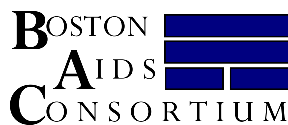
Policy Committee
Year End Report
June 2006

Presented to the
Ryan White Title I
Boston EMA
HIV Health Services
Planning Council

June 22, 2006

Produced by the



142 Berkeley Street Boston, MA 02116

The Annual Report of the Policy Committee

The Policy Committee of the Boston EMA HIV Health Services Planning Council presents its 2005-2006 Session Year End Report to the Planning Council

Committee Charge

The Policy Committee is one of the Council's standing committees. The Council's bylaws state the charge to the committee at Section 6.4.5:

> "The Policy Committee shall analyze local and federal policy and legislative issues, and advise the Council on how these issues may impact the Boston EMA, recommend response strategies, and coordinate such response activities."

Committee Membership

Serving on the Policy Committee during the 2005-2006 Session of the Planning Council were:

Members
Barry Sandberg, Chair
Emerson Miller, Vice-Chair
Alison Kirchgasser
Susan Oleksiw
Lester Payne
Shirley Royster

Staff
Edward Rewolinski, BAC
Andra Hibbert, BAC

Representing BPHC
Franszou Balthazar

Work of the Committee

When the Policy Committee began its work for the current session of the Planning Council many developments were taking place in government and among stakeholders that would affect PLWH/A. The Committee structured its work around several concerns that would have a major influence on the lives of people in the Boston EMA as well as the nation at large. The Committee focused on the most important developments influencing the work of the Council:

1. Reauthorization of the Ryan White CARE Act (RWCA);
2. Implementation of Medicare Part D;
3. HIV Case Reporting; and,
4. Massachusetts Health Reform.

Reauthorization of the RWCA

The Policy Committee dedicated the majority of its time to tracking the reauthorization of the RWCA. It had been anticipated by the previous year's Policy Committee that reauthorization would have been well under way if not in place by the beginning of the 2005-2006 session. No draft bill had been presented in either house of Congress by the time the 2005-2006 session began.

The President's Principles

The Policy Committee reviewed the Administration's principles put forward by the Secretary of Health and Human Services on behalf of the President.

Reactions

The Committee reviewed CAEAR Coalition's response to the President's Principles. In the main, the Coalition's stance on most of the Principles reflected the interest of the Boston EMA.

Senator Coburn

In June 2005, Senator Coburn of Oklahoma chairing the Sub-Committee on Federal Management, Government Information, and International Security called the Government Accountability Office to present a report on RWCA spending. Sen. Coburn's sub-committee was not the sub-committee having jurisdiction over the reauthorization. As a co-sponsor of the 2000 reauthorization while in the House of Representatives, the senator continued his interest in the program.

The Policy Committee reviewed the major elements of the GAO study.[1] Among the findings of the GAO were:

1. Benefits available to PLWH/A vary across jurisdictions;
2. There is no defined basic benefits' package for PLWH/A;
3. Jurisdictions with EMAs may be disproportionately advantaged in formulas used to calculate awards;
4. "Grandfathering" and "Hold Harmless" mechanisms over compensate jurisdictions with mature epidemics at the expense of communities with emerging epidemic numbers; and,
5. Actions should be taken to move to a more equitable distribution of resources.

Other policy statements examined

The Policy Committee reviewed several policy statements issues by various governmental and non-governmental groups. Among these were:

"Achieving an HIV-Free Generation: Recommendations for a New American HIV Strategy," issued by the President's Advisory Committee on HIV/AIDS, December 1, 2005.

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[1] "Ryan White CARE Act: Factors that Impact HIV and AIDS Funding and Client Coverage," Statement of Marcia Crosse, Director, Health Care, GAO, June 23, 2005.

This document followed the lines of the President's Principles recommending several elements that would introduce significant changes to the RWCA, e.g., HIV testing would become an 'opt-out' part of regular medical testing; all pregnant women would be tested for HIV as a matter of policy; contact tracing and partner notification were to be put into federal law; anonymous testing would be eliminated; and, ADAP dollars were to be used "more efficiently".

"Strengthening the Ryan White CARE Act: Recommendations for the 2005 Reauthorization of the CARE Act," American Academy of HIV Medicine and the HIV Medicine Association, March 8, 2005.
This policy piece recommended a shift of emphasis from the current blend of medical services and psycho-social support to a more strictly medical model for the reauthorized CARE Act.

The Bi-Cameral Bi-Partisan Working Group on Reauthorization

The Senate Committee of jurisdiction for RWCA reauthorization is a sub-committee of Health, Education, Labor and Pensions. Senator Enzi of Wyoming, chair, and Senator Kennedy of Massachusetts, ranking member pledged to work for a reauthorization bill that would be coordinated between their committee and the House counterpart. Both Democrats and Republicans pledged to working collaboratively to craft a bill acceptable to all. The Enzi Sub-Committee's staff held two-all day community dialogues in January of 2006 to solicit input from many of the stakeholders having an interest in the shape of the reauthorized RWCA.

First draft bill

While the Enzi Sub-Committee was working on its bi-cameral bi-partisan efforts, Senator Coburn in February filed a reauthorization bill. The bill followed closely the President's Principles and underscored a medical model for structuring the reauthorized RWCA.

The Enzi bill

In mid-May, the Sub-Committee under Sen. Enzi introduced its bill "The Modernization of the Ryan White CARE Act of 2006." The bill attempts to reach common ground on questions raised by many groups in their policy pieces: EMA boundaries, creation of new EMAs, hold harmless and grandfathering mechanisms, the structure of Planning Councils, the balance of medical and social support services, the role and structure of HIV case reporting in formula determinations of awards, and the contentious issue of the '80/20' case counting for jurisdictions having EMAs.

This bill preserved the basic structure of the RWCA while making adjustments for the changing patterns of infection across the country. The bill was reported out of committee for floor debate as this report was being written.

Code and Name-Based Reporting

Embedded in the debates about RWCA reauthorization was the issue of using HIV case counts in the formulas employed to determine awards. The language of the 2000 reauthorization had directed that once the Secretary of Health and Human Services determined that a nation-wide HIV reporting system was mature and sufficiently accurate, HIV case counts would be added to the formulas. The Secretary's determination hinged upon the Centers of Disease Control's certification of the case reporting systems among the jurisdictions. The legislation also instructed that whatever the case, HIV case counting was to be in place by the beginning of Fiscal Year 2007.

Massachusetts has used a code-based HIV case reporting system since it began tracking HIV infection. All AIDS diagnoses are name reported across the nation. In mid-summer of 2005, CDC sent a 'Dear Colleague" letter to public health departments of those jurisdictions that did not use a name-based reporting system recommending the adoption of name-based reporting as soon as possible. The Massachusetts response was to begin consultations with stakeholders on the advisability of remaining with code-based reporting or shifting to name-based reporting. CDC later sent another letter to the governors of those states not using name-based report indicating that their jurisdictions stood in jeopardy of losing federal funds if name-based reporting was not implemented. The Policy Committee on behalf of the Planning Council had been studying the issue of name- versus code-based reporting since the beginning of the session. The Committee collected information on which states and jurisdictions were using codes and which were shifting to using names in response to the CDC's recommendations. The Committee invited members of the state-wide surveillance consultation to meet with them and discuss the state of the question. As the Committee was preparing its report for the Planning Council, the Commissioner of Public Health Paul J. Cote announced that the state intended to implement name-based reporting by the Fall of 2006.

The Policy Committee revised its presentation to focus on the processes and ramifications of the shift to name-based reporting by the Fall. The report to the Planning Council elicited considerable discussion especially on the issues of resources required to accomplish the change over and the burden on agencies to comply.

Medicare Part D

While reauthorization was the primary focus of the Policy Committee this session, it did track a significant change in federal health care programs that affects many PLWH/A – people who receive both Medicare and Medicaid benefits. On January 1, 2006 Part D of the Medicare Modernization Act of 2003 became operational. Many of the clients served through Ryan White also are participants in Medicare and Medicaid. Before Part D, persons in Medicaid (MassHealth in Massachusetts) received pharmaceutical benefits through Medicaid. With the institution of Part D, provision of pharmaceuticals was transferred to Medicare. Concerns were raised early about the complexity of choosing one of the plans that would provide medication to participants. For PLWH/A the issue was even more complicated: PLWH/A require a large number of medications many of which are HIV specific. Would people be able to find programs that would offer them the range of

coverage they had under Medicaid? The Policy Committee was fortunate to have in its membership MassHealth's Director for Federal and National Policy, Alison Kirchgasser. Both MA and NH realized that the change over to Medicare would be challenging for a number of people. The two states provided emergency coverage to allow people to continue to receive their medications while the program implementation snags were ironed out.

State Issues Considered by the Policy Committee

New Hampshire

The Committee reviewed the "Estabrook Report" prepared in response to an instruction of the legislature to study the delivery of HIV services in NH. The Policy Committee toke special note of testimony discussing the reliance of New Hampshire on the Boston EMA for a significant amount of funding to support services for its citizens. Policy's study of the Estabrook report led to its recommendation to the Resources and Allocations Committee that further attention should be given to the imbalance of resource flow to NH given the number of its AIDS cases.

The Committee did note that NH has for the first time included a line item ($180,000) for HIV services to its current biennial budget.

Massachusetts

One of the developments at the local level that the Committee tracked closely was health care insurance reform in MA. The Commonwealth was preparing a renewal of its1115 Medicaid State Plan waiver that covered a number of innovative programs. The Centers for Medicare and Medicaid Services (CMS) informed the Commonwealth that it had to find another funding mechanism to cover people without insurance if it wished to continue received $385 million in Federal Medicaid match. The controversy centered on the funding of the Uncompensated Care Pool and charging mechanisms used to generate Federal matching dollars. Any destabilization of MassHealth would affect those PLWH/A who receive assistance from that program.

The Commonwealth was informed that the new program would have to be in effect by July 1, 2006. A bill was produced that met the interests of the governor, house and senate. The proposed amendment to the waiver is under review at this time. It appears that the Federal match is not in jeopardy; however, it is unclear what impact the new health coverage program will have on PLWH/A as the implementation of the new plan has not yet started.

Recommendations:

The Policy Committee referred one recommendation to the Resources and Allocations Committee which emerged from Policy's review of the Estabrook Report. The following is the recommendation forwarded to R&A by Policy's chair Barry Sandberg:

"Within the context of shrinking federal support in our EMA, we all know the importance of identifying the need for funds, and developing the most appropriate response plan. As we are discussing our EMA's Funding Principles during this session, the Policy Committee would l like to strongly recommend that this issue be given further attention. While we want to assure that every client who needs HIV services can access them, we also need to look at the broader picture of the resources available."

R&A took this recommendation under advisement and forwarded it to the Executive Committee for guidance.

Recommendations to the 2006-2007 Policy Committee.
The Policy Committee recommends to next year's membership that they revisit the question of equity and access to resources in the context of whatever substantive changes emerge from the reauthorization of the CARE Act.

The Policy Committee also recommends to next year's membership that they continue tracking the implementation of name-based HIV case reporting keeping the Planning Council apprised of any developments affecting the Council's work or the Council's constituents.

Lastly, the Policy Committee recommends that next year's Committee follow up on any new issues arising from the new Ryan White Treatment Modernization Act of 2006 in order to keep the Council informed about how these issues affect the Boston EMA.