



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

September 14, 2006

The Honorable Michael B. Enzi
Chairman
Health, Education, Labor, and Pensions
Committee
835 Hart Senate Office Building
Washington, DC 21510

The Honorable Edward M. Kennedy
Ranking Member
Health, Education, Labor, and Pensions
Committee
527 Hart Senate Office Building
Washington, DC 21510

The Honorable Joe Barton
Chairman
Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member
Energy and Commerce Committee
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Enzi and Barton, and Ranking Members Kennedy and Dingell:

On behalf of New York City, I am writing to comment on the draft of the Ryan White Treatment Modernization Act of 2006 discussed at the stakeholder meeting held on September 11, 2006. I would like to recognize the Committees for their continued efforts to improve and modernize this critical program. The latest discussion draft has much to commend, including the attempt to transition to consideration of all living HIV and AIDS cases as the basis for funding. The latest draft also includes modifications to counseling and testing requirements for Title III that will significantly reduce barriers to HIV testing and allow more people to learn their status.

However, I am seriously concerned that should this legislation pass in its current form, New York City stands to lose a significant amount of funding that provides critical life-saving treatment and care to persons living with HIV/AIDS in New York. This is unacceptable.

New York City has the oldest, the largest, and the most complex HIV/AIDS epidemic in the United States. New York City accounts for one of every six reported AIDS cases in the United States, and each year reports more AIDS cases than Los Angeles, San Francisco, Miami, and Washington, D.C. combined. Based on conservative fiscal estimates using Government Accountability Office (GAO) reports, New York City stands to lose more than \$17.8 million in 2007. Moreover, the GAO projects New York State's loss at \$8.7 million. These devastating losses are due to the inclusion of HIV case counts from code-based states in the Title I and Title II funding formulas. This is a flawed approach that is scientifically unsound and arbitrary. These losses are almost assured to be even greater in subsequent years when the hold-harmless

provision, as currently proposed, is phased out. These projected losses would destabilize the HIV treatment and care infrastructure that New York City and New York State have developed together over the past two decades, and would have a devastating impact on persons living with HIV disease in New York. Our citizens with HIV disease who depend on our comprehensive system of care will bear the brunt of deep cuts in covered drugs and the elimination of essential health care and support services.

I have been informed that during the recent stakeholder meeting there was promising discussion on ways to ensure that New York's funding is maintained, and I applaud those efforts. As you move forward in this process, I urge you to consider carefully the impact of changes to key funding provisions, and ask you to ensure that any changes do not result in a devastating loss of funding to New York. In particular, I urge the authorizers to review carefully provisions regarding the Title I and Title II formulas, hold-harmless, and carryover, as well as the overall appropriations and authorizations for the CARE Act. Given continuing uncertainties regarding the accuracy and reliability of code-based HIV reporting, to allocate funding using HIV case counts in states that do not have name-based HIV reporting is problematic and would be fundamentally inequitable. By improving the hold-harmless provisions and extending them through the life of the Act, the devastating reductions in funding to New York and other high prevalence areas could perhaps be mitigated. I also ask you to maintain flexibility around the use of unobligated funds, and allow EMAs and States to continue to have access to needed funding without arbitrary restrictions.

The City of New York continues to strongly support the reauthorization of the Ryan White CARE Act. As you continue your work, I urge you to consider that of the estimated 1.1 million persons living with HIV disease in the United States, more than 10 percent live in New York City, and any significant reductions in funding would have a devastating impact on their ability to access the care and treatment that can improve and lengthen their lives. I look forward to seeing how future drafts of this important legislation reflect the discussion at the September 11th stakeholder meeting.

Thank you in advance for your consideration of these concerns and for your hard work on this important issue.

Sincerely,



Thomas R. Frieden, M.D., M.P.H.
Commissioner