**Section 692.10 Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection**

Drugs provided under this Part are paid for on behalf of low-income individuals with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV).

a) Eligibility requirements. To qualify for services under this Part, a person shall have been enrolled in the AIDS Drug Assistance Program (ADAP) as of June 4, 1996, or:

1) Apply to the Department for acceptance for ADAP and comply with all recertification requirements, which occur every six months from the point of enrollment; and

2) Be diagnosed as having AIDS or HIV and be currently receiving HIV care, including having received a viral load test result and CD4 count within the six months prior to the date of the application or recertification.

b) Financial and insurance requirements

1) Applicants with no active prescription insurance coverage at the time of enrollment shall qualify financially with anticipated gross monthly income, as determined by the Department, at or below 300% FPL of the most recent Federal Poverty Guidelines published annually by the U.S. Department of Health and Human Services for the size of the household. (See Appendix A.)

2) Applicants with active prescription coverage at the time of enrollment shall qualify financially with anticipated gross monthly income, as determined by the Department, at or below 500% FPL for the size of the household.

A) The applicant's health insurance provider must be willing to participate with the Department's contracted dispensing pharmacy for dispensing and billing purposes and only for drugs on the current ADAP formulary.

B) Only 30-day prescription fills will be accepted. If an applicant is planning to travel outside of Illinois for two to three months and needs a longer prescription fill, the applicant shall obtain prior approval from ADAP for a medication exception. The applicant shall provide a clear copy of the front and back of all prescription insurance cards.

C) Applicants who were enrolled in ADAP on July 1, 2011, in the 301-500% FPL income bracket shall be grandfathered into ADAP on a go-forward basis, as long as the applicant's recertifications are complete and submitted on time and do not exceed 500% FPL. If an applicant within this cohort is closed from the program due to failure to reapply on time, then the applicant will be assessed using the 300% FPL eligibility limit.

D) Applicants in the 301-500% FPL income bracket who have not been covered under creditable coverage for a continuous six month period prior to the date of application, but would have been eligible for a creditable coverage program recently offered under a State or federal government entity, will be assessed on the same standard as those with active prescription coverage.

3) Applicants shall not be eligible for the Medical Assistance Program (Medicaid) on the date that drugs are obtained (individuals with financial/medical assistance applications pending or individuals in spenddown unmet status may participate).

4) If eligible for Medicare Part D, the applicant shall enroll in Medicare Part D and provide information on the Part D coverage plan.

5) If enrolled in a Medicare Supplement plan (Medigap), the applicant shall provide information on Medigap plan and coverage.

6) If eligible for federal Extra Help, the applicant must enroll and provide information on coverage.

c) Residency requirement. The applicant shall be a legal resident of Illinois, as defined by Section 2-10 of the Illinois Public Aid Code, except that:

1) The provision of Section 2-10 of the Illinois Public Aid Code stating that applicants for or recipients of public aid must meet the requirements for duration of residence contained in applicable Sections of the Public Aid Code shall not apply to this Part; and

2) The provision of Section 2-10 of the Illinois Public Aid Code regarding recipients of aid under Article III, IV, or VI shall apply to any recipient of services under ADAP.

d) Persons enrolled in ADAP shall recertify their eligibility every six months to continue receiving drugs through ADAP.

1) The Department will establish recertification procedures, as required by federal regulations and guidelines. Recertification applications, and any necessary new verifications, shall be received by the Department at least three business days prior to the expiration date of the client's current enrollment to avoid any interruption in service.

2) If the Department does not receive a recertification application at least three business days prior to the expiration date of the client's current enrollment, the client will be removed from ADAP and will be required to meet the eligibility requirements of subsections (a) through (c) of this Section in order to continue receiving drugs through ADAP.

3) To avoid interruption in care, the Department will make reasonable attempts to notify recipients or their designees when an incomplete recertification application has been received.

e) The Department will suspend a client's enrollment in ADAP under the following circumstances:

1) Failure to submit a completed initial or recertification application at least three business days prior to the expiration date of the client's current enrollment; or

2) Failure to use a minimum of one drug from any category of the ADAP formulary within 90 days after enrollment in ADAP.

f) The Department will send written notice of suspension within 30 days after the suspension, which may be appealed in accordance with subsection (l). The suspension will be lifted when the circumstances that initiated suspension have been rectified.

g) The Department will permanently terminate a client's enrollment in ADAP if the client submits fraudulent application information. The Department will send written notice of termination within 30 days after the termination, which may be appealed in accordance with the provision of subsection (l).

h) Subject to the availability of funds, the Department may implement cost control measures at any time to ensure the long-term sustainability of the program. Any cost control measures taken pursuant to this Section will be made only after a 90-day notice period to all applicants and providers.

i) All drugs provided under ADAP have been approved by the federal Food and Drug Administration. The Department will request the advice of the medical issues subcommittee of the Ryan White ADAP Medical Issues Advisory Board when necessary to assist with determining which drugs will be covered, based on criteria that include the medical appropriateness of the drug for treatment of HIV/AIDS and associated complications. The following categories of drugs may be covered under ADAP:

 1) Category I − Drugs for Anti-Retroviral Therapy;

2) Category II − Drugs for Pneumocystis jiroveci (carinii) pneumonia (PCP) Prophylaxis and Treatment;

3) Category III − Drugs for Prophylaxis and Treatment of Opportunistic Infections and Anti-Microbials;

 4) Category IV − Drugs for Treatment of Neoplasms; and

 5) Category V − Other Drugs Requiring Prior Approval.

j) All prescriptions shall be filled by the Department's pharmacy contractors.

k) The Department may require participants to pay a copayment for prescriptions received. If a copayment is charged, it shall not exceed the sliding fee structure specified in Part B of the Ryan White HIV/AIDS Treatment Extension Act of 2009 (see Appendix B).

l) The Department will make a disposition and issue a written decision on an application filed pursuant to this Section within 30 business days after the date the Department receives the application. The Department will make a disposition and issue a written decision on a recertification application filed pursuant to this Section within 30 business days after the date the Department receives the completed application, accompanied by all supporting verification documents that are provided by the applicant or on record with the Department. An applicant may appeal the Department's denial of an initial application, recertification application, or suspension or termination of benefits in accordance with Practice and Procedure in Administrative Hearings.

(Source: Amended at 37 Ill. Reg. 11371, effective July 2, 2013)