**Initial Considerations Before Getting Started**

**Regulatory Determination for Emergency Use:** IRB website has a workflow and criteria for emergency use here: [**http://www.mcw.edu/hrpp/Emergency-Use-Requests.htm**](http://www.mcw.edu/hrpp/Emergency-Use-Requests.htm)

**Prior Use:** Is the MD aware of any prior use of this item, material or drug in a single patient emergency use situation at this institution before? Second single patient emergency IND requests for the same product are not always guaranteed to be approved. If there is a multi-patient expanded access available, the FDA may suggest that this pathway be used instead.

*Per the past FDA acknowledgement letters: Any subsequent use of an investigational product that has been previously authorized for administration on an emergency basis at your institution is subject to IRB review. However, in the event that this emergency use would constitute a subsequent use at your institution, we recognize that it would be inappropriate to deny the subsequent emergency use due to lack of time to obtain IRB review.*

**Insurance and Payment:** Insurance, costs, Medicare and payment. Since this is not a clinical trial, insurers are not obligated to pay for use, treatment, or treatment of complications from use of the investigational agent.

*Medicare Coverage: The Medicare National Coverage Determination (NCD) 310.1: Routine Care Costs in Context of Clinical Trial is not relevant when a provider intends to pursue the FDA for Access Investigative Study agent outside a clinical trial. Medicare & other insurers are not obligated to pay for the study agent, administration of, any associated treatment or treatment of complications from use of the investigational agent. There is a general Medicare rule of anything associated with something non-covered is also non-covered.*

*Medicare has no preauthorization process. Medicare requires their beneficiary be informed in writing of these non-covered costs via an ABN Advance Beneficiary Notice of Non-coverag (outpt) or HINN Hospital-Issued Notice of Noncoverage (Inpt). These documents can include representation of both hospital & professional services. The hospital & provider then bill these services as non-covered, the patient is liable.*

*For Commercial insured the same documentation is to be found within the legal health record with a statement the patient accepts financial liability for treatment and wishes to move forward. Providers can seek a conversation with the commercial insurer’s medical director. Of note: pre-auth is generally a verification that the patient can come to Froedtert—it is not a guarantee of payment.*

*OCRICC can assist in reviewing the patient’s insurance and the intent to treat providing guidance for your consent conference.* *Participants should meet with Froedtert Financial Services to discuss applicable insurance benefits if any.*

1. *Patient financial service provides an estimate of the cost of the procedure and any preparatory care such as labs, scans, etc. and post care for the patient. If time permits patients are recommended to meet with patient financial services to discuss estimates and explore any additional financial help the patient may qualify to receive.*
2. *The patient should complete a FH Charity application to access any financial need based on income, assets, and his living expenses. A percentage of the cost or possible total cost could be covered if he/she qualifies.*

[*Financial Counselors - Froedtert Health - Froedtert Health*](http://intranet.froedtert.com/?id=22641&sid=5)

*Clinic Managers or Clinic staff should partner with the Physician and Financial Counselors to discuss the ABN/HINN with the patient and obtain the necessary signatures.*

[FH Print Services - Internal (fh-printservices.com)](https://urldefense.com/v3/__https:/fh-printservices.com/internal/__;!!H8mHWRdzp34!7u75_am10D9Co7J6j8NlYycCXrLIzR2CkrgGA47d5DrVkEUijZ2ICb0i_-A8pALxInQ7XQ1gcrBhateMDFBzUrbQd8BOYw$) – The ABN and HINN forms are Hospital Bar Coded Forms (Froedtert Hospital Form Numbers: 50468 HINN, 60017 ANN, and 50469 ABN)

***Note:* If the patient is continuing for more than a year. They should be reconsented to the HINN, ABN.**

|  |  |
| --- | --- |
| **PRO#** |  |
| Title/Drug/Product |  |
| Date Initial Request |  |

**PRE-IND**

|  |  |  |  |
| --- | --- | --- | --- |
| **​​​** | **Steps below can occur in tandem** | Date | Notes/References |
| **​​☐​** | **Departmental Notifications:** Discussion with department head, Clinical Trials Office or other applicable departmental administrator |  |  |
| **​​☐​** | **Resource Request:** Confirm approval of use of resources to assist with expanded access request and patient follow-up |  |  |
| **​​☐​** | **Preliminary discussion with the Patient if possible:** This does not have to occur immediately but is recommended to just gauge whether the patient would want to receive the investigational item. The patient has the right to change their mind at any time. |  |  |
| **​​☐​** | **Sponsor/manufacturer contact**  Confirm if they have an expanded access program that the patient qualifies for and if not are they still willing to support the requirements of the IND.  Discuss who will do the IND submission. Most often company will require MCW to hold the single patient IND, but will provide the letter of authorization/cross reference.  Obtain any sponsor required forms or materials (Financial Disclosure forms, protocol template, informed consent template) |  |  |
| **☐** | **Internal Notifications – *Indicate emergency use as applicable in the subject line.***  **IRB** [**http://www.mcw.edu/hrpp/Emergency-Use-Requests.htm**](http://www.mcw.edu/hrpp/Emergency-Use-Requests.htm)  **Refer to website for phone number and after hours number** |  |  |
| **☐** | **Internal Notifications Continued – *Indicate single patient emergency use as applicable in the subject line.***  **IDS** (Investigational Drug Services) [ids.pharmacy@froedtert.com](mailto:ids.pharmacy@froedtert.com) and/or Cell Therapy Lab [bmtctlab@mcw.edu](mailto:bmtctlab@mcw.edu) – to confirm shipping address, timing for receipt, EPIC build requirements (as needed).  **OCRICC** -[ocricc@froedterthealth.org](mailto:ocricc@froedterthealth.org) a courtesy email notifying of a potential Expanded Access patient followed by completion of the OCRICC application form.  **Grants and Contracts via ebridge funding proposal** – use [Single Patient Emergency Access Request: [Descriptive Title/Drug/Protocol] to title FP  **IBC -** [IBCSafety@mcw.edu).-](mailto:IBCSafety@mcw.edu).-) Mark as high importance and use subject line [ [PRO ID] [PRO PI] - Single Patient Expanded Access]  **Department/Division/CTO or other administrative parties** (if applicable) |  |  |
| **​​☐​** | **Agreement:** Determine whether a CTA (clinical trial agreement) or MTA (material transfer agreement) are required prior to shipment of the product.  **Note:** If there is any funding a funding proposal will be required. Consult grants and contract if this is the case. |  |  |
| **☐** | **If you have determined that an emergency exists, please follow the instructions on**[**FDA's Expanded Access Contact Information**](https://www.fda.gov/news-events/expanded-access-compassionate-use/fdas-expanded-access-contact-information)  **Note: Sometimes approval is granted over the phone. It is recommended to have at least 2 people if requesting IND via phone. MD requestor (IND holder) needs to be present to answer clinical questions. If IND issuance occurs over the phone, request that approval be sent in writing after the discussion e.g. email.** |  |  |
| **☐​** | **Paperwork –** FDA will instruct you on what needs to be submitted after the call.  **Obtain LOA** (Letter of Authorization a.k.a. Letter of Cross Reference)  Work with the IRB to determine **consent requirements**  Prepare **FDA Packet** (below) |  |  |
|  | **FDA Packet for Submission**  **Cover Letter (optional) -** include a very brief summary of what is being requested and who to you want the FDA to contact about the request. It is recommended to list more than just the treating MD that the FDA can contact.  **FDA form 3926 (**required)  **NOTE: Boxes 10a and 10b should both be marked.**  **CV** – Treating MD  **Primary MD Assessment Letter -** or include on form 3926 -Include the condition of the patient and available treatment alternatives.  Include: rationale for the intended use of the drug, including a list of available therapeutic options that would ordinarily be tried before resorting to the investigational drug or an explanation of why the use of the investigational drug is preferable to the use of available therapeutic options; The criteria for patient selection or, for an individual patient, a description of the patient’s disease or condition, including recent medical history and previous treatments of the disease or condition. 21CFR312.305  **Independent MD Assessment -** An independent assessment by a physician uninvolved with the investigation, as required in 21 CFR 50.23. The assessment must certify the physician’s agreement that all of the criteria have been met.  **Treatment Protocol** including the treatment plan.  Include: Eligibility criteria, method of administration of the drug, dose, and **duration of therapy** and parameters of discontinuation of therapy, monitoring and dose reductions, description of clinical procedures, laboratory tests, or other monitoring necessary to evaluate the effects of the drug and minimize its risks. 21CFR312.305  IMPORTANT NOTE: Include the duration of therapy in your treatment plan. This is critical to make sure that the IND allows for the intended duration of therapy and not just one dose or one cycle if you intend to give longer.  **Consent form (not always requested by FDA)** that was or will be used to consent the patient. A draft can be sent as it will most likely not yet be IRB approved. A final copy can be sent with the IRB approval documents.  (A waiver of consent can be requested from the FDA in emergency use settings). If patient is able to consent at a minimum a consent discussion should occur followed by a signed consent once approved. |  |  |
| **☐​** | Data and Reporting: Determine what case report forms (paper or electronic), safety reporting etc. that sponsor will require.  Note: There are limitations to what the sponsor can require in the sIND setting in terms of data as this is not a clinical trial. See FDA [Guidance on Expanded Access to Investigational Drugs for Treatment Use —Questions and Answers Guidance for Industry](https://www.fda.gov/regulatory-information/search-fda-guidance-documents/expanded-access-investigational-drugs-treatment-use-questions-and-answers-0) |  |  |

**Post-IND Issuance**

|  |  |  |  |
| --- | --- | --- | --- |
| **​​​** |  | Date | Notes/References |
| **​​☐​** | **Prepare IRB initial submission**  Will need FDA acknowledgement letter, IND number, email or equivalent.  Copy of the signed, submitted form 3926. |  |  |
| **​​☐​** | Send IRB acknowledgement and other approvals to the FDA |  |  |
| **☐** | Review FDA acknowledgement ok to proceed letter for reporting requirements including safety reporting and annual report or any other special instructions. |  |  |
| **☐** | **Other Internal Prep Items**  Document Binder  Delegation Log (as appropriate)  Tipsheets, any required trainings |  |  |

**Expanded Access Maintenance**

|  |  |  |  |
| --- | --- | --- | --- |
| **​​​** |  | Date | Notes/References |
| **​​☐​** | **FDA reports:** The FDA will outline in their “proceed letter” reporting requirements which typically include updates after use of the drug at defined time points.   * Safety report requirements will also be outlined in the letter. * **Withdrawal** of the IND will be required when all activities are complete including any follow-up. |  |  |
| **☐** | **IRB reports:**  The IRB acknowledgement letter and policies and procedures will outline the reporting requirements after initial review by the IRB.   * + Reporting of **UPIRSOs** to the IRB should be in accordance with IRB policies and procedures.   + The MCW IRB requires follow-up reports to be submitted at 30 days and 90 days post-use via eBridge CPR submission. Include completed Form FDA 3926 into the eBridge CPR submission.   + A **final report** will be required when all activities are complete including any patient follow-up. |  |  |

**FDA Additional Resources**

* **FDA Key Contact Information:** <https://www.fda.gov/NewsEvents/PublicHealthFocus/ExpandedAccessCompassionateUse/ucm429610.htm>
* **Project Facilitate:** <https://www.fda.gov/about-fda/oncology-center-excellence/project-facilitate>
* Expanded Access Physician Fact sheet: <https://www.fda.gov/downloads/NewsEvents/PublicHealthFocus/ExpandedAccessCompassionateUse/UCM504494.pdf>
* Emergency IND Timeline: <https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm597130.htm>
* [Form FDA 3926](https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM504572.pdf) for requests for individual patient expanded access to investigational drugs, including emergencies. It can also be used for certain submissions to FDA after the initial application is filed. For more information, including [instructions](https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM504574.pdf), please visit the guidance [Individual Patient Expanded Access Applications: Form FDA 3926](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM432717.pdf)
* [21 CFR 312 Subpart I](http://www.ecfr.gov/cgi-bin/text-idx?SID=c859616b5a665bbcda13092d0c1c063d&node=sp21.5.312.i&rgn=div6)  
  Learn more about FDA’s current expanded access regulations for investigational drugs (including biologics).
* [FDA's Final Guidance: Expanded Access to Investigational Drugs for Treatment Use — Questions & Answers](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM351261.pdf) (PDF - 75KB)
* [FDA's Final Guidance: Charging for Investigational Drugs Under an IND — Questions & Answers](https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM351264.pdf)(PDF - 57KB)
* [Expanded Access Video for Physicians](https://www.fda.gov/Drugs/ResourcesForYou/HealthProfessionals/ucm419877.htm)  
  FDA Drug Info Rounds pharmacists discuss the requirements that must be met before FDA can authorize Expanded Access and discuss the safeguards in place to avoid exposing patients to unnecessary risks.
* [For Physicians: A guide to Non-emergency single patient expanded access submissions](https://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm570937.htm). This website provides a reference chart for initiating single patient expanded access and for follow-up submissions.

**MCW Additional Resources**

* [IRB Emergency Use Requests | Human Research Protection Program | Medical College of Wisconsin (mcw.edu)](https://www.mcw.edu/departments/human-research-protection-program/Emergency-Use)
* [Emergency Use Criteria](https://www.mcw.edu/-/media/MCW/Departments/Human-Research-Protection-Program/Emergency-Use/EmergencyUseCriteria.pdf)
* [Emergency Use Process Workflow](https://www.mcw.edu/-/media/MCW/Departments/Human-Research-Protection-Program/Emergency-Use/EmergencyUseWorkflow.pdf)
* [Emergency Use ICF template](https://www.mcw.edu/-/media/MCW/Departments/Human-Research-Protection-Program/Researchers/Consent-Form-Templates/EmergencyUsetemplateFINAL.docx)
* [Contact FH Investigational Drug Service (IDS)](mailto:IDS.Pharmacy@froedtert.com?subject=Emergency%20Use%20Request%20Notification)
* [Contact FH Office of Clinical Research & Innovative Care Compliance](mailto:ocricc@froedterthealth.org?subject=Emergency%20Use%20Request%20Notification)