

September 11, 2006

Joint Statement Endorsed By:

AIDS Action Council

AIDS Alliance for Children, Youth and Families

Communities Advocating Emergency AIDS Relief Coalition

National Alliance of State and Territorial AIDS Directors

National Association of People with AIDS

National Minority AIDS Council

Project Inform

Southern AIDS Coalition

We thank the Members and staff of the Senate Health, Education, Labor and Pensions Committee and the House Energy and Commerce Committee for working together, in what we acknowledge has been a long and arduous process. On behalf of people like me living with HIV/AIDS who depend on this lifesaving program, we thank you for your leadership on this issue.

I am speaking on behalf of an ad-hoc coalition of national and regional HIV/AIDS organizations that represent and serve as our constituency, people living with HIV/AIDS, state AIDS directors, AIDS service organizations, and minority community-based organizations who collectively are committed to ensuring that care, treatment, and services meet the needs of people living with HIV disease across the U.S.

We believe that the House draft of the Ryan White CARE Act Modernization bill has addressed some important concerns raised by our individual organizations. However, as a coalition, we strongly believe that there are critical improvements in both funding formulas and policy components that must be made prior to passage of this legislation.

Over the past several months, the HIV/AIDS community in general, and our organizations in particular, have been distanced from and dissatisfied with the process. The process for input has largely consisted of meetings such as this one, in which we are left to quickly respond to a proposal that has already been completed before a planned markup. The CARE Act is a lifeline for hundreds of thousands of people with HIV around the country. As such, the complex nature of the legislation and reauthorization of this law requires significant input and inclusion of the community at this critical juncture to ensure that all persons living with HIV/AIDS, regardless of their geographical location, are appropriately served.

We want to work with Senators Enzi and Kennedy and Representatives Barton and Dingell, along with committee Members and staff, to craft changes to the draft bill that was released on Thursday. Beyond today's session and prior to the mark-up, we request a meeting with the four respective Members at which we would work together with the committees of jurisdiction to forge the compromises necessary to ensure reauthorization of the RWCA before the end of this month.

We believe that with our active participation, compromises to the current bill can be made and reauthorization can be completed. There are still several key issues that must be addressed and we must work together to resolve them. We have outlined our major concerns - ***Hold***

Harmless; Funding Issues; Title I Tier 2 Eligibility; Title II Consortia Support; the Early Diagnosis Grant Program; and Data Concerns - and some recommendations for addressing them in an attached document. We understand that the current version of the bill has been painstakingly crafted, and that many compromises have been made. We are nevertheless obligated to point out those issues which must still be addressed.

Our coalition stands together behind the principle that all those infected with HIV in this nation should have access to care and treatment and to the important support services that ensure they can meet the demands of the rigorous medical protocols required to manage this ravaging disease. We do not believe that there must be winners and losers in this reauthorization process in order to address the needs of people living with HIV/AIDS in all parts of this country. The final bill must address the needs of communities where the rates of new HIV infection are growing rapidly without undermining the care structures in those communities where the majority of those living with HIV reside.

On August 2, the bipartisan, bicameral committee and Administration representatives made a presentation to the National Governors' Association. At that time, representatives of the committee stated that they would welcome compromise proposals that had broad support from the HIV/AIDS community. In good faith and as a response to the committee's statement, our organizations came together and have been developing a document that includes important concepts and issues that we believe form the basis of such a compromise. We were encouraged to release this document to House and Senate committee members on Wednesday, September 6th. We did so knowing that there were problems with the Title I portion of the document, particularly for code-based states, which we were working to resolve, but believing that Members wanted the compromise issues identified.

In particular, our data runs highlight an issue long raised by our groups as an area of concern. Without funding estimates for Title I supplemental awards, data runs do not accurately reflect the impact of the bill. We recognize the limitation of the committee's ability to do this, but believe that accurate data runs, including the supplemental, are the only way to anticipate unintended consequences and ensure the Members of the committee have a complete picture of the impact of the legislation.

On behalf of this individual living with HIV/AIDS and the many thousands of my brothers and sisters with HIV disease and AIDS, thank you for your time today. Our organizations look forward to our meeting with you in which our coalition partners and committee leadership can negotiate improvements to the proposed bill to ensure its viability and passage as soon as possible.

Attachment (1)

Concerns and Recommendations Endorsed By:
AIDS Action Council
AIDS Alliance for Children, Youth and Families
Communities Advocating Emergency AIDS Relief Coalition
National Alliance of State and Territorial AIDS Directors
National Association of People with AIDS
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Hold Harmless Provisions

There are areas of the country which appear to lose far more than 4 percent of funding under the bipartisan bicameral bill, particularly when Titles I, II, and Title I supplemental funding levels are included in calculations. Such losses will severely disable care and treatment systems upon which those living with HIV/AIDS depend. In particular, jurisdictions which are in good faith in transition to HIV name-based reporting will lose hold harmless status in three years. In the 1996 and 2000 reauthorizations, the concept of "hold harmless" was historically correlated with the age of the epidemic and therefore the presumed level of need of those living with HIV and AIDS. In the current House draft, it has been generally acknowledged that transition to a new reporting system can take significant time despite best efforts by state and local officials. A hold harmless provision for the full length of the reauthorization is essential to avoid loss of service to those in need of care and treatment as well as those receiving these services.

Funding Concerns

In order to ensure stabilization of current services and to meet the needs of the growing epidemic, we applaud the committee for adding additional funding to the Title II base. However, in order to ensure stability in the EMAs additional funding must be added to Title I to address the needs of those living with HIV and AIDS in the epicenters. In addition, with the important changes to the ADAP supplemental, we believe there must be an increase in funding for the ADAP earmark to ensure that the increase in the setaside amount for the supplemental does not result in significant losses for other ADAP programs. Our coalition has endorsed a recommendation for higher authorization levels for each component of the CARE Act and annual increases tied to the rate of health care inflation and the overall cost of living.

Title I, Tier 2 Eligibility

All current EMAs and new Title I jurisdictions should remain eligible in Title I for the length of the reauthorization period. Many of the EMAs that would drop out of Tier 2 after three years have older epidemics and the people they serve whose AIDS cases were reported more than five years ago are not counted towards EMA eligibility under the proposal. Eliminating Title I eligibility for these areas, many of which have a similar or greater number of actual living AIDS cases as new EMAs, would result in severe cuts to vital care, treatment, and support services for thousands of people living with HIV/AIDS.

Title II Consortia Support

We are concerned that expenditure of grant funds for or through consortia would be counted towards a jurisdiction's administrative expenses. For 15 years, consortia have been one of the allowable program activities and expenses within Title II. State administrative caps support

expansive requirements associated with state-level coordination, grant management, contract management and monitoring, needs assessments, client-level data systems, determination of unmet need, etc. These requirements increase under the proposed bill. States are not likely to be able to also absorb consortia costs within the administrative cap. We believe consortia expenses should continue to be an allowable program expense.

Early Diagnosis Grant Program

As discussed in a letter of August 25 signed by many of our organizations, we are opposed to provisions which would authorize incentive grants for states by carving out existing resources from CDC HIV prevention funding. We oppose earmarking scarce care and/or prevention resources for prevention initiatives which we believe should be authorized and funded with new money if appropriate. Furthermore, this provision is in direct conflict with the President's Domestic HIV/AIDS Initiative which proposes increased funding for a broad-based testing initiative.

Data Concerns

We are concerned that the formula runs performed by the Government Accountability Office (GAO) do not accurately represent the numbers of individuals in each jurisdiction living with HIV and AIDS. It is our understanding that the HIV and AIDS case data used by the GAO for number runs came from the Title I and II applications submitted to HRSA. There are serious problems with using this data for estimating distributions. Full disclosure of the source of this information and our ability to provide feedback, would improve the accuracy of any data runs. Furthermore, the data runs provided do not include the proposed gain cap on jurisdictions with code-based reporting nor do they include a projection of how the funds garnered from the cap would be allocated. The data runs also do not include any estimates of supplemental funding. This information is critical for all Members of Congress and their represented communities to assess the full impact of the proposed bill.