

rate may be adjusted based upon age, sex, and geographical location.

§ 148.310 Eligibility requirements for a grant.

A State must meet all of the following requirements to be eligible for a grant:

(a) The State has a qualified high risk pool as defined in § 148.308.

(b) The pool restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates for the State.

(c) The pool offers a choice of two or more coverage options through the pool.

(d) The pool has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with the operation of the pool.

(e) The pool has incurred a loss in a period described in § 148.314.

§ 148.312 Amount of grant payment.

(a) An eligible State may receive a grant to fund up to 50 percent of the losses incurred in the operation of its qualified high risk pool during the period for which it is applying.

(b) Funds will be allocated to each eligible State in accordance with the following formula:

(1) The number of uninsured individuals is calculated for each eligible State by taking a 3-year average of the number of uninsured individuals in that State in the Current Population Survey (CPS) of the Census Bureau. For grants based upon State fiscal years 2002 and 2003, a 3-year average will be calculated using numbers available as of May 1, 2003. For grants based upon State fiscal year 2004, a 3-year average will be calculated using numbers available as of March 1, 2005. Calculation of the State 3-year average will be done by the Census Bureau and provided to CMS.

(2) Based upon the CPS numbers, the State's percentage of the total uninsured population of eligible States is calculated and then multiplied by \$40 million to determine the State's maximum allotment for the fiscal year in question. The following example illustrates the formula in paragraph (b):

(i) The most current 3-year average of uninsured individuals in State A is one million, and the 3-year average of uninsured individuals for all eligible States is 10 million. State A has 10 percent of the uninsured population of the eligible States.

(ii) Under this example, State A's allotment would be 10 percent of \$40 million, or \$4 million, for the fiscal year in question.

(c) The amount awarded to each eligible State will be the lesser of the 50 percent of losses incurred by its qualified risk pool for the fiscal year in question or its allotment under the formula.

§ 148.314 Periods during which eligible States may apply for a grant.

(a) *General Rule.* A State that meets the eligibility requirements in § 148.310 may apply for a grant to fund losses that were incurred during the State's fiscal year 2002, 2003, or 2004 in connection with the operation of its qualified high risk pool. A State may apply for losses incurred in a partial fiscal year if a partial year audit is done.

(b) *Maximum number of grants.* An eligible State may only be awarded a maximum of two grants, with one grant per fiscal year. A grant for a partial fiscal year counts as a full grant.

(c) *Deadline for submitting grant applications.* The deadlines for submitting grant applications are stated in § 148.316(d).

(d) *Initial distribution of grant funds.* States that meet all of the eligibility requirements in § 148.310 and submit timely requests in accordance with paragraph (c) of this section will receive an initial distribution of grant funds using the following methodology:

(1) *Initial grant applications submitted for losses incurred in State fiscal year 2002 (hereafter referred to as 02 States).* Initial grants to States that submit an application for losses incurred in State fiscal year 2002 will be funded with Federal fiscal year 2003 funds.

(2) *Initial grant applications submitted for losses incurred in State fiscal year 2003 (hereafter referred to as 03 States).* Initial grants to States that did not submit an application for losses in State fiscal year 2002 (or submitted an application but did not qualify) and first qualified

§ 148.316

for a grant for losses incurred in State fiscal year 2003 will be funded with Federal fiscal year 2003 funds.

(3) *Initial grant allocations.* Initial grant allocations will be determined by taking all grant applications described in paragraphs (d)(1) and (2) of this section, and allocating in accordance with § 148.312.

(4) *Other applications.* All other grants will be funded in the first instance with Federal fiscal year 2004 funds.

(e) *Reallocation of funds.* The initial grants to the 02 States and the 03 States will come from the Federal fiscal year 2003 funds. After the deadline for 02 grants, the Department will determine how many States have submitted applications for grants. The Department will then estimate, based on contacts with other States, how many requests are likely to be received from 03 States. The Department will make an initial allotment for 02 States based on these estimates. The Department will reserve some of the Federal fiscal year 2003 funds after the 02 States grant requests have been received in anticipation of requests being made by 03 States. The Department will hold in reserves adequate funds to provide full allotments to these States. If there are excess reserves (that is, the Department withholds more money than was necessary to provide grants to the 03 States), the excess funds will be proportionally redistributed to the 02 States and the 03 States, but not to exceed 50 percent of losses incurred by the States. The size of the first year grants will be increased retroactively for these States. Similarly, the Department will reserve some of the Federal fiscal year 2004 money to fund the second year grants for 02 and 03 States and the first year grants for the 04 States (that is, States that initially qualify based upon losses incurred in their fiscal year 2004).

§ 148.316 Grant application instructions.

(a) *Application package.* The individual States must compile an application package that documents that it has met the requirements for a grant. At a minimum, the package must include a completed standard form appli-

45 CFR Subtitle A (10-1-03 Edition)

cation kit (see paragraph (b) of this section) along with the following information:

(1) *History and description of the qualified high risk pool.* Provide a detailed description of the qualified high risk pool that includes the following:

(i) Brief history, including date of inception.

(ii) Enrollment criteria (including provisions for the admission of eligible individuals as defined in § 148.103) and number of enrollees.

(iii) Description of how coverage is provided administratively in the qualified high risk pool (that is, self-insured, through a private carrier, etc.).

(iv) Benefits options and packages offered in the qualified high risk pool to both eligible individual (as defined in § 148.103) and other applicants.

(v) Outline of plan benefits and coverage offered in the pool and the plan benefits and coverage of the two most popular policies in the State's private individual market.

(vi) Premiums charged (in terms of dollars and in percentage of standard risk rate) and other cost-sharing mechanisms, such as co-pays and deductibles, imposed on enrollees (both eligible individuals (as defined in § 148.103) and non-eligible individuals if a distinction is made).

(vii) How the standard risk rate for the State is calculated and when it was last calculated.

(viii) Revenue sources for the qualified high risk pool, including current funding mechanisms and, if different, future funding mechanisms. Provide current projections of future income.

(ix) Copies of all governing authorities of the pool, including statutes, regulations and plan of operation.

(2) *Accounting of risk pool losses.* Provide a detailed accounting of claims paid, administrative expenses, and premiums collected for the fiscal year for which the grant is being requested. Indicate the timing of the fiscal year upon which the accounting is based. Provide the methodology of projecting losses and expenses, and include current projections of future operating losses (this information is needed to judge compliance with the requirements in § 148.310(d)).