

United States Government Accountability Office Washington, DC 20548

January 21, 2011

The Honorable Michael B. Enzi United States Senate

Subject: Ryan White CARE Act: Estimated Effect of Draft Stop-Loss Provision

Dear Mr. Enzi:

You asked us to estimate the effect on Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (CARE Act) funding to urban areas if a certain stop-loss provision was enacted. 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). In October 2009, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (RWTEA) reauthorized CARE Act programs for fiscal years 2010 through 2013. The stop-loss provision that you asked us to address was contained in a draft consolidated appropriations bill for fiscal year 2011.

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: (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

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).

³For purposes of this report, we use "draft bill" when referring to this provision.

In 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, 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.

(3) Minority AIDS Initiative (MAI) grants, which are awarded for urban areas to address disparities in access, treatment, care, and health outcomes.

The draft bill contained a provision to ensure that decreases in total Part A funding for fiscal year 2010 for each EMA and TGA would not exceed specified levels. It would limit the total funding decrease for fiscal year 2010 to no more than 9.3 percent of what the EMA or TGA received for fiscal year 2006. The funding necessary to limit the decreases to urban areas would be given as increases to supplemental grants for fiscal year 2011.

To provide you with technical assistance, we developed an estimate of fiscal year 2011 Part A CARE Act funding for EMAs and TGAs with the stop-loss provision in the draft bill. We also developed an estimate of such funding without that provision. We used data from HHS and the draft bill 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 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 information by showing the effect that the stop-loss provision would have had on funding for EMAs and TGAs for fiscal year 2011. 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 December 2010 and January 2011.

We are sending copies of this report to interested congressional committees. The report also is available at no charge on the GAO Web site at http://www.gao.gov.

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

⁶The stop-loss provision in the draft bill stated that "within the amounts provided for Part A . . . , \$4,919,000 shall be available . . . for increasing supplemental grants for fiscal year 2011 to metropolitan and transitional areas that received grant funding in fiscal year 2010 . . . to ensure that an area's total funding under [Part A to an EMA or TGA] for fiscal year 2010, together with the amount of this additional funding, is not less than 90.7 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 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.

⁷We 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), and *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).

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,

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 Projected Funding for Fiscal Year 2011 under Part A Funding Levels Using the Stop-Loss Provision in a Draft Consolidated Appropriations Bill

Eligible metropolitan area (EMA)	Fiscal year 2006 funding	90.7 percent of fiscal year 2006 funding ^a	Fiscal year 2010 funding	Draft bill: Estimated fiscal year 2011 funding before applying stop-loss ^b	Draft bill: Estimated stop-loss	Draft bill: Estimated fiscal year 2011 funding after applying stop-loss°	Estimated fiscal year 2011 funding without draft bill stop-loss provision in place°
Atlanta, Ga.	\$18,869,561	\$17,114,692	\$20,336,854	\$21,324,185	\$0	\$21,324,185	\$21,496,429
Baltimore, Md.	20,628,895	18,710,408	21,794,719	22,996,688	0	22,996,688	23,191,036
Boston, Mass.	13,339,141	12,098,601	14,148,413	14,930,822	0	14,930,822	15,064,986
Chicago, III.	25,044,633	22,715,482	27,070,245	28,609,411	0	28,609,411	28,852,338
Dallas, Tex.	13,196,377	11,969,114	15,112,117	15,804,989	0	15,804,989	15,943,385
Detroit, Mich.	8,428,477	7,644,629	8,640,138	9,085,943	0	9,085,943	9,156,318
Ft. Lauderdale, Fla.	14,963,638	13,572,020	15,395,253	16,115,674	0	16,115,674	16,252,571
Houston, Tex.	19,953,520	18,097,843	20,048,271	20,954,915	0	20,954,915	21,134,581
Los Angeles, Calif.	34,895,377	31,650,107	39,677,933	42,005,710	0	42,005,710	42,377,651
Miami, Fla.	23,999,914	21,767,922	25,699,349	26,771,971	0	26,771,971	27,006,503
Nassau-Suffolk, N.Y.	6,148,307	5,576,514	6,314,514	6,090,871	0	6,090,871	6,139,087
New Haven, Conn.	6,684,594	6,062,927	7,227,221	6,973,596	0	6,973,596	7,028,269
New Orleans, La.	7,434,812	6,743,374	7,557,633	7,886,220	0	7,886,220	7,954,259
New York, N.Y.	120,423,326	109,223,957	120,636,514	116,443,713	0	116,443,713	117,342,849
Newark, N.J.	14,752,254	13,380,294	14,416,548	13,867,231	0	13,867,231	13,989,109
Orlando, Fla.	8,561,273	7,765,075	9,089,179	9,506,186	0	9,506,186	9,588,211
Philadelphia, Pa.	22,384,551	20,302,788	24,299,388	25,371,979	0	25,371,979	25,591,800
Phoenix, Ariz.	6,519,338	5,913,040	8,372,580	8,781,406	0	8,781,406	8,857,451
San Diego, Calif.	9,269,256	8,407,215	11,582,541	12,255,982	0	12,255,982	12,363,985
San Francisco, Calif.	27,964,864	25,364,132	21,120,073	20,372,811	4,244,059	24,616,870	20,535,874
San Juan, P.R.	13,470,347	12,217,605	15,195,501	14,770,470	0	14,770,470	14,860,351
Tampa-St. Petersburg, Fla.	9,571,830	8,681,650	9,403,477	9,849,671	0	9,849,671	9,928,332
Washington, D.C.	26,923,066	24,419,221	31,452,528	34,294,448	0	34,294,448	34,587,209
West Palm Beach, Fla.	8,276,018	7,506,348	9,157,848	8,848,428	0	8,848,428	8,914,796
Total	\$481,703,369	\$436,904,956	\$503,748,837	\$513,913,319	\$4,244,059	\$518,157,378	\$518,157,378

Source: GAO analysis of Department of Health and Human Services' data and stop-loss provision contained in draft consolidated appropriations bill for fiscal year 2011.

Notes: The stop-loss provision was contained in a draft consolidated appropriations bill for fiscal year 2011. We use "draft bill" when referring to this provision.

Enclosure I

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) identified in the draft bill. Because the draft bill did not specify amounts provided for Parts A and B respectively, we assumed that the respective percentages would be the same as in 2010. 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.

We cannot determine the exact effect of the stop-loss provision on total funding for each EMA for fiscal year 2011. It is not possible to determine exactly how each EMA would be affected by the 9.3 percent stop-loss for EMAs because it is not known how HRSA will award fiscal year 2011 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 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. 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 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 in the draft bill, an EMA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2010 would not be less than 90.7 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 "Draft bill: Estimated stop-loss."

The 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 Projected Funding for Fiscal Year 2011 under Part A Funding Levels Using the Stop-Loss Provision in a Draft Consolidated Appropriations Bill

Transitional grant area (TGA)	Fiscal year 2006 funding	90.7 percent of fiscal year 2006 funding ^a	Fiscal year 2010 funding	Draft bill: Estimated fiscal year 2011 funding before applying stop-loss ^b	Draft bill: Estimated stop-loss	Draft bill: Estimated fiscal year 2011 funding after applying stop-loss°	Estimated fiscal year 2011 funding without draft bill stop- loss provision in place°
Austin, Tex.	\$3,719,076	\$3,373,202	\$4,348,975	\$4,369,162	\$0	\$4,369,162	\$4,383,891
Baton Rouge, La.			4,083,037	4,098,707	0	4,098,707	4,111,737
Bergen-Passaic, N.J.	4,485,650	4,068,485	4,273,783	4,292,096	0	4,292,096	4,306,378
Caguas, P.R.	1,648,356	1,495,059	1,373,187	1,377,835	121,872	1,499,707	1,382,049
Charlotte-Gastonia, N.CS.C.			5,418,647	5,437,742	0	5,437,742	5,453,566
Cleveland, Ohio	3,349,096	3,037,630	4,488,525	4,508,148	0	4,508,148	4,523,156
Denver, Colo.	4,283,042	3,884,719	7,944,842	7,980,613	0	7,980,613	8,005,383
Dutchess County, N.Y.	1,367,584	1,240,399	1,347,313	1,352,891	0	1,352,891	1,357,364
Fort Worth, Tex.	3,409,819	3,092,706	4,049,388	4,068,351	0	4,068,351	4,082,318
Hartford, Conn.	4,666,281	4,232,317	3,898,157	3,836,848	334,160	4,171,008	3,849,308
Indianapolis, Ind.			3,908,426	3,926,568	0	3,926,568	3,939,636
Jacksonville, Fla.	4,913,816	4,456,831	5,581,086	5,603,759	0	5,603,759	5,621,664
Jersey City, N.J.	5,145,142	4,666,644	5,140,624	5,163,141	0	5,163,141	5,180,988
Kansas City, Mo.	2,916,485	2,645,252	4,475,793	4,497,052	0	4,497,052	4,512,282
Las Vegas, Nev.	4,323,627	3,921,530	5,640,348	5,664,868	0	5,664,868	5,682,722
Memphis, Tenn.			6,798,445	6,825,295	0	6,825,295	6,847,519
Middlesex- Somerset- Hunterdon, N.J.	2,595,663	2,354,266	2,790,752	2,802,165	0	2,802,165	2,811,045
Minneapolis- St. Paul, Minn.	3,046,512	2,763,186	5,416,982	5,442,452	0	5,442,452	5,460,751
Nashville, Tenn.			4,611,727	4,633,546	0	4,633,546	4,649,467
Norfolk, Va.	4,414,760	4,004,187	6,256,023	6,281,947	0	6,281,947	6,302,665
Oakland, Calif.	5,735,837	5,202,404	6,707,373	7,451,818	0	7,451,818	7,477,910
Orange County, Calif.	4,858,579	4,406,731	5,634,708	6,233,191	0	6,233,191	6,253,240
Ponce, P.R.	2,391,444	2,169,040	2,142,002	2,149,310	27,038	2,176,348	2,155,918
Portland, Ore.	3,401,956	3,085,574	3,599,540	3,897,408	0	3,897,408	3,910,839
Riverside-San Bernardino, Calif.	7,074,521	6,416,591	7,429,065	8,234,265	0	8,234,265	8,261,329
Sacramento, Calif.	2,778,729	2,520,307	2,629,282	2,975,581	0	2,975,581	2,985,939
San Antonio, Tex.	3,325,881	3,016,574	4,580,898	4,600,731	0	4,600,731	4,616,193
San Jose, Calif.	2,304,762	2,090,419	2,859,484	3,214,032	0	3,214,032	3,224,873

Transitional grant area (TGA)	Fiscal year 2006 funding	90.7 percent of fiscal year 2006 funding ^a	Fiscal year 2010 funding	Draft bill: Estimated fiscal year 2011 funding before applying stop-loss ^b	Draft bill: Estimated stop-loss	Draft bill: Estimated fiscal year 2011 funding after applying stop-loss°	Estimated fiscal year 2011 funding without draft bill stop- loss provision in place°
Santa Rosa, Calif.	1,028,634	932,971	1,169,051	1,285,641	0	1,285,641	1,289,879
Seattle, Wash.	5,445,484	4,939,054	7,053,642	7,090,004	0	7,090,004	7,114,785
St. Louis, Mo.	4,502,572	4,083,833	6,233,155	6,260,409	0	6,260,409	6,280,875
Vineland-Millville- Bridgeton, N.J.	849,715	770,692	897,656	901,256	0	901,256	904,230
Total	\$97,983,023	\$88,870,602	\$142,781,916	\$146,456,831	\$483,069	\$146,939,900	\$146,939,900

Source: GAO analysis of Department of Health and Human Services' data and stop-loss provision contained in draft consolidated appropriations bill for fiscal year 2011.

Notes: The stop-loss provision was contained in a draft consolidated appropriations bill for fiscal year 2011. We use "draft bill" when referring to this provision.

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) identified in the draft bill. Because the draft bill did not specify amounts provided for Parts A and B respectively, we assumed that the respective percentages would be the same as in 2010. We further assumed that the percentage of Part A funding for eligible metropolitan areas (EMA) 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.

We cannot determine the exact effect of the stop-loss provision on total funding for each TGA for fiscal year 2011. It is not possible to determine exactly how each TGA would be affected by the 9.3 percent stop-loss provision for TGAs because it is not known how HRSA will award fiscal year 2011 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 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. 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 TGAs.

We developed our estimate of fiscal year 2011 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 in the draft bill, a TGA is ensured that its total formula, supplemental, and MAI grants for fiscal year 2010 would not be less than 90.7 percent of what it received for fiscal year 2006.

The 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 "Draft bill: Estimated stop-loss."

The 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.

GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

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

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