



CARE Act Reauthorization Watch

Volume 10, May 31, 2006

The Reauthorization Watch, produced by NASTAD, provides monthly updates on activities related to the reauthorization of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act. Please see NASTAD's [website](#) for more information.

Congressional Activities

On May 3, Senators Jeff Sessions (R-AL), Richard Burr (R-NC) and Tom Coburn (R-OK) issued a [press release](#) urging that a reauthorized CARE Act result in more equitable distribution of funding, particularly to rural areas.

On May 9, the Senate Health Education Labor and Pensions (HELP) Committee and the House Energy and Commerce (E&C) Committee released an [outline](#), and the following day, draft [legislation](#) for the reauthorization of the Ryan White CARE Act. The bill was drafted by four principal Members – Mike Enzi (R-WY), Ted Kennedy (D-MA), Joe Barton (R-TX) and John Dingell (D-MI). An initial [analysis](#) of funding levels was performed by the GAO based on 2004 living AIDS case counts and FY2004 funding awards. The analysis sparked questions of clarification from many organizations. Reaction to the draft legislation include responses from [AIDS Action](#), [AIDS Institute](#), [CAEAR Coalition](#), [HIVMA](#), [NASTAD](#), [NYAC](#), [NMAC](#), [Project Inform](#), and [TIICANN](#). In addition a [letter](#) was sent from the Governors of Texas, New York, New Jersey, Florida, and Maryland asking that the time be given to fully understand the impact of the bill. The Association of State and Territorial Health Officials (ASTHO) also sent [letters](#) to the four principals requesting postponement and modification of the bill.

On May 10, the Congressional Black Caucus sent a [letter](#) to the principal authors requesting that the Ryan White-related portion of the Minority AIDS Initiative (MAI) be authorized as a separate Title of the CARE Act. Currently, the MAI funding is dictated through appropriations report language. The CARE Act portion of the MAI is funded at approximately \$129 million.

On May 17, [S 2823](#), the “Ryan White HIV/AIDS Treatment Modernization Act of 2006,” was passed out of the HELP Committee by a vote of 19-1 with Senator Hilary Clinton (D-NY) the lone voice of dissent. The bill’s sponsors include Enzi, Kennedy, Richard Burr (R-NC), Mike DeWine (R-OH), Bill Frist (R-TN) and Orrin Hatch (R-UT). Press releases were issued regarding the mark-up by the following Senators, [Enzi](#), [Frist and Lamar Alexander](#) (R-TN), [Jeff Sessions](#) (R-AL), [Kennedy](#), [Clinton](#) and [Patty Murray](#) (D-

WA).

Reaction to the legislation's passage included responses from [AIDS Foundation of Chicago](#), [AIDS Institute](#), [CAEAR Coalition](#) and [HIVMA](#).

On May 19, the four principals briefed stakeholders on the content of S 2823 and allowed for questions and concerns to be raised. They stated that there are ongoing negotiations to resolve issues related to the use of the HIV proxy for formula awards and HIV testing language. The staff have since released a bill [summary](#), [section-by-section](#) and [side-by-side of the bill](#).

On May 24, the E&C Committee held a Ryan White stakeholder meeting that gave Members of the Committee an opportunity to make statements regarding the bill content and ask clarifying questions of stakeholders related to their concerns. Members participating included Nathan Deal (R-GA), Fred Upton (R-MI), John Shimkus (R-IL), Joe Pitts (R-PA), Mary Bono (R-CA), Mike Ferguson (R-NJ), Michael Burgess (R-TX), Vito Fossella (R-NY), Henry Waxman (D-CA), Ed Towns (D-NY), Frank Pallone (D-NJ), Bobby Rush (D-IL), Gene Green (D-TX), Lois Capps (D-CA), Tammy Baldwin (D-WI), Elliott Engel (D-NY), Jan Schakowsky (D-IL), Hilda Solis (D-CA), and Charlie Gonzalez (D-TX). Concerns raised included the deleterious impact on funding to states that are not eligible for the .9 HIV proxy; missing elements of the definition of core medical services including food, nutrition counseling, community-based case management, and transitional housing; the severity of need index; sufficient resources for ADAP; EMA boundaries; flat funding of Title IV and the Minority AIDS Initiative; and the end of hold harmless after three years. Statements submitted by stakeholders included [AIDS Alliance for Children Youth and Families](#), [CAEAR Coalition](#), [NASTAD](#), the [New York AIDS Institute](#), and the [Southern AIDS Coalition](#).

A markup in the E&C Health Subcommittee is expected in early June followed shortly thereafter by a markup in the full Committee. The bill will then be brought to the House and Senate floor for passage prior to the August recess. The timing of floor action will depend on whether major areas of concern are addressed adequately.

Highlights of S 2823 include:

- § Creates three tiers of Title I EMAs, including the grandfathered EMAs with eligibility from 2000-500 cumulative reported AIDS cases in the last 5 years;
- § Increases the funding loss amount for the Title I and II hold harmless and elimination of hold harmless after three years;
- § Requires that at least 75 percent of CARE Act funds under Titles I, II, and III be spent on primary medical care, with 25 percent allowable (with approval from the Secretary) for support services needed to achieve medical outcomes. A waiver of the requirement can be granted by the Secretary under specific conditions. Primary medical care is defined as:
 - outpatient and ambulatory health services,
 - prescription drugs and pharmaceutical assistance,
 - oral health care,
 - early intervention services,
 - health insurance premium and cost-sharing assistance,
 - hospice,
 - home and community-based health services excluding homemaker services,
 - mental health and substance abuse outpatient services, and

- medical case management.

- § Creates a Title II base supplemental that will receive one-third of new Title II funding to the base;
- § Changes the distribution formula for Title II base grants to states by replacing the current 80/20 formula with a 75-20-5 formula;
- § Severity of Need Index could replace Title II formula as early as FY2011 depending on notification from the Secretary;
- § Requires ADAPs to cover all classes of ARVs;
- § Creates a one-time \$40 million ADAP “booster” pot to be distributed at the Secretary’s discretion;
- § Allows use of a proxy of .9 for HIV cases for states with immature data systems and those that are in the process of switching from a code- to a names-based system. States that do not certify they are switching will not receive the proxy;
- § Makes care and treatment for individuals co-infected with hepatitis B and C an explicitly allowed service and includes counseling requirements;
- § Institutes a 10% administrative cap on Title IV, requires a GAO report to evaluate Title IV;
- § Requires grantees to say how they are coordinating with states in their grant application and provide a copy of their program audit to the state;
- § Under a national emergency, the Secretary can waive CARE Act requirements and can transfer of up to 5 percent of Title I and II supplemental funds to other grantees;
- § SPNS funds to be used to develop a client-level data collection system as well as responding to emergency needs of populations served;
- § Codifies the Ryan White portion of the Minority AIDS Initiative; and
- § Authorizes funding increases for Titles I, II, III and the MAI at 3.7% annually.

The Administration

On May 17, the CDC/HRSA Advisory Committee on HIV and STD Prevention, Treatment and Care (CHAC) met in Atlanta. The meeting agenda was changed at the last minute to accommodate the urgent need to discuss the reauthorization legislation. The CHAC received comments from stakeholders, including [NASTAD](#). The CHAC authored a [motion](#) to the Secretary “to communicate immediately to Congress” a list of recommendations and concerns.

Community Activities

On May 8, sixty-five organizations sent a [letter](#) to the four principals recommending explicit incorporation of language into the CARE Act regarding HIV co-infection with hepatitis B and C.

On May 12, forty-seven organizations sent a [letter](#) to the four principals in support of the creation of a Title II supplemental that would provide funds to states without Title I eligible metropolitan areas (EMAs) or with 50% of their cases outside of their Title I EMA.

Please forward the *Reauthorization Watch* to interested colleagues. To be added or removed from our email distribution list, please email [Ann Lefert](#).

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