

Dental Risk Management for Health Center Oral Health Programs

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Morris Heights Health Center , CAMCare

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Risk Management for Health Center Oral
Health Programs and the Federal Tort
Claims Act Review Process
National Primary Oral Health Care
Conference
December 13, 2004

by Jay R. Anderson, DMD, MHSA
Chief Dental Officer
Division of Clinical Quality
Bureau of Primary Health Care

U.S. Department of Health and Human Services



Health Resources and Services Administration

Bureau of Primary Health Care

Division of Clinical Quality

DCQ



U.S. Department of Health and Human Services



Background

- HRSA

- **Mission:** To improve and expand access to quality health care for all.
- **Goal:** Moving toward 100 percent access to health care and 0 health disparities for all Americans.

- BPHC

- **Mission:** To increase access to comprehensive primary and preventive care and to improve the health status of underserved and vulnerable populations.
- **Goal:** Developing and supporting systems of high quality, community-based, culturally competent health care.

HRSA

Bureau of Primary Health Care

Structured for the

Quality Improvement of Health Care for Underserved Populations





Division of Clinical Quality

Supports and enhances the provision of high quality clinical care within the national system of Federally funded health centers.



Division of Clinical Quality

OFFICE OF THE DIVISION DIRECTOR

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Clinical Quality Improvement Branch

Ahmed Calvo, MD, MPH, FAAFP
Branch Chief

Clinical Quality Data Branch

Kay Felix-Aaron, MD
Branch Chief

Clinical Quality Systems Branch

Felicia Collins, MD, MPH, FAAP
Branch Chief

Clinical Quality Improvement Branch (CQIB)

Roles and Activities

- Provides an infrastructure to assist health centers in responding to key health issues:
 - mental health
 - substance abuse
 - oral health
 - integration of science into prevention and the management of acute and chronic health conditions
- Coordinates BPHC participation in Healthy People 2010 activities
- Coordinates workforce issues
- Leads the Health Disparities Collaboratives activities

Clinical Quality Systems Branch (CQSB)

Roles and Activities

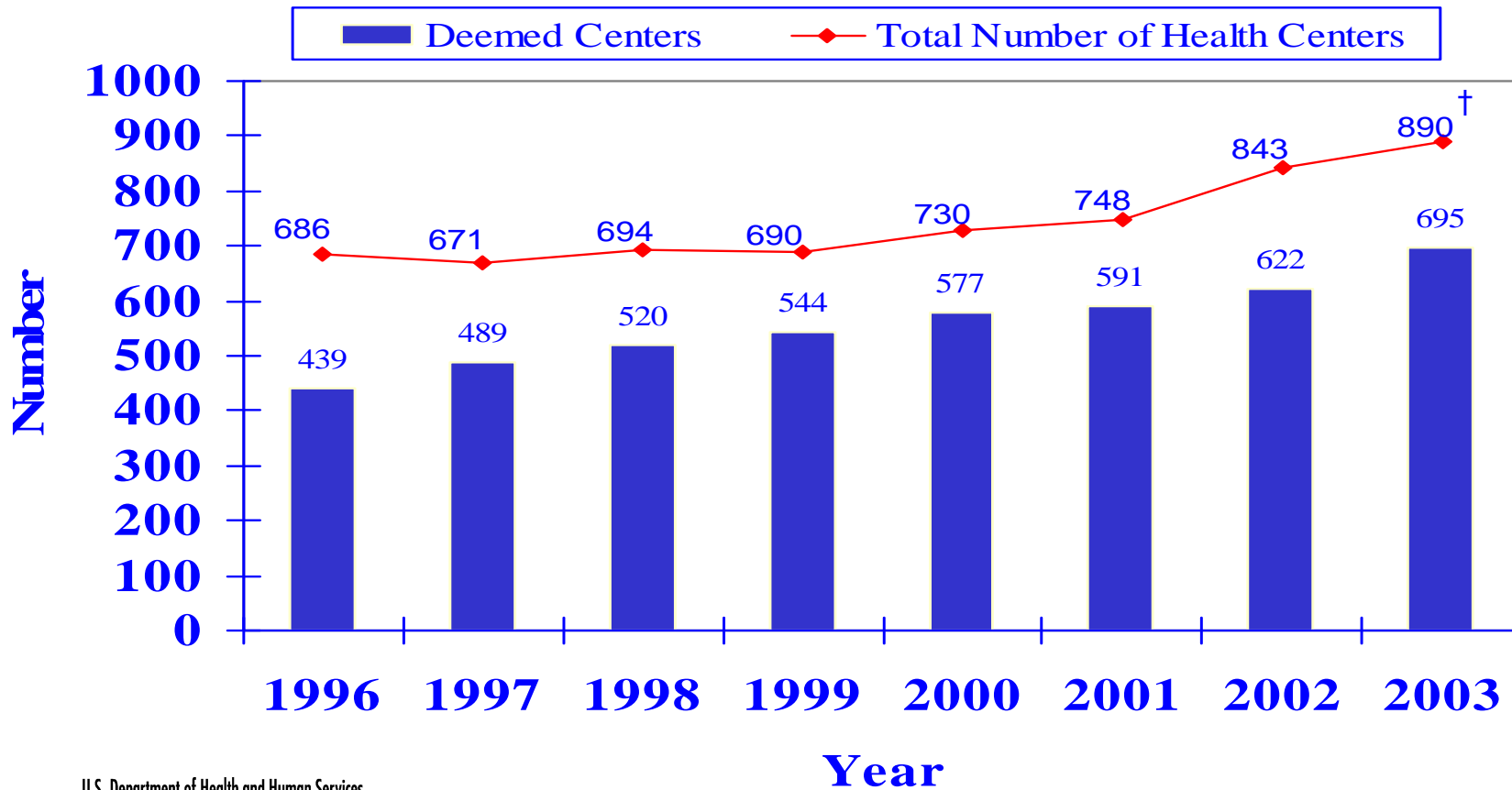
- Develops risk management and quality assurance activities for health center implementation
 - **Administers the Federal Tort Claims Act (FTCA) medical malpractice insurance programs**
 - Health centers
 - Free clinics
 - **Coordinates the external accreditation of health centers**
 - Formulates and provides leadership for health center emergency and disaster preparedness
 - **Develops other activities:**
 - Patient safety
 - Patient centered evaluation

Risk Management and Quality Assurance Health Center FTCA Program General Updates

- Nearly 800 health centers deemed
- Program has saved health centers an estimated \$1 Billion since its inception in 1993
- FTCA Program leadership within BPHC/DCG
 - **FTCA Program Manager**
 - Aida Stark 301-594-4442
 - **Health Center FTCA Risk and Claim Management Coordinator**
 - Susan Lewis 215-861-4364

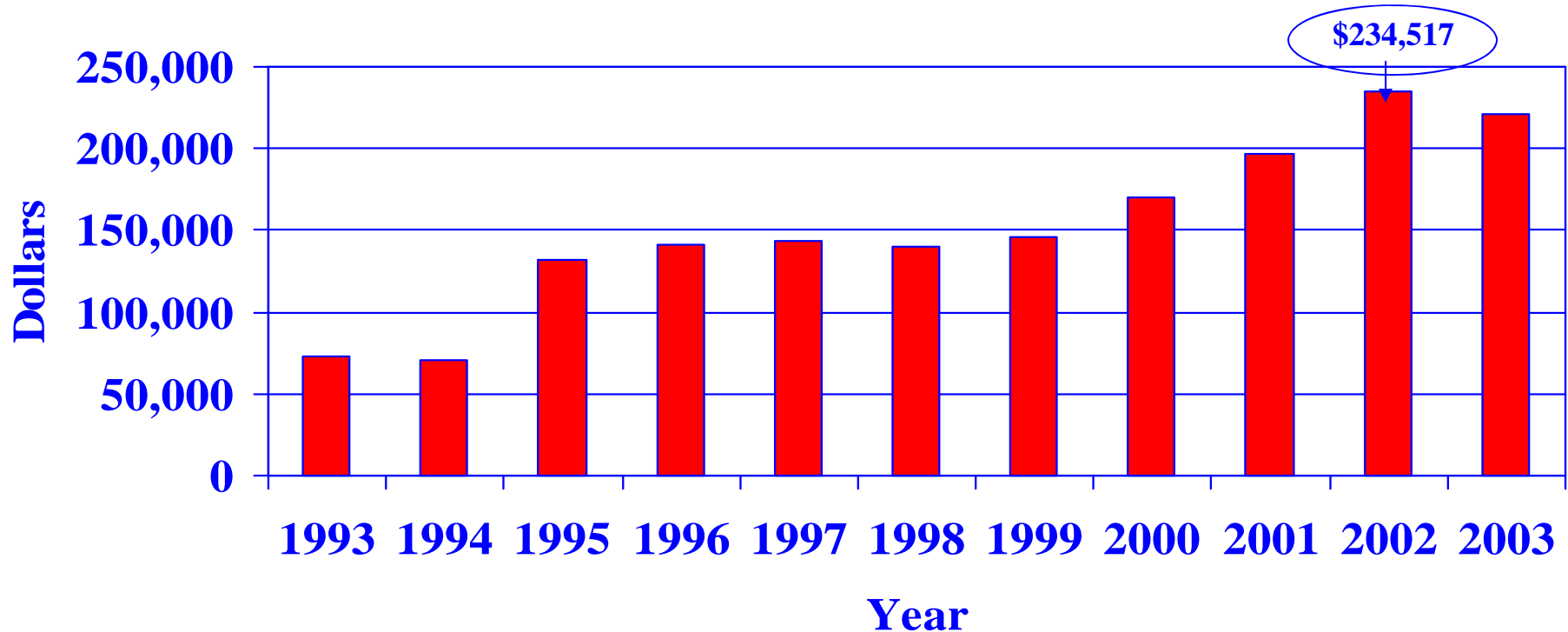
Number of Health Centers with FTCA* Medical Malpractice Coverage has Kept Pace with the Annually Increasing Number of Health Centers

FTCA Deemed** Health Centers, 1996-2003



Health Centers with FTCA Medical Malpractice Coverage have Realized Yearly Savings*

Estimated Average Savings Per Health Center, 1993-2003



*Health Center savings were calculated by The Triton Group based on the number of health centers deemed in each year and the malpractice premium structure for that year. Savings are a result of the Federally Supported Health Centers Assistance Act of 1992 which significantly reduced the need of health centers to purchase private malpractice coverage.

Risk Management and Quality Assurance

Health Center FTCA Program

Claims and Judgment Fund Updates

Claim Status

- Oct. 1994 thru March 2004 - 1375 Claims filed against the United States
 - Closed Claims - approximately 55% of total
 - Paid Claims – approximately 30% of closed claims
 - Average cost per paid claim - \$370,000
 - Average cost per closed claim - \$114,000

Health Center Judgment Fund

- FY 2004: sufficient funds available
- Lack of funds have no effect on Health Center coverage. Protection remains if fund is depleted. Plaintiffs have to wait to be paid.

Risk Management and Quality Assurance

Health Center FTCA Program

Original Deeming Reminders

- Original Deeming
 - Health centers can submit applications at any time during the year
 - BPHC notifies health centers of “deemed” status via an original deeming letter
 - Original deeming valid for the remainder of the calendar year (CY)
 - Health Center FTCA Original Deeming Coordinator
 - Susan Lewis 215-861-4364

Risk Management and Quality Assurance

Health Center FTCA Program

Redeeming – Reminders & New Processes

- Redeeming
 - Application should be submitted concurrent with each competitive and noncompetitive grant application
 - Competitive grant cycle – Redeeming application reviewed by DCQ
 - Noncompetitive grant cycle – Redeeming application reviewed by Division of Health Center Management Project Officers
 - Redeeming letters – will be sent annually
 - CY 2005 letters – expected December 2004
 - DCQ Redeeming Coordinators
 - Original Deeming Coordinator - Susan Lewis 215-861-4364
 - Redeeming Coordinator- Barbara (Bobbie) Braden 301-594-1324
 - Deeming/Redeeming Letter Coordinator - Julie Pinkham Wright 301-594-4139

Who is and isn't covered?

- FTCA covers ALL employees.
- This also includes employees who work part-time or those hired for short periods of time - such as locum tenens.
- As with any employee, there should be job descriptions and policies and procedures that clearly delineate roles, duties, responsibilities and tasks.
- These types of documents define the scope of employment, or those actions that employees can undertake on behalf of the community health center (CHC) and, therefore, will be protected under the FTCA malpractice claims immunity.

Who is and isn't covered?

- FTCA also covers ALL full-time contractors.
- The Act will cover part-time contractors (physicians, as well as non-physician providers) in family practice, pediatrics, OB/GYN, and general internal medicine.
- Any other specialty contractor (Dentists/Hygienists) must be full-time (over 32.5 hours/week) to be covered. For example, **part-time contract dentists are not covered.** Part-time employed dentists are covered.

Who is and isn't covered?

- Furthermore, in order for the contractor to be covered, the contract must be between the individual contractor and the entity as evidenced by a W-2 income tax form.
- FTCA does not cover contracts between the health center and any corporation. Contractors who work for an entity such as an agency, hospital, managed care organization or professional corporation will not be covered.

What activities are covered?

- All activities within the employee scope of employment and those that the health center has built into its approved scope of project are covered.
- Two situations that come up frequently: (1) all sites where health care services are performed are not listed in Exhibit B of the grant; and (2) changes to the scope of project are not requested prior to the change or are not requested at all.
- Sites not listed tend to be nursing homes, school-based programs and homeless shelters. Both of these situations may result in employees working without FTCA coverage.

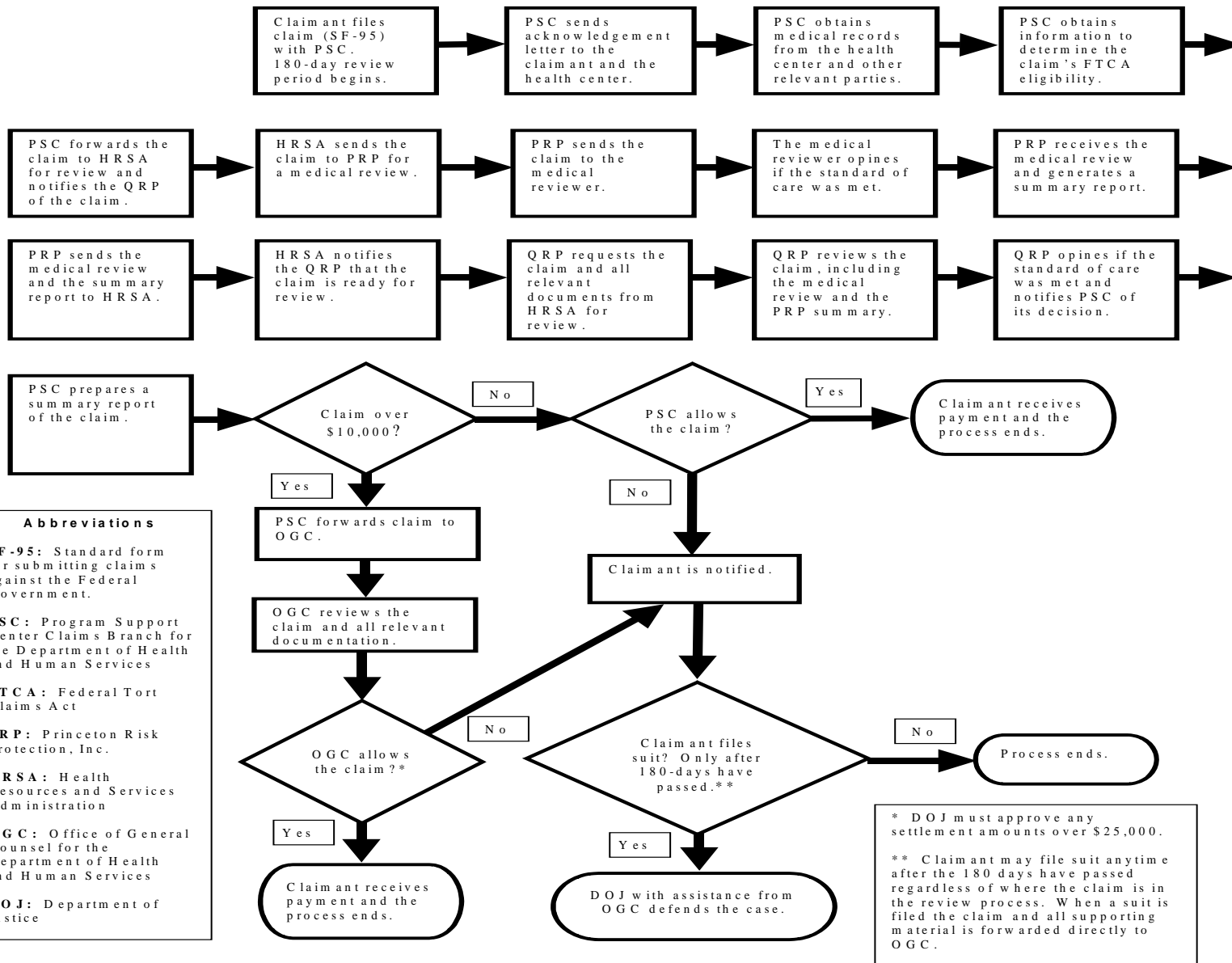
Claims Management

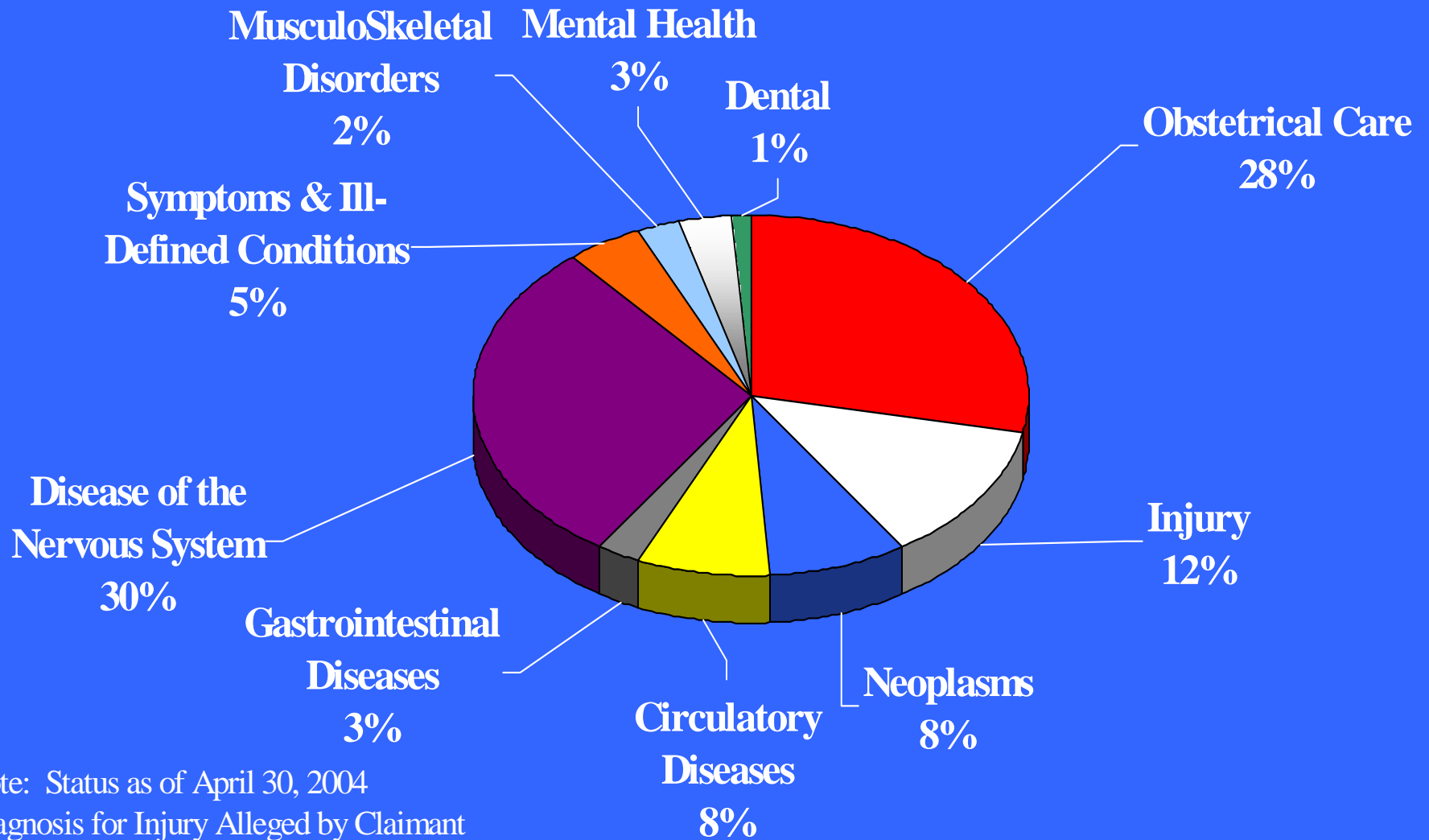
- A contract with KePro has recently been executed to provide medical malpractice claim services such as recommendations on risk management, claims, and claim trend data for the Center for Risk Management.
- HCs that have received a notice of a claim against an employee will receive a letter from KePro that will indicate the names of individuals assigned to perform the investigation and proper procedures.
- It is important that HCs cooperate in order to develop a complete assessment of the possible liabilities.

References

- "Clinician's Handbook on the Federal Claims Act"
- PIN 97-6: Clarification of Certain Policies and Procedures for Health Centers Deemed Covered under the FTCA for Medical and Dental Malpractice Liability
- PAL 99-15: Q & A on the FTCA Coverage; PIN 99-08: Health Centers and the FTCA
- PIN 00-04: Scope of Project Policy.
- All of these documents can be downloaded from the Bureau of Primary Health Care's (BPHC's) website at: www.bphc.hrsa.gov.

Appendix A. Administrative Review Process For Medical Malpractice Claims Against Deemed Health Centers Funded By HRSA





Note: Status as of April 30, 2004

Diagnosis for Injury Alleged by Claimant

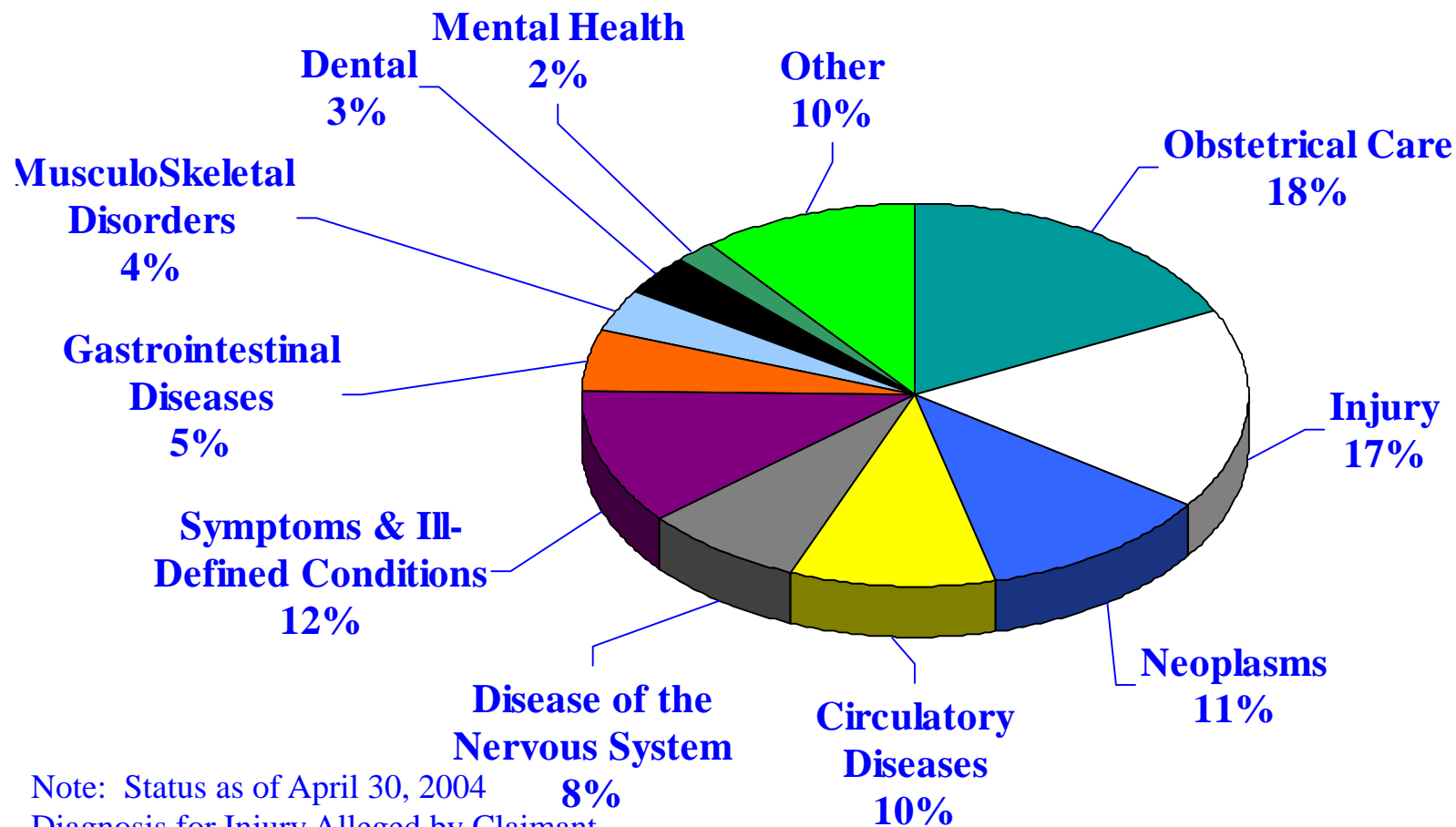
Source: Triton Group, Incorporated, Pompton Lake, NJ

Created by: BA Bartman, CQSB/DCQ/BPHC/HRSA, June 2004

Distribution of ICD-9 Diagnoses

Health Center Malpractice Cases, N=913

OB Care, Injuries and Neoplasms Most Common Cases



Note: Status as of April 30, 2004

Diagnosis for Injury Alleged by Claimant

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Risk Management and Quality Assurance

Health Center FTCA Program

Technical Assistance Reminders

- FTCA HELP LINE
 - Technical Assistance on Health Center FTCA Program
 - Proof of coverage requests
 - Call 866-FTCA-HELP (866-382-2435)

Risk Management and Quality Assurance

HRSA Accreditation Program

Benefits of Accreditation

- Is a benchmark of quality
- Increases competitiveness in marketplace
- Enhances staff recruitment and retention
- Improves staff morale and cohesion
- Provides systemic performance improvement

DCQ's Clinical Quality Charge Triple 100%

DCQ will support and enhance health centers' ability to move towards:

- 100% participating in a Health Disparities Collaborative
- 100% obtaining external accreditation of ambulatory care services
- 100% participating in structured risk management continuing education activities

BPHC's CHALLENGE AND GOAL:



BE **THE** MODEL FOR
PRIMARY HEALTH CARE IN
THE UNITED STATES

Contact Information

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