Federal Register

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Part III

Department of Health and Human Services

42 CFR Part 130

Ricky Ray Hemophilia Relief Fund Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 130

RIN 0906–AA56

Ricky Ray Hemophilia Relief Fund Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Interim final rule.

SUMMARY: The Ricky Ray Hemophilia Relief Fund Act of 1998, established the Ricky Ray Hemophilia Relief Fund Program designed to provide compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who contracted HIV through the use of antihemophilic factor administered between July 1, 1982, and December 31, 1987. The Act also provides for payments to certain persons who contracted HIV from the foregoing individuals. Specified survivors of these categories of individuals may also receive payments. The Department is seeking public comment on this interim final rule to establish procedures and requirements for documentation of eligibility and to establish a mechanism for providing compassionate payments to individuals who are eligible for payment under the statute.

DATES: This regulation is effective on July 31, 2000. Written comments must be submitted on or before June 30, 2000. Petitions may be postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, on but not before July 31, 2000.

ADDRESSES: All comments concerning this interim final rule should be submitted to the Ricky Ray Program Office, Bureau of Health Professions (BHPr), Health Resources and Services Administration, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be available for public inspection at the above address in room 8A–54, BHPr/HRSA, between the hours of 8:30 a.m. and 5 p.m. on Federal Government work days.

FOR FURTHER INFORMATION CONTACT: Neil H. Sampson, Deputy Associate Administrator for Health Professions, Bureau of Health Professions, Health Resources and Services Administration, (301) 443–2330.

SUPPLEMENTARY INFORMATION: The Ricky Ray Hemophilia Relief Fund Act of 1998 (Pub. L. 105–369) established a Trust Fund with an authorization of $750 million to ''provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor * * *'' The statute mandates payments of $100,000 to any individual with HIV infection who has any blood-clotting disorder and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987. The spouse or former spouse of such an individual who acquired HIV from that individual is eligible for payment, and children who acquired HIV through perinatal transmission from a parent who is or was one of the persons described above may also be eligible for payment. In addition to these individuals, certain survivors also may be eligible for payment: a lawful spouse of the person with HIV; if there is no surviving spouse, the payment is to be made in equal shares to all children of the person with HIV; if there is no surviving spouse or children, the parents of the person with HIV will receive the payment in equal shares. If none of these individuals is living, the money will remain in the Fund. There is no provision for payment to be made to an estate or any individual other than those explicitly mentioned.

In order to receive a payment, either the individual who is eligible for payment, or his or her personal representative, must file a petition for payment with sufficient documentation to prove that he or she meets the requirements of the statute. The statute mandates that the Secretary of Health and Human Services establish requirements for documentation and establish a mechanism for paying the eligible individuals.

The purpose of this interim final rule is to seek public comment on the documentation we will require for payment as well as on our payment process.

Background

When the statute was passed in 1998, it included, as noted above, an authorization for $750 million, and a directive to pay $100,000 to eligible individuals. At that time, however, there were no funds appropriated to implement this statute. We were concerned that the statute expired 5 years from enactment, and we did not know when, if ever, Congress would appropriate funds to implement it. There was also the possibility that funds might be appropriated in later years, forcing us to begin the actual implementation process near the time when the statute would expire. We sought a solution to preserve the rights of eligible individuals so that they would not be disadvantaged should one of the less desirable funding scenarios develop.

The solution we devised was to allow individuals who believed that they were eligible for payment under this statute to file Notices of Intent. We wanted to preserve the rights of these individuals while at the same time, keeping the burden on them to a minimum. Since we did not know if funds would ever be made available, we did not want people to spend great time and effort rushing to file their petitions with the documentation required to prove they were eligible. Consequently, we published a notice in the **Federal Register** on March 24, 1999 (64 FR 14251), asking for Notices of Intent from individuals who believed they were eligible for payment. These Notices of Intent were minimal: the petitioner's name, address, and phone number, and similar information about the petitioner's attorney or other representative. We stated that eligible individuals would be able to file a formal petition for payment if and when we were provided the funds to implement the statute. We received more than 6,000 notices. We made clear in the **Federal Register** that these notices did not qualify individuals for payment, but simply preserved their rights under the statute. Payments would be based on petitions filed with appropriate documentation at a later time. As explained below, now that funds have been appropriated, we have begun the payment process which requires a formal petition. This process supersedes the Notice of Intent process, and, therefore, a Notice of Intent is no longer necessary.

In November 1999, we received an appropriation of $75 million to implement the statute, of which up to $10 million may be used for administrative expenses. We continued our work to establish the administrative mechanisms to pay individuals. These mechanisms include the organizational structure to manage the program, a Ricky Ray Fund in the Department of the Treasury, Privacy Act/Confidentiality regulations, and accounting procedures. We have also met with a wide range of organizations and expert individuals, seeking their input on how best to implement the statute. We also intensified our efforts to establish the proper regulatory framework for implementation; hence this rule.

The Current Appropriation

The statute requires payments of $100,000 to eligible individuals. The appropriation for this statute in FY 2000

is $75 million, of which up to $10 million may be used for administrative expenses. Since the FY 2000 appropriation is less than the $750 million that was authorized for the Ricky Ray Hemophilia Relief Fund, there are insufficient funds at this time to pay all individuals we believe will be eligible (up to 7,500) a $100,000 payment. We will pay the full $100,000 to individuals who file petitions ''in the order received'' until all appropriated funds are expended. Further petitions that are reviewed and determined to be eligible will remain in queue for payment from subsequent appropriations. The FY 2000 Supplemental Appropriations Bill requests an additional $100 million for the Fund. The President's budget for FY 2001 proposes $100 million, of which up to $10 million may be used for administrative expenses, for the Ricky Ray Fund. Assuming funds are provided in subsequent years, our intention is to continue the payment process until all eligible petitions have been paid before the Fund expires in FY 2004, as required under current statute.

Summary of Regulation

This regulation can be conceptualized in three parts: the process for payment, the documentation required to prove eligibility, and the reconsideration process.

The Process for Payment

Given the fact that the statute requires payments to be made to individuals who file petitions ''in the order received,'' we need to establish a process to ensure this provision is met. First, we need to establish a date on which we will begin to accept petitions. It is important to set this specific date to allow all eligible individuals an equal opportunity to file. We are establishing July 31, 2000, as the first day we will accept petitions. No petition sent (*i.e.,* postmarked) earlier will be accepted, and we will return any petition postmarked before that date. The fact that someone filed a Notice of Intent in response to the **Federal Register** notice of March 24, 1999, does not establish a place in queue. In addition, there is no need to file a Notice of Intent before a full petition is filed. As noted above, the Notice of Intent was our method for preserving the right to file in case funds were not appropriated in sufficient time to allow for a reasonable process for filing petitions within the statutory deadline. To the extent feasible, we hope to forward a copy of the petition form to all individuals who filed a Notice of Intent.

Since we have only enough money under this year's appropriation to pay a relatively small number of eligible individuals, we need to establish an equitable process to determine the ''order received.'' We are establishing July 31, 2000, as the date on which we will begin to accept petitions. Any petition postmarked on that date, or stamped by a commercial carrier or the U.S. Postal Service on that date, will be considered as ''first to arrive.'' Petitions postmarked later will be sorted after those postmarked on the initial date. Petitions with earlier postmarks *will be returned.* Furthermore, no private meter postmarks will be allowed and, to assure fairness to all petitioners, we will not accept hand-delivered petitions.

We expect that there will be many petitions postmarked on the initial date. Therefore, these petitions will be the ''first received.'' To ensure fairness in the payment process, we will begin a random selection procedure to determine the order in which petitions will be processed among the ''first received.'' This process will be equitable to allow sufficient time for distant mailings.

It is our intention to begin to select envelopes containing the petitions ''first received'' in a random manner and begin numbering them from one until all are numbered. We will continue this procedure for petitions postmarked on later days. We will then begin with number one and continue to process petitions and make payments as long as funds are available.

Important Notice

The process described above, in light of limited appropriations, means that those who file complete petitions earlier will be paid before those who file later or who file without complete documentation. We encourage all potential petitioners to complete their petitions and to compile all required documents, so that they can have their petitions postmarked on or as close to the initial date as possible.

We are required under the statute to determine whether a petition is eligible for payment ''not later than 120 days after the date the petition is filed.'' We anticipate receiving thousands of petitions within a short time. We cannot process them all simultaneously and have insufficient funds to pay all petitions that are processed. Therefore, we intend to implement this provision based on the date we determine that a petition is complete.

As a part of this process, if we open a petition and determine it is incomplete, we will notify the petitioner of this and give the petitioner 60 calendar days from the date of notification to submit the missing information. In the event that the petitioner is unable to secure the required documentation to complete the petition, the petitioner may submit a statement to the Secretary within 60 calendar days which shows good cause why the required legal and/or medical documentation is not available. If the petition is completed within that timeframe or if we determine that the petitioner has provided an adequate showing of good cause for not submitting the required documentation, and the petitioner is eligible for payment, we will pay that petitioner based on the number assigned in the random numbering process. If the required documentation is not included even after the opportunity to complete this documentation within 60 days, or if an adequate showing of good cause why the documentation is unavailable is not provided, the petition will be denied, subject to a right of reconsideration. Any subsequent filing of a petition will result in that petition being assigned a new number based on the date it is postmarked.

Filing Deadlines

First, we note that the Ricky Ray Hemophilia Relief Fund Act states that the Secretary may not pay a petition unless it is filed within 3 years after the date of the enactment of the Act. This statute was enacted on November 12, 1998; thus, the statutory filing deadline is November 11, 2001. However, since November 11, 2001, is a Sunday and is the Veteran's Day holiday, and since November 12, 2001, is the day on which Veteran's Day holiday is observed by the Federal Government, we have extended the deadline for filing a petition to Tuesday, November 13, 2001.

Second, we are calling special attention to the deadline for filing full petitions as it relates to our Notice of Intent procedures described in the **Federal Register** of March 24, 1999. The Notice of Intent was described in that March 24 document as satisfying the statutory filing deadline of November 11, 2001. However, as noted above, that procedure was an interim one that we developed before we knew whether Congress would provide funds to operate the program. Now that we have funds for paying petitions and for operating the program, we are able to establish a procedure which requires compliance with the statutory deadline. Therefore, even if a timely Notice of Intent was filed, a petitioner must file a full petition by the November 13, 2001, deadline. Furthermore, any individual who has not filed a Notice of Intent

need not file such a notice; it is only the filing of a full petition that will establish eligibility under the statute. Finally, those who filed a Notice of Intent should understand that their place in queue for processing and payment will be determined by the date of submission of their full petitions and will not be related to the date they filed their Notices of Intent or to the case numbers assigned to those notices.

We would also like to note other deadlines that apply under the regulation. First, where a petitioner submits a petition which is denied payment, the petitioner may file a new petition, which includes documentation that was not included in the original petition. The deadline for filing this new petition is November 13, 2001. Second, where a petitioner submits a petition and the Secretary has not yet made the determination whether the petition meets the requirements of the Act, the petitioner may supplement the original petition with additional documentation. The petitioner may file this supplemental documentation at any time until the date of the Secretary's determination. Third, where a survivor files an amendment to a petition, which is required when a petition has already been submitted but the petitioner has died before payment is made, the deadline for filing this amendment is the date of the Secretary's determination of eligibility or the date of payment, whichever is later. Survivors must file amendments to petitions in order to retain the original assigned order number and to receive payment under the Act.

Documentation Required

It is extremely important to establish the medical and legal documentation required so that we can begin to make payments to individuals who are eligible for payment. We are attempting to balance our fiduciary and accountability responsibilities with our desire to impose a minimal burden on those who file a petition. We are therefore, providing two options to meet the medical documentation requirement. The first is medical records, test results, prescription information, or other documentation deemed credible by the Secretary (which may include, but is not limited to, infusion logs and packing slips). The second is a sworn affidavit by a doctor or nurse practitioner verifying that the relevant medical requirements have been satisfied. We are also requiring a variety of legal documents from most petitioners. We encourage all petitioners to consult the Petition Documentation Checklist to determine the specific documentation required for each petition.

A. Persons with HIV

The terms used below refer to the relationship to the individual with a blood-clotting disorder and HIV.

1. To prove an individual with a blood-clotting disorder is eligible for payment, the petition must include medical documentation that the individual had a blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987, and contracted an HIV infection.

2. For lawful spouses with HIV who are filing, in addition to the medical documentation for the individual with a blood-clotting disorder, the petition must include evidence of marriage consisting of a marriage certificate or other proof of a lawful marriage and proof that the spouse has HIV.

3. For former lawful spouses with HIV, we are requiring the medical documentation for the individual with a blood-clotting disorder, proof that he or she was married to the individual with a blood-clotting disorder at any time after the individual's treatment with antihemophilic factor (the date of treatment must have been between July 1, 1982, and December 31, 1987), proof of the termination of the marriage (such as a divorce certificate), and medical documentation which shows with reasonable certainty that the former spouse contracted HIV from the individual with a blood-clotting disorder.

4. For the child with HIV who is filing (or for whom a personal representative is filing) because the parent is or was one of the persons described above, in addition to medical documentation for the individual with a blood-clotting disorder, we are requiring a birth certificate or other proof that the person filing is, in fact, the child of an individual with a blood-clotting disorder or his or her spouse or former spouse, a marriage certificate or other proof of a lawful marriage between the individual with a blood-clotting disorder and his spouse or former spouse, and medical documentation that the child acquired HIV infection through perinatal transmission from the individual with a blood-clotting disorder or his or her former spouse.

B. Survivors of Persons with HIV

1. For the surviving spouse of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring evidence of the death of the person with HIV, evidence of a lawful marriage, and a sworn statement that they were married at the time of the death of the person with HIV.

2. For the surviving child/children of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring evidence of the death of the person with HIV, evidence that the petitioner is, in fact, the child or stepchild of the person with HIV, and a sworn statement that either states that there are no other survivors eligible for payment or provides information about others who are eligible.

3. For the surviving parent of a person with HIV, in addition to the medical and legal documentation for the person with HIV, we are requiring proof of the death of the person with HIV, evidence to prove that the petitioner is, in fact, the parent, and a sworn statement that either states that there are no other survivors eligible for payment or provides information about others who are eligible.

In cases in which more than one (*i.e.*, multiple) surviving children or surviving parents are filing, they may file one petition form jointly, which will contain the required documentation for all survivors, or they can file separate petition forms, which together will contain all of the required documentation for all survivors. In either case, survivors who have submitted all required documentation and are otherwise eligible for payment under the Act, will be paid their share(s) of the payment. Payment share(s) for multiple surviving children or surviving parents who do not submit the required documentation will remain in the Fund until such time as they complete their petitions by submitting such documentation or, if they have not submitted the documentation until the time that the Fund terminates, will revert back to the Treasury.

Petitioners Who Filed Claims Under the Factor Concentrate Settlement

We expect that many petitioners have previously filed claims under the ''Factor Concentrate Settlement'' (that is, under the class settlement in the case of *Susan Walker* v. *Bayer Corporation, et al.*). In order for these petitioners to satisfy the documentation requirements, they may submit original or duplicate copies of the documents submitted in the class action. However, while the settlement documents may be submitted, they do not necessarily meet all of the documentation requirements under the Ricky Ray Hemophilia Relief Fund Act. Thus, if the documents submitted in the class action do not

consist of all documentation required under the Act, these petitioners must submit additional documentation in order to establish eligibility under the Act.

The Reconsideration Process

Every individual who filed a petition and is denied payment may ask for a reconsideration. The request must be sent to the Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, at the address designated in the regulation. The request must be received by the Department within 60 calendar days of the date the Department denied payment. The request should state the reasons for the reconsideration, but may not include any additional documentation not previously provided. The Deputy Associate Administrator will convene a panel to review all requests. The panel will consist of three individuals who are independent of the Ricky Ray Program Office and who are qualified to evaluate the petitions. The panel will review the case and make a recommendation to the Deputy Associate Administrator, who will review the recommendation and make a final determination as to whether or not the petitioner is eligible for payment. If the petition is deemed eligible for payment, it will be processed as soon as practicable in accordance with available funds.

Assistance Available to the Public

The Ricky Ray Program office will respond to inquiries from petitioners and other individuals regarding program policies and Trust Fund status, as well as questions relating to the content, format and procedure for filing a full petition. This information may be obtained by telephoning the Ricky Ray Program Office at 1–888–496–0338 between the hours of 8:30 a.m. and 5 p.m. (Eastern Standard Time). This is a toll-free number. Interested parties may also contact the Program office by regular or electronic mail. The e-mail address is *Rray__program@hrsa.gov*. Additional program information, including downloadable versions of all forms needed to file a petition, may be obtained at the Ricky Ray Program Office website located at *http://www.hrsa.gov/bhpr/rickyray*. The website will be regularly updated.

Justification for Omitting Notice of Proposed Rulemaking

The Department has decided to issue this document as an interim final regulation with a comment period of 30 days after publication in the **Federal Register**. Under 5 U.S.C. 553(b), the Secretary has determined that it is contrary to the public interest to follow proposed rulemaking procedures before issuance of these regulations. We make this finding for the following reasons:

The purpose of the statute is to provide compassionate payments to individuals with blood-clotting disorders and HIV, to certain other individuals, and to their survivors. These are individuals with significant medical and other financial needs, and a delay in their ability to obtain the compassionate payments to which they are entitled would be inconsistent with the statutory purpose, with their needs, and thus, with the public interest. In addition, should any such individual die without one of the survivors described in the statute, no payment is permitted to be made to that individual's estate. The sooner the rule becomes effective, the more eligible individuals will be able to recover the statutory payment.

In addition, we believe that the streamlined filing procedures provided for by this rule will impose a minimal burden on petitioners and thus should not result in any controversy. Nevertheless, we are providing for a 30-day comment period which will expire 30 days before the effective date of the rule specified above. Thus, should we receive any significant comments that would cause us to revise this rule in any way that would affect the filing of the petitions, we will be able to do so, or to advise potential petitioners of our intent to do so, before they take any final action to file.

Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act (RFA) of 1980, if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that resources to implement this rule are required only of petitioners in submitting their petitions and of the Department in reviewing them. Therefore, in accordance with the RFA of 1980, and the Small Business Regulatory Enforcement Fairness Act of 1996, which amended the RFA, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities. The Secretary has also determined that this rule does not meet the criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy or Federal expenditures.

We have determined that the rule is not a ''major rule'' within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801. We have made this decision because Congress, not the Department, determined the amount of compensation to be disbursed to eligible petitioners under the Act. In promulgating this rule, the Department is not exercising any discretion as to the amount of money given to petitioners deemed eligible under the Act.

Nor on the basis of family well-being will the provisions of this rule for the payment of awards to petitioners affect the following family elements: family safety, family stability; marital commitment; parental rights in the education, nurture and supervision of their children; family functioning, disposable income or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999. This rule does not have an effect on disposable income because it provides compassionate payments to eligible petitioners without imposing a corresponding burden on petitioners.

Paperwork Reduction Act of 1995

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) of 1995, the Department is required to solicit public comments, and receive final Office of Management and Budget (OMB) approval, on any information collection requirements set forth in rulemaking. As indicated, in order to implement the Ricky Ray Hemophilia Relief Fund Act of 1998, certain information is required as set forth in §§ 130.20, 130.21, 130.22, 130.23, 130.30, and 130.31 in this rule.

In accordance with the PRA, we are submitting to OMB at this time the

following requirements for seeking emergency review of these provisions. We are requesting an emergency review because the data collection and reporting of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, to ensure the timely availability of data as necessary to ensure payment to eligible petitioners. Delaying the data collection would delay implementation of the statutory purpose of providing compassionate payments to individuals with blood-clotting disorders and HIV, to certain other persons, and to their survivors. It is clear that eligible petitioners have significant medical and financial needs, and the emergency review will minimize any delay in their ability to obtain the compassionate payments to which they are entitled in accordance with the statutory purpose. Further, by statute, if an individual dies before receiving payment and there is no eligible survivor, as described in the statute, the $100,000 will revert to the Trust Fund. Implementing this regulation and making payments as soon as possible will ensure that Congress' intent in making compassionate payments to eligible individuals will be implemented, to the extent possible. We are requesting OMB's review and approval of this collection within 15 days from the date of publication of this rule, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below within 13 days from the date of publication of this rule. During this 180-day approval period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on the requirements set forth.

Collection of Information: The Ricky Ray Hemophilia Relief Fund Program.

Description of Respondents: Individuals who have an HIV infection and have any form of blood-clotting disorder, such as hemophilia, and were treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987. The spouse and former spouse of such individuals who acquired HIV from that individual qualify for payment, and children who acquired HIV through perinatal transmission from an eligible parent also qualify. In addition to these individuals, certain survivors also qualify.

Estimated Annual Reporting: The estimated annual reporting for this data collection is three hours for completing the petition and providing supporting documentation and one hour for the physician documentation. The estimated annual response burden is as follows:

Form	Number of respondents*	Responses per respondent	Hourly response	Total burden hours	Wage rate	Total hour cost
Petition Form and Supporting Documentation	5,000	1	3	15,000	$15	$225,000
Physician Documentation	1,000	1	1	1,000	40	40,000
Total	6,000			16,000		265,000

*It is estimated that no more than 7,500 individuals would be eligible for payment under the statute, and all petitions must be submitted by November 13, 2001. The burden estimate in this table is calculated by annualizing the predicted number of respondents over an 18-month period in which a petition may be filed. Approximately 6,000 of these eligible individuals may have existing documentation resulting from the class settlement *Susan Walker* v. *Bayer Corporation et al.*

The annual burden estimate includes the time required to review and complete the petition as well as the time to obtain and provide further medical and legal documentation of eligibility. Comments on this information collection activity should be sent to Wendy A. Taylor, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street, NW., Washington, DC 20053; FAX: (202) 395–6974.

List of Subjects in 42 CFR Part 130

Blood diseases, Federal aid programs, HIV/AIDS, Indemnity payments, Reporting and recordkeeping requirements.

Dated: April 26, 2000.

Claude Earl Fox,

Administrator, Health Resources and Services Administration.

Approved: May 12, 2000.

Donna E. Shalala,

Secretary.

For the reasons stated above, the Department of Health and Human Services adds to Chapter I of Title 42 CFR, a new Subchapter L, and within Subchapter L a new Part 130 to read as follows:

SUBCHAPTER L—COMPASSIONATE PAYMENTS

PART 130—RICKY RAY HEMOPHILIA RELIEF FUND PROGRAM

Subpart A—General Provisions

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Subpart B—Criteria for Eligibility

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Subpart C—Documentation Required for Complete Petitions

130.20 Form of medical documentation.
130.21 What documentation is required for petitions filed by living persons with HIV?
130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?
130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?

Subpart D—Procedures for Filing and Paying Complete Petitions

130.30 Who may file a petition for payment or an amendment to a petition?
130.31 How and when is a petition for payment filed?
130.32 How and when will the Secretary determine the order of receipt of petitions?
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Subpart E—Reconsideration Procedures

130.40 Reconsideration of denial of petitions.

Subpart F—Attorney Fees

130.50 Limitation on agent and attorney fees.
APPENDIX A TO PART 130—DEFINITION OF HIV INFECTION OR HIV

APPENDIX B TO PART 130— CONFIDENTIAL PHYSICIAN OR NURSE PRACTITIONER AFFIDAVIT
APPENDIX C TO PART 130— PETITION FORM, PETITION INSTRUCTIONS, AND DOCUMENTATION CHECKLIST

Authority: Secs. 101–108 of Pub. L. 105–369, 112 Stat. 3368 (42 U.S.C. 300c–22 note); sec. 215 of the Public Health Service Act (42 U.S.C. 216).

Subpart A—General Provisions

§ 130.1 Purpose.

This part establishes criteria and procedures for implementation of the Ricky Ray Hemophilia Relief Fund Act of 1998 (the Act). This statute provides for compassionate payments to certain individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to contaminated antihemophilic factor within a specified time period, as well as to certain persons who contracted HIV from these individuals. In the event the individual eligible for payment is deceased, the Act also provides for payments to certain survivors of this individual.

§ 130.2 Definitions.

As used in this part:

(a) *Act* means the Ricky Ray Hemophilia Relief Fund Act of 1998, 42 U.S.C. 300c–22 note, as amended.

(b) *Antihemophilic factor* means any blood product (including, but not limited to, fresh frozen plasma, cryoprecipitate, factor VIII concentrate, and factor IX concentrate) used to treat a blood-clotting disorder.

(c) *Blood-clotting disorder* means a disorder (including, but not limited to, hemophilia and von Willebrand's disease) in which the blood does not clot normally, usually resulting in prolonged bleeding.

(d) *Child with HIV* means the individual described in § 130.10(c).

(e) *Former lawful spouse* means a person to whom an individual described in § 130.10(a):

(1) Was married according to the laws of the place where the person resided at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987); and

(2) Is no longer married.

(f) *Former lawful spouse with HIV* means the individual described in § 130.10(b)(2).

(g) *Fund* means the ''Ricky Ray Hemophilia Relief Fund,'' which is a Trust Fund established in the Treasury of the United States and administered by the Secretary of the Treasury.

(h) *Hemophilia* means a bleeding disorder in which a clotting factor (including, but not limited to, factors VIII or IX) is missing or does not function normally.

(i) *HIV infection* or *HIV* means any of the following:

(1) *For individuals diagnosed with the HIV infection at any age, including infants:* the presence of an opportunistic disease characteristic of AIDS, sufficient to satisfy the definition of HIV infection as set forth in Appendix A to this part; or

(2) *For individuals diagnosed with the HIV infection at over 15 months of age:* the presence of laboratory evidence of HIV based on identification of:

(i) HIV antibodies;

(ii) HIV viral antigens;

(iii) HIV viral cultures; or

(iv) Plasma HIV RNA; or

(3) *For infants diagnosed with the HIV infection due to perinatal transmission at or before 15 months of age:* identification of the presence of HIV by a positive virologic test (*i.e.,* detection of HIV by culture, HIV antigen, or HIV DNA or RNA polymerase chain reaction [PCR]).

(j) *Individual with a blood-clotting disorder and HIV* means the individual described in § 130.10(a).

(k) *Lawful spouse* means a person to whom an individual described in § 130.10(a) is married according to the laws of the place where the person resides on the date the petition is filed. If the laws of the place where the person resides consider an individual who is legally separated or in a common law marriage to be married, then such a person is a lawful spouse.

(l) *Lawful spouse with HIV* means the individual described in § 130.10(b)(1).

(m) *Perinatal transmission* means transmission of HIV infection from mother to child that occurs during pregnancy, delivery, or breastfeeding.

(n) *Person(s) with HIV* means all of the individuals described in § 130.10(a), (b) or (c).

(o) *Place* means any State of the United States of America, the District of Columbia, and United States territories, commonwealths, and possessions.

(p) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

§ 130.3 Amount of payments.

If there are sufficient amounts in the Fund to make payments, the Secretary will make a single payment of $100,000 to eligible individuals, as defined in accordance with subpart B of this part.

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Subpart B—Criteria for Eligibility

§ 130.10 Who is eligible for payment under the Act—living persons with HIV.

The following individuals are eligible for payment under the Act if they are living at the time that payment is to be made on a petition and have an HIV infection:

(a) An individual who has any form of blood-clotting disorder, such as hemophilia, who was treated with antihemophilic factor at any place defined in § 130.2(o), or at any diplomatic area or military installation of the United States, at any time during the time period from July 1, 1982, to December 31, 1987.

(b) An individual who is:

(1) The lawful spouse of the individual with a blood-clotting disorder and HIV; or

(2) The former lawful spouse of the individual with a blood-clotting disorder and HIV, if the former lawful spouse can assert with reasonable certainty, through medical documentation, transmission of HIV from the individual with a blood-clotting disorder and HIV.

(c) An individual who acquired the HIV infection through perinatal transmission from a parent who is the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV or the former lawful spouse with HIV.

§ 130.11 Who is eligible for payment under the Act—survivors of persons with HIV.

(a) Survivors of persons with HIV, as described in § 130.10, are eligible for payment under the Act if:

(1) The person with HIV dies before filing a petition under the Act. In this case, an eligible survivor may file a petition as a survivor of the person with HIV, as set forth in § 130.22; or

(2) The person with HIV has filed a petition under the Act, but dies before payment is made. In this case, an eligible survivor must file an amendment to the petition in order to retain the assigned order number and to receive payment under the Act, as set forth in § 130.23.

(b) Payments to survivors shall be made in the following order:

(1) If the person with HIV is survived by a spouse who is living at the time of payment, the payment shall be made to the surviving spouse (*hereinafter* referred to as ''the surviving spouse'').

(2) If the person with HIV is not survived by a living spouse, the payment shall be made in equal shares to all children of the individual who are living at the time of payment (*hereinafter* referred to as ''the surviving child/children'').

(3) If the person with HIV is not survived by a spouse or children who are living at the time of payment, the payment shall be made in equal shares to the parents of the individual who are living at the time of payment (*hereinafter* referred to as ''the surviving parent(s)).

(c) If the person with HIV is not survived at the time payment is to be made by any of the survivors listed in paragraph (b) of this section, no payments will be made for the person with HIV and the payment will revert back to the Fund.

(d) For purposes of this section, the following definitions apply:

(1) The term *spouse* means a person who was lawfully married to the person with HIV according to the laws of the place where the person resided at the time of death.

(2) The term *child* includes a recognized natural child, a stepchild who lived with the person with HIV in a regular parent-child relationship, and an adopted child.

(3) The term *parent* includes fathers and mothers through adoption.

Subpart C—Documentation Required for Complete Petitions

§ 130.20 Form of medical documentation.

In all instances in which medical documentation is referred to, medical documentation may be submitted in the following forms:

(a) Copies of relevant portions of medical records, records maintained by a physician, nurse, or other licensed health care provider, test results, prescription information, or other documentation deemed credible by the Secretary; or

(b) An affidavit, signed under penalty of perjury, by a physician or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. Such an affidavit must include the physician or nurse practitioner's State and license number. A sample affidavit is set forth at Appendix B to this part.

§ 130.21 What documentation is required for petitions filed by living persons with HIV?

The following rules apply to all petitions filed by persons with HIV:

(a) All petitions filed under the Act must include written medical documentation showing the following:

(1) That the individual described in § 130.10(a) has (or had) a blood-clotting disorder, such as hemophilia;

(2) That the individual with a blood-clotting disorder and HIV was treated with antihemophilic factor at any time between July 1, 1982, to December 31, 1987; and

(3) That the individual with a blood-clotting disorder and HIV has (or had) an HIV infection under any of the criteria set out in the definition of HIV infection at § 130.2(i).

(b) *The individual.* Petitions filed by the individual with a blood-clotting disorder and HIV need only include the documentation described in paragraph (a) of this section.

(c) *The lawful spouse.* Petitions filed by the lawful spouse with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the lawful spouse with HIV has an HIV infection; and

(3) A marriage certificate or other proof of a lawful marriage, which shows that the lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are married.

(d) *The former lawful spouse.* Petitions filed by the former lawful spouse with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the former lawful spouse with HIV has an HIV infection;

(3) A marriage certificate or other proof of a lawful marriage, which shows that the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV were married at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, to December 31, 1987);

(4) A divorce certificate or other proof of termination of the marriage between the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV; and

(5) Medical documentation which shows with reasonable certainty that the former lawful spouse with HIV contracted HIV from the person with a blood-clotting disorder and HIV.

(e) *The child.* Petitions filed by the child with HIV must include the following written documentation:

(1) The documentation described in paragraph (a) of this section;

(2) Medical documentation showing that the child with HIV has an HIV infection;

(3) A birth certificate or other proof, which shows that the child with HIV is the child of:

(i) The individual with a blood-clotting disorder and HIV;

(ii) The lawful spouse with HIV; or

(iii) The former lawful spouse with HIV;

(4) A marriage certificate or other proof of a lawful marriage, which shows that the lawful spouse with HIV or the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are/were married, *except* where the individual with a blood-clotting disorder and HIV is the mother of the child with HIV;

(5) Medical documentation showing that the child with HIV acquired an HIV infection through perinatal transmission from a parent who is:

(i) The individual with a blood-clotting disorder and HIV;

(ii) The lawful spouse with HIV; or

(iii) The former lawful spouse with HIV; and

(6) Where the child with HIV acquired an HIV infection through perinatal transmission from the former lawful spouse with HIV, medical documentation which shows with reasonable certainty that the former lawful spouse with HIV contracted HIV from the person with the blood-clotting disorder and HIV.

§ 130.22 What documentation is required for petitions filed by survivors of persons with HIV, which are filed in cases where the person with HIV dies before filing a petition?

(a) In those cases in which the person with HIV, as described in § 130.10, dies before filing a petition under the Act, a survivor of that person, as described in § 130.11, may file a petition.

(b) Petitions filed by survivors must include two types of information:

(1) Documentation regarding the person with HIV; and

(2) Documentation regarding the eligibility of the survivor to receive payments as a survivor of the person with HIV.

(c) Petitions filed by survivors must include the following information regarding the person with HIV:

(1) *The individual.* Petitions filed by a survivor of the individual with a blood-clotting disorder and HIV must include the documentation described in § 130.21(b).

(2) *The lawful spouse.* Petitions filed by a survivor of the lawful spouse with HIV must include the documentation described in § 130.21(c).

(3) *The former lawful spouse.* Petitions filed by a survivor of the former lawful spouse with HIV must include the documentation described in § 130.21(d).

(4) *The child.* Petitions filed by a survivor of the child with HIV must include the documentation described in § 130.21(e).

(d) Petitions filed by survivors must include the following information regarding the relationship between the survivor and the person with HIV:

(1) *The surviving spouse.* Petitions filed by the surviving spouse must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A marriage certificate or other proof of a lawful marriage, which shows that the survivor was the spouse, as defined in § 130.11(d)(1), of the person with HIV; and

(iii) A sworn statement signed by the surviving spouse which states that the surviving spouse and the person with HIV were married at the time of that individual's death.

(2) *The surviving child/children.* Petitions filed by the surviving child/children must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate, documentation that shows that the survivor is the stepchild of the person with HIV (for example, a certificate of marriage between the survivor's parent and the person with HIV), or other documentation which shows that the survivor is the child, as defined in § 130.11(d)(2), of the person with HIV; and

(iii) A sworn statement signed by the surviving child/children which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.,* no eligible surviving spouses or other surviving children); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

(3) *The surviving parent(s).* Petitions filed by the surviving parent(s) must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate or other documentation which shows that the survivor is the parent, as defined in § 130.11(d)(3), of the person with HIV; and

(iii) A sworn statement signed by the surviving parent(s) which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.,* no eligible surviving spouse, surviving children or other surviving parents); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

§ 130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?

(a) The following survivors must file amendments to petitions in order to retain the assigned order number described in § 130.32 and to receive payment under the Act:

(1) A survivor of the person with HIV, when the person with HIV has filed a petition under the Act, but then died before receiving payment;

(2) The next-ranked survivor eligible to receive payment under the Act, as described in § 130.11(b), when a previously-ranked survivor has filed a petition or an amendment to a petition as a survivor of the person with HIV, but then died before receiving payment; and

(3) In the case of petitions filed by multiple survivors (*i.e.,* multiple surviving children or multiple surviving parents), where one of the survivors dies before receiving payment, the other survivors must file an amendment in order to notify the Secretary that the payment should be made to, and divided among, only the remaining survivors.

(b) Survivors described in paragraph (a) of this section shall amend the original petition by filing the petition form set forth at Appendix C to this part, including the section pertaining to amendments to petitions.

(c) Amendments to petitions filed by survivors must include the following documentation:

(1) Survivors described in paragraph (a)(1) of this section must include the documentation described in § 130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV.

(2) Survivors described in paragraph (a)(2) of this section must include:

(i) The documentation described in § 130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV; and

(ii) A death certificate for the survivor whose petition is being amended, or other evidence of that survivor's death.

(3) Survivors described in paragraph (a)(3) of this section must include a death certificate for the survivor who has died, or other evidence of that survivor's death.

(d) Amendments to petitions filed by survivors described in paragraph (a) of this section will retain the same order number assigned to the original petition.

(e) In those cases in which the Secretary has reviewed the original petition prior to receiving an amendment to the petition, the Secretary will determine whether to pay the survivors described in paragraph (a) as follows:

(1) If the Secretary has determined that the original petition does not include all of the documentation described in this Subpart C (*i.e.,* it is incomplete), the survivor will be given the opportunity to complete the petition prior to a final determination in accordance with the procedures set forth at § 130.33.

(2) If the Secretary has determined that the original petition does not meet the requirements of the Act, the survivor will be so notified and payment will not be made. The survivor may seek reconsideration under § 130.40.

(3) If the Secretary has determined that the original petition meets the requirements of the Act, and the survivor meets the survivor requirements of the Act, the survivor will receive payment as described in § 130.3.

(f) In those cases in which the Secretary has not yet made the determination whether the original petition meets the requirements of the Act, the Secretary will review the amended petition according to the order number assigned to the original petition, and then determine whether the petition is complete and whether to pay the petition as described in paragraph (e) of this section.

Subpart D—Procedures for Filing and Paying Complete Petitions

§ 130.30 Who may file a petition for payment or an amendment to a petition?

The following individuals may file a petition for payment under the Act:

(a) All eligible individuals, as described in subpart B of this part, including living persons with HIV and survivors of persons with HIV; and

(b) Personal representatives of eligible individuals:

(1) Where the eligible individual does not have the legal capacity to receive payment under the Act, as described in § 130.35(e); or

(2) Where the eligible individual does have the legal capacity to receive payment under the Act and signs the sworn statement included at the end of the petition.

§ 130.31 How and when is a petition for payment filed?

(a) In order to receive payment under the Act, all eligible individuals, as described in subpart B of this part, must file a complete petition with the Secretary. A complete petition is one

that contains all of the required documentation described in Subpart C of this part.

(b) A copy of the petition form, which must be filed by all eligible individuals, including individuals with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, the child with HIV, and the survivors of persons with HIV, is set forth at Appendix C to this part. Appendix C includes the petition form, the instructions for filing the petition form, and a documentation checklist.

(c) Where there are multiple surviving children or surviving parents, payments on the petition will be made to each survivor separately. The survivors shall:

(1) File one petition form jointly, which will contain the required documentation for all survivors, and which will be signed by at least one survivor; or

(2) File separate petition forms, which together will contain all of the required documentation for all survivors, and which will be signed by each survivor.

(d) Petitions may be *obtained* from the Ricky Ray Program Office, Bureau of Health Professions, HRSA, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(e) All petitions must be *submitted* to the Ricky Ray Program Office, Bureau of Health Professions, HRSA, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(f) The date on which the Secretary will begin accepting petitions is July 31, 2000.

(1) In order to be eligible for review, petitions may be postmarked on or after this date. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Petitions that are postmarked by a private meter will not be accepted.

(2) Petitions that are postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, prior to this date *will be returned* to the petitioner. Petitions that are delivered by hand at any time *will be returned* to the petitioner.

(g) *Deadlines.* The *deadline for filing a petition is November 13, 2001.* To meet this deadline, the petition must be postmarked, or accompanied by a receipt from a commercial carrier or U.S. Postal Service, by such date. Any new petition filed after such date will be returned to the petitioner as ineligible for payment, even if the petitioner filed a timely Notice of Intent as provided in the procedure described in the **Federal Register** of March 24, 1999 (64 FR 14251).

(1) If a petitioner submits a petition to the Secretary by November 13, 2001, and the Secretary has determined, in accordance with § 130.34, that the petition does not meet the requirements of the Act, the petitioner may submit a new petition for payment, which includes additional documentation that was not included in the original petition. The deadline for filing this new petition is November 13, 2001.

(2) If a petitioner submits a petition to the Secretary by November 13, 2001, and the Secretary has not yet made the determination whether the petition meets the requirements of the Act, the petitioner may supplement the original petition with additional documentation at any time until the date of the Secretary's determination.

(3) If a petitioner files an amendment to a petition, as described in § 130.23, the deadline for filing this amendment is the date of the Secretary's determination of eligibility or the date of payment, whichever is later.

(h) *Petitioners who filed claims under the Factor Concentrate Settlement.* Petitioners who filed claims under the class settlement in the case of *Susan Walker* v. *Bayer Corporation, et al.,* 96–C–5024 (N.D. Ill.) (*i.e.*, the Factor Concentrate Settlement) must file a complete petition with the Secretary, together with all required documentation, as described in subpart C of this part.

(1) If the petitioner submitted a claim in the Factor Concentrate Settlement which included all of the documents required to establish eligibility under the Act, he or she may submit original or duplicate copies of those documents to the Secretary.

(2) If the petitioner submitted a claim in the Factor Concentrate Settlement which included some, but not all, of the documents required to establish eligibility under the Act, he or she may submit original or duplicate documents as described in paragraph (h)(1) of this section, together with the additional documents required under the Act.

(3) If the petition is filed by someone other than an individual who filed a claim in the Factor Concentrate Settlement (*e.g.*, survivors of the person with HIV, personal representatives), he or she may submit original or duplicate documents as described in paragraph (h)(1) or (h)(2) of this section in order to satisfy that portion of the petition relating to the person with HIV.

§ 130.32 How and when will the Secretary determine the order of receipt of petitions?

(a) The order that the petition was received by the Secretary will be determined by the postmark date or the date indicated by a commercial carrier or the U.S. Postal Service, in accordance with § 130.31(f).

(b) If the Secretary receives more than one petition which is either postmarked or dated by a commercial carrier or the U.S. Postal Service on the same date, the Department will conduct a random selection of each day's submissions to determine the order within each group of petitions.

(c) A number will be assigned to each petition indicating the order in which it is selected.

§ 130.33 How will the Secretary determine whether a petition is complete?

(a) If the Secretary determines that a petition does not include all of the documentation described in subpart C of this part (*i.e.*, it is incomplete), the petitioner will be given the opportunity to complete the petition prior to a final determination.

(b) The petitioner will be notified that the Secretary has determined that the petition is incomplete and, for purposes of retaining the assigned order number described in § 130.32, will be given 60 calendar days from the date of the notice to submit the missing information. If the petitioner submits the missing information within 60 calendar days, and the Secretary determines that the petition meets the requirements of the Act, the petitioner will be paid according to the assigned order number.

(c) If the petitioner is unable to complete the petition, the petitioner may submit written documentation to the Secretary, within 60 calendar days, which shows good cause why the required medical or legal documentation is unavailable. If the Secretary determines that the petitioner has provided an adequate showing of good cause and is otherwise eligible for payment under the Act, the petitioner will be paid according to the assigned order number.

(d) The Secretary will process the petition according to § 130.34 if:

(1) The petition does not include the required documentation, as described in subpart C, even after the opportunity is given to complete it;

(2) The 60-day deadline to complete the petition is not met; or

(3) An adequate showing of good cause why the required medical or legal documentation is unavailable is not provided.

§ 130.34 How will the Secretary determine whether to pay a petition?

(a) Subject to available resources, the Secretary will review each petition filed under the Act and make one of the following determinations:

(1) If the Secretary concludes that the petition does not meet the requirements of the Act, the petitioner will be so notified and payment will not be made. These petitioners may seek reconsideration under § 130.40.

(2) If the Secretary concludes that the petition does meet the requirements of the Act, the petitioner will receive payment as described in § 130.3.

(b) Petitions will be reviewed based upon the assigned number indicating the order of receipt, as described in § 130.32.

§ 130.35 How and when will the Secretary pay a petition?

(a) To the extent practicable, determinations on complete petitions will be made not later than 120 calendar days after the date that the Secretary determines that the petition is complete.

(b) Payments on petitions will be made as soon as practicable after a determination that a complete petition meets the requirements of the Act.

(c) For each eligible individual, as described in subpart B of this part, the Secretary will make only one payment on a petition.

(d) Where there are multiple surviving children or surviving parents, survivors who have submitted all required documentation and are otherwise eligible for payment under the Act, will be paid their share(s) of the payment, as described in § 130.11(b)(2) and (3). If any surviving children or surviving parents who are otherwise eligible for payment have not submitted the required documentation, their share(s) of the payment will remain in the Fund until such time as they complete their petitions by submitting such documentation. If they have not submitted the required documentation by the time that the Fund terminates, their share(s) will revert back to the Treasury.

(e) Payments on petitions will be made to eligible individuals, as described in subpart B, unless the eligible individual is legally incompetent to receive payment. A personal representative may receive payment for a legally incompetent individual by submitting the following written documentation to the Secretary:

(1) Proof showing that the eligible individual does not have the legal capacity to receive payment under the Act, such as a birth certificate showing that the eligible individual is a minor, or other evidence showing that the eligible individual is legally incompetent; and

(2) Proof showing that the personal representative has the authority to receive payment for the eligible individual, such as proof of legal guardianship.

Subpart E—Reconsideration Procedures

§ 130.40 Reconsideration of denial of petitions.

(a) *Right of reconsideration.* Every individual who has filed a petition and has been denied payment may seek reconsideration. To seek such reconsideration, the petitioner must put a request for reconsideration in writing and send it to the Deputy Associate Administrator for Health Professions, Health Resources and Services Administration, Room 8A–54, 5600 Fishers Lane, Rockville, Maryland 20857. The request for reconsideration must be received by the Deputy Associate Administrator for Health Professions within 60 calendar days of the date the Department denied the petition for payment.

(b) *Request for reconsideration.* The request for reconsideration must state the reasons why the petitioner is seeking reconsideration. However, the request for reconsideration may not include any additional documentation that was not included in the completed petition.

(c) *Review process.* When the Deputy Associate Administrator for Health Professions receives a request for reconsideration, he will convene a panel of three individuals, who are independent of the Ricky Ray Program Office, to review the initial determination and make a recommendation regarding payment. The Deputy Associate Administrator for Health Professions will review the panel's recommendation and then determine whether the petitioner is eligible for payment under the Act. The Deputy Associate Administrator for Health Professions' determination will constitute the Department's final action on the request for reconsideration. If the determination is that the petitioner is eligible for payment, the petitioner will receive payment as described in § 130.3. If the determination is that the petitioner is not eligible for payment, the Deputy Associate Administrator for Health Professions will inform the petitioner in writing of the reasons for this determination.

Subpart F—Attorney Fees

§ 130.50 Limitation on agent and attorney fees.

As provided by section 107 of the Act:

(a) Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this Act, more than 5 percent of a payment made under this Act (*i.e.,* $5,000) on the petition.

(b) Any such representative who violates this section is subject to a fine of not more than $50,000.

BILLING CODE 4160– 15–P

APPENDIX A

Definition of HIV infection or HIV for purposes of §130.2(i)(1):

(1) Except as provided in section (2) below, a diagnosis of HIV infection under 130.2(i)(1) may be made on the basis of a diagnosis of one or more of the following opportunistic diseases:

- Candidiasis of bronchi, trachea, or lungs
- Candidiasis, esophageal
- Cervical cancer, invasive
- Chronic lymphoid interstitial pneumonitis (in a child under 13 years of age)
- Coccidioidomycosis, disseminated or extrapulmonary
- Cryptococcosis, extrapulmonary
- Cryptosporidiosis, chronic intestinal (greater than 1 month's duration)
- Cytomegalovirus disease (other than liver, spleen, or nodes)
- Cytomegalovirus retinitis (with loss of vision)
- Encephalopathy, HIV-related
- Herpes simplex: chronic ulcer(s) (greater than 1 month's duration); or bronchitis, pneumonitis, or esophagitis
- Histoplasmosis, disseminated or extrapulmonary
- Isosporiasis, chronic intestinal (greater than 1 month's duration)
- Kaposi's sarcoma
- Lymphoma, Burkitt's (or equivalent term)
- Lymphoma, immunoblastic (or equivalent term)
- Lymphoma, non-Hodgkin's
- Lymphoma, primary, or brain
- Mycobacterium avium complex or M. kansasii, disseminated or extrapulmonary
- Mycobacterium tuberculosis, any site (pulmonary or extrapulmonary)
- Mycobacterium, other species or unidentified species, disseminated or extrapulmonary
- Pneumocystis carinii pneumonia
- Pneumonia, recurrent
- Progressive multifocal leukoencephalopathy
- Salmonella septicemia, recurrent
- Toxoplasmosis of brain
- Wasting syndrome due to HIV

(2) The opportunistic diseases listed in section (1) above may be used to diagnose an HIV infection, unless: the opportunistic diseases are diagnosed based on a known immunodeficiency disease other than HIV infection, including, but not limited to: (i) Primary immunodeficiency diseases - severe combined immunodeficiency, DiGeorge syndrome, Wiskott-Aldrich syndrome, ataxia-telangiectasia, graft versus host disease, neutropenia, neutrophil function abnormality, agammaglobulinemia, or hypogammaglobulinemia with raised IgM; and (ii) Secondary immunodeficiency associated with immunosuppressive therapy, lymphoreticular malignancy (if less than 3 months after the diagnosis of the aforementioned opportunistic disease), or starvation.

These excerpts were taken from:

Current Trends Update: Acquired Immunodeficiency Syndrome (AIDS) - United States, MMWR 32(52); 688-91, January 6, 1984.

Current Trends Revision of the Case Definition of Acquired Immunodeficiency Syndrome for National Reporting - United States, MMWR 34(25); 373-75, June 28, 1985.

1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults, MMWR 41(RR-17), December 18, 1992.

For further information, please consult these documents.

Appendix B to Part 130—Confidential Physician or Nurse Practitioner Affidavit

OMB No. 0915-0244
Expiration date: 02-14-2001

RICKY RAY HEMOPHILIA RELIEF FUND
CONFIDENTIAL PHYSICIAN OR NURSE PRACTITIONER AFFIDAVIT

The U.S. Congress enacted the Ricky Ray Hemophilia Relief Fund Act in 1998 to make compassionate payments of $100,000 to certain individuals with blood-clotting disorders, such as hemophilia, who were treated with antihemophilic factor between July 1, 1982, and December 31, 1987, and who contracted HIV(referred to in Section A below). Certain spouses, former spouses and children (referred to in Section B below) who contracted HIV from these individuals may also be eligible for compassionate payments. Specified survivors of these individuals may also receive payments.

This affidavit regarding medical documentation is to be completed and signed by a physician or nurse practitioner in lieu of medical records or test results. Although you may be asked to provide additional information, complete only those portions of this affidavit that you can answer based on your personal knowledge or a review of medical records.

PRIVACY ACT STATEMENT

Section 103 of Public Law 105-369 and the Debt Collection Improvement Act of 1996 authorize collection of this information. It will be used to determine your eligibility to receive payments. This information will be disclosed to the Department of Health and Human Services and its consultants; and Federal, State or local law enforcement agencies if the Government becomes aware of a possible violation of civil or criminal law. Furnishing the information on this form, including the Social Security Number, is voluntary, but failure to do so may delay or prevent the receipt of a payment. The information collected will be maintained confidentially pursuant to the Privacy Act.

CHECK APPLICABLE BOXES AND PROVIDE INFORMATION AS REQUESTED.

I am a physician or a nurse practitioner. I have been requested by an individual to complete this affidavit and to provide information that I understand will be kept strictly confidential and be used solely to determine eligibility for a compassionate payment under the Ricky Ray Hemophilia Relief Fund Program.

SECTION A. INFORMATION ON INDIVIDUAL WITH BLOOD CLOTTING DISORDER AND HIV

He or she is a person with blood-clotting disorder who has/had HIV and was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987.

Name of Individual: _____

Note: the information requested in the following three statements is required for all individuals described in Section A.

[ ] He/she has/had the following blood-clotting disorder:

[ ] He/she received an antihemophilic factor between July 1, 1982, and December 31, 1987.

[ ] He/she was diagnosed as having HIV.

SECTION B. INFORMATION ON ELIGIBLE INDIVIDUAL WITH HIV IF DIFFERENT FROM SECTION A

This section pertains to other individuals who may be eligible for payment under the Program because of their familial relationship to the person described in Section A.

Name of Individual: _____

[ ] He/she was diagnosed as having HIV. **(Note: this information is required for all individuals in Section B).**

(Section B continued, next page)

RICKY RAY HEMOPHILIA RELIEF FUND – AFFIDAVIT

[ ] There is reasonable certainty that this individual contracted HIV from the individual identified in Section A. "Reasonable certainty" is defined as having no knowledge based on medical records or other documents that the individual contracted HIV from a source other than the individual identified in Section A. **(Note: This information is required only for an individual filing a petition as the former spouse of the individual described in Section A).**

[ ] This individual acquired HIV through perinatal transmission (transmission of HIV infection from mother to child that occurs during pregnancy, delivery, or breast feeding) from _____ _____. **(Note: This information is required only for an individual filing a petition because he/she acquired HIV through perinatal transmission from the individual in Section A or that individual's current or former spouse).**

SECTION C. SIGNATURE AND SWORN STATEMENT OF PHYSICIAN OR NURSE PRACTITIONER

I swear or affirm under penalty of perjury that the answers I have given to the medical questions listed above in this affidavit are true and correct to the best of my knowledge, information, and belief. (18 U.S.C. § 1621)

Signature: _____ Date: _____

Name (typed or printed legibly): _____

License Number and State Where Licensed: _____

Full Address (number and street): _____

City, State, and Zip Code: _____

Phone: _____

Refer to the definitions for several medical terms in the Rule, 42 CFR Part 130: antihemophilic factor §130.2(b), blood-clotting disorder §130.2(c), hemophilia §130.2(h), HIV infection or HIV §130.2(i), perinatal transmission §130.2(m).

PUBLIC BURDEN STATEMENT

An agency may not conduct or sponsor, and any person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for this project is 0915-0244. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Appendix C to Part 130—Petition Form, Petition Instructions, and Documentation Checklist

OMB No. 0915-0244
Expiration date: 02-14-2001

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION

This petition is to be used by all parties who may be eligible for payment under the Ricky Ray Hemophilia Relief Fund Act. Refer to the Ricky Ray Documentation Checklist for the supporting documentation that you must provide with the petition. **The petition and its documentation are subject to audit by the U.S. Department of Health and Human Services' Office of Inspector General.**

PRIVACY ACT STATEMENT

Section 103 of Public Law 105-369 and the Debt Collection Improvement Act of 1996 authorize collection of this information. It will be used to determine your eligibility to receive payments. This information will be disclosed to the Department of Health and Human Services and its consultants; and Federal, State or local law enforcement agencies if the Government becomes aware of a possible violation of civil or criminal law. Furnishing the information on this form, including the Social Security Number, is voluntary, but failure to do so may delay or prevent the receipt of a payment. The information collected will be maintained confidentially pursuant to the Privacy Act.

SECTION A. INDIVIDUAL WITH BLOOD-CLOTTING DISORDER AND HIV

This section is mandatory for all petitioners

Check the instructions for Section A.

Name: _____

Social Security Number: _____ Date of Birth: _____

If no longer living, provide date of death: _____

Complete address information if individual is living

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

SECTION B. ELIGIBLE PERSON WITH HIV (OTHER THAN INDIVIDUAL IDENTIFIED IN SECTION A)

This section is required for the lawful spouse, former lawful spouse, child and their survivors

Check the instructions for Section B.

Name: _____

Social Security Number: _____ Date of Birth: _____

If no longer living, provide date of death: _____

Complete address information if individual is living

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

RELATIONSHIP TO INDIVIDUAL IN SECTION A *(check one)*:

[ ] Lawful spouse (husband or wife) with HIV
[ ] Former lawful spouse (husband or wife) with HIV
[ ] Child with HIV (if person in Section A is the mother)
[ ] Child with HIV of the lawful wife with HIV
[ ] Child with HIV of the former lawful wife with HIV

SECTION C. SURVIVOR OF ELIGIBLE PERSON WITH HIV
This section is required of all survivors

Check the instructions for Section C.

Name: _____

Social Security Number: _____ Date of Birth: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____

SURVIVORSHIP *(check one)*:

[ ] I am filing the petition as a survivor of the individual in Section A –OR –

[ ] I am filing the petition as a survivor of the person in Section B

NATURE OF THE SURVIVOR'S RELATIONSHIP TO THE INDIVIDUAL IN SECTION A OR THE PERSON IN SECTION B *(check one)*:

[ ] Lawful husband or wife at the time of the person's death, and I attest, to the best of my knowledge, that the person with HIV and I were married according to the laws of the place where the person with HIV and I resided at the time of his/her death

[ ] Child or stepchild and there is no surviving spouse

[ ] Parent and there is no surviving spouse or surviving children

SURVIVING CHILDREN AND PARENTS MUST CHECK THE APPROPRIATE BOX *(check one)*:

[ ] To the best of my knowledge, there are no other survivors who are eligible for payment under the Act (i.e., for child survivors, there is no eligible surviving spouse and no other surviving children; for parent survivors, there are no eligible surviving spouses, surviving children, or other surviving parent);

[ ] There are other survivors who are eligible for payment under the Act. I am providing all of their full names and their relationship to the person we survived.
If this box is checked, list survivors:

Name: _____ Name: _____
Relationship: _____ Relationship: _____

Name: _____ Name: _____
Relationship: _____ Relationship: _____

(If you need more space, add another page listing all of the eligible survivors as described above.)

AMENDMENT TO A PREVIOUSLY SUBMITTED PETITION

Use only if the following applies to you. If so, check the box and provide the name requested.

- **If you are a survivor of an individual who has already submitted a petition, but who died before receiving a compassionate payment, please check the box below and fill in the name of that deceased person.**
- **If another survivor filed a petition or an amendment to a previously submitted petition, but then died before receiving a payment, check the box below and fill in the name of that deceased person.**
- **If the original petition was filed by multiple surviving children or parents and any of those survivors has died, check the box below and fill in the name of the survivor who filed the previous petition.**

[ ] **I am amending the petition previously submitted by** _____.

SECTION D. PERSONAL REPRESENTATIVE

Complete this section if you are the attorney or other representative for the eligible individual. If this section is completed, all communications related to this petition will go to the personal representative.

Check instructions for Section D.

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime phone: _____ Filing for: _____

Nature of relationship to eligible individual (e.g., attorney, guardian, other): _____

Does the eligible individual have the legal capacity to receive payments?

[ ] Yes – OR –

[ ] No. (e.g., a minor or an individual who is otherwise incompetent).

If no, please explain: _____

Signature of Personal Representative: _____

SECTION E. SIGNATURE OF PETITIONER

This section is required of all petitioners

Check the instructions for Section E.

Reminder: Attach all necessary documentation. See Documentation Checklist.

I swear or affirm under penalty of perjury that the information in this petition and all submitted documentation is true and correct to the best of my knowledge, information, and belief (18 USC §1621).

Name (printed clearly or typed): _____

Signature: _____ Date: _____

Submit this petition and the required medical and legal documentation to: Ricky Ray Program Office
Bureau of Health Professions
5600 Fishers Lane, Room 8A-54
Rockville, MD 20857

PUBLIC BURDEN STATEMENT

An agency may not conduct or sponsor, and any person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for this project is 0915-0244. Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION INSTRUCTIONS

The U.S. Congress enacted the Ricky Ray Hemophilia Relief Fund Act in 1998 (the Act) to make compassionate payments of $100,000 to certain individuals with blood-clotting disorders, such as hemophilia, who were treated with antihemophilic factor between July 1, 1982, and December 31, 1987, and contracted HIV. Such individuals must have been treated with the antihemophilic factor in any State of the United States of America, the District of Columbia, U.S. territories, commonwealths and possessions, or at any diplomatic area or military installation of the United States. Husbands and wives who contracted HIV from those individuals; children who acquired HIV from their mothers during pregnancy, delivery, or breast feeding; and certain surviving family members may also be eligible for payments.

A. Complete the relevant sections of the petition. ***All petitioners must complete Section A***, which requests information regarding the individual with the blood-clotting disorder and HIV. *All information you supply will be kept strictly confidential in accordance with the Privacy Act, and will be used solely to determine your eligibility to receive payments under the Ricky Ray Hemophilia Relief Fund Act.* For more information, consult the Notification of New System of Records, 64 Fed. Reg. 69,274 (Dec. 10, 1999).

B. Consult the Documentation Checklist for the category that best describes you. Then provide the required medical and legal documentation listed with your category to support your petition. This documentation must be submitted before your petition may be approved for payment.

C. Send your completed petition package to:

The Ricky Ray Program Office
Bureau of Health Professions
5600 Fishers Lane, Room 8A-54
Rockville, MD 20857

All petitions must be postmarked or accompanied by a receipt from a commercial carrier or the U.S. Postal Service no sooner than July 31, 2000 and no later than November 13, 2001. Petitions postmarked before July 31, 2000 or after November 13, 2001 will be returned unopened.

GENERAL INSTRUCTIONS FOR ALL PETITIONERS

1. A separate petition must be submitted for each HIV-infected person who is eligible for payment (the individual with a blood-clotting disorder, the lawful spouse, the former lawful spouse or the child).

2. If you qualify for multiple payments (e.g., you are an eligible, HIV-infected person and you are a survivor of another HIV-infected person; you are a survivor of two HIV-infected persons), you must submit a separate petition for each claim.

(General Instructions continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

3. Multiple surviving children or surviving parents may submit one joint petition for the one, shared payment (e.g., the surviving children when there is no surviving spouse, or the surviving parents when there is no surviving spouse or surviving children). Survivors may also submit separate petitions.

4. Keep a copy of all forms and documentation for your own records.

CHANGES IN INFORMATION PROVIDED

Should there be a change in the information you provided with your Petition, you are required to notify the Ricky Ray Program Office at the address above. Please note that if you fail to provide us with this information, we may not be able to contact you directly with information on the next steps in processing your petition.

FILLING OUT THE PETITION

SECTION A – INSTRUCTIONS

This section is required for all petitioners

This section describes the individual with a blood-clotting disorder, who was treated with antihemophilic factor, and who has HIV. Enter the requested information.

- **Name**: The full name of the individual with a blood-clotting disorder and HIV.
- **Social Security Number**: That individual's 9-digit Social Security Number.
- **Date of Birth**: That individual's date of birth (month, day, and year).
- **If the individual is no longer living, provide the date of death:** That individual's date of death, if applicable (month, day, and year).
- **If the individual with a blood-clotting disorder and HIV is living**:
  - **Address:** That individual's current home address.
  - **City:** That individual's current city of residence.
  - **State**: That individual's current state of residence.
  - **Zip:** The 5 or 9 digit zip code of that individual's current residence.
  - **Daytime phone**: That individual's daytime telephone number, including the area code.

  If the individual with a blood-clotting disorder and HIV lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

SECTION B – INSTRUCTIONS

Complete this section if you are the lawful spouse with HIV of the individual with a blood-clotting disorder and HIV, a former lawful spouse with HIV, a child who acquired HIV through perinatal transmission, or their survivor(s)

This section describes a lawful spouse with HIV, a former lawful spouse with HIV, or a child who acquired HIV perinatally. Enter the requested information.

- **Name:** The full name of the lawful spouse with HIV, the former lawful spouse with HIV, or the child who acquired HIV through perinatal transmission.
- **Social Security Number**: That person's 9-digit Social Security Number.
- **Date of Birth**: That person's date of birth (month, day, and year).
- **If the individual is no longer living, provide the date of death**. That person's date of death, if applicable (month, day, and year).
- **If the person is living**:
  - **Address:** That person's current home address.
  - **City:** That's person's current city of residence.
  - **State**: That person's current state of residence.
  - **Zip:** 5 or 9 digit zip code of that person's current residence.
  - **Daytime phone**: The daytime telephone number, including the area code.

  If the lawful spouse with HIV, the former lawful spouse with HIV, or the child who acquired HIV perinatally lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.
- **Relationship to individual in Section A (Check one):** Check the appropriate box indicating whether the person identified in Section B is the lawful spouse (husband or wife) with HIV; the former lawful spouse (husband or wife) with HIV, or the child with HIV. If the person identified in Section B is the child with HIV, check the third box if the individual identified in Section A is the child's birth mother; check the fourth box if the child's birth mother is the lawful spouse of the individual identified in Section A; check the fifth box if the child's birth mother was the former lawful spouse of the individual identified in Section A. Note that a child with HIV who checked the fifth box may be eligible for payment even if the individual identified in Section A is not the child's father.

SECTION C – INSTRUCTIONS

Complete this section if you are filing a petition as a survivor

This section describes a surviving spouse, child, or parent of a deceased person with HIV. The lawful spouse can always file a petition. The surviving child or children can file a petition if there is no surviving spouse. The surviving parent or parents can file a petition if there is no surviving spouse or are no surviving children. Enter the requested information.

(Section C continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- **Name:** The survivor's full name.
- **Social Security Number**: The survivor's 9-digit Social Security Number.
- **Date of Birth**: The survivor's date of birth (month, day, and year).
- **Address:** The survivor's current home address.
- **City:** The survivor's current city of residence.
- **State**: The survivor's current state of residence.
- **Zip:** 5 or 9 digit zip code of the survivor's current residence.
- **Daytime phone**: The survivor's daytime telephone number, including the area code.

If the survivor filing the petition lives outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international code for the country.

- **Survivorship (check one)**: Check the first box if you are a survivor of the individual with HIV and a blood-clotting disorder. Check the second box if you are a survivor of a person with HIV who is not the individual with a blood-clotting disorder (e.g., the lawful spouse, the former lawful spouse or the child). If you are a survivor of both, you may be eligible for two payments. In that case, file two separate petitions; check the first box in one petition and the second box in the other.
- **Nature of the survivor's relationship to the individual in Section A or the person in Section B (check one):** Check the appropriate box to indicate whether you were the lawful husband or wife at the time of the death of the person with HIV; the child or stepchild, where there is no surviving spouse; or the parent, where there is no surviving spouse or surviving children.
- **Surviving children or parents (check one):** Check the first box if you are the only survivor of the person with HIV who is eligible for payment under the Act. Check the second box if there are other eligible survivors. If you checked the second box, provide further information for each of the other eligible survivors:

  – **Name**: The name of the survivor(s) other than yourself; and

  – **Relationship**: The relationship to the person with HIV who died. (e.g., child, parent).

  Four areas are provided on the form. If you need more space, use additional paper and list all eligible survivors.

AMENDMENT TO A PREVIOUSLY SUBMITTED PETITION – INSTRUCTIONS

Complete this section only if you are a survivor amending a petition

Under three specific circumstances described below, survivors of persons with HIV must file an amendment to a previously submitted petition in order to retain the original assigned order number and to receive payment under the Act. Survivors must use the petition form to amend a petition. If you meet any of the three circumstances, check the box and fill in the full name of the petitioner whose petition you are amending.

- If you are a survivor of a person who has already submitted a petition, but who died before receiving a compassionate payment, check the box and fill in the name of that deceased individual.

(Amendment continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- If another survivor filed a petition or an amendment to a previously submitted petition, but then died before receiving a payment, check the box and fill in the name of that deceased person.
- If the original petition was filed by multiple surviving children or parents and any of those survivors has died, check the box and fill in the name of the survivor who filed the previous petition.

SECTION D – INSTRUCTIONS

Complete this section if you are a personal representative of any eligible individual

This section describes an attorney or other representative for the eligible individual, if any. If this section is completed, all communications related to the petition will go directly to the personal representative. Enter the requested information.

- **Name:** The personal representative's full name.
- **Address:** The personal representative's current home or office address.
- **City:** The personal representative's current city of office or residence.
- **State**: The personal representative's current state of office or residence.
- **Zip:** 5 or 9 digit zip code of the personal representative's current office or residence.
- **Daytime phone**: The daytime telephone number of the personal representative, including the area code.
- **Filing for:** The name of the eligible individual on whose behalf you are filing a petition.
- **Nature of relationship to eligible individual**. Fill in the blank indicating attorney, guardian or other (be specific).
- **Does the eligible individual have the legal capacity to receive payments?** Check the "Yes" box if the person you are representing has the legal capacity. Check the "No" box if the person you are representing does not have the legal capacity to receive payments (e.g., you represent a minor or an individual who is otherwise incompetent). In the space provided, please explain.

If the personal representative lives or works outside of the United States of America, in the State field, enter the country. In the Zip field, use any applicable mailing code. In the phone field, include the international dialing code for the country.

- **Signature of Personal Representative:** The personal representative's original signature in ink.

SECTION E – INSTRUCTIONS

All petitioners or their representatives must complete this section

All eligible individuals must sign the petition, unless he/she does not have the legal capacity to receive payments under the Act. In that case, a personal representative must sign for the individual (even if the personal representative also signed in Section D above). If multiple surviving children or surviving parents are filing jointly, at least one of these survivors must sign the petition. Enter the requested information.

- **Name (printed clearly or typed):** The name of the person signing the petition, presented legibly.

(Section E continued, next page)

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

- **Signature:** An original signature in ink.
- **Date:** Date petition was signed (month, day, and year).

USE OF SOCIAL SECURITY NUMBERS

Pursuant to the Debt Collection Improvement Act of 1996, and in furtherance of the Ricky Ray Hemophilia Relief Fund Act of 1998, the Petition asks petitioners to provide social security account numbers. This information will be used by the Department of Health and Human Services to verify the identity of individuals filing petitions and to determine their eligibility for payment. This information will also be used by the Department of the Treasury to transmit payment data, by electronic means, to the financial institutions of individuals deemed eligible for a compassionate payment. Furnishing this information on the Petition is voluntary, but failure to do so may delay or prevent the receipt of a compassionate payment.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

RICKY RAY HEMOPHILIA RELIEF FUND
PETITION DOCUMENTATION CHECKLIST

To determine the documentation you need to complete your petition, please check those options below that apply to you, and provide the documentation as described. Also, all petitions must be filled out completely and signed under penalty of perjury.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	1. PERSONS WITH HIV	
☐	**The individual with a blood-clotting disorder and HIV.** An HIV infected individual who has a blood-clotting disorder, such as hemophilia, who was treated with antihemophilic factor at any time during the period from July 1, 1982, to December 31, 1987, in any state of the United States of America, the District of Columbia, U.S. territories, commonwealths, and possessions, or at any diplomatic area or military installation of the United States.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has an HIV infection. This medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The lawful spouse with HIV.** An HIV infected person who is the lawful spouse of an individual with a blood-clotting disorder and HIV, according to the laws of the place where the lawful spouse resides on the date this petition is filed.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the lawful spouse with HIV has an HIV infection.** The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. This affidavit is contained in Appendix B. **Legal documentation**: A marriage certificate or other proof of a lawful marriage that shows that the lawful spouse with HIV and the individual with a blood-clotting disorder and HIV are married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The former lawful spouse with HIV.** An HIV infected person who is the former lawful spouse of the individual with a blood-clotting disorder and HIV and (1) was the lawful spouse of the individual with a blood-clotting disorder and HIV at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987), and (2) is no longer married	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the former lawful spouse with HIV:** (1) has an HIV infection; and (2) with reasonable certainty contracted HIV from the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** (1) A marriage certificate or other proof of a lawful marriage, which shows that the former lawful spouse with HIV and the individual with a blood-clotting disorder and HIV were married at any time after the date of the individual's treatment with antihemophilic factor (this date of treatment must have been between July 1, 1982, and December 31, 1987); and (2) A divorce certificate or other proof of termination of the marriage.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the child with HIV:** (1) has an HIV infection; and (2) acquired an HIV infection through perinatal transmission from a birth mother who is the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** A birth certificate or other proof showing that the child with HIV is the child of a mother, who is the individual with a blood-clotting disorder and HIV.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the lawful spouse of an individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical documentation showing that the child with HIV:** (1) has an HIV infection; (2) acquired an HIV infection through perinatal transmission from a birth mother who is the lawful spouse with HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** a) A birth certificate or other proof showing that the child with HIV is the child of the mother with HIV; and b) A marriage certificate or other proof showing that the father with the blood-clotting disorder and HIV and the mother with HIV were lawfully married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	PERSONS WITH HIV *(Continued)*	
☐	**The child with HIV** who acquired an HIV infection through perinatal transmission from a mother who is the former lawful spouse of an individual with a blood-clotting disorder and HIV.	**Medical documentation showing that the individual with a blood-clotting disorder and HIV:** (1) has (or had) a blood-clotting disorder, such as hemophilia; (2) was treated with antihemophilic factor at any time between July 1, 1982, and December 31, 1987; and (3) has (or had) an HIV infection. **Medical Documentation showing that the child with HIV**: (1) has an HIV infection; and (2) acquired an HIV infection through perinatal transmission from a birth mother who is/was the former lawful spouse with HIV. **Medical documentation showing that the mother with HIV**: with reasonable certainty contracted HIV from the individual with a blood-clotting disorder and HIV. The required medical documentation may be submitted in the following forms: (a) copies of relevant portions of medical records, records maintained by a doctor, nurse, or other licensed health care provider, test results, prescription information, or other documentation possibly deemed credible by the Secretary (e.g., infusion logs and packing slips); or (b) an affidavit, signed under penalty of perjury, by a doctor or nurse practitioner, verifying that the medical criteria necessary for a petitioner to be eligible for payment under the Act are satisfied. The affidavit must include the doctor's or nurse practitioner's state and license number. The affidavit is contained in Appendix B. **Legal documentation:** a) A birth certificate or other proof showing that the child with HIV is the child of the mother with HIV; and b) A marriage certificate or other proof showing that the man with the blood-clotting disorder and HIV and the mother with HIV were lawfully married.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	2. SURVIVORS OF PERSONS WITH HIV	
☐	**Surviving spouse of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation**: (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV.
☐	**Surviving child or children of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a birth certificate, adoption certificate, documentation showing that you are the stepchild of the person with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation showing that you are the child of the person with HIV.
☐	**Surviving parent or parents of a person with HIV.**	**All medical and legal documentation** required for the person with HIV (i.e., the individual with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, or the child with HIV), as described in Section 1 above. **Legal documentation:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent of the person with HIV.

If you have any questions, go to the Ricky Ray web-site, www.hrsa.gov/bhpr/rickyray, or call the toll-free number, 1-888-496-0338.

CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
3. SURVIVORS FILING AN AMENDMENT TO A PRIOR PETITION		
☐	**Survivor or survivors of a person with HIV where the person with HIV filed a petition, but then died before receiving payment.**	**Legal documentation for spouse survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV. **Legal documentation for child survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving child, a birth certificate, adoption certificate, documentation that shows that you are the stepchild of the person with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation which shows that you are the child of the person with HIV. **Legal documentation for parent survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; and (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent of the person with HIV.

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CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	SURVIVORS FILING AN AMENDMENT TO A PRIOR PETITION *(Continued)*	
☐	**The next eligible survivor or survivors of a person with HIV where another survivor filed a petition or an amendment to a petition, but then died before receiving payment.**	**Legal documentation for spouse survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) a marriage certificate or other proof of lawful marriage, which shows that you were the spouse of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death. **Legal documentation for child survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving child, a birth certificate, adoption certificate, documentation that shows that you are the stepchild of the child with HIV (i.e., a certificate of marriage between your parent and the person with HIV), or other documentation which shows that you are the child of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death. **Legal documentation for parent survivors:** (1) a death certificate for the person with HIV, or other evidence of that person's death; (2) for each surviving parent, a birth certificate, adoption certificate, or other documentation which shows that you are the parent(s) of the person with HIV; and (3) a death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death.
☐	**Survivor or survivors of a person with HIV where multiple surviving children or surviving parents filed a petition, but one of the survivors died before receiving payment.**	**Legal documentation:** A death certificate for the person who was listed as a survivor on the original petition or amendment who has died, or other evidence of that person's death.

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CHECK BOX	CATEGORY OF ELIGIBILITY	REQUIRED DOCUMENTATION
	4. PERSONAL REPRESENTATIVES	
☐	**Personal Representatives:** Personal representatives may file a petition for an individual who is eligible to receive payment under the Act: (1) where the eligible individual does not have the legal capacity to receive payment under the Act, as described in §130.35(e); or (2) where the eligible individual does have the capacity to receive payment under the Act, but only if the sworn statement included at the end of the petition is signed by the eligible individual.	**In all cases, the personal representative must submit all medical and legal documentation required for the eligible individual.** In those cases in which the eligible individual does not have the legal capacity to receive payment under the Act, a personal representative may receive payment for a legally incompetent individual by submitting the following written documentation: (1) proof showing the eligible individual does not have the legal capacity to receive payment under the Act (e.g., a birth certificate showing that the eligible individual is a minor or other evidence showing that the eligible individual is legally incompetent); and (2) proof showing that you have the authority to receive payment for the eligible individual (e.g., proof of legal guardianship).

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