



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

February 5, 2007

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

Dear Secretary Leavitt:

We are writing to express concern about the interpretation of the Title I EMA eligibility language in the Ryan White HIV/AIDS Treatment Modernization Act.

With regard to eligibility for Title I EMA status, Section 2601(b) states that an area continues to be eligible until the area fails, for three consecutive years: to meet the requirements of subsection (a) -- which states that an area is eligible if 2,000 or more cases of AIDS have been reported to and confirmed by the CDC in the most recent five-year period for which data are available -- AND to have 3,000 or more living AIDS cases as of December 31 of the most recent calendar year for which data are available. That is, an EMA must fail to meet both of these conditions for three consecutive years in order to become ineligible for EMA status. If an area fails only one of the conditions, the area continues to be eligible for EMA status.

The Nassau-Suffolk EMA does not have 2,000 cases of AIDS reported in the last five years. However, according to a 2006 CDC supplemental surveillance report, there were more than 3,000 people living with AIDS in the Nassau-Suffolk EMA as of December 31, 2004. A link to the CDC report is below. It is our understanding that CDC data shows that there were 3,291 people living with AIDS in the Nassau-Suffolk EMA as of December 31, 2005. Therefore, according to the above interpretation, Nassau-Suffolk will remain eligible for EMA status.

[http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2006supp\\_vol12no3/table2.htm](http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2006supp_vol12no3/table2.htm)

We believe strongly that this is a valid interpretation of the Title I EMA continued status provision. Please let me know if you agree with this interpretation at your earliest convenience.

Thank you for your consideration.

Sincerely,

Guthrie S. Birkhead, M.D., M.P.H.  
Director  
AIDS Institute

cc: Elizabeth M. Duke, PhD, Administrator, HRSA