



# PROGRAM ASSISTANCE LETTER

**DOCUMENT NUMBER:** 2024-02

**DOCUMENT NAME:** Instructions for Completing Federal Tort Claims Act Volunteer Health Professionals Emergency Deeming Sponsorship Applications

**DATE:** April 1, 2024

**TO:** Health Center Program Award Recipients  
National Training and Technical Assistance Partners  
Primary Care Associations  
Primary Care Offices

## I. PURPOSE

The purpose of this Program Assistance Letter (PAL) is to provide information and instructions to assist health centers that have been approved by the Health Resources and Services Administration (HRSA) to submit a streamlined Volunteer Health Professionals (VHP) Emergency Deeming Sponsorship Application in certain emergencies for new VHPs to be deemed as Public Health Service (PHS) employees. This PAL also sets forth certain statutory requirements in section 224(q) relating to liability protections for VHPs.

This PAL applies only to those deemed health centers that have been determined by HRSA to have a need for additional staffing to support short-term health services needs provided through its Health Center Program scope of project within the community it serves as a consequence of a declared emergency or other emergency situation that has been recognized by HRSA for this purpose, and for which HRSA has determined that a streamlined deeming application process therefore may be used to address those short-term staffing needs.

## II. BACKGROUND

Section 9025 of the 21st Century Cures Act (Pub. L. 114-255) added subsection 224(q) to the PHS Act (42 U.S.C. § 233(q)), extending eligibility for liability protections for the performance of medical, surgical, dental, and related functions to certain sponsored VHPs of health centers that have also been deemed as employees of the PHS. Through processes established by HRSA for this purpose, VHPs sponsored by deemed health centers may be deemed by HRSA as PHS employees with associated Federal Tort Claims Act (FTCA) coverage for actions eligible for such coverage under this provision.

Under subsection 224(q)(2) of the PHS Act, in providing a health service to an individual, a health care practitioner shall be considered to be a VHP at a deemed health center if the following conditions are met:

- 1) The service is provided to patients at the sponsoring deemed health center facilities or through offsite programs or events carried out by the sponsoring health center;
- 2) The deemed entity is sponsoring the health care practitioner (as described in section 224(q)(3)(e));
- 3) The health care practitioner does not receive any compensation for the service from the patient, the sponsoring health center, or any third-party payer (including reimbursement under any insurance policy, health plan, or federal or state health benefits program).<sup>1</sup> However, the health care practitioner may receive repayment from the sponsoring health center for reasonable expenses incurred in providing the service to the patient;<sup>2</sup>
- 4) Before the service is provided, the health care practitioner or the deemed entity posts a clear and conspicuous notice at the site where the service is provided of the extent to which the legal liability of the health care practitioner is limited pursuant to subsection 224(q);<sup>3</sup>
- 5) At the time service is provided, the VHP is licensed or certified in accordance with applicable federal and state laws regarding the provision of the service;<sup>4</sup> and
- 6) The sponsoring health center also must maintain relevant documentation to show that the VHP meets the requirements to be considered a VHP for purposes of FTCA coverage under section 224(q).<sup>5</sup>

Deemed PHS employment extends certain civil liability protections, including FTCA coverage and immunity from lawsuits and related civil actions, resulting from the performance of medical,

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<sup>1</sup> This limitation on receipt of compensation applies only to the VHP and not to the health center. For more information on how health centers demonstrate compliance with Health Center Program billing and collections requirements, see [Health Center Program Compliance Manual, Chapter 16, Billing and Collections](#).

<sup>2</sup> The sponsoring health center may reimburse the VHP for reasonable expenses incurred by the volunteer in providing services on behalf of the health center. Examples of permissible reasonable expenses include travel expenditures to or from the site of services, gas, rental car, public transportation, and lodging costs. Health centers may also provide or reimburse for the costs of equipment or supplies necessary to facilitate services to health center patients (e.g., lab coat, gloves, surgical masks).

<sup>3</sup> While not required, health centers utilizing VHPs, in addition to meeting the statutory requirement of ensuring the posting of a clear and conspicuous notice of their limited liability at the site where the service is provided, may wish to provide written notice and obtain a signed acknowledgment from patients of their limited liability under this provision. See a sample [Patient Acknowledgement of Notice of Limited Liability for FTCA Deemed Health Centers form](#).

<sup>4</sup> VHPs must be licensed or certified, as required by section 224(q)(2) of the PHS Act, and appropriately credentialed and privileged in accordance with the [Health Center Program Compliance Manual, Chapter 5, Clinical Staffing](#).

<sup>5</sup> Relevant documentation that must be maintained by the deemed sponsoring health center includes documentation of the VHP's status at the health center, to include: (1) documentation of the VHP's licensing and/or certification; and (2) a written, signed agreement that clearly states that the health professional is a volunteer of the health center and outlines the terms and conditions of the services that the volunteer will provide (which reflects the requirements of section 224(q)). See a sample [Volunteer Agreement form](#).

surgical, dental, and related functions that are found to be within the scope of deemed PHS employment. FTCA scope of employment determinations are fact-specific, made by the Department of Justice and the federal district courts for matters in litigation and by Departmental claims officials for administrative tort claims, and, among other items, generally take into account such matters as the scope of project of the health center and the scope of the provider's work on behalf of the health center. For further information regarding the Health Center FTCA Program, see the Health Center FTCA Program website (<https://bphc.hrsa.gov/initiatives/ftca>).

Health centers must submit to HRSA a deeming sponsorship application on behalf of their individually named VHPs. Each deeming sponsorship application for an individual VHP submitted by the health center must be approved by HRSA for coverage to become effective for the time period specified in the Notice of Deeming Action (NDA). **Health center VHPs do not receive deemed PHS employee status automatically, nor do they receive deemed PHS employment derivatively through the deeming of the health center due to distinct statutory requirements applicable to the deeming of health center VHPs, as contrasted with the statutory requirements applicable to “covered individuals” who are not health center VHPs.**

FTCA coverage applies during the effective period of the deeming determination, within a particular calendar year, as further specified in the NDA. The deeming determination occurs only when an FTCA deeming application submitted by the sponsoring health center on behalf of the VHP is approved by HRSA.<sup>6</sup>

As noted above, section 224(q)(2)(A) makes FTCA coverage available to eligible VHPs for services “at the facilities of” a deemed entity “or through offsite programs and events carried out by the entity.” Activities, including the provision of services, that are beyond the scope of the statutory description are not eligible for FTCA coverage. Health centers should carefully review the language of section 224(q) in determining how they intend to utilize volunteer services and their potential need for private malpractice insurance for activities beyond the scope of the statutory description.

Because subrecipients that provide a full range of services on behalf of a grantee are eligible for deeming based on their receipt of Health Center Program award funding from the award recipient to carry out a portion of the grant-supported project, only the award recipient (the entity named on the Notice of Award) can transmit a request to HRSA for deeming of subrecipient VHPs, with resultant FTCA coverage, through HRSA's Electronic Handbooks (EHBs).

### **III. KEY UPDATES AND CHANGES: STREAMLINED DEEMING PROCESS FOR CERTAIN VHPs OF CERTAIN HEALTH CENTERS DURING CERTAIN EMERGENCIES**

HRSA recognizes that in certain emergencies, the VHP Deeming Sponsorship Application process should be streamlined to facilitate rapid onboarding of VHPs to support an affected health center's need. To achieve this goal, HRSA is supporting a VHP Emergency Deeming Sponsorship Application, which can only be utilized by those health centers identified by HRSA and only for certain HRSA-approved emergencies.

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<sup>6</sup>All services provided by volunteers must be consistent with section 224(q) and within the health center's approved scope of project.

Health centers will be notified when HRSA makes the streamlined VHP Emergency Deeming Sponsorship Application available for use within the EHBs. Approval of VHP Emergency Deeming Sponsorship Applications will apply for not more than 90 days unless HRSA determines that a longer period is warranted. It is the health center's responsibility to be aware of coverage expiration dates noted on the NDA. Health centers seeking coverage beyond the period specified on the NDA issued in response to a VHP Emergency Deeming Sponsorship Application must submit a non-emergency VHP Deeming Sponsorship Application or, if made available by HRSA, a supplemental VHP Emergency Deeming Sponsorship Application.

For the purposes of this PAL, and consistent with PAL 2024-01 and the FTCA Health Center Policy Manual, Section F, an "emergency" or "disaster" is defined as an event affecting the overall health center target population and/or the health center's community at large, which precipitates the declaration of a state of emergency at a local, state, regional, or national level by an authorized public official such as a governor, the Secretary of the Department of Health and Human Services, or the President of the United States. Examples include but are not limited to hurricanes, floods, earthquakes, tornadoes, widespread fires, and other natural/environmental disasters; civil disturbances; terrorist attacks; collapses of significant structures within the community (e.g., buildings, bridges); and infectious disease outbreaks or other public health threats. In limited situations, where an emergency has not been officially declared, but the circumstances and facts of the situation would otherwise meet the criteria stated above except for the lack of an official declaration ("other emergency situation"), HRSA will evaluate on a case-by-case basis whether extraordinary circumstances justify a determination that the situation faced by the health center constitutes an "emergency" for purposes of this PAL. In either case, HRSA will determine whether the circumstances surrounding the emergency warrant application of this PAL to certain specific health center(s).

**Note: VHP Emergency Deeming Sponsorship Applications submitted by health centers that are not approved for this purpose or are submitted for emergencies that HRSA has not approved for this purpose will not be approved. In these cases, health centers must submit the standard VHP Deeming Sponsorship Application if they wish to obtain deemed PHS employment for a sponsored VHP.**

#### **IV. VHP FTCA PROGRAM EMERGENCY DEEMING SPONSORSHIP APPLICATION REQUIREMENTS AND PROCEDURES**

HRSA is adopting a new, streamlined VHP Emergency Deeming Sponsorship Application, aligned with the temporary credentialing and privileging requirements of PAL 2024-01, that may be used by certain health centers (as identified by HRSA) that are affected by a declared emergency or other emergency situation (as identified by HRSA for this purpose), to seek expedited deemed status for certain of their sponsored VHPs for a limited time period to support short-term staffing needs based on the impact of the identified emergencies. The purpose of this streamlined deeming sponsorship application is to facilitate rapid onboarding of VHPs for health centers affected by an emergency when, in HRSA's judgment, requiring the usual VHP deeming sponsorship application would not sufficiently support the health center's short-term staffing needs.

Such health centers may submit a streamlined VHP Emergency Deeming Sponsorship Application on behalf of their individually named VHPs to HRSA. Such applications must be submitted through the EHBs. VHP Emergency Deeming Sponsorship Applications will only be available to specified health centers when HRSA has determined a declared emergency or other emergency situation warrants the use of a streamlined deeming sponsorship application.

The effective period of coverage under such a streamlined VHP Emergency Deeming Sponsorship Application will be limited to 90 days within a specific calendar year, unless otherwise specified by HRSA. If the 90-day period extends over two calendar years, a second NDA will be issued for the remaining portion of the 90 days during the subsequent calendar year. Health centers may also submit a regular individual VHP Deeming Sponsorship Application that, when approved, will become effective at the end of the period covered by the NDA issued for the VHP Emergency Deeming Sponsorship Application and remain in effect throughout the relevant calendar year.

During a HRSA approved emergency, health centers requesting FTCA coverage on behalf of a subrecipient's VHPs must submit a VHP Emergency Deeming Sponsorship Application on behalf of each individually named VHP on the subrecipient's behalf.

VHP Emergency Deeming Sponsorship Applications require the following information:

- 1) Contact information for the sponsoring health center;
- 2) A list of the names and required information for all VHPs the sponsoring deemed health center is submitting for deemed status [note: the sponsoring health center must not include individuals who are not VHPs, such as employees, contractors, governing board members, and officers, on this list];
- 3) Contact information for all VHPs whom the health center is sponsoring for deemed employment status, including name, mailing address, email address, and phone number for each individual;<sup>7</sup>
- 4) Attestation that the health center has documentation, verified by primary or secondary source verification, showing that each VHP presented for deeming currently holds an unrestricted license or certification to provide professional health services by an appropriate state/jurisdictional entity;
- 5) Attestation that the health center has documentation supported by primary or secondary source verification showing that each VHP presented for deeming has been privileged or otherwise deemed competent to provide professional health services (including any potential restrictions), and whether such privileges were extended by the sponsoring health center;
- 6) Attestation that each VHP presented for deeming has a current written, executed volunteer agreement with the sponsoring health center;
- 7) Attestation that the health center has performed a background check in accordance with state/jurisdiction law for health care practitioners (where required);

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<sup>7</sup> Addresses and phone numbers provided for individuals must be personal mailing addresses that are different from that of the sponsoring health center.

- 8) Assurance that the health center has ensured that all individuals for whom deeming is sought, meet and will continue to meet the statutory eligibility criteria throughout the deeming period;
- 9) A description of the practice area and work that the individual will be performing for the sponsoring health center; and
- 10) Electronic signature by a representative of the sponsoring health center, who expressly warrants that they are authorized to act on behalf of the health center, affirming that all statements and assertions made on the deeming application are true under penalty of perjury.

## V. NOTICE OF DEEMING ACTION

When HRSA approves a VHP Emergency Deeming Sponsorship Application, HRSA will issue a NDA listing each individually deemed VHP. The NDA is effective only for the dates specified in the NDA and during a specific individual calendar year. If the 90-day period extends over two calendar years, a second NDA will be issued for the remaining portion of the 90 days during the subsequent calendar year. If an individual's name appears on a VHP NDA as disapproved or is not listed on the NDA, **that individual has not been approved by HRSA for deemed PHS employment, and liability protections, including FTCA coverage, will not apply.** If a VHP Emergency Deeming Sponsorship Application is not approved, HRSA will notify the health center and provide an explanation of the reasons for disapproval.

## VI. CONTACT INFORMATION

For programmatic support regarding the FTCA Program, application requirements, and technical/EHBs support, please contact:

Health Center Program Support

Phone: 1-877-464-4772, option 1

8:00 a.m. to 5:30 p.m. ET, Monday through Friday (except federal holidays)

Web contact form: <https://hrsa.force.com/support/s/>

(s)

James Macrae

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Bureau of Primary Health Care

## Volunteer Health Professionals (VHP) Emergency Deeming Sponsorship Application

(Note: The application form below is only illustrative. HRSA may specify different requirements for the VHP Emergency Deeming Sponsorship Application in HRSA's Electronic Handbooks (EHBs) System.)

<b>Department of Health and Human Services Health Resources and Services Administration</b>		
<b>OMB#</b>	<b>Award Recipient Name</b>	<b>Grant Number</b>

<b>Contact Information</b>	
<b>CONTACT INFORMATION (Include an honorific (e.g., Ms., Mrs., Mr., Dr., etc.) before the name) All fields marked with an * are required.</b>	
<b>EXECUTIVE DIRECTOR (Must electronically sign and certify the volunteer health professional sponsorship application prior to submission)</b> * Name: * Email: * Direct Phone: Fax:	

<b>Section I. Sponsoring Health Center Acknowledgements of Deemed Status Requirements</b>
<p>1. The sponsoring health center acknowledges its understanding that, under section 224(q)(3)(B) of the Public Health Service (PHS) Act, only a health center entity receiving funds under section 330 of the PHS Act (the Health Center Program) and deemed as a PHS employee under the Federally Supported Health Centers Assistance Acts (FSHCAA) of 1992 (Pub. L. 102-501) and 1995 (Pub. L. 104-73), as amended, may sponsor a volunteer health professional (VHP) to become a deemed PHS employee for purposes of liability protections for those individual VHPs under section 224(q) of the PHS Act.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>2. The sponsoring health center also acknowledges its understanding that, if its entity FTCA deeming or redeeming application for the applicable calendar year is not approved, its sponsored volunteers will become automatically ineligible for FTCA coverage as deemed PHS employees for that calendar year under section 224(q) of the PHS Act.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3. Further, the health center acknowledges its understanding that, by signing this VHP application, the materials submitted as part of its initial entity FTCA deeming or redeeming application and the entity's Notice of Deeming Action will be utilized by HRSA in determining whether the entity is eligible to sponsor health center volunteers for deemed PHS employment. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>

**Section II. Volunteer Health Professional: Acknowledgment of Required Performance Conditions (Responses Required)**

**For each of the individual VHP listed in Section III below, the sponsoring health center acknowledges its understanding that, for a volunteer to be considered a VHP, the following requirements must be met:**

**1. The services provided by the VHP occur at the sponsoring health center’s facilities (i.e., at its approved service sites) or through offsite programs or events carried out by the sponsoring health center (section 224(q)(2)(A)).**

Yes

**2. The VHP does not receive any compensation for the service from the individual, the sponsoring health center, or any third-party payer (including reimbursement under any insurance policy, health plan, or federal or state health benefits program); except that the VHP may receive repayment from the sponsoring health center for reasonable expenses incurred by the VHP in the provision of the service to the individual, which may include travel expenses to or from the site of services (section 224(q)(2)(C)).**

Yes

**3. Before the service is provided, the VHP or the sponsoring deemed health center posts a clear and conspicuous notice at the site where the service is provided of the extent to which the legal liability of the health care practitioner is limited pursuant to the Public Health Service Act (section 224(q)(2)(D)).**

Yes

**4. At the time the service(s) is provided, the VHP(s) is licensed or certified in accordance with applicable federal and state laws regarding the provision of the service(s) (section 224(q)(2)(E)).**

Yes

**5. The sponsoring health center maintains all relevant documentation certifying that the volunteer meets the requirements to be considered a VHP (section 224(q)(2)(F)).**

Yes

**The sponsoring health center acknowledges its understanding that for each VHP the following is required:**

**6. Before the service is provided, the sponsoring health center must credential and privilege the VHP(s) in accordance with all current Health Center Program and FTCA Program credentialing and privileging requirements and maintain this information in a file for each VHP (section 224(q)(3)).**

Yes

**7. The health center attests that it has performed a background check in accordance with state/jurisdiction law for health care practitioners (where required)**

Yes



**Section III. Volunteers Sponsored for Deeming**

**Please specify the HRSA-approved declared emergency or other emergency situation (Please note: Declared emergencies that HRSA has not indicated qualify for the submission of this type of VHP application will not be approved.)**

**Comment Box:**

**For each Volunteer Health Professional sponsored for deeming, provide the following information.**

**(Note 1: Do NOT include on this listing individuals who are not volunteer health professionals, such as employees, contractors, governing board members and officers.)**

**(Note 2: Do NOT include on this listing individuals who are trainees (i.e., students, interns, or residents) conducting duties as part of a residency program. These individuals are not eligible for deemed PHS employment through the VHP Program.)**

**Add Individual Details\***

- Prefix:
- First Name:
- Middle Name:
- Last Name:
- Professional Designation (e.g., MD, RN, etc.):

**Contact Information**

- Work Email Address:
- Work Phone Number:
- Work Fax Number:
- Work Mailing Address:
- Personal Email Address:
- Personal Phone Number:
- Personal Fax Number (if any):
- Personal Mailing Address:

**Section III. Volunteers Sponsored for Deeming**

**Volunteer Health Professional Agreement and Education**

I attest that the health center has a volunteer agreement for each individually named volunteer that clearly states:

- a) that the sponsored health professional is a volunteer of the health center,
- b) the terms and conditions of the services that the volunteer will provide,
- c) that the health professional will not receive any compensation including reimbursement from any third-party payor.

Yes    No

I attest that my health center has provided each individually named volunteer health professional information explaining the limits of liability protections under section 224(q), including documentation of each off-site program or event where the health professional will provide services on behalf of the health center.

Yes    No

**Credentialing and Privileging**

I attest that each individually named volunteer health professional has been credentialed and privileged by the health center in accordance with all applicable Health Center Program and FTCA Program credentialing and privileging requirements. (Each sponsored VHP must be credentialed and privileged by the health center in accordance with the Health Center Program Compliance Manual, Chapter 5 or, when applicable, PAL 2017-07.) All volunteers must be credentialed at least every two years.

**Licensure and/or Certification**

I attest that the sponsored VHP is required to be licensed or certified in accordance with applicable Federal and State laws to perform the services that are requested and the health center, when possible, has verified all applicable license information via primary source verification.

Yes  No

**Section III. Volunteers Sponsored for Deeming**

<p><b>Medical Malpractice History</b></p> <ul style="list-style-type: none"> <li>I attest that the health center has reviewed the medical malpractice claims history for the sponsored VHP and any history of state board disciplinary actions and/or state or federal court (including any FTCA) malpractice claims within ten (10) years prior to the submission of this FTCA volunteer health professional deeming application? This review included both pending and resolved administrative and civil claims. I attest that, based on this review, the health center has determined that the sponsored VHP does not present an unacceptable risk of medical malpractice claims or lawsuits.</li> </ul> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>	
<p><b>*Notes:</b></p> <ul style="list-style-type: none"> <li>Within the EHBs, the sponsoring health center is required to submit the information outlined above for each individual volunteer for whom it is seeking FTCA coverage.</li> <li>The sponsoring health center must provide both work and personal contact information for <u>each</u> health center VHP the health center is sponsoring for FTCA deemed status.</li> </ul>	

**Section IV. Signatures**

<p align="center"><b>Certification and Signature</b></p>
<p>I, _____ (Authorized Health Center Representative)*, have the authority to act on behalf of the health center with respect to this application and certify that, to the best of my knowledge and belief, (1) this sponsoring health center meets the statutory eligibility criteria for deemed status/FTCA coverage, as reflected in its current calendar year deeming application; (2) this sponsoring health center has maintained its credentialing, privileging, and risk management systems in accordance with Health Center Program and Health Center FTCA Program requirements; and (3) the information in this application and the related attachments is complete and accurate. I understand that by printing my name I am signing the application under penalty of perjury.</p>
<p><b>*The application must be signed by Health Center Representative, as indicated in Section I. Contact Information.</b></p>