

**Comments on Policy: Texas Insurance Assistance Program**  
**Draft Policy Posted February 12, 2021 | Public Comments Due March 15, 2021**

Section	Comment (include citation or justification if applicable)	DSHS Response
0.0 General Question	Is THMP going to cover all insurances now, not just COBRA for qualified clients?	THMP TIAP only covers employer-sponsored insurance, COBRA (Consolidated Omnibus Budget Reconciliation Act) plans, and other non-Affordable Care Act plans to which an applicant has access.
0.0 General Question	<p>This policy excludes assistance that not only would benefit the overall health of clients but would also cost the program much less than direct purchases of medication.</p> <p>Florida, like Texas, did not expand Medicaid, offers clients the option to choose Marketplace plans through their ADAP: <a href="http://floridahealth.gov/diseases-and-conditions/aids/adap/adap-insurance.html">floridahealth.gov/diseases-and-conditions/aids/adap/adap-insurance.html</a>; and it makes fiscal sense for Texas to do the same.</p>	THMP cannot expand insurance assistance by enrolling clients in insurance plans. This is based on language the Texas Legislature struck from Senate Rider 26.
1.0 2.0 3.0	<p>HRSA Policy Clarification Notice 7-05 has been replaced by <a href="#">PCN 18-01</a>, and the section on Private Health Insurance includes Marketplace plans. The notice states "It is particularly important that all sources of premium and cost sharing assistance are included in the cost effectiveness calculation. (Corresponding footnote: Advance premium tax credits and other federal or state cost sharing reductions may be available and need to be considered in cost-effectiveness determinations.) RWHAP recipients must vigorously pursue these other sources of premium and cost sharing assistance to ensure RWHAP remains the payor of last resort."</p> <p>PCN 13-04 states "Because the RWHAP is the payer of last resort, RWHAP grantees and subgrantees must make every reasonable effort to ensure all uninsured RWHAP clients enroll in any health coverage options for which they may be eligible. This means that grantees and subgrantees are expected to ensure that clients who are determined by the state Medicaid agency and/or the Marketplace to be ineligible for public programs (Medicaid, CHIP, Medicare, etc.) are also assessed for eligibility for private health insurance (e.g., employer-sponsored health plans and health plans offered through the Marketplace)."</p>	The THMP TIAP is supported by state general revenue funds and not Ryan White HIV Program funding. THMP may not expand insurance assistance by enrolling clients in insurance plans. This is based on language the Texas Legislature struck from Senate Rider 26.
6.2	Will 6.2 (page 3) be an accountable measure? If so, how will it be monitored for compliance? Will this be placed in contracts to AAs?	Yes, contracted providers will be accountable for ensuring clients are screened and referred. Compliance with all DSHS policies are included in Administrative Agency (AA) contracts and DSHS regularly conducts monitoring of AAs and contracted providers to ensure all policies including <a href="#">DSHS Policy 590.001</a> , <a href="#">DSHS Funds as Payment of Last Resort</a> and this policy ( <a href="#">700.007</a> ) are followed.
6.2	Page 3 verbiage "AEWs must obtain approval from TIAP to enroll..." AEWs do not enroll clients into insurance plans; sometimes clients enroll themselves or case managers refer clients to third party (i.e., Pride Life) who may not know client is in TIAP; will there be a guide for all AEW's and other staff on how to properly ask clients if they are receiving assistance from TIAP and how to direct clients in selecting the right plan so	At this time, TIAP can cover plans that are available to the applicant due to their employment or membership in a group, such as a church, union or professional organization including COBRA plans when applicable.

	they can stay on TIAP; AEWs are not the only staff who help clients with navigating health insurance.	
6.2	Page 3 verbiage "AEWs must make reasonable efforts to reinstate lapsed coverage..." Is this AEWs responsibility to be monitoring client's health insurance coverage? Will there be a performance measure established or training?	DSHS removed the verbiage and clarified the language in this section. ADAP Eligibility Workers must make reasonable efforts to have coverage reinstated if client delays in assistance requests have caused coverage to lapse.
6.2	Page 3 verbiage "Community agencies may maintain policies that discontinue TIAP enrollment..." This is unclear as to what our policy is enforcing.	DSHS removed the verbiage from 6.2 and replaced it with: "AEWs must communicate with clients and other relevant community agencies to remind them to keep TIAP informed of changes in insurance or other changes that might impact eligibility."
6.3	6.3 – how can Liaisons ensure this? Some clients do not come to the agency for help and complete their own applications	AEWs and AIDS Drug Assistance Program Liaisons are not held responsible for clients who do not come to the agency for assistance. However, when assisting with THMP applications for applicants who do request agency assistance, AEWs and other agency workers should ensure there is not another payer.
6.4	Page 4 verbiage "...and communicate changes in insurance or eligibility status to THMP or their AEW." Not all clients go to see their AEW for Ryan White assistance and some RW agencies require all staff be able to help clients with patient assistance programs; could this not be so specific to AEW but rather the client's case manager who works with their agency identified AEW? The AEWs are not insurance specialist, therefore requiring them to do this as well, would require a complete restructure of the person assigned as an AEW at the agency level and training in what and how for insurance.	Agency workers and AEWs are responsible for communicating changes in eligibility status, including insurance status, to THMP. DSHS clarified the language in this section to include other agency workers.
8.0	Where can we find the annual estimate that is done in April?	Please follow this link: <a href="https://dshs.texas.gov/hivstd/policy/policies/270-001_HIACostEffectiveness.pdf">dshs.texas.gov/hivstd/policy/policies/270-001_HIACostEffectiveness.pdf</a> (PDF)
8.0	If the calculation factors in ADAP expenditures, are the expenditures from the previous year and will it take into consideration the new deficit information?	This is based on the current <a href="#">DSHS Policy 270.001, Calculation of Estimated Expenditures on Covered Clinical Services</a> . The costs are on a per client basis for the prior fiscal year, so this won't be impacted by a deficit.
8.0	<b>PCN 18-01</b> , and previous guidance in the ADAP manual, states that <b>"RWHAP Parts A, B, C, and D recipients may consider providing their health insurance premiums and cost sharing resource allocation to their state RWHAP ADAP, particularly where the ADAP has the infrastructure to verify health care coverage status and process payments for public or private health care coverage premiums and cost sharing."</b>  So, not only is Marketplace encouraged to be used by ADAPs for medication assistance, authorization is also given to allocate funds to ADAP for medical cost sharing as well.  <b>Mississippi's</b> ADAP Insurance Assistance Program (IAP) "provides insurance to eligible ACA/Marketplace participants who qualify for subsidies (100-250% of FPL) during open enrollment. This includes premium payments, co-insurance, co-pays and deductibles." <a href="https://msdh.ms.gov/msdhsite/_static/14,13047,150.html">msdh.ms.gov/msdhsite/_static/14,13047,150.html</a>  While it might not be feasible to provide this at the Texas ADAP level during the current Marketplace Special Enrollment Period, would a pilot demonstration be a possibility by the yearly Open Enrollment?	THMP cannot expand insurance assistance by enrolling clients in insurance plans. This is based on language the Texas Legislature struck from Senate Rider 26.

Maximum Annual Limitation on Cost-Sharing		
Income (% Federal Poverty Level)	Actuarial Value of a silver plan	OOP Max for Individual/Family
		2021
Under 100%	70%	\$8,550 / \$17,100
100% – 150%	94%	\$2,850 / \$5,700
150% – 200%	87%	\$2,850 / \$5,700
200% – 250%	73%	\$6,800 / \$13,600
Over 250%	70%	\$8,550 / \$17,100

SOURCE: "Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021," *Federal Register* 85 FR 29164.

10.0	What is the basis for the exclusion of Marketplace, as it directly conflicts with PCN 18-01?	THMP cannot expand insurance assistance by enrolling clients in insurance plans. This is based on language the Texas Legislature struck from Senate Rider 26.
11.0	The third sentence of the second paragraph makes the previous two sentences inaccurate, as there is at least one occasion when TIAP could cover those not otherwise eligible for TIAP.	DSHS clarified the language in this section.
13.1 13.2 13.3	The combination of these policies may potentially create a payment gap for some patients. While there are often choices of different antiretrovirals appropriate for a particular patient, sometimes they are limited due to resistance. Insurance companies sometimes change their formularies as they negotiate different drug prices, and it is possible a patient could find themselves taking a medication that is no longer on formulary with their insurance, but also with no other adequate formulary options. The above policies would create a scenario where their OOP costs are higher due to the non-formulary, and the TIAP would not assist them with the extra cost, and if they were to use drug manufacturer assistance cards, they would lose the assistance from TIAP with their other medications. I suggest revising 13.3 to something like: "Payments TIAP clients may not use drug manufacturer co-pay cards for medications they receive through their health insurance while on TIAP, <i>unless those medications are not covered through their health insurance.</i> "	<p>TIAP only covers health insurance that meets the eligible health plan criteria.</p> <p>Section 13.3 is already specific to medications covered under the health insurance plan; TIAP clients may not use drug manufacturer co-pay cards <b>for medications they receive through their health insurance</b> while on TIAP.</p> <p>TIAP clients should use the THMP Ramsell co-payment card for all medication co-pays. The THMP Ramsell co-payment card covers all <b>HIV and non-HIV</b> medication co-payments.</p>
13.3	Insurance co-payment assistance from the manufacturer of HIV medications is standard practice in 2021. Restricting use of these co-pay cards is problematic as prices can skyrocket even with medication coverage. Pharmaceutical companies specifically restrict persons on state pharmaceutical assistance plans from utilizing co-pay cards, so the use of this section is required. What is not clear to me is how a pharmacy will know that a person with Blue Cross accessing meds can use co-payment assistance from the manufacturer one day, but as soon as support from the state kicks in, they no longer can. This can occur for the same patient, with the same coverage, for the same medication and change overnight. There's nothing about the coverage	While on TIAP, the participant is expected to use the THMP Ramsell co-payment card at the pharmacy for all medications (both HIV and non-HIV) covered under their health insurance. The pharmacy then bills the insurance company and the Pharmacy Benefits Management Company (PBM). Participants who use the manufacturer co-payment cards are not eligible for TIAP. THMP can see when co-payments are requested through the Ramsell portal. When this happens, THMP contacts participants and asks them to use the Ramsell co-payment card. This requirement is in the TIAP approval letter.

	<p>itself that will identify to a pharmacy Blue Cross paid for by TIAP vs. Blue Cross paid for by employer.</p> <p>What responsibility does the state carry for ensuring that recipients of support from this program do not utilize pharmaceutical assistance for HIV meds?</p> <p>While it may not be required in this document, I would recommend that patients consent to the understanding surround this topic. Included in this consent should be how TIAP can be tapped as a resource instead.</p>	
13.3	<p><b>Prohibition on the Use of Drug Manufacturer Co-Pay Cards and Other Programs to Reduce OOP Payments:</b></p> <p>Without further explanation, this seems at odds with PoLR.</p>	<p>This is not a violation of payer of last resort.</p> <p><a href="#">DSHS Policy 590.001, DSHS Funds as Payment of Last Resort</a> (PoLR) does not list Patient Assistance Programs or Co-Pay Assistance Programs as a payer.</p>
13.3	<p>As one of the state’s largest Ryan White clinics and full-service Federally Qualified Health Centers (FQHC) based in Houston, Texas, Legacy is on the front lines of providing comprehensive HIV care to over 5,000 HIV positive Texans. Legacy offers a robust HIV testing program that prioritizes the region’s most vulnerable populations in two counties with some of the highest HIV positivity rates in Texas (Harris and Jefferson Counties).</p> <p>Legacy’s Ryan White grant with the state is specific to offering insurance premium assistance to program beneficiaries. We are concerned with one portion of the draft rules that will certainly increase the complexity and cost of administering the grant and appears to be a deterrent to clients accessing the life-saving medications they need. We recommend the following provision be removed.</p> <p style="padding-left: 40px;">13.3 Prohibition on the Use of Drug Manufacturer Co-Pay Cards and Other Programs to Reduce OOP Payments</p> <p style="padding-left: 40px;">TIAP clients may not use drug manufacturer co-pay cards for medications they receive through their health insurance while on TIAP. Failure to use TIAP co-payment assistance will result in removal from TIAP.</p> <p>Thank you for your consideration of these comments. We are hopeful the above provision will be removed to avoid any unintended consequences.</p>	<p>This is only for TIAP, which is a program under THMP. This policy will not impact Legacy’s own grant funding for insurance premium assistance. However, if TIAP or State Pharmaceutical Assistance Program participants use the Legacy Pharmacy, they must use the THMP Ramsell co-payment card to allow the pharmacy to bill THMP for the medication copayment and the insurance company for the remaining expenses.</p>