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May 7, 2008

Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Leavitt:

As you know, the Ryan White program, administered by HRSA, makes federal funds available to metropolitan areas and states to assist in health care costs and support services for individuals affected by HIV/AIDS. Part A of the program provides grants to those cities hit hardest by the epidemic, including Caguas, Ponce and San Juan. Part B provides grants to states and territories, including Puerto Rico. A substantial portion of this money is used for the AIDS Drug Assistance Program (ADAP), which provides drug treatments for individuals who cannot afford to purchase these drugs independently. Federal grants under Part A and Part B are made directly to state and municipal government agencies. These agencies, in turn, distribute the money to community-based organizations and other service providers that care for HIV/AIDS patients.

The HIV/AIDS epidemic in Puerto Rico has been—and continues to be—severe. According to the CDC, the Island's HIV/AIDS prevalence rate is the sixth highest in the nation. Estimates place the total number of residents living with the disease at about 30,000. To its credit, HRSA is well aware of the problem and has provided a great deal of funding to Puerto Rico in recent years. In 2006, Puerto Rico received a total of nearly \$75 million in Ryan White money.

I am writing to express my deep concern. Despite the significant federal funding allocated to Puerto Rico, and notwithstanding the extraordinary efforts of the AIDS advocacy community on the Island, too many of my constituents living with HIV/AIDS find it terribly difficult to obtain—and, in some cases, cannot obtain at all—the services they need to stay healthy and enjoy life.

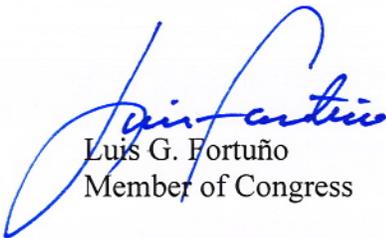
This state of affairs is the direct result of chronic mismanagement of federal funds on the part of the government of Puerto Rico. Most egregiously, the government has been required to return millions of dollars in unspent HIV/AIDS funding in recent years. Every dollar that reverts to the federal government is one less dollar spent to help needy

patients on the Island. Recent press reports indicating that the government of Puerto Rico fails to timely reimburse 60% of participating community based organizations (CBOs) constitute further evidence that the current situation is untenable. I know how seriously HRSA views this issue and I am aware that it has taken certain good-faith steps to address the problem. But I think HRSA would be the first to concede that the situation on the ground has not meaningfully improved. We remain mired in a situation where available federal money sits in a bank account somewhere while patients in Puerto Rico receive substandard care and CBOs eager to help are instead forced to reduce services.

Last year, in an effort to address the dire situation on the Island, my office organized a roundtable with representatives from HRSA, community-based organizations and other stakeholders. At that meeting, I perceived a general consensus among the parties that a solution “with teeth” needed to be put forward. To that end, in February I introduced H.R. 5292, which is co-sponsored by Congressman Serrano from New York. This bill would empower HHS to directly administer grants—or to delegate that responsibility to a reputable third-party—if HHS determines that the state or local government “substantially failed” to make appropriate use of previous federal grants. In making the substantial failure determination, HHS would consider, among other factors, whether more than 5% of previous grant funds remained unobligated one year after the grant was made and whether the grantee had previously been placed on “restrictive draw-down”—essentially administrative probation—as the government of Puerto Rico has. H.R. 5292 seeks to ensure that Ryan White funds actually reach the people who need them and are not lost due to bureaucratic incompetence. Because this legislation would provide HHS with the authority it does not have under current law, I am hopeful that the Department will endorse its passage. In the interim, I am interested in hearing about what further steps the Department is planning to take in order to address the situation in Puerto Rico—which we all agree needs to rapidly improve.

Thank you very much for your attention to this matter.

Sincerely,



Luis G. Fortuño
Member of Congress

cc: Rep. Charles B. Rangel, Chairman, Committee on Ways and Means
Rep. Jim McCrery, Ranking Member, Committee on Ways and Means
Rep. José E. Serrano, Member of Congress
Rep. Nydia M. Velázquez, Member of Congress
Rep. Donna M. Christensen, Chairwoman, Congressional Black Caucus, Health Braintrust
Rep. Hilda Solis, Chairwoman, Congressional Hispanic Caucus, Task Force on Health

Sen. Edward M. Kennedy, Chairman, Committee on Health, Education, Labor and Pensions

Sen. Michael B. Enzi, Ranking Member, Committee on Health, Education, Labor and Pensions

Sen. Tom Coburn, Member, Committee on Health, Education, Labor and Pensions

Joxel García, Assistant Secretary of Health, Department of Health and Human Services

Elizabeth M. Duke, Administrator, Health Resources and Services Administration

Deborah Parham Hopson, Associate Administrator, HIV/AIDS Bureau

Tanya Pagán Raggio Ashley, Director, Office of Minority Health and Health Disparities