

**RULES
OF
THE DEPARTMENT OF HEALTH
AIDS PROGRAM DIVISION**

**CHAPTER 1200-14-02
AIDS DRUG ASSISTANCE PROGRAM RULES**

TABLE OF CONTENTS

1200-12-02-.01	Definitions	1200-14-02-.05	Certification of Coverage by Program
1200-14-02-.02	Purpose and Administration of ADAP Funds	1200-14-02-.06	Reconsideration of Denial
1200-14-02-.03	Eligibility Criteria	1200-14-02-.07	Confidentiality of Records
1200-14-02-.04	Program Limited to Available Funds		

1200-14-02-.01 DEFINITIONS.

- (1) For the purpose of these regulations the terms used herein are defined as follows:
- (a) “ADAP” means the AIDS Drug Assistance Program, the federal earmark in the Ryan White Part B grant providing funding for HIV Clients’ medications, which encompasses HDAP and IAP.
 - (b) “AIDS” means Acquired Immune Deficiency Syndrome or Acquired Immunodeficiency Syndrome.
 - (c) “Certification” means the determination that an applicant meets the eligibility criteria to receive assistance through the Ryan White Program.
 - (d) “Client” means a person enrolled in the Ryan White Program.
 - (e) “Department” means the Tennessee Department of Health.
 - (f) “FDA” means the U.S. Food and Drug Administration.
 - (g) “Formulary” means the HDAP Formulary, which lists the FDA approved medications provided by Tennessee’s HDAP Program.
 - (h) “HDAP” means the HIV Drug Assistance Program, a program through which the Department provides Formulary medications to Clients.
 - (i) “HIV” means Human Immunodeficiency Virus.
 - (j) “IAP” means Insurance Assistance Program, a program through which the Department provides assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.
 - (k) “Priority Group” means those eligible for temporary emergency access to HDAP or IAP services if there is a waiting list.
 - (l) “Program Director” means the Department employee responsible for the overall management of grants and programs in the HIV/AIDS/STD Section of the Department.
 - (m) “Provider” means a health care professional with prescriptive authority, licensed pursuant to Title 63 of the Tennessee Code.

(Rule 1200-14-02-.01, continued)

- (n) "Ryan White Program" means the Departmental program that receives federal Ryan White Part B funding and provides medical services, medications, and support services to eligible individuals.
- (o) "TennCare" means Tennessee's State Medicaid Program.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.02 PURPOSE AND ADMINISTRATION OF ADAP FUNDS.

(1) HDAP

Through HDAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Determine which medications shall be included in the Formulary;
- (c) Purchase Formulary medications for Clients;
- (d) Contract licensed pharmacists to Provide Formulary medications to Clients pursuant to prescriptions by providers; and
- (e) Coordinate with TennCare to ensure that Clients do not receive benefits from both programs simultaneously.

(2) IAP

Through IAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Provide assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Amendment filed December 29, 1995; effective April 29, 1996. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.03 ELIGIBILITY CRITERIA.

- (1) To qualify for Ryan White Program services, an applicant must submit a completed and signed Ryan White Program application including evidence that applicant meets the following eligibility requirements:
 - (a) Is a resident of Tennessee;
 - (b) Meets the generally accepted medical criteria for HIV disease;
 - (c) An income level and total liquid assets that do not exceed the limits set by the Department and posted semiannually on its website; and

(Rule 1200-14-02-.03, continued)

- (d) For ADAP applicants, presents certification that applicant has no other source of third party reimbursement for prescription drugs.
- (2) For purposes of establishing income and assets the following shall apply:
 - (a) For applicants 18 years and older, only the income and assets of the applicant and the applicant's legal spouse with whom the applicant resides will be considered.
 - (b) For applicants less than 18 years of age, the income and assets of the applicant and the legal parent or parents with whom the applicant resides will be considered. Income and assets of step-parents and legal guardians shall not be considered.
- (3) In order to continue to receive any Ryan White Program services, a Client must submit the following every six (6) months:
 - (a) Confirmation that the Client continues to meet the eligibility criteria; and
 - (b) A completed and signed recertification application.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012. Emergency rule filed December 23, 2015 effective through June 20, 2016. Amendment filed December 23, 2015; effective March 22, 2016.

1200-14-02-.04 PROGRAM LIMITED TO AVAILABLE FUNDS.

- (1) The availability of funds limits the number of Clients receiving ADAP services. The Department shall cease approval of applications if funding is insufficient to sustain additional recipients.
- (2) Current Clients shall have priority for funding.
- (3) Eligible applicants who are denied ADAP enrollment due to a funding shortage shall be placed on a waiting list managed by the Ryan White Program.
- (4) Individuals on the ADAP waiting list in one of the following Priority Groups shall be provided with temporary emergency ADAP services as follows:
 - (a) Pregnant women shall be eligible for ADAP services during pregnancy and up to 90 days post partum; and
 - (b) Infants up to one year of age shall be eligible for ADAP services for up to 180 days of coverage.
- (5) The Department shall review available funding by March 31 and September 30 of each year, at which time it shall notify all current clients of the maximum income level and liquid assets for program eligibility. The Department will also post this information on its website.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012. Emergency rule filed December 23, 2015 effective through June 20, 2016. Amendment filed December 23, 2015; effective March 22, 2016.

1200-14-02-.05 CERTIFICATION OF COVERAGE BY PROGRAM.

- (1) The Department will notify applicants whether certification of coverage has been awarded. Applicants for whom coverage is certified are not guaranteed ADAP services beyond the federal fiscal year of the current grant.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.06 RECONSIDERATION OF DENIAL.

- (1) Applicants denied or removed from participation in HDAP or IAP may request reconsideration.
 - (a) The applicant must request reconsideration in writing, directed to the Program Director, within twenty one (21) calendar days of denial or removal. The Program Director will issue a reconsidered decision in writing within fourteen (14) days of the request for reconsideration. The Program Director's review is limited to a determination of whether or not the applicant meets eligibility criteria. The decision of the Program Director is final.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.07 CONFIDENTIALITY OF RECORDS.

All applicant or recipient identifying information or records of the ADAP program shall be considered confidential as required by the federal legislation authorizing funding assistance to the program. Such information or records shall not be disclosed by the program except for those purposes for which a signed release is provided by the person served. All correspondence containing the identity of program applicants or recipients shall be sealed and marked "CONFIDENTIAL".

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.