



## The National Minority AIDS Council's Regulatory Agenda for the Second Term Obama Administration

President Obama will effectively face the same Congress and an even more closely divided nation in the year ahead, as he tackles drawn out fiscal battles and the longer term issues of tax reform and a delayed fiscal year 2014 budget process. For at least two years, Obama will engage a Congress similar in makeup to the last two years, with which he battled constantly over his legislative priorities. The Republican majority in the House will again be led by House Speaker John Boehner, while the Senate will remain in the hands of Democrats and Senate Majority Leader Harry Reid. The continued control of the House and the Senate by opposing parties presents the possibility for repeated legislative gridlock on Capitol Hill and, in turn, underscores the importance of the HIV/AIDS community collaborating with the Obama administration to swiftly enact administrative reforms that will improve access to prevention and care services for people living with and vulnerable to HIV.

National Minority AIDS Council (NMAC) is committed to advocating on behalf of people of color living with HIV and AIDS (PLWHA) in America, as well as individuals particularly vulnerable to HIV acquisition due to race, ethnicity, sexual orientation, gender, geography, socioeconomic standing, age, and citizenship status. Additionally, NMAC is dedicated to working with relevant government agencies administering programs that serve the varied care, treatment, and service related priorities of PLWHA and those at heightened vulnerability to new HIV infection. In the year ahead, NMAC's Legislative and Public Affairs division (LPA) is committed to ensuring that the resilience of minority communities is acknowledged, protected, and supported by the federal government.

### 2013 Administrative Priorities

- Full Implementation of the Patient Protection and Affordable Care Act
- Executive Immigration Reform
- Criminalization of HIV Transmission and Exposure
- Budget
- National HIV/AIDS Strategy

In 2013, the Legislative and Public Affairs team is underscoring NMAC's standing commitment to address and mitigate the interconnected, and vast, landscape of structural contributors and socioeconomic determinants to health. NMAC's LPA division is prioritizing the enactment of new regulations, as well as the creation of robust budgetary outlays, to remedy barriers to care that disparately impact people of color. NMAC's 2013 strategy to engage the Obama administration includes a sharp focus on the continued implementation of the Affordable Care Act, recognizing the exceptional opportunity this year holds for enhancing minority access to competent care, treatment, and support services, while encouraging a national research agenda addressing the complexity of contributing pressures that disproportionately impact minority vulnerability to HIV transmission.

During the second Obama administration, NMAC's Legislative and Public Affairs Division will concentrate its federal regulatory advocacy, and community engagement, efforts in the areas of:

### **FULL IMPLEMENTATION OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)**

NMAC will work with the administration and relevant federal agencies to develop standards and procedures for full implementation of the ACA in a manner that meets the prevention, care and treatment needs of people living with and vulnerable to HIV. NMAC will prioritize commenting on final rules, as well as select pre-regulation guidance, pertaining to:

- Essential health benefits benchmark packages that meet the prevention, care and treatment needs of individuals living with and vulnerable to HIV for Medicaid, as well as federally and state-facilitated insurance exchanges.

- Regulations and/or guidance on pharmaceutical drugs covered under each of the aforementioned essential health benefit benchmark packages.
- Electronic health record (HER) incentive programs and ‘meaningful use’ (MU) of EHRs in both Medicaid and insurance plans sold in both the state and federally-facilitated exchanges.
- Regulation of changes in insurance eligibility.
- Improve reimbursement rates for primary care physicians, so as to retain doctors with a specialization in HIV/AIDS in the field.
- Support outreach, patient navigation, and enrollment in the private plans sold in exchanges as well as Medicaid expansion.
- Work in partnership with HHS, and relevant sub-agencies, to incorporate Ryan White comprehensive services in ACA programs to ensure sustainability and integration of current HIV/AIDS infrastructure, while providing vital enabling health services.
- Work with the Centers for Medicare and Medicaid Services (CMS), and other relevant federal agencies, to provide guidance to community-based organizations on how to efficiently and successfully transition to appropriate billing systems, as well as administer programs under Medicaid and private health care regulations.

## EXECUTIVE IMMIGRATION REFORM

NMAC will also focus on a number of specific executive actions the Obama administration can take to reform the nation’s immigration system that would positively impact undocumented individuals living with and vulnerable to HIV in America, as well as LGBT non-citizens.

- Terminate 287(g) immigration enforcement programs that deputize state and local police to enforce federal immigration laws. The 287(g) program employs “task forces” of roving police officers as immigration agents, and expands the “jail model” of detention for immigration violations by involving municipal police officers as federal immigration agents to screen, arrest, and book people. The 287(g)



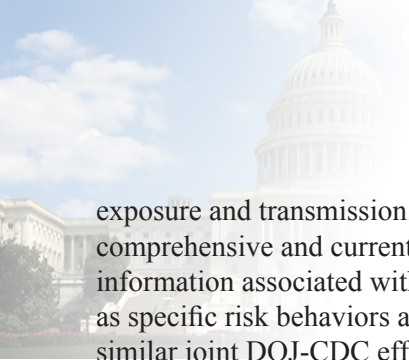
enforcement program unjustifiably targets communities with significant Latino populations, exacerbating discriminatory police practices. The 287(g) program discourages undocumented immigrants from accessing medical care by creating hostile neighborhoods filled with a fear that local travel to a medical appointment could result in deportation. It is near impossible to promote retention in medical care with the constant threat of being deported.

- Oppose the exclusion of individuals granted deferred action by the Department of Homeland Security under the Deferred Action for Childhood Arrivals (DACA) policy from the list of immigration categories considered “lawfully present” for purposes of health coverage eligibility. Under the discretion of the Secretary of DHS, deferred action may be available to a range of individuals in the United States. Individuals granted deferred action have long been considered to be “lawfully present” by federal agencies, as well as by the Congress, thereby allowing these individuals access to Medicaid.
- Since there are no legally enforceable civil detention standards in place at immigrant detention facilities, and in light of documented instances of inhumane treatment at such facilities, the Obama administration should identify alternatives to immigration detention. Many undocumented HIV-positive immigrants detained in facilities administered by Immigration and Customs Enforcement (ICE) are not provided access to anti-retroviral treatment, interrupting treatment adherence and endangering their health. An independent, comprehensive review of alternatives to, and less restrictive forms of detention, should be supported by the Department of Homeland Security. Pending the completion of such a review, ICE should issue a moratorium on contracting for, and constructing, additional immigration detention facilities.

## CRIMINALIZATION OF HIV TRANSMISSION AND EXPOSURE

NMAC supports all efforts, and available means, to improve statutes criminalizing the exposure or transmission of HIV, including federal statutes criminalizing such in the military.

- The Administration should encourage, and resource, a collaborative effort between the Department of Justice and the Centers for Disease Control and Prevention to create professional recommendations, continuing education opportunities, guidance, and best practices for state prosecutors on the matter of criminalizing HIV



exposure and transmission. Such efforts should include a comprehensive and current overview of health and safety information associated with the transmission HIV, as well as specific risk behaviors and perceived risk behaviors. A similar joint DOJ-CDC effort should develop professional recommendations, continuing education opportunities, guidance, and best practices for judges that oversee sentencing provisions in state courts.

## **BUDGET**

As the President develops his FY 2014 budget request, NMAC will continue to advocate for adequate resources to support comprehensive community-based efforts focused on those most disproportionately burdened by HIV, as well as the organizations that serve them. NMAC will maintain leadership and sustained involvement with both regular coalition and individual advocacy work throughout the yearly budget process, including constituent input and strategic participation.

- Leverage relationships with OMB to ensure that adequate resources are available to address the community's needs, including funding mechanisms for peer and patient navigation and expanded funding for capacity building to assist AIDS service providers as they transition to ACA programming.

## **NATIONAL HIV/AIDS STRATEGY (NHAS)**

NMAC will work with the Office of National AIDS Policy (ONAP) to streamline and maximize existing federal resources, while increasing the coordination, efficiency, and financial saliency of HIV programs across the federal government and between federal agencies. NMAC will also work in concert with ONAP to further the three overarching goals of the NHAS, particularly the mitigation of health disparities in minority communities and the barriers to access to care for people of color.