

# United States Senate

WASHINGTON, DC 20510

October 12, 2005

The Honorable Michael Leavitt  
Secretary  
Department of Health and Human Services  
200 Independence Avenue S.W  
Washington, D.C. 20201

Dear Mr. Secretary:

As you know, the *Ryan White CARE Act* expired on September 30, 2005. As Members of the New York delegation, we are supportive of a reauthorization of the *CARE Act* that will improve and modernize the program to the benefit of the more than one million Americans currently living with HIV/AIDS.

At the end of July, the Department of Health and Human Services (HHS) released "Principles for Reauthorization of the Ryan White CARE Act." Due to the size and unique nature of the epidemic in New York, we feel it is important to bring forth our concerns about the potential impact some of the principles laid out by HHS would have on the over 100,000 HIV positive New Yorkers who depend on life-saving and life-extending CARE Act Services.

## **Establish Objective Indicators to Determine Severity of Need for Funding Core Medical Services**

We support establishing a fair and objective formula to ensure equitable distribution of funds. We are concerned, however, that using a severity of need for core services index (SNCSI) will create a disincentive for localities and states to dedicate their own resources in the fight against AIDS. New York City and State have done an excellent job of devoting resources toward caring for their HIV/AIDS population, and as a result have been able to provide a successful, comprehensive system of care for people living with HIV/AIDS. Factoring the contribution of the City and State into the formula for Ryan White funds essentially punishes those jurisdictions for taking more of the responsibility upon themselves to care for their HIV/AIDS population.

In addition, the proposed principle considers incidence, not prevalence in determining the SNCSI. We believe using incidence rather than prevalence does not accurately account for the true scope of the epidemic. Prevalence is the most accurate indicator of a jurisdiction's need for HIV/AIDS services; it measures all those currently receiving treatment for HIV/AIDS.

## **Establish a Set of National Core Medical Services**

In addition to primary care and prescription medications, we strongly support the inclusion of locally defined services that facilitate access to medical care through transportation

services, maintenance of care and adherence to treatment -- including outpatient and ambulatory support services, case management, housing, mental health and substance use treatment, all of which are included in the current act, in any set of core services. Americans living with HIV/AIDS depend upon these comprehensive services to help them not only regain their health, but also maintain their health, and we are concerned restricting access to this range of interventions may put their recovery and long term well being at risk.

### **Require That 75% of Ryan White Funds in Titles I-IV Be Used for Core Medical Services**

We are concerned about any percentage set aside that dictates the funding of medical services defined at the federal level, particularly one as high as 75%. Localities must have the flexibility to define their own set of core services in order to address the specific impact of the AIDS epidemic in different communities around the nation. Again, both the City and State of New York have been able to take their own substantial contributions as well as those of the federal government to address the specific needs in those jurisdictions; the result has been a program that effectively responds to the unique needs of New York's HIV/AIDS population.

### **Eliminate the Double Counting of HIV/AIDS Cases between Major Metropolitan Areas and the States**

The term "double counting" refers to the fact AIDS cases located in Title I eligible metropolitan areas (EMAs) are considered in the Title I funding formula as well as the Title II base funding formula. However, they are not "double counted"; in the allocation of Title II base funds, states receive partial credit for the cases in EMAs in recognition of the role of states in coordinating a statewide response to the epidemic and in complying with numerous *CARE Act* mandates related to coordination among Ryan White titles and statewide requirements. Consistent with the intent of the *CARE Act* and a principle included in the past two reauthorizations, the consideration of Title I EMA cases in the Title II formula recognizes the disproportionate impact and heavy burden of the epidemic on large metropolitan areas with the highest numbers and proportion of infected persons.

Applying this principle to the Title II base formula would tie the allocation to non-EMA cases only, resulting in a 56% reduction to New York State's base, as well as \$76 million in losses to the other eighteen states with Title I EMAs.

In addition, we are concerned that in order to truly assess equity in fund distribution, it is important to consider the entire *CARE Act*, rather than just Title I and Title II. By looking at Title III, Title IV and Part F awards, we feel *CARE Act* funds may be more accurately distributed among jurisdictions.

### **Eliminate Current Provisions That Entitle Cities to Be "Held Harmless" in Funding Restrictions**

Hold harmless provisions limit the loss of resources to a jurisdiction over time, and due to the nature of the programs made possible by Ryan White funds, we are opposed to the outright elimination of hold harmless provisions. Drastic shifts in funding and substantial reductions year to year diminish the ability of community based organizations to plan with any level of certainty.

The *Ryan White CARE Act* provides essential care, treatment and support to millions of Americans. We must ensure principles guiding reauthorization are intended to provide equitable and appropriate distribution among jurisdictions, and are not used to simply reduce funding to areas like New York that have led the way in successful implementation of the *CARE Act*.

As representatives of the state with an AIDS case rate more than double the United States average, we stand ready and willing to work with our colleagues in Congress and with the Administration to craft a reauthorization that will provide compassionate and comprehensive care for people living with HIV/AIDS throughout the country.

Thank you for your consideration of these concerns. We look forward to working with you.

Sincerely,



Charles E. Schumer



Hillary Rodham Clinton