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February 18, 2011

The Honorable Dennis R. Rehberg
Chairman
Subcommittee on Labor, Health and Human Services,
Education, and Related Agencies
Committee on Appropriations
House of Representatives

Subject: *Ryan White CARE Act: Estimated Effect of Continued Application of the Fiscal Year 2010 Stop-Loss Provision on 2011 Funding for Urban Areas*

Dear Mr. Rehberg:

You asked us to estimate the effect on Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (CARE Act) funding to urban areas if the stop-loss provision applicable in fiscal year 2010 was applied to funding for 2011 under a continuing resolution. The CARE Act, administered by the Department of Health and Human Services' (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 October 2009, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (RWTEA) reauthorized CARE Act programs for fiscal years 2010 through 2013.²

Under the CARE Act, funding for urban areas—eligible metropolitan areas (EMA) and transitional grant areas (TGA)³—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). The 1990 CARE Act added title XXVI to the Public Health Service Act. Unless otherwise indicated, references to the CARE Act refer to current title XXVI.

²Pub. L. No. 111-87, 123 Stat. 2885. 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), the Ryan White CARE Act Amendments of 2000 (Pub. L. No. 106-345, 114 Stat. 1319), and the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Pub. L. No. 109-415, 120 Stat. 2767).

³In this report, we use “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 2010, there were 24 EMAs, according to HRSA. 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. Urban areas that were eligible for EMA funding in fiscal year 2010 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. RWTEA permits a new margin of error exception to the second criterion. In the case of a TGA that has a total of 1,400 to 1,499 living cases of AIDS as of December 31 of the most recent calendar year for which such data are available, the TGA maintains its eligibility if not more than 5 percent of the total from grants awarded is unobligated at the end of the most recent fiscal year for which such data are available. In fiscal year 2010, there were 32 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 awarded for urban areas to address disparities in access, treatment, care, and health outcomes.

The Consolidated Appropriations Act, 2010, contained a provision to ensure that decreases in total Part A funding for fiscal year 2009 for each EMA and TGA did not exceed specified levels. Specifically, it limited the total funding decrease for fiscal year 2009 to no more than 7.6 percent of what the EMA or TGA received for fiscal year 2006.⁴ The funds necessary to limit the decreases to urban areas were given as increases to supplemental grants for fiscal year 2010.

To provide you with technical assistance, we developed an estimate of fiscal year 2011 CARE Act funding for EMAs and TGAs assuming 2010 funding levels and that the stop-loss provision applicable in fiscal year 2010 is applied.⁵ We also developed an estimate of such funding without the stop-loss provision. We used data from HHS and the Consolidated Appropriations Act, 2010, to estimate these amounts. 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 CARE Act funding for EMAs with and without the stop-loss provision. See enclosure II for estimates of CARE Act funding for TGAs with and without the stop-loss provision.

The objective of this report was to provide pertinent information by showing the effect that the stop-loss provision for fiscal year 2010 would have on fiscal year 2011 funding for EMAs and TGAs under a continuing resolution at the funding levels indicated. We used data from agency reference documents to conduct our analyses. Because of time constraints, we did not conduct any additional analysis of the provision. We performed our work in January and February 2011.


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⁴The stop-loss provision stated that "within the amounts provided for Part A . . . , \$6,021,000 shall be available . . . for increasing supplemental grants for fiscal year 2010 to metropolitan and transitional areas that received grant funding in fiscal year 2009 . . . to ensure that an area's total funding under [Part A to an EMA or TGA] for fiscal year 2009, together with the amount of this additional funding, is not less than 92.4 percent of the amount of such area's total funding under Part A for fiscal year 2006." Pub. L. No. 111-117, div. D, tit. II, 123 Stat. 3240 (2009). Because this provision would apply to an EMA or TGA's "total funding" under Part A, we consider the amount subject to the stop-loss provision to be formula, supplemental, and MAI grants. MAI grants are authorized by 42 U.S.C. § 300ff-121, which specifically directs HHS to provide funding under Part A.

⁵We previously provided similar estimates for prior legislation. See GAO, *Ryan White CARE Act: Estimated Effect of Proposed Stop-Loss Provision on Urban Areas*, GAO-09-472R (Washington, D.C.: Mar. 6, 2009), *Ryan White CARE Act: Estimated Effect of Proposed Stop-Loss Provision in H.R. 3293 on Urban Areas*, GAO-09-947R (Washington, D.C.: Aug. 3, 2009), and *Ryan White CARE Act: Estimated Effect of Draft Stop-Loss Provision*, GAO-11-322R (Washington, D.C.: Jan. 21, 2011).

If you or your staff have any questions about this report, please contact me 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 report. Key contributors to this report are provided in enclosure III.

Sincerely yours,

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 – 3

Total Eligible Metropolitan Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006 and Fiscal Year 2010 and Estimated Funding for Fiscal Year 2011 Assuming the 2010 Stop-Loss Provision Is Applied

Eligible metropolitan area (EMA)	Fiscal year 2006 funding	92.4 percent of fiscal year 2006 funding ^a	Fiscal year 2010 funding	Estimated fiscal year 2011 funding before applying 2010 stop-loss provision ^b	Estimated stop loss under 2010 stop-loss provision	Estimated fiscal year 2011 funding after applying 2010 stop-loss provision ^c	Estimated fiscal year 2011 funding without 2010 stop-loss provision ^c
Atlanta, Ga.	\$18,869,561	\$17,435,474	\$20,336,854	\$21,862,667	\$0	\$21,862,667	\$22,054,205
Baltimore, Md.	20,628,895	19,061,099	21,794,719	23,584,633	0	23,584,633	23,800,751
Boston, Mass.	13,339,141	12,325,366	14,148,413	15,307,194	0	15,307,194	15,456,386
Chicago, Ill.	25,044,633	23,141,241	27,070,245	29,333,904	0	29,333,904	29,604,044
Dallas, Tex.	13,196,377	12,193,452	15,112,117	16,202,728	0	16,202,728	16,356,626
Detroit, Mich.	8,428,477	7,787,913	8,640,138	9,313,547	0	9,313,547	9,391,806
Ft. Lauderdale, Fla.	14,963,638	13,826,402	15,395,253	16,521,986	0	16,521,986	16,674,217
Houston, Tex.	19,953,520	18,437,052	20,048,271	21,486,793	0	21,486,793	21,686,584
Los Angeles, Calif.	34,895,377	32,243,328	39,677,933	43,071,858	0	43,071,858	43,485,462
Miami, Fla.	23,999,914	22,175,921	25,699,349	27,461,444	0	27,461,444	27,722,247
Nassau-Suffolk, N.Y.	6,148,307	5,681,036	6,314,514	6,154,680	0	6,154,680	6,208,297
New Haven, Conn.	6,684,594	6,176,565	7,227,221	7,046,027	0	7,046,027	7,106,824
New Orleans, La.	7,434,812	6,869,766	7,557,633	8,085,939	0	8,085,939	8,161,600
New York, N.Y.	120,423,326	111,271,153	120,636,514	117,689,702	0	117,689,702	118,689,556
Newark, N.J.	14,752,254	13,631,083	14,416,548	14,224,523	0	14,224,523	14,360,053
Orlando, Fla.	8,561,273	7,910,616	9,089,179	9,746,217	0	9,746,217	9,837,429
Philadelphia, Pa.	22,384,551	20,683,325	24,299,388	26,018,321	0	26,018,321	26,262,765
Phoenix, Ariz.	6,519,338	6,023,868	8,372,580	8,999,249	0	8,999,249	9,083,813
San Diego, Calif.	9,269,256	8,564,793	11,582,541	12,561,849	0	12,561,849	12,681,950
San Francisco, Calif.	27,964,864	25,839,534	21,120,073	20,565,731	4,719,461	25,285,192	20,747,058
San Juan, P.R.	13,470,347	12,446,601	15,195,501	14,909,895	0	14,909,895	15,009,844
Tampa-St. Petersburg, Fla.	9,571,830	8,844,371	9,403,477	10,092,982	0	10,092,982	10,180,455
Washington, D.C.	26,923,066	24,876,913	31,452,528	35,169,640	0	35,169,640	35,495,196
West Palm Beach, Fla.	8,276,018	7,647,041	9,157,848	8,940,243	0	8,940,243	9,014,045
Total	\$481,703,369	\$445,093,913	\$503,748,837	\$524,351,752	\$4,719,461	\$529,071,213	\$529,071,213

Source: GAO analysis of Department of Health and Human Services' data and 2010 stop-loss provision.

Notes: The 2010 stop-loss provision was contained in the Consolidated Appropriations Act, 2010.

The projected fiscal year 2011 funding in this table is based on the funding amount for urban areas and states (Parts A and B, respectively) provided by the Consolidated Appropriations Act, 2010. The amount identified for Parts A and B and the amount identified for the stop-loss provision in that act were identical to the amounts identified in H.R. 3293, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010 which was passed by the House of Representatives on July 24, 2009. H.R. 3293, 111th Cong. (2009). Accordingly, we assumed that the funding for Parts A and B, respectively, would be the same as the amounts identified in the report of the House Committee on Appropriations accompanying H.R. 3293. H.R. Rep. No. 111-220 (2009). The total identified for Part A funding was \$679,074,000. We further assumed that the percentage of Part A funding for EMAs and the percentage for transitional grant areas (TGA) in fiscal year 2011 would be the same as the percentages allotted to each in fiscal year 2010.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that the Health Resources and Services Administration (HRSA) used to determine fiscal year 2010 funding.

Enclosure I

To estimate fiscal year 2011 supplemental funding for EMAs, we calculated the percentage of fiscal year 2010 total funding that each area's fiscal year 2010 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2011 under 2010 funding levels. For example, if an EMA received 2 percent of the total supplemental funding available for distribution to EMAs in fiscal year 2010, then we estimated that area's supplemental funding in fiscal year 2011 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

We developed our estimate of fiscal year 2011 Minority AIDS Initiative (MAI) funding for EMAs by applying the percentage increase in MAI funding from 2009 to 2010 at the EMA level.

Under the hold-harmless provision in the most recent reauthorization act, an EMA is ensured that its formula grant funding under Part A for fiscal year 2011 would be at least 100 percent of what is received for fiscal year 2010.

Individual entries may not sum to totals because of rounding.

^aUnder the stop-loss provision, an EMA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2010 would not be less than 92.4 percent of what it received for fiscal year 2006.

^bThe total funding that an EMA would receive in fiscal year 2011 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "Estimated stop loss under 2010 stop-loss provision."

^cThe total funding that is available to be distributed to EMAs in fiscal year 2011 remains the same with and without the stop-loss provision. It is the distribution of available funding across the EMAs that changes with and without the inclusion of the stop-loss provision.

Total Transitional Grant Area Formula, Supplemental, and Minority AIDS Initiative Grants for Fiscal Year 2006 and Fiscal Year 2010 and Estimated Funding for Fiscal Year 2011 Assuming the 2010 Stop-Loss Provision Is Applied

Transitional grant area (TGA)	Fiscal year 2006 funding	92.4 percent of fiscal year 2006 funding^a	Fiscal year 2010 funding	Estimated fiscal year 2011 funding before applying 2010 stop-loss provision^b	Estimated stop loss under 2010 stop-loss provision	Estimated fiscal year 2011 funding after applying 2010 stop-loss provision^c	Estimated fiscal year 2011 funding without 2010 stop-loss provision^c
Austin, Tex.	\$3,719,076	\$3,436,426	\$4,348,975	\$4,455,436	\$0	\$4,455,436	\$4,474,678
Baton Rouge, La.	.	.	4,083,037	4,182,519	0	4,182,519	4,199,542
Bergen-Passaic, N.J.	4,485,650	4,144,741	4,273,783	4,378,469	0	4,378,469	4,397,127
Caguas, P.R.	1,648,356	1,523,081	1,373,187	1,406,528	149,894	1,556,422	1,412,033
Charlotte-Gastonia, N.C.-S.C.	.	.	5,418,647	5,548,749	0	5,548,749	5,569,421
Cleveland, Ohio	3,349,096	3,094,565	4,488,525	4,598,390	0	4,598,390	4,617,997
Denver, Colo.	4,283,042	3,957,531	7,944,842	8,136,191	0	8,136,191	8,168,550
Dutchess County, N.Y.	1,367,584	1,263,648	1,347,313	1,380,318	0	1,380,318	1,386,162
Fort Worth, Tex.	3,409,819	3,150,673	4,049,388	4,148,875	0	4,148,875	4,167,122
Hartford, Conn.	4,666,281	4,311,644	3,898,157	3,914,200	413,487	4,327,687	3,930,478
Indianapolis, Ind.	.	.	3,908,426	4,003,831	0	4,003,831	4,020,902
Jacksonville, Fla.	4,913,816	4,540,366	5,581,086	5,716,911	0	5,716,911	5,740,302
Jersey City, N.J.	5,145,142	4,754,111	5,140,624	5,267,487	0	5,267,487	5,290,802
Kansas City, Mo.	2,916,485	2,694,832	4,475,793	4,585,350	0	4,585,350	4,605,245
Las Vegas, Nev.	4,323,627	3,995,031	5,640,348	5,776,837	0	5,776,837	5,800,161
Memphis, Tenn.	.	.	6,798,445	6,964,741	0	6,964,741	6,993,774
Middlesex-Somerset-Hunterdon, N.J.	2,595,663	2,398,393	2,790,752	2,858,535	0	2,858,535	2,870,135
Minneapolis-St. Paul, Minn.	3,046,512	2,814,977	5,416,982	5,549,431	0	5,549,431	5,573,336
Nashville, Tenn.	.	.	4,611,727	4,724,997	0	4,724,997	4,745,795
Norfolk, Va.	4,414,760	4,079,238	6,256,023	6,409,181	0	6,409,181	6,436,246
Oakland, Calif.	5,735,837	5,299,913	6,707,373	7,600,309	0	7,600,309	7,634,394
Orange County, Calif.	4,858,579	4,489,327	5,634,708	6,356,418	0	6,356,418	6,382,610
Ponce, P.R.	2,391,444	2,209,694	2,142,002	2,194,052	67,692	2,261,744	2,202,684
Portland, Ore.	3,401,956	3,143,407	3,599,540	3,971,840	0	3,971,840	3,989,386
Riverside-San Bernardino, Calif.	7,074,521	6,536,857	7,429,065	8,395,752	0	8,395,752	8,431,108
Sacramento, Calif.	2,778,729	2,567,546	2,629,282	3,033,483	0	3,033,483	3,047,015
San Antonio, Tex.	3,325,881	3,073,114	4,580,898	4,693,303	0	4,693,303	4,713,503
San Jose, Calif.	2,304,762	2,129,600	2,859,484	3,277,702	0	3,277,702	3,291,865
Santa Rosa, Calif.	1,028,634	950,458	1,169,051	1,310,251	0	1,310,251	1,315,787
Seattle, Wash.	5,445,484	5,031,627	7,053,642	7,226,841	0	7,226,841	7,259,214
St. Louis, Mo.	4,502,572	4,160,377	6,233,155	6,385,122	0	6,385,122	6,411,858

Enclosure II

Transitional grant area (TGA)	Fiscal year 2006 funding	92.4 percent of fiscal year 2006 funding ^a	Fiscal year 2010 funding	Estimated fiscal year 2011 funding before applying 2010 stop-loss provision ^b	Estimated stop loss under 2010 stop-loss provision	Estimated fiscal year 2011 funding after applying 2010 stop-loss provision ^c	Estimated fiscal year 2011 funding without 2010 stop-loss provision ^c
Vineland-Millville-Bridgeton, N.J.	849,715	785,137	897,656	919,664	0	919,664	923,550
Total	\$97,983,023	\$90,536,313	\$142,781,916	\$149,371,711	\$631,073	\$150,002,784	\$150,002,784

Source: GAO analysis of Department of Health and Human Services' data and 2010 stop-loss provision.

Notes: The 2010 stop-loss provision was contained in the Consolidated Appropriations Act, 2010.

The projected fiscal year 2011 funding in this table is based on the funding amount for urban areas and states (Parts A and B, respectively) provided by the Consolidated Appropriations Act, 2010. The amount identified for Parts A and B and the amount identified for the stop-loss provision in that act were identical to the amounts identified in H.R. 3293, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2010 which was passed by the House of Representatives on July 24, 2009. H.R. 3293, 111th Cong. (2009). Accordingly, we assumed that the funding for Parts A and B, respectively, would be the same as the amounts identified in the report of the House Committee on Appropriations accompanying H.R. 3293. H.R. Rep. No. 111-220 (2009). The total identified for Part A funding was \$679,074,000. We further assumed that the percentage of Part A funding for eligible metropolitan areas and the percentage for TGAs in fiscal year 2011 would be the same as the percentages allotted to each in fiscal year 2010.

Because updated human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) case counts were not available, we used the HIV/AIDS case counts that the Health Resources and Services Administration (HRSA) used to determine fiscal year 2010 funding.

To estimate fiscal year 2011 supplemental funding for TGAs, we calculated the percentage of fiscal year 2010 total funding that each area's fiscal year 2010 supplemental funding represented. We then multiplied that percentage by the estimated total supplemental funding to be available for distribution in fiscal year 2011 under 2010 funding levels. For example, if a TGA received 2 percent of the total supplemental funding available for distribution to TGAs in fiscal year 2010, then we estimated that area's supplemental funding in fiscal year 2011 to be 2 percent of the amount of supplemental funding available for distribution to EMAs.

We developed our estimate of fiscal year 2011 Minority AIDS Initiative (MAI) funding for TGAs by applying the percentage increase in MAI funding from 2009 to 2010 at the TGA level.

Individual entries may not sum to totals because of rounding.

^aUnder the stop-loss provision, a TGA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2010 would not be less than 92.4 percent of what it received for fiscal year 2006.

^bThe total funding that a TGA would receive in fiscal year 2011 with the stop-loss provision in place can be found by adding the amount in this column to the amount in the column titled "Estimated stop loss under 2010 stop-loss provision."

^cThe total funding that is available to be distributed to TGAs in fiscal year 2011 remains the same with and without the stop-loss provision. It is the distribution of available funding across the TGAs that changes with and without the inclusion of the stop-loss provision.

Enclosure III

GAO Contact and Staff Acknowledgments

GAO Contact

Marcia Crosse, (202) 512-7114 or crossem@gao.gov

Staff Acknowledgments

In addition to the contact above, major contributors to this report were Robert Copeland, Assistant Director; Martha Kelly, Assistant Director; Suzanne Worth, Assistant Director; Helen Desaulniers; Shannon Legeer; and Jennifer Whitworth.

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