



# HEALTH CARE UPDATE

## HHS Invites Comments On Health Center Program Federal Tort Claims Policy Manual

*July 1, 2010*

The Federal Tort Claims Act (FTCA) Policy Manual (Manual) posted [here](#) that the Department of Health & Human Services intends to serve as the primary policy source for information on FTCA for Health Center Program grantees funded under section 330 (Section 330) of the Public Health Service (PHS) Act. August 6, 2010 is the deadline to share feedback on the Manual in response to an invitation from HHS published in the July 1, 2010 Federal Register. See [here](#).

The Manual is intended to consolidate, update and replace a variety of guidance previously issued by HHS about the FTCA Medical Malpractice program for participating Health Center Program grantees. HHS previously has issued numerous Program Information Notices (PINs) and Program Assistance Letters (PALs) related to the Health Center FTCA Medical Malpractice Program. HHS consolidated these PINs and PALs to create the Manual. HHS intends for the Manual to convey guidance about existing policy and current processes, and to serve as the principal policy resource on FTCA matters for Health Center Program grantees and related stakeholders. HHS going forward plans to update the Manual as it issues new policy and program guidance.

The Health Center Program supports more than 1,100 organizations operating almost 8,000 health care delivery sites, including community health centers, migrant health centers, health care for the homeless centers, and public housing primary care centers. Health centers serve medically underserved communities delivering preventive and primary care services to patients regardless of their ability to pay.

Health Center Program grantees funded under section 330 of the PHS Act, including Community Health Centers, Migrant Health Centers, Health Care for the Homeless Health Centers, and Public Housing Primary Care Health Centers, have access to medical malpractice coverage under the FTCA. FTCA is the legal mechanism for compensating people who have suffered personal injury due to the negligent or wrongful action of employees of the U.S. Government.

Under section 224 of the PHS Act, as amended by the Federally Supported Health Centers Assistance Act (FSHCAA) of 1992 and 1995, a section 330-funded health center, as well as its officers, directors, employees, and certain contractors, may be considered deemed to be Federal employees for the purpose of medical malpractice coverage under the FTCA. Accordingly, they are immune from personal liability for claims of medical malpractice arising from their deemed employment, contract for services, or duties as an officer or director of the deemed health center. FSHCAA requires health centers to apply for deemed status in order for FTCA coverage to be effective.

The author of this update, attorney Cynthia Marcotte Stamer, has extensive experience advising and assisting health care providers and other health industry clients with reimbursement, compliance, public policy, regulatory, staffing, and other operations and risk management matters. You can get more information about her health industry experience [here](#). If you need assistance with these or other compliance concerns, wish to inquire about arranging for compliance audit or training, or need legal representation on other matters please contact Ms. Stamer at (469) 767-8872 or via e-mail [here](#).

**Other Recent Developments**

If you found this information of interest, you also may be interested in reviewing some of the following recent Updates available online by clicking on the article title:

- [NCPDP SCRIPT 10.6 Approved As Medicare Part D/Advantage E-Prescribing Option](#)
- [President Directs Quick HHS Action To Implement Physician Medicare Payment Restoration](#)
- [Proposed Medicare Rules Will Require Hospitals Honor Patient Visitation Preferences](#)
- [IRS Invites Input On Application of New Tax Exemption Requirements For Hospital Organizations Added By Affordable Care Act](#)
- [OIG Touts Expanding Health Care Fraud Enforcement Success & Launches New Health Care Fraud Hotline](#)
- [HHS Invites Input on Proposed Strategic Framework on Multiple Chronic Conditions](#)
- [New CBO Analysis Hikes Projected Affordable Health Care Act Cost by \\$115 Billion](#)
- [HHS Invites Input on Proposed Strategic Framework on Multiple Chronic Conditions](#)
- [New CBO Analysis Hikes Projected Affordable Health Care Act Cost by \\$115 Billion](#)
- [Pennsylvania Nurses Vote For Union In NLRB Election Highlights Rising Union Organizing Activity In Health Care Industry](#)
- [NTHCPA Hosts May 11 Compliance Program on "Diversity & Nondiscrimination In Patient Care"](#)
- [WellPoint To Ban Coverage Rescissions Before Affordable Care Act Fall 2010 Deadline](#)
- [Veterans Health Administration Invites Public Comment on Information To Be Required To Make Online Copayment Payments](#)
- [CMS Proposes FY 2011 Acute Care & Long-Term Care Inpatient Policy & Payment Rate Changes](#)
- [Agencies Seek Public Input On New Insurer Premium Revenue Reporting Obligations Added By Patient Protection and Affordable Care Act](#)
- [DEA/DOJ Release Interim Final E-Prescribing Rules](#)
- [Joint Commission Revises Medical Staff Bylaw Standard](#)
- [IRS To Allow Medical Resident FICA Refund Claims](#)
- [Stamer Speaks To Chiefs of Staff About JCAHO Physician Performance Evaluation Requirements](#)
- [HIPAA Heats Up: HITECH Act Changes Take Effect & OCR Begins Posting Names, Other Details Of Unsecured PHI Breach Reports On Website](#)
- [HHS Delays 2010 HHS Federal Poverty Rate Update To March 1, 2010](#)
- [Rising Enforcement and Changing Rules Require Prompt Review & Update of Health Plan Privacy & Data Security Policies & Procedures](#)
- [Pfizer To Pay \\$2.3 Billion For Fraudulent Marketing In Largest DOJ Health Care Fraud Settlement](#)
- [Maximum Penalty For Patient Protection Act Confidentiality Breaches To Rise To \\$11,000](#)
- [OIG Special Fraud Alert Targets DME Telemarketing](#)
- [Federal HEAT & Other Federal Health Care Fraud Efforts Score More Than 15 Successes As OIG Claims \\$20.97 Billion Saved From Enforcement Activities In December](#)
- [HEAT Initiative Snares Health Fraud Related Guilty Pleas of Physical Therapist, Money Launderer and Patient Recruiter In Detroit](#)
- [Retaliation For Filing HIPAA Complaint Recognized As Basis For State Retaliatory Discharge Claim](#)
- [Quest Diagnostics Inc. To Pay \\$688,000 In Overtime Back Wages Settlement After Misclassifying Systems Employees As Exempt](#)
- [Homecare Workers Exempt From FLSA](#)

### **For More Information**

We hope that this information is useful to you. If you need assistance evaluating or responding to the Health Care Reform Law or health care compliance, risk management, transactional, operational, reimbursement, or public policy concerns, please contact the author of this update, Cynthia Marcotte Stamer, at (469) 767-8872, [cstamer@Solutionslawyer.net](mailto:cstamer@Solutionslawyer.net).

Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 23 years experience advising health industry clients about these and other matters. A popular lecturer and widely published author on health industry and human resources matters, Ms. Stamer continuously advises health industry clients about health industry and other related concerns. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, World At Work, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. For additional information about Ms. Stamer, her experience, involvements, programs or publications, see [here](#).

You can review other recent health care and internal controls resources and additional information about the health industry and other experience of Ms. Stamer [here](#). If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile at [here](#) or e-mailing this information [here](#). To unsubscribe, e-mail [here](#).

*©2010 Solutions Law Press. All rights reserved.*