



Meeting of the
POLICY COMMITTEE

November 20, 2008, 10:00 am – 12:00 pm

Matthew Lesieur and Darryl Ng, Co-Chairs

Members Present: Damian Bird, Sean Cahill, PhD, Elaine Greeley, Matthew Lesieur, Paul Meissner, Darryl Ng, Andresa Person, Jan Carl Park, Charles Shorter, Dorella Walters

Members Absent: Susan Alston, Gregory Cruz, Coco Jervis, Esther W.Y. Lok, Reynolds Mulero

DOHMH Staff Present: Nina Rothschild, DrPH, Elys Vasquez

Material Distributed: Agenda; minutes from the previous meeting of the Policy Committee on October 24, 2008; AIDS in America (recommendations for President-Elect Barack Obama's first 100 days in office); Federal AIDS Policy Partnership (FAPP) and CAEAR documents on technical fixes to Ryan White HATMA; summary of Ryan White HATMA from NYAC; AIDS budget and appropriations coalition chart showing total federal HIV/AIDS spending for FY 2009; NYC FY 09 financial plan (mid-year budget modification); Planning Council letters on federal, state, and NYC policy issues from 2007-8 planning cycle.

Welcome/Introductions: Matt Lesieur and Darryl Ng welcomed Committee members. Members introduced themselves.

Review of the Meeting Packet: Nina Rothschild reviewed the contents of the meeting packet.

Letter to HHS Secretary Mike Leavitt about De-Listing HIV as a Disease of Public Health Significance: Although President Bush signed a law officially lifting the ban on travel by PLWHAs to the United States, the ban is still in effect until the Department of Health and Human Services removes HIV/AIDS from a list of diseases of public health significance. At the October meeting of the Policy Committee, members agreed to generate a letter to HHS Secretary Michael Leavitt asking him to take administrative action and remove HIV as a

bar to entry into the United States. Committee members discussed a draft of the letter. Dr. Sean Cahill stated that a notice about the removal of HIV from the list of diseases of public health significance would appear on the *Federal Register* with a 60- or 90-day comment period. Jan Carl Park requested greater specificity in the letter – i.e., a reference to the specific statute in question -- and Dr. Cahill supplied the information and some additional language to strengthen the letter. The letter will be brought to the full Planning Council and, if the Council approves the letter, sent to Secretary Leavitt as soon as possible.

Ryan White Reauthorization/Technical Fixes Sign-On Letter: The Ryan White HIV/AIDS Treatment Modernization Act (HATMA) sunsets in September 2009. Organizations involved in the dialogue about reauthorization are proposing technical fixes, to be agreed upon by a national consensus, rather than a big battle over reauthorization.

The Federal AIDS Policy Partnership (FAPP), a loose consortium of national HIV groups, is working by consensus to create a document proposing technical fixes to HATMA. One of the proposed fixes calls for shifting drug costs away from ADAP and onto Medicare. Another of the technical fixes calls for either eliminating the ceiling for unobligated funds altogether or raising the ceiling from the current 2% to 5%. Public Health Solutions, the master contractor for the Bureau of HIV/AIDS Prevention and Control's Ryan White program, monitors spending rigorously, and the New York EMA is able to expend funds in a timely manner and meet the 2% requirement. Other jurisdictions, however, are challenged in meeting the 98% spending requirement. Paul Meissner questioned whether keeping the penalty in place could benefit the New York EMA: might NY be eligible for some of the funds unexpended by other jurisdictions? Darryl Ng noted that Puerto Rico encountered trouble in spending its Ryan White funds and is now not eligible for supplemental funding. Mr. Lesieur noted that the current law doesn't permit flexibility and that the New York EMA will have a lot of new contracts next year, meaning that there will be a lot of underspending, and we could conceivably be penalized too. NYC DOHMH aligns itself with the Florida AIDS Institute and supports changing the ceiling to 5% but does not support lifting the penalty altogether. Mr. Lesieur suggested another possible format for the penalty: rather than focusing on whether or not the jurisdiction spends its supplemental funds, HRSA could penalize a jurisdiction for failing to expend its formula funds. Committee members agreed to support a technical fix to increase the amount of unobligated funds to 5% but to leave the penalty in place.

Another technical fix refers to Part D medical expenses. HATMA does not contain language specifying that Part D dollars cover core medical services, but HRSA has medicalized the requirements for recipients of Part D funding.

We need to remind HRSA that Congress did not intend to medicalize Part D when it reauthorized HATMA. Policy Committee members agreed to approach Part D providers about this issue.

Another technical fix involves the Severity of Need Index (SONI) and client level data. Poorer jurisdictions with fewer resources stand to benefit from SONI; jurisdictions such as New York with more generous Medicaid programs – i.e., jurisdictions which have funding sources other than Ryan White to pay for treatment and care – stand to lose funding.

Still another technical fix involves client-level data. Some jurisdictions, including California, Maryland, and Massachusetts, put the names of their PLWHAs in code as an extra security measure. CDC doesn't recognize code-based reporting because it offers too many opportunities for duplication of client numbers, and HRSA will no longer recognize code-based data when HATMA expires in 2009. The proposed technical fix would permit states to continue to use code-based data until their data systems mature. Although this is not a big issue for the New York EMA because we already have client-level data, it is an issue for other states. Policy Committee members support allowing those other jurisdictions to transition to client-level data reporting rather than penalizing them.

Still another issue for reauthorization is the EMA/TGA split. During the last reauthorization, Congress specified criteria for the number of AIDS cases constituting a transitional grant area (generally, TGAs are mid-size cities) and made clear that TGAs are temporary and will cease to receive funding in several years. CAEAR, an advocacy group of Part A and Part C providers, advocates for including not just AIDS cases, but also HIV cases, in the total number of cases that count toward designation as a TGA – thereby extending a lifeline to the TGAs. Although this is not an issue for the New York EMA, we support the CAEAR Coalition on this item. This issue is particularly important to the Dutchess County EMA, which could potentially face elimination as a Part A eligible city. A loss of funding for Dutchess would compel the New York State Department of Health to redirect resources to Dutchess County.

Another issue for consideration during reauthorization is a change in the dollar amounts under “authorized appropriations” for each Part of the Ryan White HIV/AIDS Treatment Modernization Act. CAEAR supports changing the language from specific dollar amounts to – “such sums as necessary” – a proposal with which the Policy Committee agrees.

Another issue under discussion regarding HATMA is the designation of food and nutrition as a core or non-core medical service category. Food and nutrition currently fall under the non-core service category, but some parties to the conversation want to include food and nutrition as a core medical

service. Food is a low-threshold way of getting people into care. The NYC DOHMH does not view food as a core service. [What was the decision of the committee on this issue?](#)

Committee members agreed to send a letter to Senator Kennedy and Representative Dingell concerning all these technical fixes in December.

City, State, and Federal Budget Cuts: The City has a huge budget gap, and the Mayor has to increase taxes in order to close it. Mr. Ng noted that City HIV/AIDS funding is in reasonably good shape now but will start to hurt during the next phase in the budget cycle. The City will hold hearings on the mid-year budget modification. With reduced funding, more people will not receive HIV/AIDS services from a variety of sources and will come to Ryan White programs for assistance. The Planning Council's budget is set through 2010. Policy Committee members agreed that the information on potential budget cuts for HIV and their impact on housing services should be shared with the HOPWA Advisory Work Group and, in particular, with John Rojas, Director of the DOHMH HOPWA Program, and Sallie Adams, who represents HASA on the Planning Council.

In order for the State to balance its budget, it has to cut \$2.5 billion. Some of this money will come from Medicaid, and nursing homes will see an 8% reduction in payments. Although increases to Medicaid fees were recently agreed upon, those will be rescinded. Both the City and the State have rainy day funds for tough times, but dipping into these funds will impact on the State's bond ratings. According to Mr. Ng, the NY Legislature abdicated its responsibility recently by not dealing with these issues. Part of the Governor's plan involves targeting community service providers for cuts. Elaine Greeley noted that the situation will likely lead to an increase in paper work for the community service providers, who will be obliged to verify recipient eligibility for services. Mr. Lesieur noted that cutbacks will no doubt lead to a delay in services and the closing of hospital beds. Mr. Ng also commented that providers will be paid late.

The Federal government is funded on a level basis until early March. President-Elect Obama will have to negotiate with Congress on the budget. The budget will be funded by a continuing resolution at last year's levels until a budget is agreed upon. As a Committee, we cannot do anything to facilitate the passing of the federal budget.

Review of the Minutes: The minutes from the October 24th meeting of the Planning Council were passed by all present.

AIDS in America: Mr. Lesieur attended a FAPP meeting regarding the Obama transition. FAPP wants us to come up with a consensus document of no

more than 10 recommendations (not a laundry list) of steps which we support regarding the technical fixes. Dr. Cahill expressed concern regarding the AIDS in America document because it asks for the creation of a national AIDS strategy in the first 100 days – an impossible goal.

Adjournment/Next Meeting: The meeting was adjourned. Committee members agreed to meet again on December 12 from 10:00-12:00.