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June 8, 2007

The Honorable Mike Leavitt  
Secretary, U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Leavitt:

The recent announcement of the supplemental grants for jurisdictions funded through Part A of the Ryan White Program raises a significant concern about the methodology that the HRSA HIV/AIDS Bureau used in determining the awards.

A provision in the Ryan White HIV/AIDS Treatment Modernization Act of 2006 prioritizes supplemental grants to jurisdictions whose services are negatively impacted by reductions in their formula grants:

**Sec. 103 (2)(C) PRIORITY IN MAKING GRANTS.**— The Secretary shall provide funds under this subsection to an eligible area to address the decline or disruption of all EMA-provided services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.

In its committee report on the legislation, Congress made clear its intent that the impact of a decline in formula funding should carry significant weight in determining supplemental awards:

In addition, the Committee strongly encourages the use of the factor related to the “impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this title” because the Committee expects, especially after the hold-harmless provisions are no longer in effect, that this will continue to provide a stabilization factor to communities that have a decline in funding, tied to this criteria. [*House of Representatives Report 109-695*]

In making the supplemental awards, HRSA HAB seems to have ignored this legislative language and Congressional intent. All five of the Transitional Grant Areas (TGAs) that saw the greatest drops between their FY 2006 adjusted formula award and their FY 2007 formula award (ranging from -22.9% to -36.8%) also saw drops in their percentages of the overall supplemental funding pool ranging from

-2% to -27%. These losses resulted in overall funding losses of -33.7% for Hartford, -27.9% for Ponce, -24.6% for New Haven, -21% for Nassau-Suffolk, and -15.6% for Dutchess County. Caguas also received a significant cut to its formula award, though it appears less drastic due to the manner in which their adjusted formula award was calculated. That cut along with a 25% reduction in their percentage of the supplemental pool led to an overall reduction of -33.3%.

Similarly, 11 of the 14 Part A Eligible Metropolitan Areas that received the maximum 5% reduction in their formula awards also saw a reduction in their percentage of the supplemental pool. Those hardest hit were San Francisco, Newark, New York City and Atlanta.

San Francisco received a particularly massive cut to its supplemental award. This cut was especially devastating given HRSA's calculation of San Francisco's FY 2006 adjusted formula award and, ultimately, its FY 2007 formula award. As a result of this calculation, San Francisco is the only EMA in the nation whose FY 2007 formula award is less than its actual FY 2006 formula award, despite the shift from a 50% formula/50% supplemental funding pool to a 66% formula/33% supplemental funding pool. This situation is the result of legislative language for calculating the FY 2006 adjusted awards that does not reflect the authorizers' intent and has a unique impact on San Francisco's adjusted award. Had the language in the bill reflected the authorizers' intent, San Francisco's formula award amount would have been based on a 5% reduction of an FY 2006 adjusted award that reflected the shift from 50%/50% to 66%/33%. Under that scenario, San Francisco's award would have been \$18,476,965, rather than \$14,672,553.

The significant hit to San Francisco's formula award and its impact on the availability of services should have been a factor in its supplemental grant award, as it should have been in other jurisdictions with large formula losses. Instead, San Francisco saw a 45% decrease in its percentage of the supplemental funding pool, leading to a drop of -31.4% in its combined formula and supplemental award.

While supplemental grants should not be used as tool to even out shifts in formula funding, it is clear that Congress intended that the supplemental awards be used to address the types of significant service disruptions that will follow the large formula cuts experienced by many jurisdictions. As the Department and HRSA HAB move forward with the implementation of the reauthorization legislation, we urge you to follow Congress's intent that changes in the law not cause serious service disruptions in existing systems of care.

Given the devastating impact of the combined formula and supplemental cuts on some EMAs and TGAs across the country, we request that you work with Congress to identify additional FY 2007 funding that could be used to mitigate the devastation in those jurisdictions.

It is also imperative that HRSA HAB reestablish a collaborative partnership with stakeholders in the Ryan White Program and we ask for your support and leadership to ensure steps are taken to increase the transparency of the bureau's actions and improve its communication with its grantees and community partners. As a first step, we request that you immediately convene a meeting with HRSA HAB and community stakeholders to discuss the methodology for determining both the supplemental awards and the upcoming MAI awards.

We appreciate your attention to these matters and look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Christopher B" with a long horizontal flourish extending to the right.

Christopher Brown  
Chair, Board of Directors  
CAEAR Coalition

CC: Admiral John Agwunobi, Assistant Secretary for Health  
Christopher Bates, Acting Director, Office of HIV/AIDS Policy  
Elizabeth M. Duke, Administrator, HRSA  
Deborah Parham, Associate Administrator for HIV/AIDS, HRSA  
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