ALCC
AIDS LEGAL COUNCIL of CHICAGO

AIDS FOUNDATION OF CHICAGO

January 27, 2012

Dr. Tere Garate
Assistant Director
Illinois Department of Public Health
122 S. Michigan, 7th Floor
Chicago IL 60603

Dear Dr. Garate:

Thank you for reviewing our suggestions on the AIDS Drug Assistance Program (ADAP) rules and other ADAP issues. We appreciate your willingness to review them and share them with the Illinois Department of Public Health HIV team.

We share your concern about the high number of clients who know they have HIV but are not in care, and appreciate the Department's focus on linkage and retention in care. In addition, we acknowledge that compliance with HRSA requirements is extremely important in continuity of care. We can have the most accessible program in the nation, but if we jeopardize our federal funding, nothing else we do will really matter. The Department's laser focus on that issue is not in the least misplaced!

Ann learned yesterday of some very positive steps the Department has taken, and is taking, to ensure continuity of care for people in the ADAP program. The advance notice to providers about upcoming recertification dates for their patients, the quick turnaround times on completed applications, the direct access to laboratory data, and the ability to use common databases to verify income and insurance status are all extremely positive developments. AFC is elated to learn of these changes.

Ann also learned of some internal policies that were new to her, including the ability to retain copies of verification documents, such as insurance cards, etc., so that they do not have to be resubmitted with every recertification if there has been no change. Again, this is very good news that should reduce the number of incomplete applications and reduce the administrative burden on both ADAP staff and case managers, as well as, most importantly, make it easier for people to stay compliant with ADAP recertification requirements and continue access to their medications.

We would like to remind you that the ADAP online application process may work well down-state, where there are few medical providers, universal access to Provide, and small numbers of clients. However, the situation in the Chicago area is different. There are many, overstretched medical providers who struggle to keep up with the number of patients, let alone paperwork. Access to Provide is limited. Case managers have hundreds of clients with highly complex challenges.

To improve continuity of care in the Chicago area by improving the ADAP online application system, we ask that you:

- Increase the number of non-Part B funded AIDS organizations with access to Provide so case managers can access the system to look up the status of applications.
- Commit to developing immediately a system of electronic notifications about the status of an ADAP application, and in the meantime, mailing paper notices to clients and providers every time the application status changes.
- Update the proposed rules to reflect the practices we discussed yesterday (such as the ability to retain copies of verification documents, such as insurance cards, etc., so that they do not have to be resubmitted with every recertification if there has been no change). I'm sure you agree that the rules should 1) reflect actual ADAP processes; and 2) be flexible to accommodate future changes. (The attached comments include those practices)
- Take the time to meet with medical providers and case managers in the Chicago area—not just AFC and AIDS Legal—to hear first-hand the difficulties they face with the online application system, and commit to addressing those issues in the proposed rule. *This consultation should take place before the rule is finalized.* We are eager to help assemble such a meeting.

We know the Department is anxious to promulgate a final ADAP rule. We've tried to incorporate what Ann learned yesterday, along with our earlier discussions, in some proposed suggested changes, which are attached. Although we see a variety of ADAP issues at our offices, there are many people in the community who have far more experience than we do, and their input has been invaluable to us, as we know it has been to the Department. We hope the suggestions can provide a way for us to move forward together to achieve our common goal of a strong and effective ADAP program that increases access to care and continuity of care in compliance with federal funding requirements.

We look forward to speaking with you about these suggestions.

Sincerely,

Ann Fisher
Executive Director
AIDS Legal Council of Chicago

John Peller
Vice President of Policy
AIDS Foundation of Chicago

CC: State Rep. Greg Harris
Dr. Dave Culp
Dr. Mildred Williamson
Bill Moran
Jeff Maras

Suggested changes from AIDS Legal Council of Chicago and AIDS Foundation of Chicago, January 27 2012.

General note: the Proposed Rule moves back and forth between "Applicants" and "the applicant." I suggest picking one or the other.

692.10

a) 2) Omit everything after "Be diagnosed as having HIV or AIDS." Add n new section

a) 2.5

"Be currently receiving HIV care, including having received a viral load and cd4 count within the six months prior to the date of application or recertification"

Rationale: It is my understanding that the Department is well on its way to gathering laboratory data directly rather than through submission of information from ADAP participants. Like other data elements, this is something that must be verified, but the Rule should allow for flexibility in the source and method of that verification.

b) 4) (formerly b)6) Delete (not eligible for payment of prescription drugs from any other governmental entity).

Rationale: We've already said we don't mean Medicare, Medicaid in unmet spenddown, and Illinois Cares Rx. We also would want to say we don't mean ICHIP or IPXP. By federal law we have to exclude VA coverage. What's other governmental programs might there be? Isn't this really just meant to exclude people with active Medicaid coverage, in which case it's already covered in subpara 3.

5) **(front and back of Medicare Part D card). Change to "If eligible for Medicare Part D, applicants must enroll in Medicare Part D and provide information on Part D coverage."**

Delete requirement to provide a clear copy of both the front and back of the Medicare Part D insurance card.

Rationale: Rules should set eligibility criteria, but should remain flexible on ways in which applicants and the Department can verify those criteria. If the Department has, or in the future obtains, access to Medicare Part D information and can verify Part D details in that manner, it may not be necessary for applicants to provide clear copies of the front and back of their cards. Given the complexity and administrative burden of changing administrative rules once adopted, the rules should be broad enough to allow for adaptation to new technologies and changes in HRSA or other requirements as they arise.

6) **(front and back of Medicare supplement insurance card). Change to "If enrolled in Medicare Supplement plan (Medigap), the applicant shall provide information on Medigap plan and coverage."**

Rationale: As with Part D cards, the Rules should specify eligibility criteria but leave verification requirements flexible.

7) (Illinois Cares Rx and Extra Help). Change to "If eligible for federal Extra Help or Illinois Cares Rx, the applicant must enroll and provide information on coverage."

Rationale: This makes it parallel to the requirement for Medicare Part D while allowing for flexibility in setting verification requirements.

d) (Re-certification). Change "reapply", to "recertify their eligiblity"

Rationale: HRSA makes a clear distinction between application and recertification. Illinois should follow suit.

d.1) The Department shall establish recertification procedures, consistent with federal requirements. Recertification applications, and any necessary new verifications, must be received by the Department at least three business days before the expiration of the client's current enrollment.

Rationale: As federal requirements change, recertification requirements may also change. To the extent that the Department already has necessary verifications on hand (e.g. the front and back of a current insurance card or driver's license, or current Social Security income verification), the client should not be required to submit them again. Similarly, if the Department has current viral load and cd4 data on hand, the client should not be required to submit them as well.

j) (written decisions on applications). Change "renewal application" to "recertification application." Add after the second sentence, "The Department will send a written notice of suspension of benefits to clients whose benefits are suspended pursuant to the provisions of subsection e) within 30 days of the event leading to the suspension." Change the last sentence to read "An individual may appeal the Department's denial of denial of application or recertification or suspension of benefits in accordance with the Department's Rules of Practice and procedure in Administrative Hearings."

Rationale: The appeal process should apply to all denials or suspensions from the program.

Section 592.15 Application requirements

d) 2) (documentation of income), add at the end "or available to the Department."

Rationale: Again, this is to add flexibility as federal requirements or available technology changes.

Insert a new section, 692.16 Non-discrimination.

No individual participating in any program or activity shall be discriminated against because of race, color, religious belief, political affiliation, sex, sexual orientation, national origin or handicap. Pursuant to the requirements of state and federal law, the Department will make reasonable accommodations for individuals with disabilities.

Rationale: This is adapted from the Public Aid Code. ADAP is dealing with a vulnerable population with a wide range of physical and mental disabilities.

More information on the need to provide ADAP application status notifications to providers and clients: Ensuring ADAP clients and/or client advocates have immediate status notification of an application will help to expedite the processing procedure. IDPH's online application system allows individuals learn the status of their application status only with a confirmation number that clients too often lose. Calls to the ADAP office are often unreturned because of the high workload. IDPH must immediately email or mail clients about application status changes. We hear again and again from clients that IDPH said their application was missing a document, but they were never informed and given the opportunity to resubmit, or that an attachment was not received that the client sent. ADAP is making determinations about client eligibility that will determine if they are able to maintain their health, and clients must be adequately informed throughout the process. We understand that there are privacy and confidentiality concerns about sending ADAP information by email, but believe these can be successfully resolved, and are eager to help IDPH consider the issues and develop a solution. We urge IDPH to notify clients and providers by postal mail until an electronic system is developed.