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Commissioner

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August 16, 2005

Hon. Michael Leavitt, Secretary
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Dear Secretary Leavitt:

I am writing to express my deep concern about the Ryan White CARE Act reauthorization principles issued by the Department of Health and Human Services on July 27, 2005. While New York State supports several of the principles in areas where we have been a national leader, among them reporting HIV cases as well as AIDS cases and streamlining and simplifying HIV testing, some of the proposed principles, if enacted, will have devastating consequences for people living with HIV and AIDS in New York State and other states with high HIV prevalence.

As you know, New York State leads the nation in cases of HIV and AIDS, with more than 100,000 New Yorkers living with this still deadly disease. Although New York has only 7% of the nation's population, it has 17% of persons living with AIDS in the United States. In addition, New York's AIDS case rate of 34.8 per 100,000 is more than double the U. S. average of 15.2 per 100,000.

No state spends more than New York does to care for its residents with HIV and AIDS, over \$3 billion last year alone. Some of the proposed Ryan White CARE Act principles will penalize New York for its significant contributions over more than twenty years to provide services to its citizens with HIV/AIDS. New York was one of the very first states hard-hit by the AIDS epidemic, and since the early 1980s, New York has been a national leader in developing model programs and systems to provide cost-effective care and support to people living with HIV and AIDS.

I have strong concerns about four aspects of the reauthorization principles. First, the proposed Severity of Need for Core Services Index (SNCSI) will revise funding formulas to take into account the availability of other resources, including local, state, federal, and private resources. This approach will disadvantage states like New York that have devoted substantial state resources to caring for residents with HIV and AIDS and will serve as a powerful disincentive for jurisdictions to allocate additional local resources for HIV/AIDS services. In a growing epidemic with escalating costs, this strategy challenges the foundation of fiscal and programmatic partnership already in place between states and the federal government. In addition, this principle suggests that the CARE Act is responsible for differences in access to care throughout the country, but such variations are largely attributable to differences in the resources each state provides for the care of its residents with HIV disease. The CARE Act should not be viewed as the mechanism for equalizing these differences in commitments by states.

Second, the proposed requirement that 75% of funds be used exclusively for core medical services is inconsistent with the original intent of the Ryan White CARE Act to give states the flexibility to respond as they see fit to their local circumstances and needs. Since CARE Act dollars are payer of last resort, this approach will further disadvantage states like New York, most heavily impacted by HIV/AIDS, that have devoted significant state resources to support medical services. The proposed principle appears to be inconsistent with the leadership role of the states in determining the best use of both state and federal funds to meet locally defined needs. It is through such local control and determination that the best use of funds can be achieved, as it has been consistently in New York for many years.

Third, I am deeply concerned that with the proposed principle for determining the Title II funding formula New York State stands to suffer a disproportionate reduction in funding. In Title II base formula awards, states receive partial credit for cases in city Title I areas in recognition of the role of the state in effectively coordinating a statewide response to the epidemic. Further, as written, this principle suggests that fair and equitable distribution of CARE Act funds can be achieved through Title I and Title II formula revisions, thus disregarding the role of other titles, including Title III, Title IV, and Part F, in the apportionment of CARE Act funds among jurisdictions. Any meaningful national assessment of equity in terms of the distribution of CARE Act resources must include funding from all titles in all states and territories.

Finally, the proposed funding principles call for the elimination of a "hold harmless" provision that limits the loss of resources to a jurisdiction over time. This strategy would create a situation that would destabilize existing services and prevent continuity of care for people with HIV and AIDS. With no ability to control for or anticipate the amount of funding from one year to the next, service providers would be unable to plan for and provide services. While we support revisions to the Title II hold harmless clause, the provision must be retained to avoid shifts in funding that would compromise services for persons living with HIV/AIDS.


I recognize that a reauthorized CARE Act must address issues related to access to HIV care and treatment across the nation. I appreciate your leadership in advancing the principles at this time, but I urge you to consider other reauthorization strategies, such as those developed by the National Alliance of State and Territorial AIDS Directors (NASTAD). New York worked in partnership with other states in the development of NASTAD reauthorization proposals that reconcile CARE Act issues in an equitable manner.

New York has been a national leader in making a commitment to providing significant funding for HIV/AIDS services. We are seeking continued federal commitment to a process whereby states most affected will maintain federal support proportionate to the extent of their epidemic.

On behalf of all residents of New York with HIV and AIDS, I ask that you consider the issues identified in this letter. New York asks for these considerations in the spirit of partnership with which we have worked with you over many years of this devastating epidemic.

Thank you in advance for your prompt attention and action.

Sincerely,



Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner of Health

cc: Hon. Hillary Rodham Clinton
Hon. Charles Schumer
Hon. Edolphus Towns
Hon. Vito Fossella
Hon. Eliot Engel
Hon. Jose Serrano
Hon. Nita Lowey
Hon. John Sweeney
Hon. Maurice Hinchey
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