November 29, 2005

Dear Conferee:

We are writing as representatives of people living with HIV/AIDS to urge you to accept the Senate Medicaid reconciliation package and to reject the House of Representatives proposals.

Medicaid is the cornerstone of the nation's response to the HIV epidemic in the United States. In every city and town across the country, Medicaid is helping vulnerable people living with HIV/AIDS.

The program provides access to health care to 55% of all people living with HIV/AIDS and 90% of all children living with HIV/AIDS. While the Ryan White CARE Act provides an essential source of funds to fill in for gaps in Medicaid and Medicare coverage, the CARE Act is overextended and underfunded and simply can't fill in the serious new gaps in Medicaid coverage that would be created by the House Medicaid proposals for increased cost-sharing and more limited benefits.

At this time of declining private insurance coverage and economic uncertainty, Medicaid should not be cut. Any program changes that result in program savings should be re-invested in this critical national resource.

But if savings are going to be taken from Medicaid, we express our strongest possible support for the Senate reconciliation package because it avoids serious harm to low-income Medicaid beneficiaries. And the Senate Medicaid package will help vulnerable Americans and improve public health by funding a demonstration program that allows states to provide Medicaid coverage to low income persons with HIV infection who are not yet disabled by AIDS.

By contrast, the House Medicaid reconciliation package, if implemented, would be harmful to low-income people with HIV/AIDS and other Medicaid beneficiaries. It would bring particular harm to low-income seniors and people with disabilities whose serious medical conditions result in serious costs.

The House Medicaid package obtains savings not by making Medicaid more effective or more efficient, but by giving states new tools to deny lifesaving services and restrict eligibility. This approach is shameful and offensive, and should be rejected.

We urge the conferees to accept the Senate Medicaid package in its entirety, and we urge you to pay close attention to these high priority issues:

- <u>Don't give states free reign to offer substandard benefits packages.</u>

People with HIV/AIDS often end up on Medicaid because of the inadequacy of private-market insurance coverage, which often limits benefits and does not cover the full range of pharmaceuticals, diagnostic tests, or acute and long-term services needed for survival. Medicaid is often the only program that can meet our needs for live-saving therapies and related services.

CBO estimates that "benefits flexibility" would lead states to offer some adults with disabilities less comprehensive benefits packages modeled after state employee programs or private sector plans. We already know such coverage won't work for many Medicaid beneficiaries with HIV/AIDS. Moreover, CBO estimates that "alternative" benefits packages would reduce per capita spending by 15-35% for the affected populations. Most of the reductions would be for services such as dental, vision, mental health and certain therapies—all critical services for people with HIV/AIDS—as well as restrictions on the amount, duration, and scope of covered services.

- <u>Don't give states free reign to deny services to beneficiaries who can't meet every cost-sharing requirement.</u>

We are categorically opposed to the cost-sharing changes in the House bill. Since people living with HIV/AIDS use an extensive range of services and large numbers of pharmaceuticals, even nominal cost-

sharing (as currently defined in federal regulations) can be unaffordable for many—and complicates public efforts to ensure 100% adherence to HIV therapy. For this reason, we urge conferees to accede to the Senate package, which will not make Medicaid unaffordable to the low-income people most reliant on health care services such as people with HIV/AIDS.

A recent analysis found that average Medicaid beneficiaries with disabilities receiving SSI (income of 74% of the poverty level) paid $441 in out-of-pocket medical expenses in 2002. That's 6.7% of income if SSI is your only source of income (Center on Budget and Policy Priorities, May 2005). Because people with HIV/AIDS tend to use an above average level of services when compared to other groups of people with disabilities, we believe that the current cost-sharing burden for people living with HIV/AIDS is even higher.

- <u>Improve provisions related to Targeted Case Management and Third Party Liability</u>

Targeted case management is an important service category used by many states to meet the needs of people living with HIV/AIDS. Provisions in both the House and Senate budget packages related to targeted case management and third-party liability could severely restrict states' access to federal Medicaid funding for appropriate and necessary services.

For many years, there has been serious confusion about the requirements of the Medicaid statute regarding third-party liability. In brief, the statute says that if another party is <u>liable</u> to pay for services that Medicaid would otherwise pay for, then that party must pay for them and Medicaid cannot. This makes Medicaid genuinely the payer of last resort. On a number of occasions, states have, however, been advised by the Federal government that if another party <u>might</u> be able to pay for services, then Medicaid cannot. This is not the law, and it can make Medicaid an unreliable payer.

In the context of the budget reconciliation, it is critical to be clear that the prohibition on Medicaid funding includes only true liability, i.e., insurance for which an insurer is legally responsible for payment, and not all sources of funding that might be potentially available. Any other policy or any policy that is ambiguous could both restrict targeted case management and other services to Medicaid beneficiaries and discourage other funders (private, local, state, or Federal) from providing services to people not eligible for Medicaid.

Earlier this year, many in Congress supported a budget resolution because of an apparent consensus that pharmacy purchasing policy changes were necessary and could yield significant savings. The Senate focused its efforts by seeking to implement this consensus, while the House bill instead sought significant savings by denying eligibility and services to Medicaid beneficiaries. This is unacceptable. If the Congress is going to enact reconciliation legislation, we urge you to ensure that low-income people with HIV/AIDS and other Medicaid beneficiaries are not made worse off because of your actions.

Sincerely,

The HIV Medicaid and Medicare Work Group Steering Committee:

AIDS Action
AIDS Alliance for Children, Youth & Families
AIDS Foundation of Chicago
The AIDS Institute
American Academy of HIV Medicine
Community HIV/AIDS Mobilization Project
Gay Men's Health Crisis
HIV Medicine Association
Housing Works
Human Rights Campaign
National Alliance of State and Territorial AIDS Directors
National Association of People With AIDS
National Health Law Program
National Minority AIDS Council
Project Inform
San Francisco AIDS Foundation
Title II Community AIDS National Network
Treatment Access Expansion Project