



Frequently Asked Questions on Deeming of Health Center Volunteer Health Professionals (VHPs)

January 2018

GENERAL INFORMATION

1. Where can I find information on the Federal Tort Claims Act (FTCA) Health Center Volunteer Health Professionals (VHP) Program?

The best source of information on the FTCA Health Center VHP Program is the Health and Human Services Administration's (HRSA) website at <https://bphc.hrsa.gov/ftca/about/health-center-volunteers.html>. Program Assistance Letter (PAL) 2017-06 provides instructions on how health centers who wish to sponsor individual volunteers for deemed status might apply through HRSA's Electronic Handbooks (EHB).

2. When did FTCA coverage first become available for VHPs in health centers?

The 21st Century Cures Act, enacted in December 2016, added subsection 224(q) to the Public Health Service Act (PHSA) (42 U.S.C. § 233(q)), extended liability protections to VHPs at health centers that have also been deemed as employees of the Public Health Service (PHS).

3. Is the "FTCA Health Center Program" and the "FTCA Health Center VHP Program" the same program?

No. The FTCA Health Center Program and the FTCA Health Center VHP Program are two separate and distinct programs, authorized under two separate statutes. Accordingly, FTCA deeming requirements for health centers and FTCA deeming requirements for VHPs are also separate and distinct. As a result, they have different application processes. It is important to note that a health center must be currently deemed under FTCA before it is eligible to apply to sponsor VHPs for FTCA coverage.

4. My health center is deemed. Does that mean volunteers at my health center are automatically covered?

No, health center volunteers do not receive deemed PHS employee status automatically, nor do they receive it derivatively, through the deeming of the health center. Instead, health centers must submit an annual application for deeming on behalf of their individually named VHPs to HRSA, which administers the Health Center FTCA Program.

HEALTH CENTER ELIGIBILITY FOR FTCA COVERAGE OF VHPs

5. Can any health center submit an application for FTCA coverage of VHPs?

No. Only a deemed health center entity may sponsor a VHP. Only an entity receiving funds under Section 330 as a Health Center Program grantee (i.e., a covered entity) or a sub-recipient (defined for this purpose as an entity that receives a grant or a contract from a covered entity to provide a full range of health services on behalf of the covered entity) may be deemed as a PHS employee. If the health center is not currently deemed, it must obtain deemed status by submitting an FTCA application that is approved by HRSA before it is eligible to sponsor VHPs.

APPLYING FOR FTCA COVERAGE FOR VHPs

6. Where can we find the application, and where / how do we submit it?

Applications must be submitted through HRSA's EHB. The application and instructions for submission are found in PAL 2017-06: *2017 Health Center Volunteer Health Professional Federal Tort Claims Act (FTCA) Deeming Application Instructions* (https://bphc.hrsa.gov/ftca/about/health_center_volunteers_pal.pdf).

Health centers in areas that have been impacted by certain declared disasters, and as a result have no internet service may submit a paper application for VHP coverage. If the impacted health center wishes to submit an application outside of EHB, the health center may do so via a paper application (available in [PAL 2017-06](#)) by fax, e-mail, or regular postal service to the following:

FAX: 301-594-5224

E-Mail: ftcaapplicationta@hrsa.gov

Mailing Address:

Christopher Gibbs
FTCA Volunteers Application
5600 Fishers Lane, 16N142
Rockville, MD 20852

For assistance with this process, please contact the BPHC Helpline:

Phone: 1-877-974-2742, Option 2
(8:00 am to 5:30 pm ET, Monday through Friday
(except Federal holidays))

Web form: <http://www.hrsa.gov/about/contact/bphc.aspx>

7. What are the requirements of a VHP deeming application?

The VHP [deeming application](#) requires:

- Contact information for the sponsoring deemed health center.
- A list of all VHPs the health center is sponsoring for deeming.
- Detailed contact information for all the VHPs the health center is sponsoring for deemed status –

including name; personal mailing address; email address; and phone number for each individual.

- Evidence that each licensed or certified VHP was credentialed and privileged by the sponsoring deemed health center within the previous two years, including specific dates such actions were taken.
- Description of all state board disciplinary actions, and state and federal malpractice claims filed against the VHP in the previous 10 years (including pending claims).
- Assurance that the VHP will continue to meet the statutory eligibility criteria, as reflected in the entity's calendar year deeming application.
- Assurance that the sponsoring deemed health center has maintained its credentialing, privileging, and risk management systems.
- A general description of the area and work the VHP will perform on behalf of the sponsoring deemed health center.
- Signature of the Executive Director affirming the truth of all statements in the application.

The following technical assistance (TA) resources are available from HRSA:

- [Volunteers and Cures Act Technical Assistance Webcast](#)
- [2017 Health Center Volunteer Health Professional Federal Tort Claims Act \(FTCA\) Deeming Application Instructions](#) (PDF – 219 KB)
- [Temporary Privileging of Clinical Providers by Federal Tort Claims Act \(FTCA\) Deemed Health Centers in Response to Certain Declared Emergency Situations - PAL 2017-07](#) (PDF - 54 KB)

8. Can a deemed health center submit a single application for multiple VHPs to work in their sites, or is a separate application required for each VHP?

Yes, a health center can submit a single application sponsoring multiple VHPs.

9. Can multiple deemed health centers submit a joint application to sponsor a group of VHPs to work in all their sites?

No, each sponsoring deemed health center must submit its own application for the individual VHPs that it is sponsoring and documentation for FTCA coverage for volunteers must be authorized/signed by the health center CEO or Authorizing Official (AO). However, a group or organization (such as a primary care association) could support email or other connectivity for final submission of a VHP application.

TIME FRAMES FOR VHP APPLICATIONS AND COVERAGE

10. When should VHP deeming applications be submitted, and when will decisions be effective?

In [PAL 2017-06](#), HRSA announced that deeming applications for volunteers could be submitted at any time on or after October 1, 2017.

11. Can VHP deeming applications be submitted throughout the year, or only for a January 1 effective date?

Initial VHP deeming applications may be submitted at any time during the calendar year; supplemental applications may be submitted later, as additional volunteers are on-boarded. FTCA coverage for specific VHPs will become effective as soon as HRSA approves the application listing them.

12. Is coverage for VHPs available retroactively?

No, FTCA coverage for VHPs is not available retroactively. That is why it is important to apply for and receive approval for coverage before VHPs start providing services.

13. Does an individual's deeming as a VHP ever expire?

Yes, VHP deeming does expire. Typically, deeming is for a calendar year only and applications must be submitted annually.

PROVIDER ELIGIBILITY FOR VHP COVERAGE

14. What conditions are required for a VHP to be eligible for FTCA coverage?

Compliance with each of the following requirements must be demonstrated in an application to HRSA:

- The service is provided to patients at the sponsoring health center facilities or through offsite programs or events carried out by the sponsoring health center;
- The deemed health center is sponsoring the health care practitioner;
- The health care practitioner does not receive any compensation for the service from the patient, the sponsoring health center, or any third-party payer (including reimbursement under any insurance policy, health plan, or federal or state health benefits program). However, the health care practitioner may receive repayment from the health center for reasonable expenses incurred in providing the service to the patient;
- Before the service is provided, the health care practitioner or the deemed health center posts a clear and conspicuous notice at the site where the service is provided of the extent to which the legal liability of the health care practitioner is limited;
- At the time service is provided, the VHP is licensed or certified in accordance with applicable federal and state laws regarding the provision of the service; and
- The sponsoring health center maintains all relevant documentation to show that the VHP meets the requirements to be considered a health professional volunteer for purposes of FTCA coverage.

As discussed elsewhere, simply meeting these requirements is not sufficient for receiving FTCA coverage for the VHP; rather, an application must be submitted to and approved by HRSA in order for coverage to become effective.

15. Can registered nurses volunteering at a health center be covered under the FTCA program for VHPs?

Yes. Clinicians – including registered nurses – who are licensed or certified, are eligible to participate in the FTCA program so long as all the requirements of the law are met.

16. Can specialists participate in the VHP program? What if the specialist is providing primary care, as opposed to care that is specific to their specialty?

Yes, a licensed physician who is a specialist can participate in the FTCA program for VHPs in health centers. However, any specialty service provided must be in the sponsoring deemed health center’s scope of the approved Federal section 330 grant project. If the specialist is providing primary or preventive care, the specialist must be properly credentialed and privileged to provide those services.

17. If an emergency room physician wants to volunteer at a health center to provide family practice services, is he/she eligible to participate in the FTCA program for volunteers?

Yes, an emergency room physician volunteering as a family practice physician can be deemed to be a VHP and receive FTCA coverage if they are properly credentialed and privileged as a family practice physician.

18. Can medical residents participate in the FTCA program for volunteers at health centers?

Yes, if the medical resident is a licensed physician and meets all other requirements of the VHP program.

19. Can a volunteer health professional receive repayment for expenses while participating in the FTCA program?

VHPs cannot receive any compensation for services from the patient, sponsoring deemed health center, or any third party payer. However they can receive repayment from the sponsoring deemed health center for reasonable expenses related to providing service to the patient.

20. A health care practitioner volunteers at a sponsoring deemed health center that has an approved application for FTCA coverage for them. If they volunteer at any other deemed health center, are they automatically covered by FTCA?

No. Each deemed health center must submit its own application to sponsor individual volunteers in order for that volunteer to have FTCA coverage at that health center site(s). Deeming status is not transferrable from one health center to another.

COVERAGE

21. What does the volunteer FTCA program cover?

For VHPs, the FTCA program provides for immunity from lawsuits that:

- Arise from the provision of medical, surgical, dental or related functions at a health center sites or at offsite programs or events carried out by the sponsoring deemed health center,
- Occur during the calendar year for which the VHP is deemed, and,
- Arise from services provided at a health center facility or through offsite programs or events. (See following question.)

22. What “offsite programs or events” are protected by the FTCA program for VHPs?

The FTCA Manual published by HRSA contains information on covered “offsite events.” Offsite events include:

- School Based Clinics
- Health Fairs
- Immunization Campaigns
- Migrant Camp Outreach
- Homeless Outreach
- Periodic Hospital Call
- Cross Coverage for Other Practices

- Coverage in Certain Individual Emergencies
- Inpatient Hospital Care to the sponsoring deemed health center's patients
- Supervision of Students and Medical Residents
- Teaching of Students and Residents at the sponsoring deemed health center sites
- Clinical Research
- Assisting with Community Events

The above examples are not limitless and any VHP who wants to participate in any of these activities should seek assurance from HRSA.

23. Are there limits to the coverage provided to VHPs by the FTCA program?

No, there are no limits of coverage. The FTCA program for VHPs is not an insurance program; rather, it provides an immunity from lawsuits alleging negligence in the performance of clinical activities.

24. After the VHP has ended their volunteer duties at the health center, do they need to purchase tail insurance for this work as a volunteer?

No, the protection afforded by the law is not time limited. The VHP is immune from suit for services provided while protected by the FTCA regardless of when a suit is filed.

25. If a VHP is immune from lawsuit for care delivered to a health center patient, what recourse does a patient have for alleged negligence of the VHP?

The patient who believes the VHP was negligent in providing health care services can file a claim against the United States under the FTCA.

26. The VHP statute requires that, prior to providing services, the VHP or health center must post a clear and conspicuous notice of the extent to which VHP's legal liability is limited. What must this notice contain?

The statute does not specify language to be used, nor has HRSA published any policy in this regard. However,

HRSA has previously recommended similar language to be placed on websites, and this language can be modified to include the notice requirement. Health centers can consider the following language:

This health center is a Health Center Program grantee under 42 U.S.C. 254b, and a deemed Public Health Service employee under 42 U.S.C. 233(g)-(q). Its employees, qualified contractors, and Volunteer Health Professionals are deemed to be Public Health Service employees under 42 U.S.C. 233(g)-(q). The legal liability of the health center and staff is limited pursuant to the Public Health Service Act.

REQUIREMENTS AND PROTECTIONS THAT APPLY TO VHPs

27. May a VHP at a health center be paid (either for hours worked or leave accrued) during the time period that he or she is volunteering at the health center?

Yes. The prohibition on receiving payment relates only to the sponsoring deemed health center who is hosting the VHP. It is permissible for the VHP to be receiving payment from an entity with whom the VHP has an employment relationship during the period of volunteer service. Any payment must be related to their formal employment and not to their services at the sponsoring, or hosting, deemed health center.

28. Must VHPs work a minimum number of hours to participate in the FTCA program for volunteers at health centers?

No. There are no requirements regarding the minimum or maximum number of hours that a VHP may work in the FTCA program for volunteers.

29. What are the limits of a deemed VHP's coverage under the FTCA program?

There are no monetary limits on a VHPs' coverage under the FTCA program. The deemed VHP is immune from suit and the patients only remedy as a claim/suit against the United States under the FTCA. The immunity on the deemed VHP is absolute.

30. Program Assistance Letter 2017-06 states that deemed VHPs are immune from suit only for the provision of services that are in the scope of project of the health center. Where can VHPs find information on what services are in their health center's scope of project?

HRSA maintains a EHB that contains documents referred to as Forms 5A, B, and C. These three forms describe the scope of project of the health center and are available at each health center.

31. If a deemed VHP is sued in state court by a health center patient, what should they do?

If a deemed VHP is named in a state court proceeding they should immediately notify the appropriate individual (e.g., CMO, Director of Risk Management, Compliance officer, CEO) who will send the complaint and supporting documentation to the Department of Health and Human Services Office of the General Counsel. The VHP should follow up as appropriate to make certain that HHS/OGC has received the complaint.

32. Can a VHP's deemed status ever be rescinded or removed during a calendar year?

As discussed in Question 13, deemed status expires at the end of the calendar year, and the sponsoring deemed health center must reapply on behalf of the VHP to have it extended into the following year.

VHPs IN EMERGENCY SITUATIONS

33. My health center is in an emergency area, and volunteer providers are offering to assist us. What must we do to ensure that these volunteers are covered under FTCA?

Health centers must submit an application for deeming on behalf of their individually named VHPs to HRSA. Each individual VHP for whom the health center is seeking deemed status must be approved by HRSA and deeming status must be effected through a Notice of Deeming Action (NDA) for liability protections to apply. Please see PAL 2017-06 for application process details and PAL 2017-07 for clarity regarding the credentialing and privileging documentation required to support temporary privileging of clinical providers by health centers in response to certain declared emergency situations for purposes of deemed PHS employment with associated FTCA protections under section 224 of the PHS Act.

34. I am an employed physician at a deemed health center in New York. Will I be covered by the FTCA program should I volunteer to work in a health center in Puerto Rico?

No, a health care practitioner derives his or her deemed status from the health center that employs him or her. For example, if a physician at deemed center A is subsequently employed by deemed center B, they will be covered by the FTCA program by virtue of B's deemed status. However, if health center B is not deemed, the physician will not be covered while working at health center B. In addition, a physician's deemed status from the health center where they are employed does not carry over to another health center where they volunteer.

35. How can my health center submit a VHP application if we do not have internet access?

HRSA officials have suggested that they will be able to accept paper VHP deeming applications from health centers that do not have internet access. Contact your project officer for more information.

36. I am a health care provider and want to volunteer in a disaster area. Can I apply on my own for FTCA coverage and then volunteer in the disaster area?

No, only a deemed health center can submit an application to HRSA to provide FTCA protection for a VHP.

37. Can another organization or outside group apply for deeming of VHPs on behalf of one or more health centers?

Only deemed health centers can apply for FTCA coverage of volunteers. However, an outside group such as a primary care association could assist member health centers by gathering the requisite information on volunteers and providing it to health centers who would then use that information in their application(s) for the FTCA coverage of the VHPs.

TEMPORARY CREDENTIALING AND PRIVILEGING IN EMERGENCIES

38. Does HRSA support temporary privileging of clinical providers by FTCA deemed health centers in response to certain declared emergencies?

Yes, the HRSA recently published Program Assistance Letter 2017-07 *Temporary Privileging of Clinical Providers by Federal Tort Claims Act (FTCA) Deemed Health Centers in Response to Certain Declared Emergency Situations* (<https://bphc.hrsa.gov/ftca/pdf/pal-2017-07.pdf>). The PAL describes the credentialing and privileging documentation required to support temporary privileging of clinical providers by health centers in response to certain declared emergency situations for purposes of deemed status.

39. What is the definition of a disaster that will allow the use of temporary privileges?

HRSA has defined an “emergency” or “disaster” as an event “affecting the overall health center target population and/or the health centers community at large which precipitate the declaration of a state of emergency at a local, state, regional, or national level by authorized public official such as a governor, the secretary of the Department of Health and Human Services, or the President of the United States.” Examples of such disasters could be floods, earthquakes hurricane, civil disturbances, etc.

In situations where a public official has not officially declared an emergency, health centers can request that HRSA evaluate their situations on a case-by-case basis whether extraordinary circumstances justify a determination that the situation faced by the health center constitutes an “emergency” for purposes of FTCA coverage during a declared emergency.

For further discussion, see [Program Assistance Letter 2017-07](#).

40. How long are temporary privileges valid during a disaster?

[Program Assistance Letter 2017-07](#) states that temporary privileges in a disaster can be granted for no longer than 90 days, after which the professional must have completed the health center’s standard credentialing and privileging process.

For further information, contact

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