

HIV Policy Watch

A Monthly Public Policy Update from the San Francisco AIDS Foundation

AUGUST 2005

San Francisco AIDS Foundation, HIV Advocacy Network • 995 Market Street San Francisco, CA 94103 • 415/487-3080 • Fax 415/487-3089 • www.sfaf.org

FEDERAL WATCH

Bush Administration Releases Principles for CARE Act Reauthorization

On July 27, 2005, just days before Congress adjourned for its annual August recess, Secretary of Health and Human Services (HHS) Mike Leavitt released the Bush Administration's Principles for Reauthorization of the Ryan White CARE Act. (These can be viewed at <http://www.hhs.gov/news/press/2005pres/ryanwhite.html>). Unfortunately, the long-anticipated proposals would weaken the CARE Act and would significantly undermine CARE Act-funded services in California and in cities hardest hit by the epidemic. The impact on San Francisco would be especially damaging since its direct CARE Act award would be reduced by at least \$7.5 million, significantly altering the City's ability to maintain high quality HIV services for the thousands of individuals being served today. (See the AIDS Foundation's news release regarding this threat at www.sfaf.org).

Remarkably, even after the long delay, the Bush principles lack important specifics that are needed to accurately assess their impact. That being said, a few policy implications are clear. The Administration intends to shift control of resources to governments and away from local community planning bodies. In addition, funding would be re-directed from high HIV/AIDS incidence states and urban areas to states with fewer HIV/AIDS cases but longstanding health care access problems that pre-exist the HIV epidemic. The Administration would speed up this process by eliminating a provision that protects cities and states from experiencing rapid declines in federal HIV funding. The elimination of this provision—called the “hold harmless”—would result in funding cuts to San Francisco of at least \$7.5 million and would allow for dramatic shifts in resources throughout the country. The principles would also disallow the counting of AIDS cases from metropolitan areas in determining the allocation of CARE funds to the states. This change could result in a reduction of nearly \$20 million in HIV funding to California, where the vast majority of people with AIDS reside in metropolitan areas.

Despite steadily increasing numbers of people with HIV who depend on the CARE Act for critical services, the Administration's principles were presented without a commitment of new funding. The Bush Administration has largely flat-funded the CARE Act since coming into office 5 years ago.

Generally, the national AIDS community views the Bush principles as the start of the reauthorization process in Congress. The delayed release leaves little time before the September 30, 2005 expiration of the CARE Act to debate issues raised by the principles, particularly the overarching

question of what is the appropriate role of the federal government in ensuring health care access for low-income and uninsured people with HIV/AIDS.

A variety of national AIDS advocates and coalitions have presented their recommendations for reauthorization to Congress and now those proposals will be compared to the Administration's principles in an effort to reach consensus on key components of the legislation. The San Francisco AIDS Foundation is actively engaged in the national CARE Act reauthorization debate and will continue to work with national partners like the Communities Advocating Emergency AIDS Relief (CAEAR) Coalition to minimize damage to funding streams to San Francisco and other urban centers. The Foundation will advocate for policies that strengthen existing HIV service delivery systems, promote local flexibility in establishing the scope of services, sustain continuity of HIV care and maintain community involvement in decision making.

Federal HIV/AIDS Appropriations Pass House and Senate

In a departure from recent years, both the House and Senate have passed appropriations bills that fund the Departments of Labor, HHS and Education. Unfortunately, both bills follow the recommendations of the Bush Administration to flat-fund the CARE Act titles and provide only a \$10 million increase to the AIDS Drug Assistance Program (ADAP). This comes nowhere near the \$303 million increase that is needed, and it does not even fully support clients who were provided HIV drugs through last year's \$20 million one-time emergency allocation. The majority of those individuals have been moved back on to state ADAP waiting lists and risk disruption of their drug therapy.

Domestic HIV/AIDS prevention programs at the Centers for Disease Control and Prevention (CDC) were cut for the 2nd year and the Minority HIV/AIDS Initiative was also flat-funded. The House rejected the proposal to cut the Housing Opportunities for People with AIDS (HOPWA) program by \$13 million and instead increased its funding by \$10 million over current levels, for a total of \$290 million. The Senate, while also rejecting the Administration's request for a cut, funded HOPWA at \$283 million. SFAF will continue to work for the highest funding levels when the House and Senate meet to conference the different versions of these bills later this year.

STATE WATCH

California Faces Growing Pressure to Shift to Reporting of HIV Infection by Name

California has been under considerable pressure in recent months to abandon its current code-based HIV report-

ing system and replace it with a system that reports cases by name. Legislation that would require such a shift (SB 945 by Senator Nell Soto) stalled in a committee of the Senate in May. Today, however, a consensus appears to be building that the federal government is giving California little option but to switch to a name reporting system if it wishes to prevent a significant loss of funding for HIV/AIDS services. As a result, it is increasingly likely that legislation requiring health care providers and labs to report cases of HIV infection by name to health authorities will be approved by the Legislature by the end of the current session, adjourning September 9, 2005.

Supporters of SB 945 have argued that California should change its HIV reporting system because the U.S. Centers for Disease Control and Prevention (CDC) has refused to accept HIV reporting data from eight states—including California—that report HIV cases by code rather than name. This is due to the CDC's belief that code-based systems are not as accurate and reliable as name-based systems and make it difficult—if not impossible—to eliminate duplicate cases of HIV infection between states. Advocates are concerned that if California's data continues to be rejected by the CDC, the state and local cities that receive direct funding could be at risk of losing millions of dollars in Ryan White CARE Act funding. This is because the CARE Act requires that funds that are distributed based on AIDS case counts be changed in 2007 to include all individuals living with HIV disease, including both those with earlier stage HIV infection and those with AIDS diagnoses.

The San Francisco AIDS Foundation has opposed SB 945, arguing that code-based reporting provides increased assurances that individuals at risk for HIV infection will seek HIV testing and that the civil rights of HIV-positive people will be protected. We have urged the CDC to work with the states to develop processes for eliminating duplicate HIV case reports in order to assure the accuracy of the national HIV data set.

In recent weeks, however, it has become clear that the CDC is unwilling to accept anything other than HIV data from name-based reporting systems. On July 5, 2005, Dr. Julie Gerberding, Director of the CDC, issued a letter that went as far as her agency has the statutory authority to go to recommend that all states adopt name-based reporting systems. Dr. Gerberding's letter states, "CDC's policy is to report HIV infection and AIDS case surveillance data only from areas conducting confidential name-based reporting because this reporting has been shown to routinely achieve high levels of accuracy and reliability."

Additionally, included among the principles the Bush administration has outlined for reauthorization of the CARE Act (see Federal Watch), is a continued call to use 2007 as the year in which HIV data will be combined with AIDS data to drive the allocation of CARE funding. It is considered highly likely that as the bill is reauthorized, states will be obligated to collect HIV data by name or risk having their data excluded when funding allocations are determined.

In the interest of protecting funding for vital HIV/AIDS services, the San Francisco AIDS Foundation and other advocates recognize that California has little choice other than to adopt a name-based HIV reporting system. The Foundation is working with its advocacy partners to determine the specific

provisions that should be included in such legislation to ensure the highest degree of confidentiality and protection of this data. In order to reduce concerns that name reporting might deter some high-risk individuals from being tested for HIV, we will work to assure that the legislation guarantees reasonable access to anonymous testing throughout the state.

The Legislature returns from its summer recess on August 15th and has four weeks to complete legislation before adjourning for the year. If HIV name reporting legislation is approved during that time, the AIDS Foundation will work closely with both the State Office of AIDS to implement a system that protects the interests of Californians at risk for and diagnosed with HIV.

Update on Key HIV/AIDS Legislation

As the 2005 legislative session comes to a close, three important HIV/AIDS related bills are making progress, but require continued community advocacy to be approved by the Legislature and signed into law by the Governor.

AB 547 (Berg) would eliminate the requirement that jurisdictions operating needle exchange programs renew a declaration of a public health emergency every two weeks. A recent amendment requiring an annual report and public hearing regarding local programs appears to have eliminated key law enforcement opposition to the bill and could lead to the Governor's signature.

AB 1597 (Laird) would permit authorized needle exchange programs to access state HIV prevention funds to purchase sterile syringes. The bill was approved by the full Assembly and the Senate Health Committee, and awaits action in the Senate Appropriations Committee. Calls to Senator Carole Migden (916-445-1412) would be helpful to ensure the bill makes it through this hurdle.

AB 1677 (Koretz) would permit the distribution of condoms in state prisons. Approved by the full Assembly and Senate Public Safety Committee, this bill also awaits action in Senate Appropriations. Calls to Senator Migden on this bill would also be helpful.

If these bills make it through the Legislature, it will be critical for the community to register their support with the Governor's office and urge him to sign them into law.

Unfortunately, following Assembly approval on a 72 to 6 vote, AB 283 (Koretz) was held in the Senate Business & Professions Committee. This bill would reduce thefts of pseudoephedrine-based cold remedies by requiring them to be in locked cases in pharmacies. Pseudoephedrine is used to make methamphetamine. Groups working to address the clear connection between methamphetamine use and HIV risk behaviors hope to revive AB 283 in the second year of the 2005-06 session.

PUBLIC POLICY STAFF

Fred Dillon
Policy Director

Ernest Hopkins
Director, Federal Affairs

Dana Van Gorder
Director, State & Local Affairs