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United States Government Accountability Office
Washington, DC 20548

March 6, 2009

The Honorable Michael B. Enzi
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Tom A. Coburn
United States Senate

Subject: *Ryan White CARE Act: Estimated Effect of Proposed Stop-Loss Provision on Urban Areas*

You asked us to estimate the effect on Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (CARE Act) funding to urban areas if certain stop-loss provisions are enacted. The CARE Act, administered by the Department of Health and Human Services's (HHS) Health Resources and Services Administration (HRSA), was enacted to address the needs of jurisdictions, health care providers, and people with human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).¹ In December 2006, the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006) reauthorized CARE Act programs for fiscal years 2007 through 2009.² In February 2009, the House of Representatives passed H.R. 1105, the Omnibus Appropriations Act, 2009, which contains a stop-loss provision covering CARE Act funding for urban areas that receive funding under the CARE Act.³ This bill has not been passed by the Senate.

Under the CARE Act, funding for urban areas—Eligible Metropolitan Areas (EMA) and Transitional Grant Areas (TGA)⁴—is primarily provided through three categories of grants:

¹Pub. L. No. 101-381, 104 Stat. 576 (codified as amended at 42 U.S.C. §§ 300ff through 300ff-121). Unless otherwise indicated, references to the CARE Act refer to current law.

²Pub. L. No. 109-415, 120 Stat. 2767. The CARE Act programs had previously been reauthorized by the Ryan White CARE Act Amendments of 1996 (Pub. L. No. 104-146, 110 Stat. 1346) and the Ryan White CARE Act Amendments of 2000 (Pub. L. No. 106-345, 114 Stat. 1319).

³H.R. 1105, 111th Cong. (2009). For purposes of this report, unless otherwise specified we use the term H.R. 1105 to refer to the bill as passed by the House of Representatives.

⁴In this report, we use the term urban areas to refer to both EMAs and TGAs. An EMA is a metropolitan area with a population of 50,000 or more that had more than 2,000 AIDS cases reported in the most recent 5-year period. The 2,000 AIDS-case criterion does not include cases of HIV that have not progressed to AIDS. In fiscal year 2008, there were 22 EMAs. The Modernization Act of 2006 created a new program for TGAs. A TGA is a metropolitan area with a population of 50,000 or more, which had 1,000 to 1,999 AIDS cases reported in the most recent 5-year period. Under this program, urban areas that were eligible for EMA funding in fiscal year 2006 but that no longer meet the eligibility criteria for either EMAs or TGAs maintain their eligibility for funding and are considered TGAs until for 3 consecutive years they (1) fail to have at least 1,000 to 1,999 AIDS cases reported in the most recent 5-year period and (2) do not have more than 1,500 living cases of AIDS. In fiscal year 2008, there were 34 TGAs according to HRSA.

(1) formula grants that are awarded based on the case counts of people with HIV/AIDS in an urban area; (2) supplemental grants that are awarded on a competitive basis based on an urban area's demonstration of need, including criteria such as HIV/AIDS prevalence; and (3) Minority AIDS Initiative (MAI) grants, which are supplemental grants awarded on a competitive basis for urban areas to address disparities in access, treatment, care, and health outcomes. Changes in grantee characteristics and funding formulas can cause increases or decreases in grantees' funding.

H.R. 1105, which was passed by the House of Representatives on February 25, 2009, contains a provision to ensure that decreases in total 2008 Part A funding for fiscal year 2008 for each EMA and TGA would not exceed levels specified in the bill.⁵ It would limit the total funding decrease for an EMA for the 2008 fiscal year to no more than 6.3 percent of what the EMA received for the 2006 fiscal year. Decreases for a TGA for the 2008 fiscal year would be limited to 11.3 percent of its total funding for fiscal year 2006.⁶ The funding necessary to limit the decreases to urban areas would be given as increases to supplemental grants for fiscal year 2009.

To provide you with technical assistance, we developed an estimate of fiscal year 2009 Part A CARE Act funding for EMAs and TGAs with the stop-loss provision in H.R. 1105. We also developed an estimate of such funding without that provision. We used data from HHS, H.R. 1105, and an Explanatory Statement submitted by the Chairman of the House Committee on Appropriations to H.R. 1105 to estimate these amounts.⁷ In order to conduct these analyses, we made a number of assumptions. These assumptions are described in notes to the accompanying tables. See enclosure I for estimates of Part A CARE Act funding for EMAs with and without the stop-loss provision. See enclosure II for estimates of Part A CARE Act funding for TGAs with and without the stop-loss provision.

The objective of this work was to provide pertinent and timely information by showing the effect of the stop-loss provision on EMAs and TGAs for fiscal year 2009 that Congress can use in determining funding for CARE Act programs. We used data from agency reference documents to conduct our analyses. Because of time constraints, we did not conduct any additional analysis of the proposed provision. We performed our work in March 2009.

⁵Part A of the CARE Act covers funding to urban areas. Part B covers funding to states, territories, and the District of Columbia.

⁶The stop-loss provision in H.R. 1105 states that "within the amounts provided for Part A . . . , \$10,853,000 is available . . . for increasing supplemental grants for fiscal year 2009 to metropolitan areas that received grant funding in fiscal year 2008 . . . to ensure that an area's total funding under [Part A to an EMA] for fiscal year 2008, together with the amount of this additional funding, is not less than 93.7 percent of the amount of such area's total funding under part A for fiscal year 2006, and to ensure . . . that an area's total funding under [Part A to a TGA] for fiscal year 2008, together with the amount of this additional funding, is not less than 88.7 percent of the amount of such area's total funding under part A for fiscal year 2006." Because the provision would apply to an EMA's or TGA's "total funding" under Part A, we consider the total amount subject to the stop-loss provision to be formula, supplemental, and MAI grants made with Part A funds. MAI grants are authorized by 42 U.S.C. § 300ff-121, which specifically directs HHS to provide funding under Part A.

⁷155 Cong. Rec. H1653, H2377 (daily ed. Feb. 23, 2009) (statement of Rep. Obey).

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A handwritten signature in black ink that reads "Marcia Crosse". The signature is written in a cursive style with a long horizontal line extending to the right.

Marcia Crosse
Director, Health Care

enclosures

Total Eligible Metropolitan Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006, Fiscal Year 2008, and Projected Funding for Fiscal Year 2009 under Part A Funding Levels Identified in the Explanatory Statement to H.R. 1105

Eligible Metropolitan Area (EMA)	Fiscal year 2006 funding	93.7 percent of fiscal year 2006 funding ^a	Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss ^b	H.R. 1105: Estimated stop-loss	H.R. 1105: Estimated fiscal year 2009 funding after applying stop loss	Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
Atlanta, Ga.	\$18,869,561	\$17,680,779	\$17,942,992	\$18,337,471	\$0	\$18,337,471	\$18,660,212
Baltimore, Md.	20,628,895	19,329,275	20,594,272	23,889,479	0	23,889,479	24,292,574
Boston, Mass.	13,339,141	12,498,775	14,027,340	16,274,966	0	16,274,966	16,564,752
Chicago, Ill.	25,044,633	23,466,821	26,632,351	30,882,913	0	30,882,913	31,427,282
Dallas, Tex.	13,196,377	12,365,005	13,547,516	15,792,149	0	15,792,149	16,070,891
Detroit, Mich.	8,428,477	7,897,483	8,055,626	9,201,600	0	9,201,600	9,360,130
Ft. Lauderdale, Fla.	14,963,638	14,020,929	15,171,291	17,501,950	0	17,501,950	17,810,954
Houston, Tex.	19,953,520	18,696,448	20,094,436	22,938,330	0	22,938,330	23,338,238
Los Angeles, Calif.	34,895,377	32,696,968	36,013,941	41,310,363	0	41,310,363	42,038,454
Miami, Fla.	23,999,914	22,487,919	24,974,906	28,478,276	0	28,478,276	28,964,002
New Orleans, La.	7,434,812	6,966,419	7,669,652	8,838,306	0	8,838,306	8,994,183
New York, N.Y.	120,423,326	112,836,656	111,883,651	114,607,968	953,005	115,560,973	116,582,701
Newark, N.J.	14,752,254	13,822,862	14,038,197	15,447,478	0	15,447,478	15,713,291
Orlando, Fla.	8,561,273	8,021,913	7,968,264	9,047,025	53,649	9,100,674	9,204,349
Philadelphia, Pa.	22,384,551	20,974,324	22,773,161	25,550,597	0	25,550,597	25,994,618
Phoenix, Ariz.	6,519,338	6,108,620	7,522,978	8,762,472	0	8,762,472	8,923,024
San Diego, Calif.	9,269,256	8,685,293	10,955,986	12,877,535	0	12,877,535	13,109,380
San Francisco, Calif.	27,964,864	26,203,078	19,419,733	19,722,536	6,783,345	26,505,881	19,815,968
San Juan, P.R.	13,470,347	12,621,715	12,877,445	13,087,902	0	13,087,902	13,148,287
Tampa–St. Petersburg, Fla.	9,571,830	8,968,805	9,524,707	10,465,933	0	10,465,933	10,652,830
Washington, D.C.	26,923,066	25,226,913	27,911,311	31,591,530	0	31,591,530	32,142,719
West Palm Beach, Fla.	8,276,018	7,754,629	8,352,071	8,602,738	0	8,602,738	8,753,459
Total	\$468,870,468	\$439,331,629	\$457,951,827	\$503,209,515	\$7,789,999^c	\$510,999,514	\$511,562,296

Source: GAO analysis of HHS data, H.R. 1105, and the Explanatory Statement to H.R. 1105.

Notes: The projected fiscal year 2009 funding in this table is based on the funding amount for urban areas identified in the Explanatory Statement to H.R. 1105. We assumed that the percent of Part A funding allotted to EMAs and the percent allotted to Transitional Grant Areas (TGA) in fiscal year 2009 would be the same as the percent allotted to each in fiscal year 2008.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that Health Resources and Services Administration (HRSA) used to determine fiscal year 2008 funding.

We cannot determine the exact effect of the stop-loss provision on total funding for each EMA for fiscal year 2009. It is not possible to determine exactly how each EMA would be affected by the 6.3 percent stop-loss for EMAs because it is not known how HRSA will award fiscal year 2009 supplemental and Minority AIDS Initiative (MAI) grants and because the case counts on which formula grants will be based are not yet available.

Enclosure I

To estimate fiscal year 2009 supplemental funding for EMAs, we calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2009. For example, if an EMA received 2 percent of the total supplemental funding available for distribution to EMAs in fiscal year 2008, then we estimated that area's supplemental funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

We based our estimate of fiscal year 2009 MAI funding for EMAs on the amount to be reserved for fiscal year 2009 Part A MAI funding in the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006). (The exact amount used was 95.985 percent of the amount specified in the Modernization Act of 2006. This amount was used because this was the percent of the amount specified in the Modernization Act of 2006 for fiscal years 2007 and 2008 that had been distributed in those years.) We calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 MAI funding represented. We then multiplied that percentage by the estimated total MAI funding to be available for distribution in fiscal year 2009. For example, if an EMA received 2 percent of the total MAI funding available for distribution to EMAs in fiscal year 2008, then we estimated that area's MAI funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

^aUnder the stop-loss provision in H.R. 1105, an EMA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2008 would not be less than 93.7 percent of what it received for fiscal year 2006.

^bThe total funding that an EMA would receive in fiscal year 2009 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "H.R. 1105: Estimated stop-loss."

^cWe estimate the funding needed to satisfy the H.R. 1105 stop-loss provision for both EMAs and TGAs to be \$11,130,937. However, the amount specified in H.R. 1105 to cover the stop-loss provision is \$10,853,000, a difference of \$277,937. See enclosure II for the funding needed to satisfy the stop-loss provision for TGAs.

Total Transitional Grant Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006, Fiscal Year 2008, and Projected Funding for Fiscal Year 2009 under Part A Funding Levels Identified in the Explanatory Statement to H.R. 1105

Transitional Grant Area (TGA)	Fiscal year 2006 funding	88.7 percent of fiscal year 2006 funding^a	Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss^b	H.R. 1105: Estimated stop-loss	H.R. 1105: Estimated fiscal year 2009 funding after applying stop loss	Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
Austin, Tex.	\$3,719,076	\$3,298,820	\$3,780,228	\$4,162,255	\$0	\$4,162,255	\$4,232,183
Baton Rouge, La.	0	0	3,235,045	3,558,823	0	3,558,823	3,617,603
Bergen-Passaic, N.J.	4,485,650	3,978,772	3,772,874	4,151,023	205,898	4,356,920	4,219,835
Caguas, P.R.	1,648,356	1,462,092	1,063,691	1,167,262	398,401	1,565,663	1,185,745
Charlotte-Gastonia, N.C.-S.C.	0	0	4,676,968	5,143,544	0	5,143,544	5,228,264
Cleveland, Ohio	3,349,096	2,970,648	3,911,591	4,302,543	0	4,302,543	4,373,547
Denver, Colo.	4,283,042	3,799,058	7,298,643	8,048,873	0	8,048,873	8,187,495
Dutchess County, N.Y.	1,367,584	1,213,047	1,155,700	1,269,994	57,347	1,327,341	1,290,615
Fort Worth, Tex.	3,409,819	3,024,509	3,588,582	3,952,428	0	3,952,428	4,019,120
Hartford, Conn.	4,666,281	4,138,991	3,185,949	3,503,924	953,042	4,456,966	3,561,619
Indianapolis, Ind.	0	0	3,587,145	3,952,045	0	3,952,045	4,019,096
Jacksonville, Fla.	4,913,816	4,358,555	4,826,190	5,308,171	0	5,308,171	5,395,750
Jersey City, N.J.	5,145,142	4,563,741	4,593,150	5,048,353	0	5,048,353	5,130,699
Kansas City, Mo.	2,916,485	2,586,922	4,011,340	4,420,666	0	4,420,666	4,496,001
Las Vegas, Nev.	4,323,627	3,835,057	4,552,895	5,017,196	0	5,017,196	5,102,314
Memphis, Tenn.	0	0	5,859,876	6,438,653	0	6,438,653	6,543,133
Middlesex-Somerset-Hunterdon, N.J.	2,595,663	2,302,353	2,462,767	2,711,055	0	2,711,055	2,756,415
Minneapolis-St. Paul, Minn.	3,046,512	2,702,256	4,675,211	5,148,836	0	5,148,836	5,235,593
Nashville, Tenn.	0	0	3,743,376	4,123,916	0	4,123,916	4,193,729
Nassau-Suffolk, N.Y.	6,148,307	5,453,548	4,811,511	5,295,773	642,037	5,937,810	5,384,059
New Haven, Conn.	6,684,594	5,929,235	5,209,416	5,735,036	719,819	6,454,855	5,831,010
Norfolk, Va.	4,414,760	3,915,892	5,360,103	5,898,719	0	5,898,719	5,996,942
Oakland, Calif.	5,735,837	5,087,687	5,867,538	6,462,486	0	6,462,486	6,570,622
Orange County, Calif.	4,858,579	4,309,560	5,332,920	5,877,173	0	5,877,173	5,976,553
Ponce, P.R.	2,391,444	2,121,211	1,926,154	2,117,579	195,057	2,312,636	2,152,253
Portland, Ore.	3,401,956	3,017,535	3,310,036	3,714,698	0	3,714,698	3,779,492
Riverside-San Bernardino, Calif.	7,074,521	6,275,100	6,949,457	7,667,837	0	7,667,837	7,800,012
Sacramento, Calif.	2,778,729	2,464,733	2,325,684	2,565,172	139,049	2,704,221	2,609,095

Enclosure II

Transitional Grant Area (TGA)	Fiscal year 2006 funding	88.7 percent of fiscal year 2006 funding ^a	Fiscal year 2008 funding	H.R. 1105: Estimated fiscal year 2009 funding before applying stop-loss ^b	H.R. 1105: Estimated stop-loss	H.R. 1105: Estimated fiscal year 2009 funding after applying stop loss	Estimated fiscal year 2009 funding without H.R. 1105 stop-loss provision in place
San Antonio, Tex.	3,325,881	2,950,056	3,969,302	4,368,560	0	4,368,560	4,441,414
San Jose, Calif.	2,304,762	2,044,324	2,578,512	2,841,808	0	2,841,808	2,889,886
Santa Rosa, Calif.	1,028,634	912,398	1,072,099	1,182,455	0	1,182,455	1,202,669
Seattle, Wash.	5,445,484	4,830,144	6,316,558	6,969,212	0	6,969,212	7,089,141
St. Louis, Mo.	4,502,572	3,993,781	5,796,624	6,098,186	0	6,098,186	6,199,596
Vineland-Millville-Bridgeton, N.J.	849,715	753,697	723,408	795,232	30,289	825,521	808,204
Total	\$110,815,924	\$98,293,725	\$135,530,543	\$149,019,485	\$3,340,938^c	\$152,360,424	\$151,519,703

Source: GAO analysis of HHS data, H.R. 1105, and the Explanatory Statement to H.R. 1105.

Notes: The projected fiscal year 2009 funding in this table is based on the funding amount for urban areas identified in the Explanatory Statement to H.R. 1105. We assumed that the percent of Part A funding allotted to Eligible Metropolitan Areas (EMA) and the percent allotted to TGAs in fiscal year 2009 would be the same as the percent allotted to each in fiscal year 2008.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that Health Resources and Services Administration (HRSA) used to determine fiscal year 2008 funding.

We cannot determine the exact effect of the stop-loss provision on total funding for each TGA for fiscal year 2009. It is not possible to determine exactly how each TGA would be affected by the 11.3 percent stop-loss provision for TGAs because it is not known how HRSA will award fiscal year 2009 supplemental and Minority AIDS Initiative (MAI) grants and because the case counts on which formula grants will be based are not yet available.

To estimate fiscal year 2009 supplemental funding for TGAs, we calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2009. For example, if a TGA received 2 percent of the total supplemental funding available for distribution to TGAs in fiscal year 2008, then we estimated that area's supplemental funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to TGAs.

We based our estimate of fiscal year 2009 MAI funding for TGAs on the amount to be reserved for fiscal year 2009 Part A MAI funding in the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Modernization Act of 2006). (The exact amount used was 95.985 percent of the amount specified in the Modernization Act of 2006. This amount was used because this was the percent of the amount specified in the Modernization Act of 2006 for fiscal years 2007 and 2008 that had been distributed in those years.) We calculated the percent of fiscal year 2008 total funding that each area's fiscal year 2008 MAI funding represented. We then multiplied that percentage by the estimated total MAI funding to be available for distribution in fiscal year 2009. For example, if a TGA received 2 percent of the total MAI funding available for distribution to TGAs in fiscal year 2008, then we estimated that area's MAI funding in fiscal year 2009 to be 2 percent of the amount of supplemental funding available for distribution to TGAs.

^aUnder the stop-loss provision in H.R. 1105, a TGA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2008 would not be less than 88.7 percent of what it received for fiscal year 2006.

^bThe total funding that a TGA would receive in fiscal year 2009 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "H.R. 1105: Estimated stop-loss."

^cWe estimate the funding needed to satisfy the H.R. 1105 stop-loss provision for both EMAs and TGAs to be \$11,130,937. However, the amount specified in H.R. 1105 to cover the stop-loss provision is \$10,853,000, a difference of \$277,937. See enclosure I for the funding needed to satisfy the stop-loss provision for EMAs.

GAO Contacts and Staff Acknowledgments

For information about this letter, please contact Marcia Crosse, Director, Health Care, who can be reached at (202) 512-7114 or crossem@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this letter. Major contributors to this letter were Thomas Conahan, Assistant Director; Martha Kelly, Assistant Director; Robert Copeland; Helen Desaulniers; Rachel Moskowitz; Jennifer Whitworth; and Suzanne Worth.

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