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Nancy Bernstein
Executive Director

March 3, 2008

Secretary Mike Leavitt
Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Re: The Use of Ryan White HIV/AIDS Program Funds for Housing Referral Services and Short-term or Emergency Housing Needs (HRSA HIV/AIDS Bureau (HAB) Policy Notice 99-02 Amendment 1 (73 Federal Register 10260; February 26, 2008).

Dear Secretary Leavitt:

The National AIDS Housing Coalition is a national non-profit housing policy organization working since 1994 to expand resources for housing for people with HIV/AIDS. NAHC believes that persons living with the debilitating and impoverishing affects of HIV/AIDS have a fundamental right to decent, safe, affordable housing and supportive services that are responsive and appropriate to their self-determined needs.

On behalf of the NAHC board and membership, I write to protest in the strongest terms the Tuesday, February 26, 2008 *Federal Register* publication of HRSA HAB Policy Notice 99-02 Amendment 1.

When the housing Policy Amendment was first published for comment in December 2006, NAHC joined well over one hundred other commenters in protesting the proposed revisions which, upon effect, would have made homelessness or housing instability imminent for many people receiving Ryan White housing assistance. NAHC objected to the proposed cumulative 24-month lifetime cap on the use of Ryan White dollars for housing and proposed that HRSA housing policy track guidelines found in the HUD programs to assure continued access based on need. In addition, while we vehemently opposed the adoption of time limits, we urged the creation of a waiver mechanism to be triggered by medical necessity for continued housing, supported by documented, physician-certified evidence. Finally, NAHC vigorously opposed the proposed retroactivity of the housing policy and urged a 36 month grandfathering of current clients receiving housing to avoid the certain disruption to access to care and treatment immediate imposition of the policy would bring about.

At this point in time, with daily evidence of a downwardly spiraling economy, low or no available affordable housing in most of the country, and powerful evidence-based data connecting stable housing to positive individual and community health outcomes, we oppose the housing policy as, at best, short-sighted and, at worst, mean-spirited.

While AIDS housing and service providers clearly support transitional housing as a stop on the road to permanent supportive housing for people with HIV/AIDS, the lack of affordable housing has reached crisis proportions in nearly every part of the country. There are around 9 million extremely low income families nationwide, earning 30% of area median income and below, and about one third of them lack affordable housing. In no jurisdiction in the U.S. can a household earning the federal minimum wage afford housing. According to the National Low Income Housing Coalition's *Out of Reach* report, a family would have to earn a minimum of \$16.31 an hour working 40 hours a



NAHC works to advance the creation, development, management, and growth of housing for persons living with HIV/AIDS in our communities.

week to be able to afford a modest two bedroom apartment. For FY2008, the estimate is fully one dollar higher at \$17.31. (*NLIHC Research Note #07-03, Pelletiere, Danilo and Wardrip, Keith. (December 2007).* “[Putting the Housing Wage to the Test](#)”). Of course, for people subsisting on SSI – Disability, as many low income people with AIDS are, the prospects for affordable housing are even more dire. In Chicago, for example, the fair market rent for a studio unit is \$734 and for a one-bedroom unit \$840. A person receiving SSI in 2008 receives \$637. Market rate housing, no matter how critical to healthcare for a low-income person with HIV/AIDS, is simply unaffordable.

Impracticality of Implementation

In addition to our objections to the substance of the policy amendment, as a practical matter, it is simply impossible to implement. Currently HRSA has no name or code-based data system allowing the tracking of clients from jurisdiction to jurisdiction. Moreover, most jurisdictions don't have the ability to track subgrantee to subgrantee. Thus, the baseline criteria to track clients across jurisdictions and grantees simply do not exist and are not paid for by HRSA. Notwithstanding the costs and unfunded mandate, it is inconceivable that jurisdictions could create the systems necessary to track by the proposed effective date. Accordingly, the March 27, 2008 implementation date is patently unrealistic.

Transitional housing

AIDS housing providers and supporters clearly appreciate that part of the goal of the policy is to move people on to permanent housing options, but in addition to the lack of affordable housing, current systems simply don't facilitate this goal.

Ryan White grantees now require people in transitional housing programs also to enroll in programs to find permanent housing through the Section 8 housing choice and project-based voucher programs, public housing and other supportive housing programs. But these programs are and have been oversubscribed with interminable waiting lists where they exist at all and very slim prospects for admission in virtually every region of the country.

Access to Care

The Policy amendment continues to authorize the use of Ryan White funds for housing services even in the case in which the housing services “do not provide direct medical or supportive services but are essential for an individual or family to gain or maintain access to and compliance with HIV-related medical care and treatment. Necessity of housing services for purposes of medical care must be certified or documented by a case manager, social worker or other licensed healthcare professional(s).” (Section A.ii.b.) See also *Housing is Healthcare: A Guide to Implementing the HIV/AIDS Bureau (HAB) Ryan White Care Act Housing Policy (2001).*

Recent revisions to its APR reporting form confirm HOPWA's commitment to this critical principle of access to care. In fact, in assessing client outcomes on access to care and support, three of the five outcome indicators relate to access to health care or support.

Annual Progress Report (APR Measuring Performance Outcomes OMB Number 2506-0133 (Expiration Date: 12/31/2010)).

The final notice acknowledges only “several public comments in favor of the draft policy” and despite receiving more than 200 public comments -- including from the Members of Congress copied below-- summarily disposes of them. On behalf of NAHC we urge the Department to withdraw the Policy Notice 99-02, Amendment 1. We request an opportunity to meet with you on this urgent matter at your earliest convenience.

Sincerely yours,

A handwritten signature in black ink that reads "Nancy Bernstine". The signature is written in a cursive, flowing style.

Nancy Bernstine
Executive Director

cc: Honorable Maxine Waters
Honorable Barney Frank
Honorable Jerrold Nadler
Honorable Neil Abercrombie
Honorable Mazie Hirono
Honorable Richard Durbin
Honorable Charles Schumer
Honorable Mary Landrieu
Honorable Debbie Stabenow
Honorable Norm Coleman
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Honorable Jack Reed
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Honorable Barack Obama