

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Resources and Services Administration****Mini-Preview Announcement Number: HRSA-04-095 Media-Based Grass Roots Efforts To Increase Solid Organ Donation**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Correction.

**SUMMARY:** HRSA is modifying the announcement soliciting applications for HRSA's Media-Based Grassroots Efforts to Increase Solid Organ Donation based in part upon changes in the authorizing statute. In notice document 69 FR 21135, Tuesday, April 20, 2004, make the following corrections:

On page 21144, under "Legislative Authority," replace "Public Health Service Act, Section 371(a)(3), 42 U.S.C. 273(a)(3) as Amended." with "section 377A(b) of the Public Health Service (PHS) Act, § 42 U.S.C. 274f-1(b)."

On page 21144, under "Purpose" line 49, replace "80" with "75" and in line 61, replace "20" with "25".

On page 21144, under "Eligibility," lines 67, 68, 69, and 70, replace the language "private not-for-profit entities eligible for funds under section 371(a)(3) of the Public Health Service Act (42 U.S.C. 273(a)(3)." with "domestic public and nonprofit private entities are eligible to apply as the applicant institution."

On page 21144, under "Application Availability," replace "May 11, 2004." with "June 17, 2004".

On page 21144, under "Letter of Intent Deadline:" Delete this whole section.

On page 21144, under "Application Deadline" in the third column, line 19, replace "June 25, 2004." with "July 27, 2004".

On page 21144, under "Program Contact Person," in the third column, line 26, replace *judy.ceresa@hrsa.gov* with "jceresa@hrsa.gov."

Dated: July 9, 2004.

**Tina Cheatham,**

*Director, Division of Policy Review and Coordination.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Resources and Services Administration****Notice Regarding Subsection 224(o) of the Public Health Service Act (Volunteer Services Provided by Health Professionals at Free Clinics)**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice whereby a person can determine when and the extent to which a volunteer health professional at a free clinic is deemed to be a Public Health Service employee.

**SUMMARY:** The Secretary of Health and Human Services (the "Secretary") provides the following notice regarding Section 224 of the Public Health Service Act ("the Act") (42 U.S.C. 233), as amended by Public Law 104-191 (the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")). Section 194 of HIPAA amended the Act by adding subsection 224(o), which provides for liability protection for certain free clinic health professionals. This notice sets forth information whereby a person can determine when and the extent to which a volunteer health professional at a free clinic is deemed to be a Public Health Service employee.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Program Director, Federal Tort Claims Act Medical Malpractice Program, Division of Clinical Quality, Bureau of Primary Health Care, Health Resources and Services Administration, 4530 East West Highway, Bethesda, MD 20857 (Phone: 301-594-0818 or E-mail: *FreeClinicsFTCA@hrsa.gov*).

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Section 224(a) of the Public Health Service (PHS) Act (42 U.S.C. 233(a)) provides that the remedy against the United States under the Federal Tort Claims Act (FTCA) resulting from the performance of medical, surgical, dental or related functions by any commissioned officer or employee of the PHS while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding. Section 224(o) of the Act (added by Section 194 of the HIPAA) provides that under certain conditions, free clinic health care professionals shall be deemed to be employees of the PHS within the exclusive remedy provision of section 224(a). This notice is intended to provide information as to

action that the Department of Health and Human Services (HHS) will take to implement the Act. Application instructions pertaining to the deeming process discussed below can be requested from the information contact listed above. Application instructions for free health clinic professionals to obtain PHS employment status for FTCA purposes ("FTCA deemed status") are discussed below. Coverage under this program will be effective upon the receipt and approval of an application. Application forms and instructions may also be downloaded from HRSA's Bureau of Primary Health Care Web site at <http://www.bphc.gov> on or about September 1, 2004. HRSA will process applications as received.

**II. Definition of Free Clinics and Free Clinic Health Professionals**

Pursuant to the Act, HHS will provide free clinic health professionals with FTCA deemed status and FTCA coverage for medical malpractice claims only if it determines that the health care professional and the associated free clinic meet certain requirements.

(A) Under the Act, a *free clinic* is a health care facility operated by a nonprofit private entity that:

(1) In providing health care, does not accept reimbursement from any third-party payor (including reimbursement from any insurance policy, health plan, or Federal or State health benefits program);

(2) In providing health care, does not impose charges on patients to whom service is provided OR imposes charges on patients according to their ability to pay\*;

(3) May accept patients' voluntary donations for health care service provision;

(4) Is licensed or certified to provide health services in accordance with applicable law.

(B) Under the Act, a *free clinic health professional*:

(1) Provides services to patients at a free clinic or through offsite programs or events carried out by a free clinic;

(2) Is sponsored by a free clinic (see section II(A) above);

(3) Provides a qualifying health service (i.e., any health care service required or authorized to be provided under Title XIX of the Social Security Act (42 U.S.C 1396 *et seq.*) without regard to whether the service is included in the plan submitted by the State in which the health care practitioner provides the service;

(4) Does not receive compensation for provided services from patients directly or from any third-party payor;