June 23, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

At the most recent Joint Commission on HIV (Commission)/Prevention Planning Committee (PPC) meeting on June 13, 2013, Department of Health Services (DHS) representatives Dr. Amy Gutierrez and Tangerine Brigham informed the Commission and PPC of the prior week’s court ruling against the County in *AIDS Healthcare Foundation v. County of Los Angeles, et. al.* The action against DHS, the consequent ruling, and the possible ramifications of that ruling are all causes of grave concern to both HIV planning bodies (Commission and PPC).

We applaud DHS, especially its Pharmacy Services division, for the swift and effective way in which it created a pharmacy network within the Low Income Health Program (LIHP)/Healthy Way LA (HWLA) to address the specific needs of patients with HIV, by working with individual HIV provider agencies and procuring Pharmacy Benefits Manager (PBM) services. At the time, neither the County nor the State had anticipated that patients in the local Ryan White systems would be required to enroll in the LIHPs once the State’s 1115 Medicaid Waiver was implemented. Both the cost of the pharmaceuticals for low-income patients with HIV and the rate of pharmacy service utilization by those patients has, over the years, compelled local Ryan White systems to create separate AIDS Drug Assistance Program (ADAP)-funded pharmacy networks with generally greater accessibility, more beneficial cost structures, and more HIV-knowledgeable and supportive staffs. The Commission’s primary concerns during those early days when it learned that up to a third of the Ryan HIV White patients at the time would be enrolled in HWLA focused on the impact(s) of that patient migration on pharmacy access, availability, and ease of use by patients who are generally more stigmatized and who use pharmacy services much more frequently than the average health system patient.

Under Dr. Katz’ and Dr. Gutierrez’ leadership, DHS was able to quickly develop a pharmacy network plan that resembled, if not exactly replicated, the ADAP pharmacy network in LA County. DHS leadership and staff thoughtfully and thoroughly structured a new pharmacy system through intensive hours, days and weeks of community engagement and dialogue, pharmacy and provider negotiations, and careful provider-level, and, sometimes patient-level, planning. To date, once Ramsell began its management of pharmacy services for HWLA, the Commission
has heard few, if any, patient complaints about declining pharmacy access, reduced medication availability, or other barriers that might cause patients to forego their life-saving medications.

Although the Commission is not equipped to comment on the ruling itself, the Commission has spoken to the underlying procurement concerns in multiple “Assessments of the Administrative Mechanism” (AAMs). Ryan White legislation requires Part A planning councils to conduct regular AAMs in order to assess how effectively the jurisdiction disburses Ryan White dollars and procures services within the grant year, and maximizes available Ryan White funding. DHS’ rapid organization and implementation of the pharmacy network for HWLA stands out as an example of an efficient County response to a significant programmatic challenge that resulted in rapid availability of funding and services, consistent with the spirit and intent of the Ryan White Program.

At the time, the Commission understood that in order to assemble an effective pharmacy network in such a short timeframe, DHS had to rely on alternate procurement methods to ensure continuity of care for patients who could easily drop out of care during the transition. The Commission has consistently supported transparency of processes and equity of procurement methods while acknowledging that there are times when circumstances beyond the County’s control compel expedited solutions to prevent harm to patients. The Commission agreed then—as it still does now—that it was critical to have a reliable and accessible pharmacy network in place prior to the commencement of HWLA enrollment, and there could not be a more critical time to employ those alternate procurement mechanisms. After all, they were created for the type of challenge that the pharmacy network services exemplified—when urgency is high, need acute, failure unacceptable, the alternative is potentially life-threatening for patients, and an assessment of the pool of available, qualified vendors leaves limited or no choice of who can effectively discharge the assignment. The Commission concurred with DHS’ conclusion that a modified PBM apparatus was the only solution.

Commission members were disappointed to learn that the plaintiff in AHF v. LA County is one of the providers in the local Ryan White network, given that Ryan White providers know first-hand how devastating the consequences could be to HIV patients if the DHS PBM solution proved ineffective. None of the current Ryan White provider pharmacies or networks, including the plaintiff’s, appeared prepared, able, or sufficiently informed to expand in such a short timeframe to address all of the needs of such a diverse HIV patient population in all parts of the County.

At this juncture, with the ruling demanding immediate termination of the contract, the Commission and the PPC are alarmed at the potential damage to patient and community health that could easily emerge from the lawsuit and its final disposition. We understand that Ramsell (the PBM vendor) has now ended its contract and stopped processing claims. We have, likewise, been informed of several patient complaints about new obstacles to getting their medications; pharmacies ending their HIV pharmacy benefit services with little or no notice and little or no information; and, of providers up at all hours trying to help patients navigate to new phar-
macies. Likewise, we know that the DHS pharmacies are currently overwhelmed by the influx of new HWLA enrollees, are scrambling to fulfill patient and provider pharmacy expectations in the absence of a PBM, and do not have the expansive number of locations critical in the ADAP or previous HWLA network—which can prove to be a true hardship for many HIV patients. The Commission similarly recognizes that with only six months left for the program, there are few or no available vendors who can pick up where Ramsell left off, much less the procurement processes available to quickly engage them. These are all powerful indicators of the potentially disastrous consequences to where the lawsuit, the court’s ruling, and the resulting, forced shift in service delivery at the eleventh hour may lead. The Commission and the PPC concur that few, if any, systemic, programmatic or clinical improvements will result from the ruling, and are extremely concerned that its implementation promises myriad operational and clinical challenges that could negatively alter patients’ access and adherence to HIV care.

That is why we, the Commission and the PPC, urge the Board of Supervisors to:

1) Provide DHS with maximum flexibility and authorize any action DHS deems necessary to mitigate the negative consequences stemming from quick dissolution of the current pharmacy access network and to find and build alternative service structures and relationships that approximate the quality, access and availability of pharmacy services prior to the court’s decision;

2) Further expedite Board decision-making to facilitate implementation of practical solutions that DHS proposes in response to requirements of the court ruling and for other dynamic shifts that will follow under Affordable Care Act (ACA) implementation;

3) Take the necessary legal, programmatic and/or financial steps to mitigate the burden of the court’s ruling on the patients for whom the HWLA pharmacy network was created—including, but not limited to, exploring additional legal options, financial support, and/or programmatic or operational shortcuts to alleviate administrative obstacles;

4) Consider reforming the County’s established procurement processes now as third party payer relationships will become even more prevalent under the ACA and assess ways to eliminate redundancies in that process; collapse multiple, sequential steps into single actions and decisions; accelerate the overall procurement timeframe; and develop alternative procurement mechanisms to engage vendors in days, rather than months, for urgent, life-saving/threatening scenarios; and

5) Further deploy community planning mechanisms across the County’s service delivery structures specifically as means of formalizing community input in the formulation of departmental initiatives; vetting those initiatives in open, transparent public forums; and monitoring their implementation through a community lens.

The Commission and the PPC know that Dr. Gutierrez and her staff, DHS leadership, and Department of Public Health (DPH) and its Division of HIV and STD Programs (DHSP) personnel are working feverishly doing everything possible to identify new ways to provide the level of
pharmacy service delivery that HIV patients were experiencing in the first eleven months of initial HWLA enrollment. We, at the Commission, stand ready and willing to contribute in any way that we can to assist DHS, the Board, and other stakeholders to put new HWLA pharmacy strategies in place until Medicaid Expansion begins.

We recognize that the HIV patient population is only a small portion of the entire patient population that will be affected by this decision, and that the Board and DHS must sustain a focus on all patients and overall system viability. However, we also know the Board and DHS understand that the costs of HIV services and medications are a far greater proportion of the HWLA budget than represented by the size of the patient population. We are equally cognizant that gaps in continuity of care, additional lost or disenfranchised patients, increased repeat visits, failure to detect early indications of worsening health conditions, and/or patients’ inability to access medications easily once diagnosed all lead to increased future costs for the County’s health system. Left unaddressed, noticeable reductions in access to pharmacy services and reduced availability of open pharmacies, termination of delivery services, and/or lower medication inventories plus other possible effects from this decision—that DHS had mostly resolved with the current pharmacy access network—will strain the County’s and providers’ HIV healthcare budgets in the future, and will jeopardize overall community health while possibly increasing HIV transmissibility in the most impacted areas of the County. It is entirely feasible that without quick action by DHS, the Board and other stakeholders, unraveling the pharmacy access network without a reasonable replacement strategy at this programmatic intersection could not only render outcomes like these in a few short months, but those outcomes could also reverberate in the HIV service delivery system for years to come.

On behalf of the combined memberships of the Commission on HIV and Prevention Planning Committee, we urge you—members of the Board of Supervisors—to make finding and implementing alternative strategies for the current pharmacy access network a top priority for you and your health staffs in the hours, days and weeks to come, or until HIV patients and HIV-impacted communities appear to have adjusted to the changes, without increased patients lost to care and/or gaps in access to care/medications.

The members of the Commission and the PPC appreciate the opportunity to convey these concerns to you and have confidence in yours and DHS’ leadership to find the best available solutions and implement them rapidly. If you have any questions, or need further information, please do not hesitate to contact me.

Cordially,

Michael J. Johnson
Co-Chair, Commission on HIV

Ricky Rosales
Co-Chair, Prevention Planning Committee (PPC)
Los Angeles County Board of Supervisors
June 23, 2013
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Craig A. Vincent-Jones, MHA
Executive Director

c:  Health/HIV Deputies
    Executive Office of the Board of Supervisors
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    County Counsel
    Department of Health Services
    Department of Public Health
    Commission on HIV
    Prevention Planning Committee
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