § 237 confers flexibility or administrative relief from statutory penalties and administrative requirements that would be otherwise applicable, as was similarly authorized for Fiscal Years (FYs) 2020, 2021 and 2022. The Health Resources and Services Administration's (HRSA) HIV/AIDS Bureau (HAB) previously implemented this authority by permitting waivers of six provisions for FY 2020 and 2021,¹ and three provisions for FY 2022.²

After a review of the utilization of the prior waivers and the continued impact of the COVID-19 pandemic on RWHAP recipients and subrecipients, two of the three waivers available in FY 2022 will be extended into FY 2023: the expedited distribution and penalty waiver for RWHAP Part B and the unobligated balances (UOB) waiver for RWHAP Parts A and B. For FY 2023 funding, both waivers will be non-automatic and therefore only available by request. **NOTE:** The Maintenance of Effort waiver for RWHAP Part A, Part B, Part C, and Part F Dental Programs will not be extended into FY 2023.

Below is a list of penalties that may be waived, if specifically requested. Recipients that are unable to meet the following provisions for FY 2023 RWHAP funding **due to the COVID-19 pandemic** should request a waiver following the instructions that will be provided shortly through your RWHAP Part listserv. If the waiver is approved, recipients will not be penalized. HRSA HAB expects these requests to be rare. RWHAP recipients will be issued a Notice of Award indicating that the penalties associated with the requested requirement(s) are waived, as applicable.

**Expedited
Distribution and
Penalty -
Part B**

The requirement that recipients obligate 75 percent of the award and associated penalties may be waived upon request. Recipients are still required to submit an interim FFR. §§ 2618(c) and (d) of the Public Health Service (PHS) Act.

¹ Waiving Penalties and Administrative Requirements for Ryan White HIV/AIDS Program Recipients <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/penalties-waivers-program-letter.pdf>

² FY 2022 Penalties Waivers for Ryan White HIV/AIDS Program Recipients: <https://ryanwhite.hrsa.gov/sites/default/files/ryanwhite/grants/fy2022-penalties-waivers-program.pdf>

The expedited distribution requirement and penalty may be waived for **FY 2023 RWHAP Part B** recipients for which the COVID-19 pandemic continues to impact the recipients' ability to make timely subawards. RWHAP Part B recipients that would otherwise be penalized must request this waiver.

**Unobligated
Balances Penalty -
Part A, Part B**

Requirements regarding the timeframe for obligation and expenditure of formula and supplemental RWHAP funds within the designated timeframe and associated penalties may be waived upon request. Recipients are still required to submit a final FFR. §§ 2603(c), 2609(d)(2), and 2622 of the PHS Act. Due to the timing of the final FFR, any UOB penalties that result from formula fund UOBs reported in the final FY 2023 FFRs will be waived during the FY 2025 award cycle.

The unobligated balances requirement and penalty may be waived for **FY 2023 RWHAP Part A and Part B** recipients for which the COVID-19 pandemic continues to impact recipients' ability to obligate grant funds. RWHAP Part A and Part B recipients that would otherwise be penalized must request a waiver.

We appreciate your dedication and remain committed to working with RWHAP recipients to reduce burden in accordance with applicable laws and regulations.

Sincerely,

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