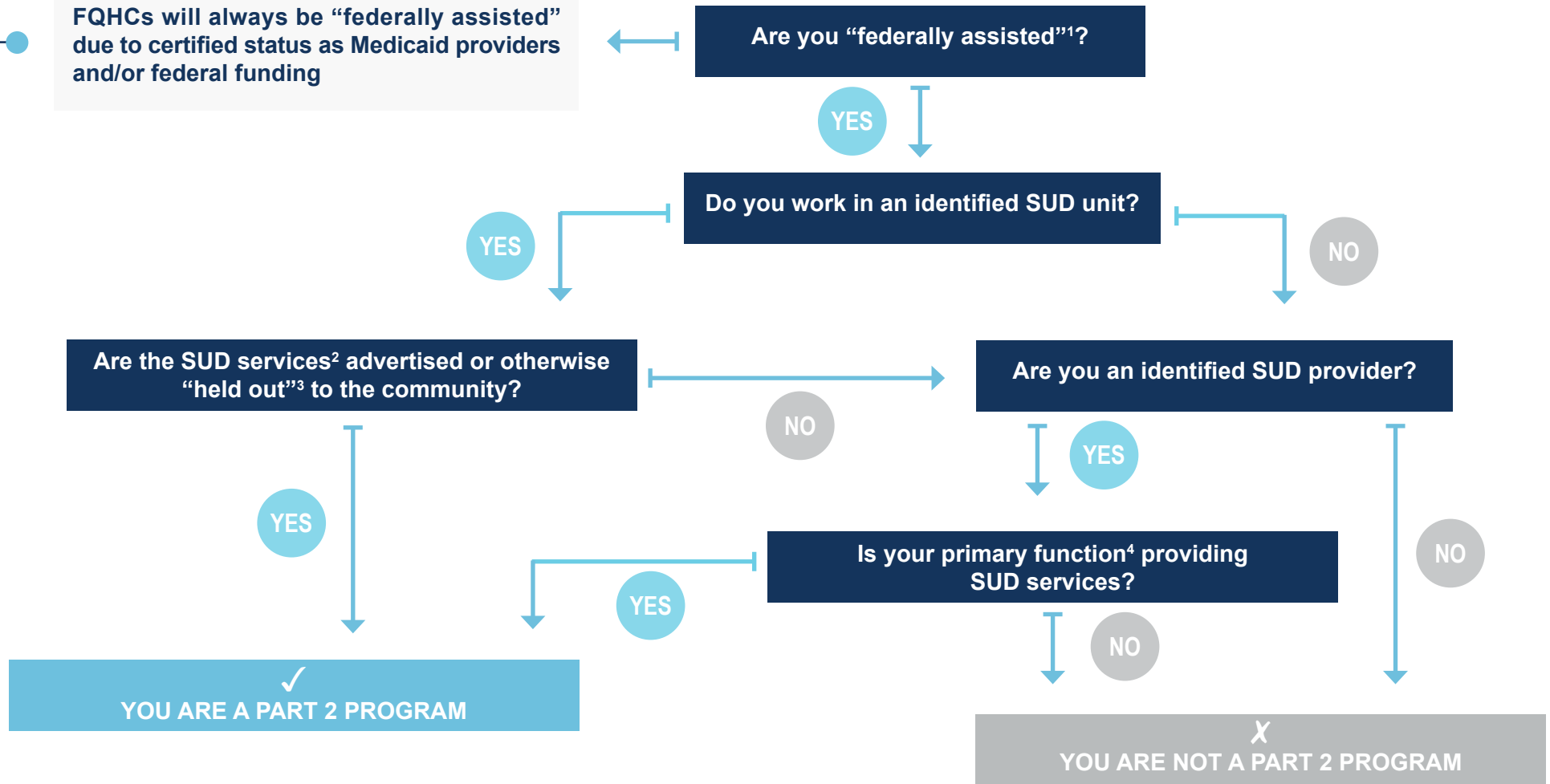


I Provide SUD Services in an FQHC: Does Part 2 Apply to Me?

Use the flowchart below to determine if Part 2 applies to you; See the next page for key terms.

NOTE:
FQHCs will always be “federally assisted” due to certified status as Medicaid providers and/or federal funding



For more information & resources, or to request technical assistance, please visit coephi.org.

Resources, training, technical assistance, and any other information provided through the Center of Excellence for Protected Health Information do not constitute legal advice. For legal advice, including legal advice on other applicable state and federal laws, please seek out local counsel.

Definitions

1 **“Federally Assisted”** means receiving federal funds, support, or authorization, including:

- Being conducted in whole or in part by any federal department or agency (but does not apply to the Department of Veterans Affairs); or
- Being carried out with a license, certification, registration, or other authorization granted by any federal department or agency, including participating providers in the Medicare program, authorization to conduct maintenance treatment or withdrawal management, or registration to dispense a controlled substance (e.g., DATA 2000 waiver to prescribe, dispense buprenorphine); or
- Being supported by federal funds, including financial assistance that does not directly pay for SUD services; or
- Being conducted by a state or local government unit receiving federal funds, if the federal funds may be used for SUD services; or
- Being assisted by the IRS (granted tax exempt status or allowing income tax deductions for contributions to the program).

Source: 42 CFR § 2.12(b)

2 **“SUD Services”** means diagnosis, treatment, or referral for treatment for a substance use disorder.

- Diagnosis means any reference to an individual’s substance use disorder, or to a condition which is identified as having been caused by that substance use disorder made for the purpose of treatment or referral for treatment.
- Treatment means the care of a patient suffering from a substance use disorder, a condition which is identified as having been caused by the substance use disorder, or both, in order to reduce or eliminate the adverse effects upon the patient.

Source: 42 CFR § 2.11

3 **“Held Out,” or “Holding Itself Out,”** means any activity that reasonably indicates to the public that the program provides SUD services, including but not limited to: advertising, state licensing procedures, statements to community or online, listings in SUD treatment registries, certifications in addiction treatment, and consultation activities with other practitioners.

Source: SAMHSA, *Applying the Substance Abuse Confidentiality Regulations, FAQ #10* (rev. April 18, 2019), <https://www.samhsa.gov/about-us/who-we-are/laws-regulations/confidentiality-regulations-faqs>

4 **“Primary Function”** is not defined in the regulations or in official guidance. In recent guidance, SAMHSA offered one example of a provider whose “primary function” did constitute SUD services, when the provider only treated patients with substance use disorders, and a second example of a provider whose “primary function” did not constitute SUD services, when the provider treated a handful of patients with substance use disorders.

Source: SAMHSA, *Does Part 2 Apply to Me?*, pp. 4, 7 (2018), <https://www.samhsa.gov/sites/default/files/does-part2-apply.pdf>