

AIDS Action's Year in Review, 2009

Welcome to AIDS Action's Annual *Year in Review* issue. Just as the events of 2008 spilled over into 2009, the contours of 2010 are now being shaped by the happenings of 2009. Nevertheless, we feel the end of the year is a useful moment to take stock.

If asked to sum up 2009 in one word, we would choose "change." Not only did 2009 see a new administration, it also saw a renewed federal focus on the domestic HIV epidemic and a notable shift toward basing public policy and programming on evidence-based public health rather than political ideology, as many harmful HIV/AIDS policies that had been in place for decades were removed. The year also unleashed the health care reform debate, and created a titanic struggle between the proponents of major change and its opponents.

By year end 2009, the landscape affecting HIV/AIDS public policy had shifted significantly, but the current of change will continue into the New Year. As preparation, following is a summary of 2009.

The New Administration

President Obama Inaugurated, Cabinet Members and Administration Officials Appointed

In perhaps the top political story of the year, Barack Obama was sworn in as the 44th President of the United States on January 20th, becoming the first African American to hold the high office. Shortly after his inaugural address, the Senate began voting on President Obama's Cabinet nominees, approving most within days. Members critical to the HIV/AIDS treatment, prevention and research fields include Peter Orszag, Office of Management and Budget Director; Eric Shineski, Veterans Affairs Secretary; Hillary Rodham Clinton, Secretary of State; and Shaun Donovan, Housing and Urban Development Secretary.

President Obama's initial selection for Secretary of Health and Human Services (HHS) and head of the White House Office on Health Reform was former Senate Majority Leader Tom Daschle. However, Senator Daschle withdrew from consideration on February 3rd, after disclosing tax problems. In Senator Daschle's place, the President nominated Kansas Governor Kathleen Sebelius. The Senate voted 65-31 to confirm her on April 28th, and she was immediately sworn in, filling the last vacancy in President Obama's cabinet.

In addition, President Obama appointed Nancy-Ann DeParle as Counselor to the President and Director of the White House Office of Health Reform. DeParle, a noted health policy expert, was the commissioner of the Department of Human Services in Tennessee and formerly handled federal health programs' budgetary matters and managed Medicare and Medicaid in the Clinton Administration.

Other Notable Appointments

Dr. Regina Benjamin, a well-known Alabama family physician, was chosen to be the surgeon general. During her acceptance speech, Benjamin acknowledged her familiarity with HIV/AIDS issues, as her brother died of HIV-related illness.

President Obama chose Dr. Francis Collins, a physician and renowned geneticist, to direct the National Institutes of Health (NIH). Previously, Collins was the director of the National Human Genome Research Institute.

Jeffrey S. Crowley was appointed as the Director of the Office of National AIDS Policy (ONAP), part of the Executive Office of the President's Domestic Policy Council. The office, which oversees the national response to the HIV/AIDS epidemic, had been vacant since 2006.

President Obama appointed Dr. Thomas Frieden as Director of the Centers for Disease Control and Prevention (CDC). Dr. Frieden was the New York City Health Commissioner and previously worked at CDC.

Dr. Eric Goosby was chosen to be the Ambassador at Large and U.S. Global AIDS Coordinator. Dr. Goosby previously served as CEO and Chief Medical Officer of the Pangaia Global AIDS Foundation and as the Deputy Director of the White House National AIDS Policy Office and Director of the Office of HIV/AIDS Policy of the Department of Health and Human Services.

Gil Kerlikowske, a former Seattle Police Chief, was chosen as the nation's new Drug Policy Director, suggesting a possible shift in US drug policies from a focus on punishment and incarceration to treatment and prevention.

Dr. Jonathan Mermin was selected as the new Director of the Division of HIV/AIDS Prevention (DHAP) at CDC. Dr. Mermin was previously an Epidemic Inspection Service (EIS) officer at the CDC and served as the director of CDC-Uganda, the Director of CDC-Kenya and HHS Public Health Attaché for the U.S. Embassy.

President Obama appointed Dr. Mary Wakefield as Administrator of the Health Resources and Services Administration (HRSA). Dr. Wakefield is one of the nation's top experts on rural health and workforce issues. She was most recently the Associate Dean for Rural Health at the University of North Dakota School of Medicine and Health Sciences. Dr. Wakefield had previously served as director of the Center for Health Policy, Research, and Ethics at George Mason University, the Chief of Staff for United States Senator Kent Conrad (D-ND), and as Legislative Assistant and Chief of Staff to Senator Quentin Burdick (D-ND).

New Administration Regulations, Policies and Activities

HIV Travel and Immigration Entry Ban Removed

Perhaps the most important change made by the Administration during the year was announcing the final rule to remove HIV infection from the list of communicable diseases of public health significance. With the new rule, effective January 4th, 2010, HIV infection is no longer grounds to deny travelers and immigrants entry to the U.S. The rule removed HIV testing from required medical examinations for travelers and immigrants. HIV infection also ceased to be a bar for legal residents seeking to change their immigration status, including obtaining a Green Card. The rule removed a decades-old, discriminatory prohibition placed on HIV-positive individuals.

Mexico City Policy Reversed

On January 23rd, almost immediately following his inauguration, President Obama issued an Executive Order to allow foreign aid for non-governmental organizations that perform or promote abortions. This executive order reversed a Bush administration policy that banned federal funds for international family planning groups that counsel on or provide abortions. Known as the “Mexico City policy” or global gag rule, the ban had hindered the ability of non-governmental organizations to provide a critical link between family planning services and comprehensive HIV prevention abroad. The original “Mexico City policy” was instated by President Ronald Reagan in 1984, and reinstated by President Bush in 2001 after President Clinton issued an Executive Order to reverse the ban.

Meetings with HIV/AIDS Leaders

Also early in the year, AIDS Action’s Executive Director Rebecca Haag and HIV/AIDS leaders from across the country participated in a meeting with the White House Director of Domestic Policy, Melody Barnes. Meeting participants discussed the development of a National AIDS Strategy, Appropriations, Syringe Exchange, Ryan White CARE Act Reauthorization, and HIV/AIDS and healthcare reform. The Obama administration also launched www.whitehouse.gov, to highlight the President’s priorities. The administration referenced pertinent HIV/AIDS issues and showed support for the LGBT community. It also conveyed the need to empower women to prevent HIV transmission and reaffirmed President Obama’s commitment to developing and implementing a National HIV/AIDS Strategy (NHAS) spanning federal agencies within his first year in office.

So-Called “Provider Conscience” Regulations Rescinded

Later in the year, HHS issued a ruling rescinding the “provider conscience” regulation enacted by the Bush Administration. The Bush Administration had expanded existing legislation to allow health care entities to refuse to provide or participate in *any* service violating their religious or moral beliefs – ranging from blood transfusions to end-of-life care, including patient referrals, training, health services, or research activities linked to

procedures they deem objectionable. The regulation had been strongly opposed by many reproductive health, patient rights, and HIV/AIDS organizations, including AIDS Action.

PACHA Reconstituted

The charter under which the Presidential Advisory Council on HIV/AIDS (PACHA) operated in the Bush administration expired in June 2009, ending the appointment of the PACHA members. A new PACHA charter was issued by HHS Secretary Sebelius on July 27th, and nominations for a new membership were solicited via a notice in the *Federal Register*. In late August, President Obama announced Helene Gayle as the new PACHA Chair. Dr. Gayle is President and CEO of CARE USA. In the Clinton administration, she headed the HIV/AIDS bureau at the CDC. At year end, new PACHA members were still being vetted by the administration and the membership roster had not been announced.

National HIV/AIDS Strategy

In the first days of his administration, President Obama reaffirmed his commitment to developing a national HIV/AIDS strategy by laying out three goals for the strategy: 1) reducing HIV incidence, 2) increasing access to care and optimizing health outcomes, and 3) reducing HIV-related health disparities. The newly staffed and reinvigorated Office of National AIDS Policy (ONAP) was given the task of coordinating the development of a National HIV/AIDS Strategy (NHAS). Work began in earnest in mid 2009.

To gather input for the development of the NHAS, ONAP organized and conducted 14 HIV/AIDS community discussions across the country. The first event was held on August 25th in Atlanta during the National HIV Prevention Conference. Discussion sites also included Puerto Rico and the Virgin Islands. Additional input was sought via the internet through “Call to Action: America speaks About HIV/AIDS.” ONAP also held three White House meetings on topics related to HIV – Youth, Housing, and Women. At year end, a meeting on gay men was being planned.

As an integral part of the NHAS process, ONAP Director Jeffrey Crowley will convene an interagency working group made up of federal agencies. The interagency group was reported to have held a meeting in December. The newly constituted PACHA is also expected to be a part of the NHAS process.

HIV Prevention

As a carryover of the 2008 release by the CDC of a revised estimate of annual new HIV infections, 2009 saw increased attention on federal policies regarding domestic HIV prevention, funding, research, and programming. HIV prevention was also an important part of AIDS Action Council staff’s work.

HIV prevention in the United States was the focus of a House and Senate Congressional briefing on April 1st organized by the HIV Prevention Action Coalition (HPAC), a work group of the Federal AIDS Policy Partnership (FAPP). AIDS Action co-sponsored the

event with the Human Rights Campaign, National Alliance of State and Territorial AIDS Directors (NASTAD), National Coalition of STD Directors, the Sexuality Information and Education Council of the United States (SIECUS), and The AIDS Institute. Senator Kirsten Gillibrand (D-NY) sponsored the Senate briefing; Representative Barbara Lee sponsored the briefing in the House. The briefing provided an opportunity for an array of experts to educate Congressional staff and policy makers on the state of the domestic epidemic and the policies needed to implement comprehensive domestic HIV prevention.

In April, the Obama administration launched *Act Against AIDS*, a five-year, multi-phased campaign designed to refocus national attention on the HIV/AIDS crisis in the U.S. and to contribute to the goal of reducing the annual number of new HIV infections. *Act Against AIDS* is the first federal HIV/AIDS communications campaign in over a decade. The campaign's kick-off phase was "9 ½ minutes," with the message that every 9 ½ minutes someone in the U.S. is newly infected with HIV. Future phases of the campaign will focus on specific populations considered at greatest risk for HIV infection.

There were two very significant achievements in 2009 related to domestic HIV prevention, both long sought by the HIV/AIDS community. The first was **an end to the twenty year ban on federal funding for syringe exchange programs**. The ban had been a provision in the annual Labor, Health and Human Services, and Education appropriation bill. AIDS Action and other HIV/AIDS groups called for ending the ban since the first version was enacted into law in 1988. An intense advocacy effort was waged throughout nearly all of 2009 by a coalition in which AIDS Action played a leadership role. The final legislation that included the FY 2010 Labor/HHS appropriation contained a provision that allows federal funding for the distribution of syringes through syringe exchange as long as local public health or local law enforcement authorities do not object to a specific location as being inappropriate for distribution.

Ending the ban clears the way for federal HIV and hepatitis prevention funds to be used for syringe exchange if a local community chooses to do so, and potentially for funds in the President's Emergency Plan for AIDS Relief (PEPFAR) to be used for syringe exchange as well. In a [press release](#) following an earlier vote in the House of Representatives to remove the ban, Representative Serrano (D-NY) acknowledged AIDS Action for its tireless work on this issue, saying, "I also wish to recognize the incredible efforts of the various national and local groups that have been working for years to make this possible, especially AIDS Action, Physicians for Human Rights, and the Harm Reduction Coalition. Without the work of these valiant groups all across the nation, the step we took today never would have been possible." Rep. Serrano had been the lead sponsor of separate legislation to lift the ban on federal funding for syringe exchange, the Community AIDS and Hepatitis Prevention (CAHP) Act of 2009 (H.R. 179).

The second notable achievement, also in the FY 2010 appropriation legislation, was **the elimination of funding for the community-based abstinence education program (CBAE)**. Established in FY 2001, CBAE was one of three federal funding streams supporting abstinence-only-until-marriage programs. From FY 2001 to FY 2009, the program received a total of

\$733 million, although its annual funding was reduced by \$14 million in FY 2009. Ending funding for the program has been a goal of HIV/AIDS and comprehensive sex education advocates for several years. The FY 2010 appropriation legislation provides \$114 million for a new teen pregnancy initiative that would fund proven effective, medically accurate, and age appropriate teen pregnancy prevention programs. At year end, AIDS Action was working with SIECUS and other colleagues to expand the language describing the program to include HIV and STD prevention programs.

On October 15th, SIECUS sponsored the 7th annual “Back to School” Briefing: “Getting Sex Education Right in America”, co-sponsored by AIDS Action. The briefing gave clarity to what comprehensive sex education should look like in the U.S. after the elimination of federal funding for Abstinence-Only-Until-Marriage programs, by bringing together experts in a panel discussion of what pieces of legislation will serve to bring about comprehensive sex education, and what that education entails.

Ryan White CARE Act Extended for Four Years

Among the strongest legislative achievements for the HIV/AIDS Community in 2009 was passage of the Ryan White HIV/AIDS Treatment Extension Act of 2009. President Obama signed the bill into law on Friday, October 30th.

The bill reauthorized the CARE Act for four years to September 30, 2013 and removed the “sunset” clause inserted into the 2006 reauthorization, which would have caused the CARE Act to be repealed had it ever gone into effect. The bill additionally authorized a 5% increase in authorization levels for all Parts of the Act. The amounts authorized (in millions) are found in the following chart:

Program Parts	Authorization FY2010	Authorization FY2011	Authorization FY2012	Authorization FY2013
Part A	\$682	\$716	\$751.9	\$789.5
Part B	\$1,349.5	\$1,417	\$1,487.8	\$1,562.2
Part C	\$246.9	\$259.2	\$272.2	\$285.8
Part D	\$75.4	\$79.2	\$83.1	\$87.3
Part F: AETCs	\$36.5	\$38.3	\$40.2	\$42.2
Part F: Dental	\$13.7	\$14.3	\$15	\$15.8
Total	\$2,404	\$2,524	\$2,650.2	\$2,782.8

Although these funding levels are authorized, the actual yearly funding level must also be appropriated through the annual Labor, Health and Human Services appropriations bill.

Additional issues addressed in the bill included setting hold harmless levels for Part A and B grantees at 95% for Fiscal Year (FY) 2010, 100% for FY 2011 and 2012 and 92.5% for FY 2013. In addition, the bill extends the state exemption period for names-based reporting for three years. After the third year, all state and jurisdiction formulas will be based on living HIV/AIDS case reports.

The bill also added an early identification and testing component to the CARE Act by requiring planning councils to create a strategy to identify people with HIV/AIDS who do not know their HIV status and link them to Part A health and support services. Success in identification and linkage to care will be rewarded in Part A supplemental grants. The bill requires Part B grantees to create a similar plan. A national goal of 5 million “federally supported” tests annually was also added by the bill.

Finally, the bill changes Minority AIDS Initiative (MAI) grants back to a formula based on “distribution of populations disproportionately affected by HIV/AIDS” as opposed to competitive grants and synchronizes release of MAI grant awards with the release of awards for related Parts.

The House additionally released report language that seeks to increase flexibility in spending and accountability for support services and specifically cites the use of monthly bus or subway passes and weekly or monthly gas cards or vouchers for travel as an area to be reviewed. The report language additionally highlights use of funding for co-infection with hepatitis B and C and encourages ongoing research into HIV/AIDS vaccines. Report language expresses Congressional intent but does not have the weight of law as language in the bill does.

Passage of the Ryan White HIV/AIDS Treatment Extension Act of 2009 came after more than a year and a half of work by HIV/AIDS advocates around the U.S. Much of the bill’s contents reflected the Community Consensus document that was produced by the Federal AIDS Policy Partnership’s Ryan White Working Group. The President noted the community’s work at the signing ceremony, saying, “I also want to acknowledge the HIV community for crafting a consensus document that did so much to help move this process forward.” Many advocates were particularly pleased that the bill stabilizes the Ryan White programs for four years during the possible period of intensive health care reform and creation of a National HIV/AIDS Strategy.

During the year, a particularly sad note was that Senator Ted Kennedy (D-MA), one of the original Senate cosponsors of the bill in 1990, passed away prior to completion of the reauthorization. The Senate Health, Education, Labor, and Pensions (HELP) Committee held a markup on their version of the prior to its final passage. At that markup, many Senators noted Senator Kennedy and Senator Orrin Hatch’s (R-UT) role in creating the lifesaving act in 1990.

ADAP Remains a Focus for the Community

The National Alliance of State and Territorial AIDS Directors (NASTAD) and the Kaiser Family Foundation jointly released the annual National ADAP Monitoring Project Annual Report for 2009 via webcast on Tuesday, April 7th. The report is an important metric measuring the ability of State AIDS Drug Assistance Programs (ADAPs) to provide HIV and other medications to people living with HIV. Both papers can be found online at the following sources:

- The National ADAP Monitoring Project Annual Report: April 2009 can be found on NASTAD's [website](#).
- Both the report and webcast can be found on the Kaiser Family Foundation [website](#).
- Finally, the AIDS Action and The AIDS Institute report can be found by clicking [here](#).

Health Care Reform

White House Sets the Stage for Health Care Reform

The Administration moved quickly on health care reform. On February 4th, President Obama signed the Children's Health Insurance Program Reauthorization Act of 2009 (HR 2), which reauthorized and expanded the State Children's Health Insurance Program (SCHIP) just hours after the House of Representatives passed the measure by a bi-partisan final vote of 290-135. President Bush had twice vetoed the bill in 2008. The legislation reauthorizes the SCHIP program through September 2013, provides \$32.8 billion more in funding to add coverage for more than four million uninsured children and provides funding for states to maintain the almost seven million children already enrolled in SCHIP.

President Obama delivered his first address to a joint session of congress on February 24th. Although he made no direct reference to the HIV epidemic, domestic or global, he adamantly pushed for health care reform, stating that health care is, "absolutely critical to our economic future." President Obama placed particular emphasis on a preventative approach to health care and explained that the Economic Recovery Plan "makes the largest investment ever in preventive care, because that is one of the best ways to keep our people healthy and our costs under control." The President concluded his remarks regarding health care reform with a call for policy makers to join him in his commitment to passing health care reform legislation. He said, "Health care reform cannot wait, it must not wait, and it will not wait."

President Obama hosted a White House summit on March 5th to address the nation's health care crisis. The summit's 120 participants included Members of Congress, doctors, economists, healthcare professionals, activists, small business owners and representatives from advocacy organizations, insurance companies, hospitals, labor unions, and other corporate sectors. AIDS Action's Executive Director, Rebecca Haag, attended the summit. In his opening address President Obama stated, "The greatest threat to America's fiscal health is skyrocketing cost of health care." He reiterated that Americans spend more per capita on health care than other industrialized countries and are in poorer health. He stated that 46 million Americans are uninsured and 1.5 million could lose their homes this year due to health care costs. The President concluded the summit by calling for multi-sectoral collaboration on health care reform efforts.

Health Care Reform Debate Takes over Congress's Year

From the start, the Congressional Democratic leadership strove to ensure that President Obama's principles for health care reform would be reflected in health care reform

legislation. The principles included reducing health care costs, guaranteeing freedom of choice, and ensuring affordable care for all Americans. The President also called for health care reform to not add to the deficit. Also at the start, there was the hope that the legislative process towards health care reform would be a bipartisan one.

As Congressional work on health care reform picked up in late spring, the hope of bipartisanship began to fade in the face of increasing Republican opposition to what was increasingly referred to as “Obama’s health care plan.” The lack of a cohesive view of health care reform among Democrats also became increasingly clear, particularly over the issue of a public health insurance plan option.

When Congress returned from its August recess, health care reform legislation was at the top of the agenda. August had been a tumultuous month for health care reform, as raucous town halls throughout the country full of passionate views and distortions about the proposals being considered commandeered the debate. In an address to a joint session of Congress on September 9th, President Obama sought to dispel the myths of health care reform, and urged Congress to act in honor of the legacy of Senator Edward Kennedy.

In October, HIV/AIDS advocates sent a letter with 1,000 signatures to President Obama, via Jeffrey Crowley, Director of the White House’s Office of National AIDS Policy. The sign-on letter was prepared by the Federal AIDS Policy Partnership’s (FAPP) HIV Health Care Access Working Group, of which AIDS Action is a member. The letter endorsed the President’s primary goals and principles for health care reform and urged that he support the top priorities of people living with HIV/AIDS. These priorities include expansion of Medicaid coverage to all low-income individuals, including childless adults, a strong national public insurance option, affordability of private health insurance, and strong prevention and public health provisions.

Ultimately, after missing initial summer deadlines, the House of Representatives passed the Affordable Health Care for America Act (H.R. 3962), an amended version of the bills developed by the three House committees working on health care reform, Education and Labor, Energy and Commerce, and Ways and Means. The Senate passed the Patient Protection and Affordable Care Act (H. R. 3590), a merger of the health care reform bills passed by the Finance Committee and the Health, Education, Labor, and Pensions (HELP) Committee in a rare Christmas Eve session, December 24th.

According to the Congressional Budget Office (CBO), the Senate bill would cost \$849 billion over 10 years (paid for through a variety of cost saving mechanisms). During that same time frame, it is expected to reduce the federal deficit by \$127 billion. The House version of the health care reform bill would cost just over \$1 trillion (\$1,052 billion) and would reduce the deficit by \$107 billion over ten years. The Senate bill would ultimately provide 94% of all Americans with insurance coverage, while the House bill would cover 96%.

The House bill contains several provisions that reflect priorities aimed at increasing early and uninterrupted access to affordable, comprehensive health care for persons living with HIV/AIDS, including the establishment of a national health insurance exchange with a public insurance option and expanding Medicaid coverage to families and individuals with incomes up to 150% of the federal poverty level (FPL) in 2013. It also includes a version of the Early Treatment for HIV Act (ETHA) that would allow Medicaid at the state's option to cover people living with HIV/AIDS during the period from 2010 – 2013. It gradually eliminates the gap in Medicaid Part D coverage known as the “doughnut hole and requires basic plans offered through the national exchange to contract with “essential community providers,” including Ryan White CARE Act providers.

However, the House vote also included an amendment to prohibit federal funds from being used to buy any health insurance policy offered through the newly established exchanges that covered abortions other than those related to rape, incest, or danger to the mother's health.

The Senate bill, like the House bill, would allow state AIDS Drug Assistance Programs (ADAPs) to cover True Out of Pocket (TrOOP) costs such as co-pays, deductibles and the Medicare coverage gap (also called the “donut hole”) generated by Medicare Part D. This would likely result in savings for state ADAP plans. Unlike the House bill, the Senate bill does not include the Early Treatment for HIV/AIDS Act (ETHA), which would allow states the option to change Medicaid eligibility requirements to include poor and low-income people living with HIV who are not yet disabled.

The Senate bill is not as robust as the House bill on issues of interest to the HIV/AIDS community. It would expand eligibility for Medicaid to include all non-elderly Americans with income below 133% of the Federal Poverty Level (FPL) beginning in 2014. The Senate, like the House, would include private market reforms and reforms to the health care exchange (on which people who lack coverage by employers would purchase coverage at lower prices) that would require policies not to discriminate based on health status, disallow limiting coverage based on preexisting conditions and would limit variation in premiums based on issues such as age, tobacco use, etc. The Senate bill also restores \$50 million to an abstinence-only until marriage program under Title V of the Social Security Act, which AIDS Action and other advocates vowed to fight to have stripped from the final Senate bill and to block it from being accepted in a House-Senate conference.

Following Senate passage, the next milestone is a House-Senate conference to resolve differences, some of which are substantial, between the two houses' bills in early 2010. At year's end, the conferencing process itself was not yet decided by the Democratic leadership. If a negotiated bill is adopted by both the House and the Senate and sent to the President, the health care reform bill will become law after a truly tumultuous year. Of course passage will not end the controversy. The public's knowledge of and feelings about the details of health care reform may be a pivotal issue in the 2010 mid-term Congressional elections and may impact the many governor races in the upcoming

election cycle. [This section was prepared prior to the January special election in Massachusetts.]

Budget and Appropriations

FY 2009 Appropriations

The House passed the FY 2009 omnibus appropriations bill, H.R. 1105, on February 25 and the Senate passed the identical bill on Mar. 10. President Obama signed the appropriations measure on Mar. 11, thus completing the FY 2009 appropriations process that was carried over from 2008.

Major changes to HIV/AIDS programs' funding levels included:

- The Ryan White Program received an overall increase of \$71.629 million over FY 2008.
- CDC domestic HIV prevention was flat funded.
- Community based abstinence only education received a \$14 million cut.
- NIH received a \$937.5 million increase.
- HOPWA received a \$10 million increase.
- Minority AIDS Initiative was flat funded.

The omnibus bill also included a huge victory for National AIDS Strategy advocates. Within the Financial Services and General Government portion of the bill, the White House Office of National AIDS Policy received \$1.4 million for the development of a National AIDS Strategy.

Budget and Appropriations FY 2010

President Obama Releases FY 2010 Budget Request

The budget and appropriations process for FY 2010 began on February 27th with the President releasing a budget outline, "A New Era of Responsibility: Renewing America's Promise." The budget outline gave top line budget numbers and priorities but did not include amounts for specific programs. The outline included a priority of "Enhancing HIV/AIDS Prevention and Treatment." On May 7th, the Administration released a fully detailed FY 2010 Budget Request. President Obama requested overall funding of \$78.4 billion in discretionary spending for the Department and Health and Human Services. Within HHS, the budget contains \$107 million in new funding for HIV/AIDS prevention and treatment. The President's budget increases funding for the Division of HIV/AIDS Prevention (DHAP) at the Centers for Disease Control and Prevention (CDC) by \$53 million and funding for the Ryan White Program within the Health Resources and Services Administration (HRSA) by \$54 million.

Much to the dismay of AIDS Action and many other HIV/AIDS advocates, the President's budget did not remove language banning the use of federal funding for syringe exchange programs. White House Officials explained that President Obama did not want to use the budget process as a means for lifting the ban. They reaffirmed President Obama's commitment to a National AIDS Strategy and expressed a desire to work towards lifting the ban through the strategy's development.

Congressional Budget Resolution

Both the House and the Senate adopted the FY 2010 budget resolution on Wednesday, April 29th. The resolution included \$1.086 trillion for discretionary spending, \$10 billion lower than President Obama's request. The House passed the budget resolution by a vote of 233-193, with no Republicans voting in favor and 17 Democrats voting against. The Senate vote was 53-43, with no Republican support and four Democrats opposed.

Sebelius Testifies at Congressional Hearings

Secretary of Health and Human Services, Kathleen Sebelius, made her first appearance before the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, chaired by Rep. Dave Obey (D-WI) in early June. The questions posed by Chairman Obey and the ranking member, Representative Todd Tiahrt (R-KS), dealt largely with President Obama's 2010 budget for the Department of Health and Human Services and its role in shaping impending health care reform legislation. However, members also addressed a spectrum of HIV/AIDS-related issues from the lifting of the entry ban on HIV positive individuals to assurance that healthcare disparities for minority populations would be addressed in discussions on healthcare reform. The Secretary was staunch in her support for the President's budget as a roadmap to guide health care reform, emphasizing the importance of extending coverage to all. She also expressed strong support for comprehensive, evidence-based sexual education and moving away from dated and unscientific abstinence only approaches. In her testimony before the Senate Labor-HHS-Education Appropriations subcommittee, Sec. Sebelius focused on funding for health care reform.

Congressional Action on FY 2010 Appropriations

At the end of July, the full House passed the FY 2010 Labor-Health and Human Services-Education-And Related Agencies (Labor-HHS) Appropriations Bill, [HR 3293](#), by a vote of 264-153. The Labor-HHS bill funds the majority of domestic HIV/AIDS discretionary programs. The bill included a \$54 million overall increase for the Ryan White Program over FY 2009, the same overall increase requested by President Obama. The bill lifted the ban on federal funding for syringe exchange programs; however, it also included an amendment to restrict federally funded syringe exchange programs from operating within 1,000 feet of schools, colleges and universities, public pools, parks, playgrounds, and other areas frequented by children to come forward. Appropriations Committee Chairman Obey had previously referred to the restrictions as "unworkable."

In another triumph, the bill eliminated funding for the community based abstinence education program (CBAE), and instead provides \$114.4 million for a new teen pregnancy prevention initiative which would fund proven effective, medically accurate, and age appropriate teen pregnancy prevention programs. AIDS Action worked with SIECUS and other colleagues to expand this language to include HIV and STD prevention programs.

The White House released a “[Statement of Administration Policy](#)” in support of the House’s FY 2010 Labor-HHS Appropriations Bill which highlighted necessary increases for HIV/AIDS prevention and treatment.

The Senate Appropriations Committee approved its Labor-HHS Appropriations Bill in late July. The bill included a \$19 million increase for domestic HIV prevention at the Centers for Disease Control and Prevention over FY 2009. The bill matched the \$442 million increase for the National Institutes of Health requested by the president. The House-passed bill increased NIH by an additional \$500 million. The Senate bill also zeroed out funding for the community based abstinence education program, and instead allocated \$104 million to the Office of the HHS Secretary for a teen pregnancy prevention initiative. The bill’s language included expansion of this initiative for more comprehensive sexual education and prevention programs.

The Senate bill did not lift the ban on federal funding on syringe exchange programs. In an interview with *Congressional Quarterly*, the Chairman of the Labor-HHS Subcommittee, Tom Harkin (D-IA), referred to the syringe exchange federal funding ban as a “matter for conference.” The Appropriations Committee also passed its Transportation-Housing and Urban Development Appropriations FY 2010 spending bill. The Senate version funded the Housing Opportunities for Persons with AIDS Program (HOPWA) at \$310 million, which was \$10 million above FY 2009 and the President’s request, but \$30 million below the House-passed level.

The House and Senate versions of the Labor-HHS appropriations Bill and the Transportation-HUD appropriations bill were reconciled and included in one of two “minibus” appropriations bills, (HR 3288), that Congress used to finalize the Fiscal Year 2010 appropriations process.

The majority of the work of the House-Senate conference seemed to split the difference between the House and the Senate numbers. HIV prevention at the Centers for Disease Control and Prevention received an increase of \$36 million. Abstinence only funding was eliminated and \$100 million has been set aside for a teen pregnancy prevention program to be housed in the newly funded Office of Adolescent Health. The Ryan White CARE Act received an increase of \$52.5 million, broken down by the following increases. Part A: \$16 million; Part B Base: \$10 million; ADAP: \$20 million; Part C: \$5 million; Part D: \$940k; AETC: \$420k; Dental: \$170k. The National Institutes of Health received an increase of \$31 billion; the Office of AIDS Research usually receives 10% of the increases. In the Transportation-HUD section the HOPWA program received a \$25 million increase.

Legislation

AIDS Action monitored numerous pieces of legislation this year, most notably reauthorization of the Ryan White CARE Act and health care reform that were discussed in depth in earlier sections of this year end review. The following is a list of other legislation AIDS Action followed.

Economic Recovery/Stimulus Bill debacle

The new President and the new 111th Congress addressed the economy, using the American Recovery and Reinvestment Act of 2009 as the legislative vehicle.

The American Reinvestment and Recovery Act of 2009 included \$1 billion for a Prevention and Wellness Fund that would support evidence-based clinical and community-based prevention and wellness strategies. The bill directed \$300 million of the \$1 billion prevention funding to be used for immunizations and \$50 million for states to implement healthcare associated infection reduction strategies. The remaining \$650 million is to “carry out evidence-based clinical and community-based prevention and wellness strategies authorized by the Public Health Service Act, as determined by the Secretary, that deliver specific, measurable health outcomes that address chronic disease rates.” This means that the Secretary of Health and Human Services (HHS) has latitude to spend \$650 million of this prevention funding. Congress directed HHS to come up with an accountability plan within 90 days for spending the resources in the most effective way possible. The funding did not go towards HIV, Viral Hepatitis, STD, and TB prevention programs. When the HIV/STD specific budget line was eliminated from previous versions of the bill, no funding in the bill was directed to HIV or STD prevention.

H.R. 179

Representative José Serrano (D-NY) re-introduced the Community AIDS and Hepatitis Prevention (CAHP) Act of 2009 (H.R. 179), a bill that would remove all legal barriers to states and local jurisdictions on spending federal funds on syringe exchange programs (SEPs). To have the issue out front and center, Rep. Serrano reintroduced this vital piece of legislation with 28 original co-sponsors on the first day of the 111th Congress. The bill’s purpose was effectively achieved through the FY 2010 appropriations process.

H.R. 1429

On March 11th, Rep. Maxine Waters (D-CA) introduced H.R. 1429 the Stop AIDS in Prison Act of 2009. The legislation directs the Bureau of Prisons to develop and draft regulations to implement a comprehensive policy to provide HIV testing, treatment, and prevention for inmates in federal prisons and upon reentry into the community.

The bill requires policy to provide for: (1) testing of inmates upon intake; (2) pre-test and post-test counseling; (3) improvement of HIV/AIDS awareness and inmate education; (4) HIV testing of inmates annually or upon exposure to HIV; (5) HIV testing of pregnant inmates; (6) comprehensive medical treatment of inmates who test positive and confidential counseling on managing their medical condition and preventing HIV transmission to other persons; (7) protection of inmate confidentiality; (8) testing, counseling, and referral of inmates to health care and social service agencies prior to reentry into the community; (9) the right of inmates to refuse routine testing; (10) excluding as "routine" the testing of an inmate who may have transmitted HIV to any U.S. officer or employee or to any person lawfully present but not incarcerated in a correctional facility; and (11) timely notification to inmates of test results.

The bill was referred to the Judiciary committee where a hearing and mark up were held. The bill was debated on the House Floor and passed by voice vote on March 17th. The bill was referred to the Senate Judiciary committee.

H.R. 1616

Rep. Eliot Engel (D-NY) introduced the Early Treatment for HIV Act of 2009. The legislation would amend Title XIX (Medicaid) of the Social Security Act to give states the option of providing Medicaid coverage for low-income HIV-infected individuals. It is modeled after the Breast and Cervical Cancer bill giving states the option in to add cancer screening to their Medicaid coverage. States are given an enhanced federal Medicaid match if they opt to include HIV in their Medicaid coverage. The bill was referred to the Energy and Commerce Committee. Senators Charles Schumer (D-NY) and Olympia Snowe (R-ME) introduced a Senate version of the ETHA bill. The ETHA option has been added to the House bill for health care reform but is not in the Senate's health care reform bill. At year end, AIDS Action and other HIV/AIDS advocates continued to advocate for its inclusion in final health care reform legislation.

H.R. 1964

On April 2nd Rep. Charles Rangel (D-NY) introduced the National Black Clergy for the Elimination of HIV/AIDS Act of 2009, H.R. 1964, to address HIV/AIDS in the African American community. The bill was referred to the Committee on Energy and Commerce. The Act would create several funding streams within the Department of Health and Human Service's (HHS) Office of Minority Health, the Substance Abuse and Mental Health Services Administration (SAMHSA), the Centers for Disease Control and Prevention, the National Institutes of Health, and the Health Resources and Services Administration (HRSA) for HIV prevention, treatment, care, and research within African American communities. For each program outlined, the bill authorizes a specific funding amount for Fiscal Year (FY) 2010 and such sums as necessary in FY 2011-2014. Actual funding levels would be determined by annual appropriations legislation. At year end, a Senate version of the bill had not been introduced.

H.R. 2137

Congresswoman Maxine Waters (D-CA) led a bipartisan group of 21 Representatives asking the House Energy and Commerce Committee to include provisions in the final health care reform package that would require health insurance plans to cover routine HIV tests under the same terms and conditions as other routine health screenings. The provisions mirror those in the Routine HIV Screening Coverage Act (H.R. 2137) that Rep. Waters introduced earlier in the year.

Typically, standard health insurance plans cover HIV screening only when a patient presents known risk factors for HIV or when there are clinical indications of infection, such as symptoms of AIDS. Moreover, these plans are currently legally allowed to deny

coverage for routine HIV tests on the basis that the patient has no known risk factors and does not exhibit signs or symptoms of AIDS.

HIV Housing Resolution

In June, Representative Jerrold Nadler (D-NY) introduced [H.Con.Res 137](#), a resolution stating that the lack of adequate housing must be addressed as a barrier to effective HIV prevention treatment and care. The resolution finds that rates of HIV infection are 3 to 16 times higher among persons who are homeless or unstably housed and that 70% of all persons living with HIV/AIDS report a lifetime experience of homelessness or housing instability. The resolution further asserts that adequate housing is one of the greatest unmet needs of persons living with HIV/AIDS and that Congress must provide adequate funding for housing as a response to the AIDS pandemic. Rep. Nadler introduces the resolution with [17 original co-sponsors](#). The resolution was referred to the House Financial Services Committee.

S.1201

Senator Jeff Bingaman (D-NM) introduced the “Helping Fill the Medicare Rx Gap Act of 2009” (S. 1201). Along with other Medicare Part D provisions, the bill seeks to expand the Medicare Part D drug benefit for people with HIV/AIDS by allowing Ryan White AIDS Drug Assistance Program (ADAP) expenditures to count towards True Out-of-Pocket (TrOOP) expenses.

The bill would allow ADAP payments to be included in the calculation of TrOOP expenses to alleviate pressure on state ADAPs and minimize the number of HIV/AIDS Medicare recipients falling into the coverage gap or “donut hole”. The ADAP as TrOOP provision has been included in both the House and Senate health care reform bills.

H.R. 1364

On March 5th, Representative Anthony Weiner (D-NY) introduced the HIV Education and Prevention Act of 2009 (H.R. 1364) to expand comprehensive sex education programs. The bill would allow for greater flexibility in the use of Title V abstinence only funds starting in Fiscal Year (FY) 2010. If passed, abstinence only funding could also be used for sex education programs, redefined as “education about the functional, structural, or behavioral aspects of human reproduction and may include education about abstinence or contraception.” The Title V abstinence only education program is set to expire in June of this year. The bill would also create a pilot program to combine substance abuse treatment and prevention programs for youth. The bill was referred to the House Energy and Commerce Committee but several of its objectives were achieved in the FY 2010 appropriations process.

H.R. 3001

Congresswoman Tammy Baldwin (D-WI) introduced the *Ending Health Disparities for LGBT Americans Act* (ELHDA), which comprehensively addresses areas of inequality

and discrimination that lesbian, gay, bisexual, and transgender (LGBT) Americans face in our health care system.

In addition to investing in data collection and research, the bill would establish non-discrimination policies for all federal health programs, provide funding for cultural competence training for health care providers, extend Medicare benefits to same-sex domestic partners, create a new office of LGBT Health within in the Department of Health and Human Services, and provide funding for community health centers who serve the LGBT community.

The bill was referred to the appropriate House committees that have jurisdiction over the bill's provisions. There had been hope that provisions of the bill would be included in the House's health care reform bill.

H.R. 3974

Representatives Mike Honda (D-CA) and Charles Dent (R-PA) introduced the Viral Hepatitis and Liver Cancer Control and Prevention Act of 2009 (H.R.3974). The Bill was referred to the House Committee on Energy and Commerce.

The bill seeks to expand education and understanding of hepatitis B and C, creates surveillance, immunization and control programs, and provides medical referral to drug and alcohol abuse treatment and ongoing medical management for people infected or at risk for viral hepatitis. The bill would also increase access to hepatitis testing and liver cancer screening, improve the capacity of health departments to detect outbreaks, and support viral hepatitis prevention and education programs across the U.S.

Health Disparities and Emerging Issues

CBC Health Braintrust Co-Hosts Congressional Briefing on Health Disparities

On Wednesday, February 25th, the Institute for Alternative Futures' Disparity Reducing Advances Project (DRA Project) and the Congressional Black Caucus Health Braintrust jointly hosted a Congressional Briefing entitled "Health Equity: Focusing on Health in All Policies." Clem Bezold, Institute for Alternative Futures, moderated the briefing, which featured several speakers and a short video excerpt from "Unnatural Causes". The thrust of the presentation was a call for political and community leaders to take opportunity to change the way we approach the issue of health care by emphasizing prevention strategies, developing strategies focused on minimizing the health gap for racial minorities, and by viewing all policy in terms of its contribution to community health.

All of the speakers emphasized prevention as the best approach to health care in general, and for addressing the issue of health care disparities in particular.

Congressional Black Caucus (CBC) Hosts Forum on HIV/AIDS in Black America

On Thursday, September 24th, the Congressional Black Caucus (CBC) Foundation hosted a forum to discuss the HIV/AIDS epidemic in the African American community during its annual conference. The discussion was hosted by Barbara Lee (D-CA), Donna M. Christensen (D-VI), Maxine Waters (D-CA), Gregory W. Meeks (D-NY), and Elsie L. Scott of the CBC Foundation.

Congressional Briefing on HIV/AIDS and Aging

On Wednesday October 7th, 2009, Gay Men's Health Crisis (GMHC), the AIDS Community Research Initiative of America (ACRIA), GRIOT Circle, and Services and Advocacy for GLBT Elders (SAGE) held a Congressional briefing on HIV among individuals over 50 titled "HIV and Aging: Growing Older with the Epidemic." AIDS Action, the American Academy of HIV Medicine (AAHIV), Cascade AIDS Project (CAP), and The AIDS Institute co-sponsored the event.

The HIV/AIDS Research Agenda

HIV/AIDS research issues continued to be of great importance in 2009. As noted in the *Weekly Update* special HIV Vaccine Awareness Day issue, the best long term hope for controlling the AIDS epidemic is the development of safe, effective, and affordable HIV vaccines. Vaccines are a powerful weapon against infectious diseases. In fact, no major viral epidemic has been defeated without one. Sustained support for HIV vaccine research is needed, as is support for integration and combination of HIV prevention strategies. No one prevention strategy will be 100% effective, appropriate, or accepted by everyone, so efforts must continue to link and integrate vaccine, microbicide, and pre-exposure prophylaxis (PrEP) research, other biomedical intervention research, behavioral research, and structural intervention research.

Renewed Commitment at HIV Vaccine Awareness Day

The ninth annual HIV Vaccine Awareness Day itself was held on May 18th to recognize and thank the thousands of volunteers, community members, health professionals, and scientists who are working together to find a safe and effective HIV vaccine. The National Institute of Allergy and Infectious Disease (NIAID) released a [statement by Dr. Anthony Fauci](#) reaffirming NIAID's commitment to HIV vaccine research. The AIDS Vaccine Advocacy Coalition released their 2009 Report, [Piecing Together the HIV Prevention Puzzle](#), which sheds light on the combination of approaches to HIV prevention including vaccine research, PrEP, and microbicides.

New Microbicide Research Results

Results from a three and a half year phase II microbicide trial were announced at the Conference on Retroviruses and Opportunistic Infections (CROI) in held Montreal early in 2009. The National Institute of Allergy and Infectious Diseases (NIAID) funded the study, HPTN 035, on the effectiveness of BufferGel and PRO 2000, both topical, vaginal

microbicides, as female controlled prevention methods to reduce HIV transmission. Although the results were not statistically significant, the study found that PRO 2000 reduced the risk of infection by 30 percent. This was the first human clinical study suggesting that a microbicide may prevent male to female sexual transmission of HIV when applied topically inside the vagina. Future related trials are underway. In December, however, results from a larger, Phase III trial showed that PRO 2000 did not reduce the risk of HIV infection. While these results disappointed the field, several other microbicide candidates are currently being tested in clinical trials, with more results expected in the coming year. Click [here](#) to view a list of ongoing microbicide clinical trials.

HIV Vaccine Trials

A new Phase II test of proof of concept study, HVTN 505, which was announced in late 2008, began recruitment was launched in the United States in early summer and began enrollment in August. and was launched in the United States in October. The US Food and Drug Administration recently approved the HVTN 505 protocol, The clinical trial, which will examine a vaccine candidate two vaccines produced by The National Institutes of Health's (NIH) Vaccine Research Center (VRC),). The trial is being conducted by the HIV Vaccine Trials Network (HVTN) in 12 cities across the United States sites, including Atlanta, Boston, Chicago, New York City, and Los Angeles.

HVTN 505 plans to enroll 1,350 HIV-negative men who have sex with men and are between 18 and 45 years of age. Participants must be circumcised and at the time of enrollment and not have antibodies to Adenovirus type 5 (ad5). The exploratory study is designed to determine whether the vaccine will significantly reduce viral load in individuals who become infected with HIV after vaccination. The study is not intended to lead to the licensure of the vaccines being studied. To learn more, please visit www.hopetakesaction.org.

In September, the Thai Prime-Boost HIV Vaccine Trial, RV-144, results were released at a press conference in Bangkok. Data analysis found the vaccine regimen safe and 31.2 percent effective. The phase III HIV vaccine trial, opened in October 2003 and enrolled 16,395 Thai men and women in a placebo-controlled randomized study to test safety and efficacy. It closed in June 2009. The trial was designed as a "test of concept" study to test the concept of the vaccine regimen for scientific advancement, not to meet the requirements for direct licensure. The study showed efficacy, but additional research will be necessary to further understand the modestly positive results. NIAID and study collaborators are working to determine next steps for the RV-144 vaccine regimen and the impact the findings will have on other HIV vaccine research studies.

This was the first time that a vaccine successfully showed the statistically significant ability to prevent HIV in humans. The results renewed hope and optimism in the HIV vaccine field, showing that a safe and effective HIV vaccine is possible. The Thai vaccine presents important information to improve the research process and provides a critical opportunity to improve future trials, bringing us one step closer in the search for an HIV vaccine.

