 <p><b>HIV/STD Prevention and Care Branch</b></p> <p><b>Eligibility to Receive HIV Services Policy</b></p>	Tracking Number	HIV/STD 220.001
	Effective Date ( <i>original issue</i> )	July 7, 2006
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	Subject Matter Expert ( <i>title</i> )	Manager, HIV Care Services Group
	Approval Authority ( <i>title</i> )	Manager, HIV/STD Prevention and Care Branch
	Signed by ( <i>signature for hard copy; name for online</i> ) <i>Shelley Lucas, MPH</i>	

### 1.0 Purpose

The purpose is to outline the eligibility criteria for individuals to receive services funded through Ryan White HIV/AIDS Program (RWHAP) Part B, State Services, and the State of Texas' AIDS Drug Assistance Program (ADAP).

### 2.0 Authority

Texas Health and Safety Code: Chapter 85, §§85.003, 85.013, 85.014 - 85.031; Ryan White HIV/AIDS Treatment Extension Act 2009; Health Resources & Services Administration (HRSA) Policy Clarification Notice (PCN) #16-02 Replaces Policy #10-02. Policy Clarification Notice (PCN) #13-02.

### 3.0 Policy

Eligibility for an individual to receive assistance under RWHAP Part B, including the Texas HIV Medication Program (THMP) and/or State Services will be established to ensure appropriate client access to needed services while adhering to payor of last resort (PoLR) requirements.

### 4.0 Definitions

**Administrative Agency (AA)** - Entity responsible for ensuring a comprehensive continuum of care exists in their funded area(s). This is accomplished through the management, distribution, and oversight of federal and state funds, and under contractual agreement with the Texas Department of State Health Services (DSHS).

**AIDS Drug Assistance Program (ADAP)** – The State of Texas' HIV Medication Program (THMP), administered by DSHS HIV/STD Prevention and Care Branch.

**AIDS Regional Information and Evaluation System (ARIES) -**

Web-based, client-level software that RWHAP Part B /State Services-funded HIV providers use to report all RWHAP and State Services-funded services provided to RWHAP Part B-eligible clients.

**Annual 12-Month Eligibility Recertification** - The process of screening and determining eligibility for a period of months. *Clients must be screened for program eligibility every six months (no later than the last day of the clients' birth month for*

*the annual 12-month recertification and no later than the last day of the clients' half birth month for the 6-month self-attestation).*

Assessment includes: documentation of Texas residency, income, and proof of insurance/(payor). *This documentation is submitted by the last day of the applicant's birth month.*

**Applicant** – An individual requesting RWHAP Part B, State Services and/or THMP-funded services and undergoing the eligibility process.

**Client** – An applicant who has been determined to be eligible for services, has successfully completed the eligibility process, and is receiving services.

**Texas Department of State Health Services (DSHS)** – The agency responsible for administering physical and mental health-related prevention, treatment, and regulatory programs for the State of Texas.

**Federal Poverty Level (FPL)** – A measure of income level determined by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) that is updated periodically in the Federal Register and primarily used to determine eligibility for certain programs and benefits. FPL is the set minimum amount of gross income that an individual or a family needs for food, clothing, transportation, shelter, and other necessities. FPL varies according to family size. The number is adjusted for inflation and reported annually in the form of poverty guidelines.

**Half Birth Month** – Half Birth Month is the month that is six months after the client's birth month (e.g. birth month is January, half birth month is July, and so on). For purposes of this policy, the end of the Half Birth Month shall be considered the last day of the month it falls in, regardless of a client's birth date.

**Human Immunodeficiency Virus (HIV)** – an infection that destroys some types of white blood cells and is transmitted through blood or bodily secretions such as semen and as further defined by the Centers for Disease Control and Prevention (CDC) and in accordance with the Health and Safety Code, §81.101.

**HIV supplemental (confirmatory) test** – a test that confirms the diagnosis of HIV after a preliminary positive test has been completed.

**HIV Services** - Any social or medical assistance defined in the HIV Services Taxonomy (<http://www.dshs.state.tx.us/hivstd/taxonomy/default.shtm>) paid for with RWHAP Part B and State Services funded through DSHS.

**Medicaid** – A joint federal and state health insurance program for some people with limited income and resources.

**Medicare** - A federal health insurance program for people who are 65 years old and older, certain younger people with disabilities, or for those who meet other special criteria.

**Modified Adjusted Gross Income (MAGI)** – A figure used to calculate income eligibility for lower costs in Marketplace Health Plans as well as eligibility for Medicaid, Children's Health Insurance Plan (CHIP), and RWHAP Part B/State Services-funded HIV medical and support services. Generally, modified adjusted

gross income is adjusted gross income plus any tax-exempt Social Security, interest, or foreign income an individual may have. An income calculation worksheet can be found at <http://www.dshs.state.tx.us/hivstd/magi.shtm>.

**New Eligibility Determination** – The process of assessing an applicant’s eligibility upon entrance into RWHAP Part B, State Services, and/or THMP-funded services. Assessment includes: documentation of HIV status, Texas residency, income, and insurance (payor).

**Nucleic Acid Amplification Test (NAAT)** - A laboratory test that amplifies the HIV RNA and detects viral genes instead of viral antibodies or antigens.

**Payor of last resort (PoLR)** – RWHAP or State Services funds cannot be used as a payment source for any service that can be paid for or charged to any other billable source. Providers are expected to make reasonable efforts to secure other funding instead of RWHAP Part B or State Services funding, whenever possible.

**Provider** – A local organization, individual clinician, or group of clinicians who provide services to people living with HIV (PLWH).

**Six-Month Self-Attestation** – process of a client confirming no change in previous eligibility declaration and documentation. This process occurs by the last day of the half birth month, six months after the client’s birth month.

**Spend-down** - THMP considers the cost of medications provided to applicants and spends down client income based on this cost. This generates an adjusted FPL that is used for program eligibility determination. THMP medication pricing is confidential, and will not be shared with agency workers or applicants.

**State Pharmacy Assistance Program (SPAP)** - This program, operated by THMP, provides assistance with premiums and out-of-pocket costs associated with qualifying Medicare Part D prescription drug plans for low-income Texans.

**Subrecipient** – A non-federal entity that receives a subaward from a pass-through entity or recipient (AA) to provide services to clients and implement policy.

**Texas HIV Medication Program (THMP)** - Provides medications for the treatment of HIV and its related complications for low-income Texans. The THMP is the official ADAP for the State of Texas. It also operates the SPAP and Texas Insurance Assistance Program (TIAP).

**Texas Resident** – An individual who resides within the geographic boundaries of the state.

**Texas Insurance Assistance Program (TIAP)** -This program, which is operated by THMP, provides assistance with premiums and out of pocket medication costs for low-income Texans with qualified insurance plans.

**Veteran** – A former member of the Armed Forces of the United States of America. Veterans are eligible to receive RWHAP Part B and State Services-funded services. Please see [DSHS Policy 590.001 DSHS Funds as Payment of Last Resort](#) for more detailed guidance.

**Viral Load** - A laboratory test that measures the amount of HIV viral copies in a milliliter of blood.

## **5.0 Persons Affected**

DSHS HIV Care Services and THMP staff  
Administrative Agencies (AAs)  
Subrecipients/Providers  
Applicants/Clients for HIV services funded by RWHAP Part B and State Services

## **6.0 Responsibilities**

- 6.1 DSHS Division for Laboratory and Infectious Disease Services (LIDS)** – ensures that systems are in place to provide care and services to Texans who are eligible to receive these services through RWHAP Part B and State Services funding, and ensures that these funds are used as payment of last resort. Staff will assure that AAs appropriately monitor eligibility documentation for these payment sources as well as conduct appropriate assessments to determine eligibility for other third-party payers using MAGI.
- 6.2 Administrative Agency (AA)** – develop policy for determination of eligibility; use MAGI to determine income; determine how providers will be trained to determine eligibility; and monitor provider billing of third party payers to determine compliance with PoLR requirements.
- 6.3 Subrecipient and Provider** – develop policies and procedures to determine eligibility for services while ensuring RWHAP Part B and State Services funds are used as payment of last resort; develop policies and procedures to ensure that individuals seeking covered services are screened for eligibility using MAGI to identify other payer sources such as the Marketplace, Medicaid, and CHIP. Screening should occur as indicated in this policy. If individuals are determined potentially eligible for other benefits, refer them to the specific programs and assist them in completing the eligibility determination process. When providing emergency assistance to priority populations in crisis (e.g., an individual who is recently released from the criminal justice system who requires assistance in acquiring HIV medications), contractors must refer clients into appropriate program services and assist in obtaining any required eligibility documentation. Providers should also ensure the proper documentation of any and all eligibility screening and intake activities in the clients' respective charts—paper and/or electronic (e.g., ARIES).
- 6.4 Applicant, Client, and Family** – provides the required documentation to determine eligibility for services funded under RWHAP Part B, State Services, and THMP.

## **7.0 Requirements**

- 7.1 New Eligibility and Annual 12-Month Recertification of HIV Status, Texas Residency, and Income**

Upon initiation of services, as well as every 12 months, providers must determine whether an applicant meets the following RWHAP Part B/State Services eligibility criteria:

- have a diagnosis of HIV infection;
- provide documentation of Texas residency; and
- provide complete and accurate income documentation.

**Recertification of HIV status after initial eligibility determination is not required.**

*Clients must be screened for program eligibility every six months (no later than the last day of the clients' birth month for the annual 12-month recertification and no later than the last day of the clients' half birth month for the 6-month self-attestation).*

### **7.1.1 Documentation of HIV-Infection Status**

**To be eligible for services paid for by RWHAP Part B/State Services/THMP, an individual must have a diagnosis of HIV infection.** Affected individuals (people who are not living with HIV) may be eligible for RWHAP services in limited situations; services for affected individuals must always benefit PLWH. For further clarification on providing services to affected individuals, please see [HRSA Policy Clarification Notice \(PCN\) #16-02, Eligible Individuals and Allowable Uses of Funds](#).

There are many different ways to document HIV infection. Some examples of acceptable forms of documentation are provided below; however, this should not be viewed as a complete list.

#### *Laboratory Documentation*

Proof of HIV infection may be found in laboratory test results that bear the client's name. Some examples include:

- Positive result from HIV screening test (HIV 1/2 Combo Ab/Ag enzyme immunoassay [EIA]);
- Positive result from an HIV 1 RNA qualitative virologic test such as a HIV 1 Nucleic Acid Amplification Test (NAAT); or
- Detectable quantity from an HIV 1 RNA quantitative virologic test (e.g. viral load test)

**NOTE: HIV testing technology changes rapidly and standards of HIV confirmation continue to evolve. Providers must stay informed of advances in testing technology as newer tests may also provide proof of HIV infection.**

#### *Other Forms of Documentation*

Some examples are:

- A signed statement from an entity with prescriptive authority attesting to the HIV-positive status of the person; or
- A complete THMP Medical Certification Form signed by a physician (required by THMP); or
- A hospital discharge summary documenting HIV infection of the individual

#### *Facilitating linkage with an HIV Preliminary Positive result*

A preliminary positive is a positive result from an HIV screening test. Although a preliminary positive is not considered proof of HIV status (because it is not a

supplemental test in the current HIV testing algorithm), individuals with such a result are very likely to have HIV infection and would benefit from quick linkage to ongoing medical care. **Having only a preliminary positive result from one HIV test should not be a barrier in linkage to medical care.**

### **A preliminary HIV-positive result should not be used to apply for THMP.**

The ability to use a preliminary positive test result to facilitate linkage to care does not negate the responsibility of the HIV testing site to conduct supplemental testing. The receiving medical provider must be informed of the individual's unconfirmed preliminary positive HIV test result. Once the supplemental results are received from the lab, HIV testing staff must provide these results to the individual and, if a Release of Information is signed, to the HIV care provider. Clinics receiving such individuals may choose to arrange an abbreviated first appointment, during which the individual could receive counseling on HIV infection, orientation to medical care, conduct eligibility screening, and/or begin laboratory work. Note: HIV medical providers may elect to conduct the HIV supplemental test if a memorandum of understanding (MOU) is signed with the HIV testing agency.

Providers should contact their AA with questions about acceptable documentation of HIV infection.

#### **7.1.2 Documentation of Texas Residency**

To be eligible for services paid for by RWHAP Part B/State Services/THMP, an applicant must reside within the geographic boundaries of Texas and express intent to remain within the state and not claim residency in any other state or country.

Individuals do not lose their Texas residency status because of a temporary absence from the state. For example, a migrant or seasonal worker may leave the state during certain periods of the year, but maintains a home in Texas, and returns to that home after this temporary absence. This individual will not lose their Texas residency status.

##### *Students*

- Students from another state who are living in Texas to attend school may claim Texas residency based on their student status while they are residing in Texas.
- ADAP Only: Students living out-of-state (living in a state other than Texas), but who claim Texas residency based on their student status must provide a denial from that state's ADAP and documentation of school enrollment in order to be approved for the Texas ADAP.

Acceptable proof of residency documents must include the applicant's full legal name and residential address, and be unexpired or from the last 30 days.

Documentation of proof of Texas residency can be determined using one of the following (**photo identification of client is not required**):

- valid (unexpired) Texas Driver's License;
- Texas State identification card (including identification from criminal justice systems);

- recent Social Security, Medicaid/Medicare or Food Stamp/TANF benefit award letters;
- IRS Tax Return Transcript, Verification of Non-Filing, W2, or 1099;
- current employment records (pay stub);
- post office records;
- official state mail;
- current voter registration;
- rent or utility receipts for one month prior to the month of application in the client's name;
- a mortgage or official rental lease agreement in the client's name;
- valid (unexpired) motor vehicle registration;
- proof of current college enrollment or financial aid;
- property tax receipt;
- a letter of identification and verification of residency from a verifiable homeless shelter or community center serving homeless individuals; or
- a statement/attestation (does not require notarization) with client's signature declaring that client has no resources for housing or shelter **(Please note: this is not accepted by THMP).**

If none of the items listed above are available, Texas residency may be verified through:

- statement from landlord/neighbor/other reliable source; or
- submission of a letter detailing the observance of the living arrangement. This must be a signed statement on agency letterhead from the agency detailing steps that were taken to obtain proof of residency, why they were not successful, and that personal living arrangements were observed by an agency employee only; or
- submission of the DSHS-THMP Supporter Statement. This is only accepted when no other proof of residency is available and must be accompanied by a signed statement on agency letterhead from the agency enrollment worker detailing steps that were taken to obtain proof of residency and why they were not successful; or
- observance of personal effects and living arrangement (e.g., visit to residence). **(Please note: this is not accepted by THMP).**

Providers should contact their Administrative Agency, or THMP with questions about acceptable documentation of Texas residency.

### **7.1.3 Documentation of Income**

To be eligible for services paid for by RWHAP Part B/State Services/THMP, an applicant must submit proof of income and FPL using the *MAGI calculation*. Subrecipients and providers must use the DSHS-provided *Income Calculation Worksheet* to calculate an applicant's income. These worksheets can be found online at <http://www.dshs.texas.gov/hivstd/magi.shtm>.

#### **Income Calculation Worksheet**

The *Income Calculation Worksheet* is divided into 'Section A' and 'Section B'.

Section A is used to calculate:

- income for clients who do not have access to a 'Tax Return Transcript' or other standardized tax return forms (form 1040, 1040 EZ, etc.);
- income for clients whose income has changed since filing taxes for the most recent year; and
- clients who are 'Married Filing Jointly'.

Documents that may be used to complete Section A are outlined below:

- pay stubs (30 continuous days of payment within the last 60 days);
- supporter statement;
- employer statement;
- Social Security Income (SSI) Award Letter;
- Social Security Disability Income (SSDI) Award Letter;
- agency letter; or
- other income documentation.

Note: IF the client is unable to provide any other form of income documentation, Bank statements are acceptable forms of income documentation for both the RWHAP Part B and THMP/ADAP program.

Section B is used to calculate:

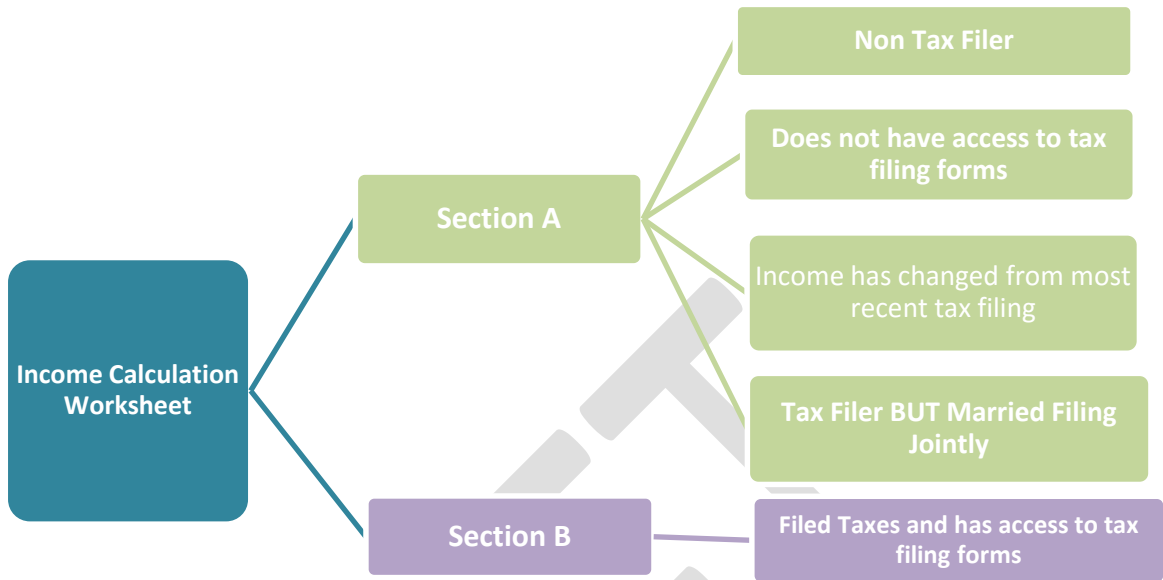
- income for clients who have access to standardized tax return forms (form 1040, 1040 EZ, Tax Return Transcript, etc.).

The *Income Calculation Worksheet* is self-calculating and produces the FPL) percentage based on both household and individual income. A copy of the worksheet and supporting documentation must be kept in the primary client record. These documents should also be submitted with THMP applications.

THMP income calculation includes income information received through third-party verification and is subject to a spend-down, therefore THMP eligibility cannot be



assumed by enrollment workers before a submitted application is processed.



#### 7.1.4 Local Criteria for Eligibility Determination

AAs may impose additional criteria to determine eligibility, such as those based on income and county of residence. Additional criteria can be imposed if justified through a needs assessment or planning process that includes public input and comment. Additional eligibility criteria may vary depending on service category. However, further eligibility determination must be applied to all individuals equally and *must not pose an undue hardship on individuals*.

All RWHAP Part B and State Services-funded services must have an income limit not to exceed 500% of FPL.

The current THMP financial eligibility criteria may be found at <https://www.dshs.texas.gov/hivstd/meds/>.

#### 7.2 Screening Clients for Third Party Payers

AAs must ensure that their sub-recipients/providers are coordinating benefits and the use of third party reimbursement by:

- monitoring how subrecipients/providers determine client eligibility to ensure that RWHAP Part B and State Services funds are the payors of last resort; and
- monitoring the documentation that shows clients have been screened for and enrolled in eligible programs prior to the use of RWHAP Part B and State Services funds; and

- requiring and monitoring how subrecipients/providers use a third-party payer verification system.

Providers must screen individuals for their ability to pay as well as their eligibility for other potential sources of payment for these services. Programs/benefits that must be used first include:

- private/employer insurance;
- Medicare (including Part D prescription benefit);
- county indigent health programs;
- patient assistance programs (PAPs);
- Medicaid;
- Children's Health Insurance Programs (CHIP); or
- other comprehensive healthcare plans.

Documentation of eligibility status must be filed in the client's primary record.

THMP independently screens for third-party payers, which may result in denial from the program.

### **7.3 Six-month Self-Attestation (Half Birth Month)**

To assess eligibility at the 6-month mark, providers may accept client self-attestations of change/no change in **income, residency, and insurance status** (self-attestations are not acceptable forms of documentation at the annual/12-month recertification). Self-attestations may be signed by the client or the provider, with verbal affirmation from the client. This process occurs by the last day of the month, six months after the client's birth month.

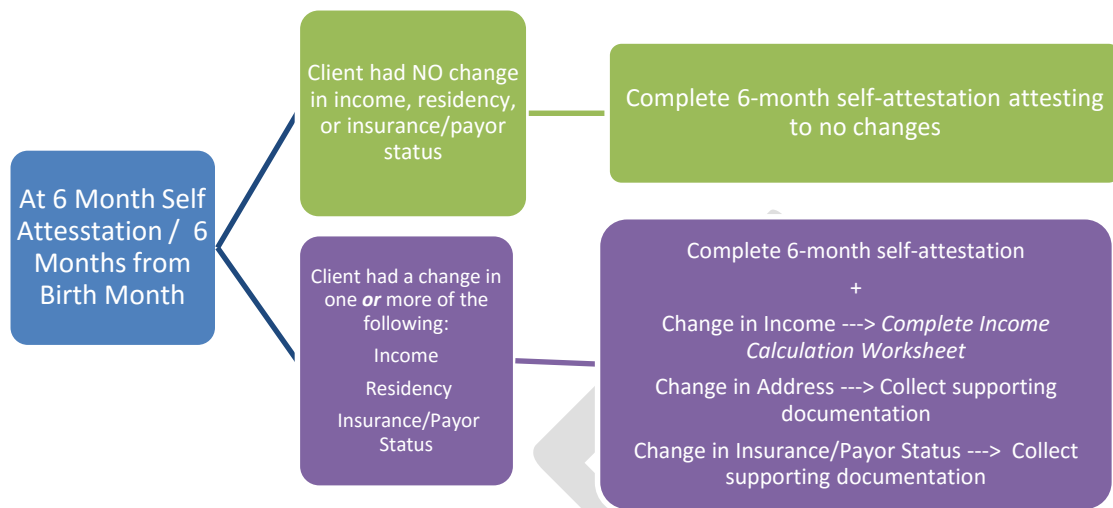
**Related communications from RWHAP Part B providers must be transmitted in a confidential manner. If a client has had a change in income, residency/address, or insurance status, they must submit appropriate supporting documentation.**

Self-attestations must be documented in the client's primary record and updated in ARIES, even if there is no change (the date stamp in ARIES should reflect the most recent recertification date). Supporting documentation must be kept in the client's primary record.

For clients on THMP, a copy of the self-attestation must be sent to THMP before the end of the half birth month. THMP will accept self-attestation forms signed by the client, or signed by the provider who spoke directly to the client. THMP will also accept self-attestations with no changes over the phone with the client.

**Recertification of HIV status after the initial eligibility determination is not required.**

While eligibility for services **must be determined every six months** for active clients, providers should assess changes in eligibility at the time of service. The providers' policies and procedures must address how clients will be contacted regarding their 6-month recertification, and how changes in eligibility will be assessed at the time of service. Consult the table below for guidance on the recertification process and required documentation.



REQUIRED DOCUMENTATION TABLE

Eligibility Criteria	New Eligibility Determination	Annual 12-Month Recertification (by last day of Birth Month)	6-Month Self Attestation (by last day of Half Birth-Month)
HIV status	Documentation is <b>ONLY</b> required for initial eligibility determination.	N/A	N/A

<p><b>Income</b></p>	<p>Supporting documentation is required to complete the Income Calculation Worksheet.</p> <p>Acceptable documentation for Section A (not exhaustive list):</p> <ul style="list-style-type: none"> <li>• pay stubs (30 continuous days of payment within the last 60 days);</li> <li>• supporter statement;</li> <li>• employer statement;</li> <li>• Social Security Income (SSI) Award Letter</li> <li>• Social Security Disability Income (SSDI) Award Letter</li> <li>• agency letter; or</li> <li>• other income documentation.</li> </ul> <p>Acceptable documentation for the Section B includes:</p> <ul style="list-style-type: none"> <li>• Tax Return Transcript</li> <li>• Tax Filing Documents</li> </ul>	<p>Supporting documentation is required to complete the Income Calculation Worksheet.</p> <p>Acceptable documentation for Section A (not exhaustive list):</p> <ul style="list-style-type: none"> <li>• pay stubs (30 continuous days of payment within the last 60 days);</li> <li>• supporter statement;</li> <li>• employer statement;</li> <li>• Social Security Income (SSI) Award Letter</li> <li>• Social Security Disability Income (SSDI) Award Letter</li> <li>• agency letter; or</li> <li>• other income documentation.</li> </ul> <p>Acceptable documentation for the Section B includes:</p> <ul style="list-style-type: none"> <li>• Tax Return Transcript</li> <li>• Tax Filing Documents</li> </ul>	<p>Self-attestation of no change is acceptable. Attestation must be documented in the client's primary record and date stamped in ARIES.</p> <p>If there has been a change in income, complete the <i>Income Calculation Worksheet</i> and provide backup documentation.</p> <p>Providers should assess changes in eligibility every time the client comes in to receive a service.</p>
<p><b>Residency</b></p>	<p>Documentation is required.</p>	<p>Documentation is required.</p>	<p>If address has not changed, self-attestation of no change is acceptable. Attestation must be documented in the client's primary record and date stamped in ARIES. For THMP clients, a copy should be sent to THMP.</p> <p>If address has changed updated documentation of residency must be placed in the client file and sent to THMP, if applicable.</p>

			Providers should assess changes in eligibility every time the client comes in to receive a service.
<b>Insurance /Third Party Payer</b>	<p>Provider must verify if applicant is enrolled in other health coverage and document status in client file. For THMP clients, a copy of this documentation should be sent to THMP.</p> <p>Enrollment must be pursued if client is income eligible for Medicaid, CHIP, Health Insurance Marketplace plans, or various other health plans.</p>	<p>Provider must verify if applicant is enrolled in other health coverage and document status in client file. For THMP clients, a copy of this documentation should be sent to THMP.</p> <p>Enrollment must be pursued if client is income eligible for Medicaid, CHIP, Health Insurance Marketplace plans, or various other health plans.</p>	<p>If client's insurance/third party payer status has not changed, self-attestation of no change is acceptable. Attestation must be documented in the client's primary record and date stamped in ARIES. For THMP clients, a copy should be sent to THMP.</p> <p>Documentation of client's insurance eligibility status must be filed in the client's primary record(s). For THMP clients, a copy should be sent to THMP.</p> <p>Providers should assess changes in eligibility every time the client comes in to receive a service.</p>

### 7.5 Client's Responsibility for Reporting Changes

A client must immediately report any changes that might affect their eligibility to the provider(s) and THMP if applicable. If a client has experienced a change in circumstances related to eligibility, they must submit appropriate documentation of the change to the provider(s) within 30 days of the reported change and ensure the provider(s) receives the documentation. A client must also report any changes at the 6-month mark. If a client fails to provide appropriate documentation of the change, their services may be delayed until the provider(s) can confirm eligibility.

## 8.0 Revision History

Date	Action	Section
11/20/2011	Policy language revised to clarify documentation requirements	
09/27/2012	Policy revised to clarify eligibility as it applies to HRSA's "recertification" language and to give guidance for additional eligibility	
01/15/2013	Policy revised to reflect HRSA-issued Policy Clarification Notices relating to Implementation of the Care Act	
09/04/2015	Policy revised to add definitions; clarify documentation requirements for HIV Infection Status and Texas Residency; clarify Re-certification requirements; add requirement for MAGI for financial eligibility determination; and reflect advances in testing technology.	All
10/30/2017	Policy revised to align with THMP/ADAP eligibility certification schedule.	All

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