

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



August 17, 2009

The Honorable Benjamin L Cardin
US Senate
SH-509
Washington, DC 20510-2003

MARTIN O'MALLEY
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336
TTY USERS CALL VIA MD RELAY

Dear Senator Cardin:

I am writing to request your help in achieving reauthorization of the Ryan White Treatment Modernization Act of 2006 (RWTMA or the "Act") before it sunsets on September 30, 2009. Without prompt reauthorization, Maryland would potentially lose more than \$65 million for treatment and services for those infected and affected with HIV.

Additionally, the Act has four provisions that need to be modified. If these technical fixes are not implemented, the federal funding for HIV treatment and services in Maryland would be reduced by more than half of the current funding. I am deeply concerned that if action is not taken quickly, life-saving services will be eliminated, which will lead to an increase in the number of Marylanders infected with HIV and in the number of HIV-related deaths.

As I am sure you are aware, Maryland is one of the states hardest hit by the HIV epidemic. Maryland has the fifth highest estimated rate of living AIDS cases per 100,000 individuals in the population. (CDC. HIV/AIDS Surveillance Report, 2007. Vol. 19. Atlanta: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention; 2008.) As of December 31, 2008, there are 28,270 Marylanders known to be living with HIV or AIDS and an estimated 6,000-9,000 additional people living with HIV who are not aware of their HIV status. These Marylanders need access to life-saving medications, health care services, and other support services provided through the Ryan White Treatment Modernization Act of 2006.

The Federal AIDS Policy Partnership, Ryan White Work Group has developed a document entitled "*HIV/AIDS Community Consensus on the Future of the Ryan White HIV/AIDS Treatment Modernization Act.*" The document represents the input from a coalition of national, local and community-based service providers and HIV/AIDS organizations that represent HIV medical providers, public health, advocates and people living with HIV/AIDS and has been endorsed by more than 280 organizations throughout the nation. There are a number of provisions articulated in the document that are critical to Maryland's ability to help Marylanders with HIV/AIDS live longer healthier lives.

Reauthorization Period

During the 2006, the decision was made to reauthorize the Act for three years. Unfortunately, the effects of many of the other changes to the Act require a longer period of time to assess the impact on the provision of care. Maryland would benefit from an extension of the Act for three years. After that period, we will be in a better position to provide input on any program modifications based on relevant comprehensive data.



Continued Protection for States with Maturing HIV Case Data

Currently all states are collecting name-based HIV data. However, some states, including Maryland, have only recently made this transition and do not yet have mature named-based HIV surveillance systems. CDC has estimated that the earliest that all states may have mature HIV systems is in FY2012. As the new authorization period goes on, fewer and fewer states will submit their data directly to HRSA and will use the CDC system. In order to ensure funding based on Maryland's living HIV/AIDS cases, Maryland needs to continue to have the option of submitting name-based data to HRSA until the state's name-based reporting system is deemed accurate and reliable by the HHS Secretary. In Parts A and B of the Act, the section on *Requirement of Names-Based Reporting* must be updated for fiscal years 2010 through 2012 so that the provision remains the same.

Extension of Hold Harmless Provisions

As the numbers of reported HIV cases have changed relative to other jurisdictions and as the formulas for both Ryan White Parts A and B have changed over the years to emphasize different factors, Congress has created a "hold harmless" clause to ensure that jurisdictions do not lose levels of funding that jeopardize the provision of HIV/AIDS services. Programs serving Ryan White clients need consistent levels of funding to make investment in infrastructure and build comprehensive programs. Large shifts, particularly drops in funding, can be destabilizing and lead to gaps in the provision of primary care and support services.

The formulas for Ryan White Parts A and B continue to be in a period of adjustment due to several factors including the switch in formulas to living HIV/AIDS cases from estimated living AIDS cases and the fact that some states' new name-based HIV reporting systems have not yet matured. The CDC has estimated that the earliest a nationwide mature HIV system would be available is 2012. Further, the number of living HIV and AIDS cases continue to fluctuate and additional cases from maturing name-based HIV reporting systems will be added to overall case counts. Due to a convergence of all the above factors, eliminating hold harmless provisions in this transitional period would likely result in a loss of funding in Maryland that would lead to destabilized HIV/AIDS care and support services. The hold harmless provisions for Ryan White Parts A and B should be restarted by simply adjusting the dates on current legislation as follows: formula grants in FY 2010 should be no less than 95% of funding for FY 2009 and funding for FY 2011 and FY 2012 should be no less than 100% of FY 2010.

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grant dollars down to a very small amount difficult. Due to these uncertain economic times, it is not appropriate to penalize HIV/AIDS programs for circumstances beyond their programmatic control. We support an increase in the penalty threshold from two to five percent. Additionally, we ask that the penalties for having more than five percent of grants unobligated be suspended, allowing grantees access to subsequent years supplemental funding and eliminating reductions in future grant awards.

Thank you for your strong leadership on health care matters in general and your support for HIV initiatives in our State. With swift passage of a reauthorization of the RWTMA with the suggested technical fixes, Maryland will have the continued resources necessary to continue our HIV treatment and services for people living with HIV.

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Martin O'Malley
Governor

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



August 17, 2009

The Honorable Barbara A. Mikulski
US Senate
SH-503
Washington, DC 20510-2003

MARTIN O'MALLEY
GOVERNOR

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Reauthorization of the Ryan White Treatment Modernization Act (RWTMA)

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August 17, 2009

The Honorable Steny H. Hoyer
Majority Leader
US House of Representatives
H-107, the Capitol
Washington, DC 20515-6501

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Washington, DC 20515-2006

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The Honorable Elijah Cummings
U.S. House of Representatives
2235 RHOB
Washington, D.C. 20510-2007

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The Honorable Elijah Cummings
Reauthorization of the Ryan White Treatment Modernization Act (RWTMA)
Page 3

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Thank you for your strong leadership on health care matters in general and your support for HIV initiatives in our State. With swift passage of a reauthorization of the RWTMA with the suggested technical fixes, Maryland will have the continued resources necessary to continue our HIV treatment and services for people living with HIV.

If you require additional information or assistance, please contact me or Heather Hauck, Director of the Maryland DHMH Infectious Disease and Environmental Health Administration at (410) 767-5013 or hhauck@dhmh.state.md.us.

Sincerely,

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Martin O'Malley
Governor

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



August 17, 2009

MARTIN O'MALLEY
GOVERNOR

The Honorable Donna Edwards
US House of Representatives
318 CHOB
Washington, DC 20515-2004

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336
TTY USERS CALL VIA MD RELAY

Dear Congresswoman Edwards:

I am writing to request your help in achieving reauthorization of the Ryan White Treatment Modernization Act of 2006 (RWTMA or the "Act") before it sunsets on September 30, 2009. Without prompt reauthorization, Maryland would potentially lose more than \$65 million for treatment and services for those infected and affected with HIV.

Additionally, the Act has four provisions that need to be modified. If these technical fixes are not implemented, the federal funding for HIV treatment and services in Maryland would be reduced by more than half of the current funding. I am deeply concerned that if action is not taken quickly, life-saving services will be eliminated, which will lead to an increase in the number of Marylanders infected with HIV and in the number of HIV-related deaths.

As I am sure you are aware, Maryland is one of the states hardest hit by the HIV epidemic. Maryland has the fifth highest estimated rate of living AIDS cases per 100,000 individuals in the population. (CDC. HIV/AIDS Surveillance Report, 2007. Vol. 19. Atlanta: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention; 2008.) As of December 31, 2008, there are 28,270 Marylanders known to be living with HIV or AIDS and an estimated 6,000-9,000 additional people living with HIV who are not aware of their HIV status. These Marylanders need access to life-saving medications, health care services, and other support services provided through the Ryan White Treatment Modernization Act of 2006.

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Reauthorization Period

During the 2006, the decision was made to reauthorize the Act for three years. Unfortunately, the effects of many of the other changes to the Act require a longer period of time to assess the impact on the provision of care. Maryland would benefit from an extension of the Act for three years. After that period, we will be in a better position to provide input on any program modifications based on relevant comprehensive data.



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Martin O'Malley
Governor

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



August 17, 2009

MARTIN O'MALLEY
GOVERNOR

The Honorable Frank M. Kratovil, Jr.
U.S. House of Representatives
314 CHOB
Washington, D.C. 20515-2001

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336
TTY USERS CALL VIA MD RELAY

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The Honorable Frank M. Kratovil, Jr.
Reauthorization of the Ryan White Treatment Modernization Act (RWTMA)
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Martin O'Malley
Governor

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



MARTIN O'MALLEY
GOVERNOR

August 17, 2009

The Honorable C A "Dutch" Ruppertsberger
US House of Representatives
1730 LHOB
Washington, DC 20515-2002

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336
TTY USERS CALL VIA MD RELAY

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The Honorable C.A. "Dutch" Ruppberger
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STATE OF MARYLAND
OFFICE OF THE GOVERNOR



MARTIN O'MALLEY
GOVERNOR

August 17, 2009

The Honorable John Sarbanes
US House of Representatives
426 CHOB
Washington, DC 20515-2003

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100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1925
(410) 974-3901
(TOLL FREE) 1-800-811-8336
TTY USERS CALL VIA MD RELAY

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2412 RHOB
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100 STATE CIRCLE
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Dear Congressman Van Hollen:

I am writing to request your help in achieving reauthorization of the Ryan White Treatment Modernization Act of 2006 (RWTMA or the "Act") before it sunsets on September 30, 2009. Without prompt reauthorization, Maryland would potentially lose more than \$65 million for treatment and services for those infected and affected with HIV.

Additionally, the Act has four provisions that need to be modified. If these technical fixes are not implemented, the federal funding for HIV treatment and services in Maryland would be reduced by more than half of the current funding. I am deeply concerned that if action is not taken quickly, life-saving services will be eliminated, which will lead to an increase in the number of Marylanders infected with HIV and in the number of HIV-related deaths.

As I am sure you are aware, Maryland is one of the states hardest hit by the HIV epidemic. Maryland has the fifth highest estimated rate of living AIDS cases per 100,000 individuals in the population. (CDC. HIV/AIDS Surveillance Report, 2007. Vol. 19. Atlanta: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention; 2008.) As of December 31, 2008, there are 28,270 Marylanders known to be living with HIV or AIDS and an estimated 6,000-9,000 additional people living with HIV who are not aware of their HIV status. These Marylanders need access to life-saving medications, health care services, and other support services provided through the Ryan White Treatment Modernization Act of 2006.

The Federal AIDS Policy Partnership, Ryan White Work Group has developed a document entitled "*HIV/AIDS Community Consensus on the Future of the Ryan White HIV/AIDS Treatment Modernization Act.*" The document represents the input from a coalition of national, local and community-based service providers and HIV/AIDS organizations that represent HIV medical providers, public health, advocates and people living with HIV/AIDS and has been endorsed by more than 280 organizations throughout the nation. There are a number of provisions articulated in the document that are critical to Maryland's ability to help Marylanders with HIV/AIDS live longer healthier lives.

Reauthorization Period

During the 2006, the decision was made to reauthorize the Act for three years. Unfortunately, the effects of many of the other changes to the Act require a longer period of time to assess the impact on the provision of care. Maryland would benefit from an extension of the Act for three years. After that period, we will be in a better position to provide input on any program modifications based on relevant comprehensive data.



Continued Protection for States with Maturing HIV Case Data

Currently all states are collecting name-based HIV data. However, some states, including Maryland, have only recently made this transition and do not yet have mature named-based HIV surveillance systems. CDC has estimated that the earliest that all states may have mature HIV systems is in FY2012. As the new authorization period goes on, fewer and fewer states will submit their data directly to HRSA and will use the CDC system. In order to ensure funding based on Maryland's living HIV/AIDS cases, Maryland needs to continue to have the option of submitting name-based data to HRSA until the state's name-based reporting system is deemed accurate and reliable by the HHS Secretary. In Parts A and B of the Act, the section on *Requirement of Names-Based Reporting* must be updated for fiscal years 2010 through 2012 so that the provision remains the same.

Extension of Hold Harmless Provisions

As the numbers of reported HIV cases have changed relative to other jurisdictions and as the formulas for both Ryan White Parts A and B have changed over the years to emphasize different factors, Congress has created a "hold harmless" clause to ensure that jurisdictions do not lose levels of funding that jeopardize the provision of HIV/AIDS services. Programs serving Ryan White clients need consistent levels of funding to make investment in infrastructure and build comprehensive programs. Large shifts, particularly drops in funding, can be destabilizing and lead to gaps in the provision of primary care and support services.

The formulas for Ryan White Parts A and B continue to be in a period of adjustment due to several factors including the switch in formulas to living HIV/AIDS cases from estimated living AIDS cases and the fact that some states' new name-based HIV reporting systems have not yet matured. The CDC has estimated that the earliest a nationwide mature HIV system would be available is 2012. Further, the number of living HIV and AIDS cases continue to fluctuate and additional cases from maturing name-based HIV reporting systems will be added to overall case counts. Due to a convergence of all the above factors, eliminating hold harmless provisions in this transitional period would likely result in a loss of funding in Maryland that would lead to destabilized HIV/AIDS care and support services. The hold harmless provisions for Ryan White Parts A and B should be restarted by simply adjusting the dates on current legislation as follows: formula grants in FY 2010 should be no less than 95% of funding for FY 2009 and funding for FY 2011 and FY 2012 should be no less than 100% of FY 2010.

ADAP Rebate Dollars

Rebate model ADAPs (those that purchase via a pharmacy network and then request rebates from pharmaceutical companies to obtain the 340B program drug prices) have been instructed by HRSA that they must spend rebate dollars first (considered "program income" by HRSA) before using their federal ADAP grant award. With new carryover rules and penalties in the RWTMA, this will lead to some states losing future ADAP funding should they have more than two percent of their federal ADAP grant unobligated. Regardless of how rebate income is classified, the Ryan White Program requires rebates to be put back into the Part B program with preference given to ADAP services. Rebate income should not be considered program income or result in a reduction of expenditures and therefore should be allowed to accrue after a grant year has ended and spent after federal funds are expended.

Unobligated Funds

The Act contains a provision that penalizes Ryan White Part A and B grantees if they have more than two percent of their award unobligated at the end of a grant year by making them ineligible for the supplemental components of their awards. This provision presents an undue burden on grantees, especially during this time of state budget factors such as a reduced workforce that make obligating

grant dollars down to a very small amount difficult. Due to these uncertain economic times, it is not appropriate to penalize HIV/AIDS programs for circumstances beyond their programmatic control. We support an increase in the penalty threshold from two to five percent. Additionally, we ask that the penalties for having more than five percent of grants unobligated be suspended, allowing grantees access to subsequent years supplemental funding and eliminating reductions in future grant awards.

Thank you for your strong leadership on health care matters in general and your support for HIV initiatives in our State. With swift passage of a reauthorization of the RWTMA with the suggested technical fixes, Maryland will have the continued resources necessary to continue our HIV treatment and services for people living with HIV.

If you require additional information or assistance, please contact me or Heather Hauck, Director of the Maryland DHMH Infectious Disease and Environmental Health Administration at (410) 767-5013 or hhauck@dhmh.state.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin O'Malley". The signature is fluid and cursive, with a large initial "M" and "O".

Martin O'Malley
Governor