Memorandum

Date MAY 6 1997

From for June Gibbs Brown
Inspector General

Subject Audit of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Title II, Administered by the Health Resources and Services Administration (CIN:A-01-97-01 500)

To Claude Earl Fox, M. D., M.P.H.
Acting Administrator
Health Resources and Services Administration

Attached is our final report entitled *Audit of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Title II, Administered by the Health Resources and Services Administration.* We reviewed the Health Resources and Services Administration procedures for ensuring States (1) maintain their required level-of-effort for Human Immunodeficiency Virus (HIV) related activities, and (2) utilize Ryan White funds as a payor of last resort for services to individuals with HIV.

Officials in your office have concurred with our recommendations, set forth on page 8 of the attached report and have taken, or agreed to take, corrective action. We appreciate the cooperation given us in this audit.

We would appreciate your views and the status of any further action taken or contemplated on our recommendations within the next 60 days. If you have any questions, please contact me or have your staff contact Joseph J. Green, Assistant Inspector General for Public Health Service Audits, at 301-443-3582.

To facilitate identification, please refer to CIN: A-01-97-01 500 in al correspondence relating to this report.

Attachment

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

AUDIT OF THE RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990, TITLE II, ADMINISTERED BY THE HEALTH RESOURCES AND SERVICES ADMINISTRATION

JUNE GIBBS BROWN
Inspector General

MAY 1997
A-01-97-01500

MAY 6 1997

Memorandum

Date

for June Gibbs Brown

From Inspector General

Subject Audit of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Title II Administered by the Health Resources and Services Administration (cm: 'A-01-97-01500)

To

Claude Earl Fox, M. D., M. P. H..
Acting Administrator
Health Resources and Services Administration

This final report provides the results of our audit of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Title II (CARE Act), Administered by the Health Resources and Services Administration (HRSA). The CARE Act is intended to supplement amounts States were spending on the Human Immunodeficiency Virus (HIV[1]) epidemic and to improve services for HIV positive individuals and their families who would otherwise have no access to health care (i.e., the CARE Act was intended to be the payor of last resort). The objective of our audit was to determine whether HRSA procedures are effective to ensure that States (1) maintain their required level-of-effort for HIV related activities, and (2) utilize Ryan White funds as a payor of last resort for services to individuals with HIV.

EXECUTIVE SUMMARY

As a prelude to a nationwide audit, we reviewed the State of Connecticut process for supporting assurances relative to (1) the State maintaining its required level-of-effort for HIV related activities, and (2) CARE Act funds being used as the payor of last resort. Annually, the State of Connecticut provided the assurances that the State was meeting these two requirements. We found, however, that the State of Connecticut:

- Could not support the assurance that the State was maintaining its required level-of-effort for HIV related activities. We found the Connecticut's reports of State funded HIV related expenditures were not based on reliable information. In this respect, the Connecticut reports were not accurate or complete.

- Did not always use CARE Act funds as the payor of last resort. For the 5 years ended June 30, 1995, Connecticut used CARE Act funds to pay $995,000 for drug assistance for low income individuals when State funds were available. Further,

[1] For purposes of this report, "HIV" also refers to "AIDS."

data provided by State officials indicate a significant portion of another $635,000 (Fiscal Years (FYs) 1995 and 1996) was used for services provided to inmates who were the responsibility of the State.

In March and August 1996, HRSA provided grantees with draft policy guidance on several programmatic issues. However, the draft policies did not provide specific guidance to grantees relating to States (1) maintaining their required level-of-effort for HIV related activities, and (2) utilizing State funded programs such as State drug assistance or programs for inmates under the custody of the State prior to CARE Act funding.

Initially, we intended to perform audits in several States, Connecticut being the first. We issued a final report to Connecticut officials on September 27, 1996 (CIN: A-01 -96-O 1501). We discussed and shared the Connecticut audit results with HRSA officials in August 1996. In consideration of the issues noted in the State of Connecticut, HRSA officials informed. us that they are willing to initiate actions which would preclude the necessity of audits in other States. This should ensure that more CARE Act funds are available for services to HIV individuals.

Relative to level-of-effort for HIV related activities, we recommend that HRSA (1) provide guidance to States regarding what data to consistently report, year to year, as HIV related expenditures, (2) require States to describe their methodology for compiling HIV expenditure data, and (3) require States to report HIV related expenditures funded by the State for the previous 2 years in each grant application. Further, we recommend that HRSA inform States what could happen with future funding should States not maintain the required level of effort.

Relative to utilizing Ryan White funds as payor of last resort for services to individuals with HIV, we recommend that HRSA issue specific guidance that CARE Act funds should only be used to supplement and enhance existing State programs, particularly State funded drug assistance programs and programs for inmates under the custody of the States.

In response to our draft report, HRSA officials concurred with our recommendations. The entire text of HRSA's comments is contained in the Appendix to this report.

INTRODUCTION

BACKGROUND

On August- 18, 1990, Congress passed Public Law 101-381 entitled The Ryan White Comprehensive Resources Emergency Act of 1990 (CARE Act). The Care Act provides emergency assistance to localities that are disproportionately affected by HIV. The CARE Act is multifaceted, with four titles directing resources to cities, States and demonstration grants. The CARE Act Title II is intended to supplement amounts States were spending on the HIV epidemic and to improve services for HIV positive individuals and their families

who would otherwise have no access to health care (i.e., the CARE Act was intended to be the payor of last resort).

The Department of Health and Human Services, HRSA awards Title II grant funds to States. Title II awards to States under the CARE Act increased in 6 years, from $77 million in 1991 to $198 million in 1996. In total, over $810 million has been awarded to States in the past 6 years. Of this amount, the State of Connecticut received over $10 million to assist in providing services to HIV positive .individuals.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this performance audit was to determine whether the HRSA procedures are effective to ensure that States (1) maintain their required level-of-effort for HIV related activities, and (2) utilize Ryan White funds as a payor of last resort for services to individuals with HIV.

In planning and performing our audit, we utilized information from the Connecticut audit (CIN: A-01-96-01501) and limited our consideration of management controls pertaining to HRSA guidance to States for (1) accumulating and reporting State funded HIV related services, and (2) utilizing State and other available sources prior to the use of CARE Act funds. To accomplish our objective, we:

- Interviewed officials from HRSA, and
- Reviewed HRSA policies, procedures and guidance.

We conducted our audit in accordance with generally accepted government auditing standards. Our audit was conducted during the period of August 1996 at HRSA headquarters in Rockville, Maryland.

FINDINGS AND RECOMMENDATIONS

In March and August 1996, HRSA provided its first draft policies of guidance regarding the need to establish systems and processes for CARE Act funds. However, the draft policies did not provide specific guidance to grantees relating to all Federal requirements of the CARE Act. The lack of specific guidance contributed to issues noted in our Connecticut audit. Specifically, the State of Connecticut (1) could not support the assurance that the State was maintaining its required level-of-effort for HIV related activities, and (2) did not use CARE Act funds as the payor of last resort for AIDS drug assistance for low income individuals and case management services provided to inmates.

The HRSA is responsible for administering programs authorized by the CARE Act. Administration of the CARE Act includes development and dissemination of applications, program, and technical assistance materials for State and municipal grantees. During 1995,

the HRSA established a Policy Review Board to formalize interpretation of issues where grantees request clarification or where observations of local program implementation indicate a need for more precise definitions of key concepts or expectations.

The HRSA has developed draft policies utilizing Office of Management and Budget directives and program specific requirements to assist in effective and consistent implementation of CARE Act requirements. The draft policies (issued to grantees for comment in March and August 1996) addressed issues pertaining to (1) eligible individuals and services for individuals not infected with HIV, and (2) allowable uses of funds for discretely defined categories of services.

The HRSA notified grantees that they were expected to make reasonable efforts to secure funding other than CARE Act funds whenever possible. The HRSA in its draft policies informed grantees that Medicaid, Medicare, local and State HIV programs should be aggressively and consistently pursued. In addition, HRSA officials informed us that they were in the process of communicating expectations and recommendations to States about how CARE Act funds should be administered for State Drug Assistance Programs.

We found, however, that HRSA'S draft policies to grantees on the, required level-of-effort for HIV related activities do not instruct grantees to: consistently report equivalent data, year to year; describe the grantees methodology for compiling HIV expenditure data from the State accounting system; and report HIV related expenditures funded by the State for the previous 2 years in each grant application. Further, the draft policies do not specifically address utilizing State funded programs such as State drug assistance programs or programs for inmates under custody of the State prior to CARE Act funding. By taking quick action for the problems noted in our audit of Connecticut, HRSA will ensure that more CARE Act funds are available for services to HIV individuals.

Level-of-Effort - Connecticut

Annually, the State of Connecticut provided the required assurance that the State would maintain its required level-of-effort for HIV related activities. We found, however, that Connecticut's reported State funded HIV related expenditures were not based on reliable information. During our review of reported costs and assessment of Connecticut's practices for data collection for HIV related activity, we found the reports were not accurate or complete.

The CARE Act, section 2617 (b) states in part that: the application submitted . . . shall contain

(1) a detailed description of the HIV related services . . . that shall include . . . an accounting of the amount of funds that the State has expended . . . during the year preceding the year for which the grant is requested.

(3) an assurance by the State that . . . the State will maintain HIV related activities at a level that is equal to not less than the level of such expenditure for the1-year preceding the fiscal year for which the State is applying to receive a grant under this part . . . .

For the five CARE Act application years, April 1991 through March 1996, Connecticut reported (see Table 1) State funded HIV related expenditures of $76.8 million (5 years ending June 30, 1994). The data as reported to HRSA on the schedules of *HIV Services Funded by the State* indicates that Connecticut did not maintain the required level-of-effort in" 1994. In this respect, State expenditures reported in application year 1994 was less than the level-of-effort reported in grant year 1993 by $5 million. We, however, could not confirm this because the reports were not reliable. In this respect, because (1) reported costs were unsupported, and (2) Connecticut's practice utilized both expenditures and budgets, we found the reports were not accurate or complete.

Reported costs - We reviewed selected reported line items at several departments (approximately $54.5 million of the $76.8 million reported). We found that $24.5 million or 45 percent of the reported State HIV related expenditures which we reviewed were unsupported or reported in error. For example, the State reported $15.9 million in Federal share of Medicaid erroneously, $6.9 million with no support and $1.7 million in error.

Application Year	Amount	(CT Fiscal Year)
1991 (4/1/91 - 3/31/92)	$8,693,918	7/1/89 - 6/30/90
1992 (4/1/92 - 3/31/93)	$11,439,061	**7/1/90 - 6/30/91**
1993 (4/1/93 - 3/31/94)	**$21,218,552**	**7/1/91 - 6/30/92**
1994 (4/1/94 - 3/31/95)	**$16,192,863**	**7/1/92 - 6/30/93**
1995 (4/1/95 - 3/31/96)	**$19,218,564**	**7/1/93 - 6/30/94**
Total	$76,762,958	
Connecticut submitted its 1996 application on January 31, 1996. In the 1996 application, Connecticut reported $21,458,127 as State HIV related expenditures. We did not review support for this amount. The Connecticut officials informed us that they utilized 'the same procedures for preparing the 1996 schedule as for earlier years.		

Table 1- State Reported Expenditures for HIV related Activities

Connecticut's practices for data collection - State officials apprised us that their data collection practices utilized both expenditures and appropriations/budgeted

amounts. These practices do not provide accurate data as appropriations and budgets are not expenditures. For example, we found the State reported appropriated amounts for the Connecticut Drug Assistance Program (CADAP) when actual expenditures were only 32 percent to 71 percent of CADAP appropriations (46.3 percent for 1993, 71 percent for 1994 and 32.5 percent for 1995).

Payor of Last Resort - Connecticut

Annually, the State of Connecticut provided the required assurances that the State will utilize CARE Act funds as the payor of last resort. We found, however, that the State of Connecticut utilized CARE Act funds to pay for items and services when other funds were available. For the 5 years ended June 30, 1995, Connecticut used CARE Act funds to pay $995,000 for drug assistance for low income individuals when State funds were available and a significant portion of another $635,000 (FYs 1995 and 1996) for case management services provided to inmates who were the responsibility of the State.

The Notice of Grant Awards incorporate Public Law 101-381 (the CARE Act) as one of the terms and conditions of the award.

The CARE Act, section 2617 (a) & (b) states:

> The Secretary shall not make a grant to a State . . . unless the State prepares and submits, to the Secretary, an application . . . containing such agreements, assurances, and information as the Secretary determines to be necessary . . . .
>
> The application submitted.. shall contain an assurance by the State that-.. the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made with respect to that item or service... under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or by an entity that provides health services on a prepaid basis.

Connecticut Drug Assistance Program

In 1989, the State legislature established the CADAP. The CADAP provides drug therapies for individuals (1) who have a certified medical diagnosis of HIV disease and are not Medicaid eligible, (2) who are determined to have a net income equal to or below a percentage- (currently 300 percent) of the Federal poverty level, and (3) whose medical insurance may pay only a portion of the drugs covered by the CADAP.

The Connecticut Department of Social Services (DSS) administers the CADAP and pays for all CADAP expenditures from the State CADAP account, then quarterly reimburses the

State account with funds from the CARE Act account. The State appropriated $2,354,800 in State funds for the CADAP during State FYs 1991 through 1995. During this same period, DSS charged the CARE Act $1,174,398. The DSS, however, did not use all the State appropriations and in fact used $995,403 of the CARE Act funds when DSS made the equivalent amount of State funds originally appropriated for CADAP available for purposes other than the CADAP. In effect, CARE Act funds were not used as the payor of last resort as the DSS used $995,403 of CARE Act funds rather than State appropriated funds for CADAP purposes.

Inmates Under the Custody of the State

In September 1994, the State entered into a Memorandum of Agreement with the nonprofit Connecticut Prison Association (CPA) to establish a program to facilitate the transition of inmates with HIV into the community. The program, Transitional Linkage to the Community (TLC), which was funded with CARE Act funds, provides for case management services to be provided to HIV infected inmates within 90 days of the inmate's earliest release date and to continue for 30 days after release, or until the individual can be successfully transferred to a community-based case manager. The State utilized $635,209 of CARE Act funds ($285,448 for State FY 1995 and $349,761 for State FY 1996) for the TLC program.

The State has established programs to provide for both the medical and community reintegration needs of its prisoners. In this respect, the Connecticut Department of Corrections (DoC) Health Services Unit provides direct medical services and the Community Services Unit provides community service programs (approximately 60 programs contracted with independent contractors). These community-based service programs are residential or non-residential programs provided by private, non-profit organizations, and State departments which offer housing, transportation, employment and counseling services to incarcerated, paroled or discharged offenders. For FY 1995 the State appropriated $29.4 million for the Health Services Unit and $16.6 million for the Community Services Unit. The DoC returned $1.1 million and $1.2 million of the original appropriations, for these units respectively, to the State's General Fund. A significant portion of TLC's efforts are provided to individuals while the inmates are under the custody of DoC and the State. In this respect, DoC-provided data shows that at least 33 percent of individuals" serviced by TLC had a release status (e.g., community release, half-way house, transitional supervision and parole) which placed them under the custody of the State at the time services were provided. Further, State and TLC officials informed us that TLC services individuals for 90 days (approximately 75 percent of time under TLC care for any single individual) prior to release from DoC.

Summary

Prior to our audit in Connecticut, HRSA advised grantees of the general parameters necessary for complying with CARE Act regulations. However, additional guidance is

necessary to maximize CARE Act funds for services to HIV individuals. The HRSA officials agree that issues noted in our audit of Connecticut are significant and concur that actions are needed. Further, HRSA officials stated that they are willing to incorporate OIG recommendations based solely on our review in Connecticut.

RECOMMENDATIONS

Relative to level-of-effort for HIV related activities, we recommend that HRSA (1) provide written guidance to States regarding what data to consistently report, year to year, as HIV related expenditures, (2) require States to describe their methodology for compiling HIV related data from the State accounting system, and (3) require States to report HIV related expenditures funded by the State for the previous 2 years in each grant application. Further, we recommend that HRSA inform States what could happen with future funding should States not maintain the required level-of-effort.

Relative to utilizing Ryan White funds as payor of last resort for services to individuals with HIV, we recommend that HRSA guidance should be specific in that CARE Act funds should only be used to supplement and enhance existing State programs, particularly State funded drug assistance programs and programs for inmates under the custody of the States.

HRSA COMMENTS

The HRSA officials concurred with our recommendations. The entire text of HRSA's comments is contained in the Appendix to this report.

APPENDIX

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Health Resources and Services Administration
Rockville MD 20857

APR 11 1997

TO: Deputy Inspector General, DHHS

FROM : Acting Deputy Administrator

SUBJECT: Office of Inspector General (OIG) Draft. Report, "Audit of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Title II, Administered by the Health Resources and Services Administration (HRSA). (CIN: A-01-97-01500)

Attached is HRSA'S response to your memorandum dated December 11, 1996, requesting comments on the subject draft report.

Questions may be referred to Paul Clark on 443-5255.

Thomas G. Morford

Attachment

HEALTH RESOURCES AND SERVICES ADMINISTRATION COMMENTS ON THE OIG DRAFT REPORT, "AUDIT OF THE RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT OF 1990, TITLE II, ADMINISTERED BY THE HEALTH RESOURCES AND SERVICES ADMINISTRATION." (CIN:A-01-97-01500)

OIG RECOMMENDATIONS:

That HRSA: 1) provide written guidance to States regarding what data to consistently report, year to year, as HIV related expenditures; 2) require States to describe their methodology for compiling HIV expenditure data; 3) require States to report HIV related expenditures funded by the State for the previous 2 years in each grant application. Further. .that HRSA inform States what could happen with future funding should States not maintain the required level of effort.

HRSA RESPONSE:

We concur. HRSA will provide written guidance to States that the same data is to be consistently reported, year to year, as HIV related expenditures and that significant changes in the purposes of expenditures be explained along with documentation that the overall level of such expenditures has been maintained year to year. State expenditure management systems vary tremendously in how they are constructed and presented, and State commitments to HIV services may cover a wide range of services. The purposes (and therefore the data elements) to which States allocate their HIV expenditures may also change over time due to changes in the epidemic and the clinical management and service needs of those who are infected.

Separate written guidance for States regarding maintenance of effort is in preparation at this time and should be finished by the early spring of 1997. This guidance will direct grantees to: 1) report year to year its HIV-related expenditures using a consistent data set, explain any changes in the data set derived from changes in the purposes of HIV-related expenditures, and document that the overall level of HIV-related expenditures has been maintained year to' year; 2) describe the methodology for compiling-HIV-related data from State accounting systems; and 3) report HIV-related expenditures funded locally for the previous 2 years in future grant applications beginning in FY 1998.

In consultation with the OIG, DHS developed language which was included in the FY 1997 Application Guidance for States issued September 16, 1996, advising them that these recommendations would have to be fully complied with in the FY 1998 application cycle.

States will be advised through the separate maintenance of effort guidance that future funding will be dependent on demonstration of compliance with this legislative requirement.

This guidance will also be provided to Title I grantees as there is a similar reference to maintenance of effort within Title I legislative language.

OIG RECOMMENDATION:

That HRSA issue specific guidance that CARE Act funds should only be used to supplement and enhance existing State programs, particularly State funded drug assistance-program> and programs for inmates under the custody of the States.

HRSA RESPONSE:

We concur. HRSA will issue specific guidance that in the case of existing State programs, particularly State funded drug assistance programs and programs for inmates under the custody of the State, CARE Act funds should only be used to supplement and enhance such programs. CARE Act funds may be used to establish new programs that do not receive any State support.

The program guidance under development on maintenance of effort will provide further direction to grantees that CARE Act funds may only be used to expand or enrich existing State programs, and may not be used to replace State funding. HRSA is the process of finalizing a program policy notice on use of funds to serve incarcerated individuals and will address the OIG recommendations regarding this population in that notice.

Specific guidance also is being drafted for States establishing how CARE Act funds supporting AIDS Drug Assistance Programs may be used, -including guidelines around medication purchases and allowable costs, and the need to institute statewide eligibility

criteria and maximize alternative funding streams, including State funds, such that CARE Act funds are appropriately used as a payor of last resort. Interim guidance covering some of these issues was provided in a letter dated October 17, 1996, and final guidance will be released by the spring of 1997.