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Correspondence - SLT - Incoming - 6/97 [2]

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Office of
National AIDS Policy

FILE COPY

Correspondence Routing Slip

Tracking Number: G3863

Date Rcvd: 6/23/97

From: Virginia G. Galvin, MD
Cobb County Bd. of Health

Staff Action:

Reviewed By Sandy: ✓ Reviewed By: TS 8/21

Assigned To: _____

RCVD: _____ DONE: TS 8/21

Recommendations/Instructions:

Thanks for note - Jan letter with
personal
note

To Support Staff: _____

Date of Response: 8/11/97

THE WHITE HOUSE
WASHINGTON

August 11, 1997

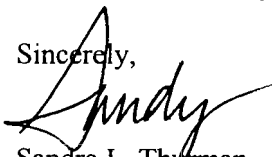
Virginia G. Galvin, M.D., M.P.H.
Director
Cobb County Board of Health
1650 County Farm Road
Marietta, GA 30060-4009

Dear Ginny:

Thank you for your kind letter of congratulations on my recent appointment, as well as your faith in me. I am excited about my new position and look forward to making great strides in the fight against HIV/AIDS.

It is always nice to hear from someone whose encouragement and offer of support are truly sincere. I expect that next time you're in Washington, you'll call so that we can chat! A friendly face is always welcome around here.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra", written over the word "Sincerely,".

Sandra L. Thurman
Director
Office of National AIDS Policy



June 18, 1997

Sandy Thurman
Director
National AIDS Policy Office
808 17th Street
Eighth Floor
Washington, D.C., 20006

Dear Sandy:

I was so pleased that you were finally recognized with the appointment to the Directorship of the National AIDS Policy Office. I have always believed that you were the one for whom the job was designed because of your compassion, intellect, and savvy. Sometimes I guess that patience does pay off. We here in the field are pleased to have your voice representing ours and those of our constituents who have so long been ignored.

If there is anything that I can do, please let me know. But mostly, just know that you have my enthusiastic support.

Sincerely,

Virginia G. Galvin, M.D., M.P.H.
Director

FAX

SCT-
FYI-
Action?
Yes: ☒
No: ☐
DLM

To: Daniel Montoya, Office of National AIDS Policy
FAX: 202-632-1096

From: Donald Donaldson, Department of Energy
Telephone: 202-586-1753 / FAX 202-586-4622

Re: Previous letter to you

Date: July 9, 1994

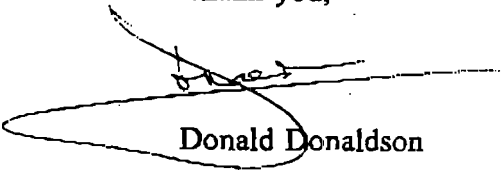
Daniel,

I was wondering if you had a chance to read my letter
and also if you had decided what the "next steps" should be.

If your office has decided not to take an action on this letter,
I would like to know since I have obtained my first
reduction in force notice this week. Our "specific" notices
will be issued in September.

Let me know, even if you just leave a voice mail.

Thank you,


Donald Donaldson

FAX COVER SHEET

June 24, 1997

To: Daniel Montoya
Executive Office of the President
Office of National AIDS Policy
Washington, DC

FAX: 202-632-1096

From: Donald Donaldson
Department of Energy
Office of Environmental Management
1000 Independence Avenue, MS 5B-137
Washington, DC 20585

Telephone: (202) 586-1753

FAX: (202) 586-4622

Number of pages including cover - 15

Daniel,

As promised, I am sending you a letter outlining issues concerning disability application, requirements and personnel policies. Attached are (1) my letter, (2) a summary of the OPM HIV/AIDS guidelines, (3) a summary of the Reduction in Force regulations and (3) a print out of disability resources listed on the world wide web. The issues are somewhat confusing, and I hope I have clearly expressed them. If not, then at your convenience, give me a call at 202-586-1753. Again, thank you for taking the time to listen.

June 24, 1997

Daniel Montoya
Executive Office of the President
Office of National AIDS Policy
Washington, DC

Dear Mr. Montoya:

Thank you for taking my telephone call on Monday concerning disability requirements of federal employees with HIV. As you requested, I am writing to express my concerns and will try to be as concise as possible. You asked me to provide specific names to you, and I have not had time to research all the contacts, but I have included a few, and will provide others soon.

**Background: Original OPM HIV/AIDS Guidelines and
the AIDS AT WORK education initiative**

When HIV/AIDS first appeared as a serious workplace issue, many agencies were confused about what to do. And, as a result, Tim Dirks, then with the Office of Personnel Management (OPM) and now the Director of Personnel at the Department of Energy (DOE), wrote the guidelines for HIV/AIDS. These guidelines were later reemphasized in the President's education initiative *AIDS AT WORK*. The education initiative was very successful; however, Bob Dornan and the Congressional hearings on the initiative proved to be an embarrassment to the White House. This embarrassment was evident when the Office of National AIDS Policy, and the Red Cross declined to testify at the hearings. The *Washington Times* articles highlighting the "wrongdoings" of AIDS educators, the hearings and proposed legislation that followed the hearings effectively ended AIDS education in the agencies. To date, many organizations and agencies believe that AIDS education was halted by Congress and do not offer any HIV/AIDS training, specifically training regarding policy. Patsy Fleming in her new role informed the agencies the initiative was completed. The truth is, the initiative was not completed.

New Hope Raises Old Issues

When I read the strategic plan issued by the Office of National AIDS Policy, I was surprised the contributors did not focus on disability issues. As a person with HIV/AIDS, I am continuously educating myself on disability requirements and the interpretation of those requirements. As a result, I became increasingly aware of the disability issues and the growing confusion among personnelists.

The good news is that multiple combination therapies are keeping employees alive. These employees are decreasing their viral loads and building their immunity systems. There is much hope. On the other hand, these drugs have their own side effects and require a consistent regiment and increased doctor/patient contact. Protease Inhibitors increase the chances of Diabetes, adding another specialist to the list of doctor visits. Hepatitis C is becoming more common, some internists refer Hepatitis C to another specialist. Skin problems are more evident with HIV/AIDS, and a dermatologist is necessary. Employees need more time away from their work to spend with their doctors. They are also become increasingly dependent on their health care coverage and if they are on combination therapies, must be monitored regularly. These facts complicate the lives of those who are forced from their jobs and into searches for new ones.

Reductions in Force (RIF) Regulations vs HIV/AIDS Guidelines

Many agencies are facing downsizing through "reductions in force (RIF)". The rules for RIFs are held sacred by the agency personnel managers and are strictly interpreted. Though some personnelists would argue the point, significant RIFs usually simply mean "last hired, first fired." As a personal example, (depending on final House/Senate appropriations) I, and potentially 100-185 employees in my organization of approximately 550, will be losing our jobs in early October. There are also rumors of significant future RIFs at DOE, Agriculture and Defense.

The guidelines for employees with HIV/AIDS are also clear, except they are placed at a lower priority than the RIF regulations. I am faxing you a synopsis of the HIV/AIDS guidelines from *The Federal Employees Almanac*. Hopefully, you have the OPM guidelines. In short, agencies are asked to provide "reasonable accommodation," and that dismissing an employee with HIV/AIDS or a "life-threatening" illness is a last resort. The guidelines list many options other than termination.

Health Impacts

RIFs have a dramatic impact on those of us with HIV/AIDS, as well as other "life-threatening" illnesses. Employees with HIV/AIDS and those undergoing treatment for life-threatening diseases are placed under a great deal of stress by the threat of a RIF and being informed that "they should find other work as soon as possible." Some employees have not had to reveal their diagnosis and a RIF forces them into open discussions with personnelists, labor representatives, and others — this compounds the stress. My organization has been warning employees about a potential RIF for about two years. While my managers knew I had HIV/AIDS, they never understood the real reasons I could not leave for another job. I tried a detail to EPA, but became ill. I became frightened, and returned to DOE knowing that if I had to apply for disability, DOE knew my past history and would expedite my application.

Furthermore, I have not been incapacitated by serious opportunistic infections, but the stress of "proving myself" and explaining all my doctors appointments to a new manager and answering questions about my absences to other employees caused me to be physically ill. From this experience, I knew my health issues would become evident early on in any new job, and these issues would result in the same consequences that the original HIV/AIDS guidelines and the education initiative had tried to prevent.

Yet, there are many other examples. I have educated many employees about viatical settlements. Through these contacts, I have met people with other "life-threatening" illnesses. They are experiencing the same feelings, and have the same questions. (On a related note, employees who are being RIFed should know requirements for the sale of their life insurance, and fully understand the process for continuation of their policies. To my knowledge, viatical settlements are never discussed in RIF classes for agency employees and in some cases the proceeds could provide funds for continued health insurance coverage.)

RIFs are Blind: Terminations Without Disability Approval is Death

My agency has informed me that "RIFs" are blind. Simply put, race, sex, and disability are not considered when formulating reduction in force retention registers. When weighed against the HIV/AIDS OPM guidelines, is this correct?

If so, then what happens to employees who are RIFed, yet are on multiple drug therapies? Anthony Fauci said last night on *News Channel 8 Health Line* "that patients on multiple drug therapies must be monitored consistently to watch for increases in viral load, so that the therapy can be changed." If employees are terminated, yet do not meet disability requirements, are they doomed to a lapse in treatment? Do we know the consequences of stopping successful multiple combination therapies? Do we blindly turn our backs on former employees who cannot find other work, nor timely find the assistance they need to continue their medication?

What is the availability of continued support after termination? Some state welfare agencies are rationing these combination therapy treatments. Availability of the treatments through state and local agencies should not be judged solely using Washington, DC, Virginia and Maryland as examples. If the employee is dismissed because of a RIF, does the federal government have an obligation to continue these treatments? Is there a way to provide continuation of the treatments?

OPM / SSA Disability Application and Requirements – Very Complicated

HIV/AIDS disability requirements and disability requirements in general are complicated and not clear to affected employees. I have been very diligent in my search for answers. At my own agency, I was informed that I had to apply for disability and receive approval before a RIF. That is incorrect. I have one year from the time I am dismissed to apply for disability, and even after that, if a mental impairment is diagnosed. Later, I found a DOE personnelist with disability application experience who explained disability application, but did not know the disability

requirements. Through my past work with your office, I knew an OPM employee who referred me to "a real person" who could not be specific but explained to me the general conditions necessary to meet the OPM requirements. Considering I had Diabetes, Hepatitic C and AIDS (with a t-cell count of 5), she said that I would "probably" meet the requirements. But I could not get the statement in writing.

Also, most employees who call OPM to discuss disability will reach a recording, referring them back to their own agency for answers. OPM is short staffed because of the "early buyouts" offers; there are just not enough experts to answer all the incoming calls regarding disability issues. Many times the agencies do not have the experts with the answers to all questions, and personnelists may not have experience with all issues.

SSA vs OPM Disability Requirements

From my discussions with the Office of Personnel Management, I believe they are quite fair in their interpretation of disability requirements; however, I know that the Social Security Administration (SSA) is not. I was dismayed to learn that SSA had changed the guidelines for HIV/AIDS disability and had made it increasingly difficult for persons with advanced cases of AIDS to receive benefits. *(I would like to relate a personal caveat here. Too many questions being raised could have a negative impact on the requirements. In a worst case scenario, OPM could be forced into using the same guidelines as SSA and this would only increase the problems for employees with HIV/AIDS and other "life threatening" issues.)*

The HIV/AIDS education initiative informed the employees of one set of standards, and SSA quietly changed these without any update to the agencies. Let me give you a recent example. When I tried to help a friend obtain SSA disability in Baltimore, I took him to HERO, an organization similar to Whitman Walker here. I was informed by one of their experienced case workers (I can provide her name later) that SSA in Baltimore was denying disability requests 97 per cent of the time. My friend had a complete diagnostic statement from his physician. He could not stand upright for more than 2 hours, and for days was confined to his bed. He was informed that "t-cells and fatigue" are not criteria for disability. A complete interview with the agency must be made. SSA interviewed him, and despite his physician's statement and extreme condition, he was denied. HERO says this is "SSA as usual."

What are the HIV disability denial rates for SSA nationally. Is the Maryland percentage rate correct? Are people with HIV/AIDS actually dying while waiting for their applications to be approved?

Conclusion: An Administrative Paradox

In summary, a paradox has evolved. This administration has been very supportive of employees with HIV and has developed many policies (flexiplace, family friendly workplace). Conversely, there are no options for assisting RIFed employees with medical coverage (with the exception of severance pay and COBRA rules.) The fact is many employees will not be able to find work, or

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be capable of performing work, and will not be able to continue their health coverage. Thus, they will increasingly rely upon welfare assistance or SSA benefits.

The Office of National AIDS Policy should not have to make these decisions. However, the administration, OPM and HHS do have some responsibilities in reviewing these issues. Clear decisions must be made by the administration to change policy, issue clear guidelines about both SSA and OPM disability applications and requirements, and provide education concerning disability requirements. Also, the administration should define a clear path for those employees who are terminated, and may not have timely assistance to continue their multiple therapies.

I am requesting that your office review and debate these issues. Honestly, I am not trying to make this a personal issue. I thoroughly believe that I meet the disability requirements and if my agency decides to RIF me, I will be provided disability through OPM, but there are no guarantees. Yet for the sake of others, and myself, I would still like to argue the provisions of the HIV/AIDS guidelines which emphasize that a reasonable accomodation should be offered and separation from the agency is a "last resort."

I appreciate your taking time to read this letter. I would be glad to assist in anyway to help you in researching information or providing support.

Sincerely,



Donald Donaldson
2200 Columbia Pike #1015
Arlington, VA 22204
Home: (703) 553-0506
Work: (202) 586-1753
FAX: (202) 586-4622

Training needs may be met through an agency's own facilities, other government facilities such as interagency or shared training, or non-government facilities, whichever is found to be most effective. Agencies are required to open their training programs to employees of other agencies when the sharing of training would result in better training, improved service, or savings to the government.

Acquired Immune Deficiency Syndrome (AIDS) in the Workplace

In May 1995, the Office of Personnel Management issued policy guidelines to assist federal agencies in establishing effective programs and policies in dealing with AIDS and HIV (human immunodeficiency virus). In part, these guidelines were based on other guidelines issued by the Public Health Service's Centers for Disease Control.

Employees with HIV/AIDS must be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. If the HIV infection results in medical conditions that impair an employee's ability to perform safely and effectively, the agency should treat the employee the same way it would any other employee suffering from a serious illness.

Employees may not refuse to work with fellow employees or clients who are HIV-infected or diagnosed with AIDS and they may not engage in behavior that creates an uncomfortable or hostile environment for them. Co-workers who engage in this type of conduct may be subject to disciplinary action under the provisions of the Rehabilitation Act of 1973, as amended in 1992 to conform with the Americans with Disabilities Act of 1990. Supervisors are responsible for making sure that HIV/AIDS workplace policies are understood and complied with.

Nevertheless, the concerns of these employees should be taken seriously and should be addressed with appropriate information and counseling. In addition, employees, such as health-care personnel, who may come into direct contact with the body fluids of persons having HIV/AIDS are to be provided with appropriate information and equipment to minimize the risks of such contacts.

Employees who object to attending HIV/

AIDS training based on a personal religious belief or practice may request to be exempted. Title VII of the 1964 Civil Rights Act and Equal Employment Opportunity Commission regulations (29 CFR 1605.2) state that employers have an obligation to accommodate the religious practices of an employee unless the employer can demonstrate that accommodation would result in undue hardship on the conduct of its business.

Employees with HIV/AIDS may request sick leave, annual leave or leave without pay to pursue medical care or to recuperate from the ill effects of their medical condition. The agency should make its determination on whether to grant leave the same way it would for other employees with medical conditions. In addition, employees with HIV/AIDS are entitled to a total of 12 administrative weeks of unpaid leave under the Family and Medical Leave Act of 1993. Under the Federal Employees Leave Sharing Amendments Act of 1993, they may also participate in leave bank programs run by their agency after their own leave has been exhausted.

Employees with HIV/AIDS can continue their coverage under the Federal Employees Health Benefits (FEHB) Program and/or the Federal Employees' Group Life Insurance (FGLI) Program in the same manner as other employees. Although the law requires that employees in leave-without-pay status for 12 continuous months will have their FEHB and FGLI coverage terminated, the employee does have the privilege of converting to private policies without having to undergo a medical examination.

Under the FGLI Living Benefits Act of 1994, federal employees who are diagnosed as terminally ill with a life expectancy of nine months or less may elect to receive all or a portion of their FGLI basic life insurance as a "living benefit." For more information see the Life Insurance section, page 96.

Employees with HIV/AIDS may be eligible for disability retirement if their medical condition warrants and if they have the requisite years of federal service to qualify. OPM makes every effort to expedite applications where the employee's illness is in an advanced stage and is life threatening.

HIV/AIDS-related policies or programs which would affect the working conditions of bargaining unit employees are proper subjects for collective bargaining.

For further information regarding OPM's

HIV/AIDS policy guidelines, contact the Employee Health Services Policy Center, Office of Personnel Management, 1900 E Street, N.W., Room 7412, Washington, D.C., 20415 or phone (202) 606-1269, FAX (202) 606-0967.

Veterans' Preference

General

Under certain circumstances, preferential treatment is granted to those who have served in our armed forces and been honorably discharged. That preference gives veterans (including certain spouses, widows, widowers, and mothers of veterans) a leg up in hiring for government jobs and protects them in reductions-in-force (RIFs). Eligibility for veterans' preference is determined by the time period in which the service was performed and the length of that service. Additional credit is granted to those veterans with service-connected disabilities.

The principle of veterans' preference was written into law over a century ago when, in 1865, Congress gave preference to veterans with service-incurred disabilities. Since then the national policy has been broadened and strengthened by law, executive order and regulation. In 1944, the various statutes, White House directives and civil service regulations were unified into a single law, known as the Veterans' Preference Act.

Hiring

In public civil service examinations, the veteran honorably discharged from service between December 7, 1941 and July 1, 1955, the veteran who has been honorably discharged after more than 180 consecutive days of active duty (other than for training) any part of which occurred after January 31, 1955, and before October 15, 1976, and all honorably discharged veterans who have served in a declared war or received campaign or expeditionary medals get five points added to their earned ratings. In addition, a two year minimum active service condition applies to those qualified veterans who enter military service after September 7, 1980. (Reserve and National Guard members need not have served two years provided they served the full period called or ordered to active duty.) This condition does not apply to disabled veterans.

Persons who retired from the military with the rank of major and higher and its equivalent are not entitled to veterans' preference, except in cases of service-connected disability.

The following persons in addition to their earned rating: the spouse of the veteran with service-connected disability; the unmarried widow of a campaign veteran or one who died on or after December 7, 1941, and in some cases the mother of a permanently disabled veteran.

Preference points are added to the passing rating is made.

In jobs where experience is required, a veteran gets full credit for military service counted either as additional service job or as experience depending upon which to the veteran.

Candidates for jobs are registered in order of their ratings they have earned plus preference points; except that disabled veterans receive compensable service-connected disability rating of 10 percent or more rise to 100 percent. However, this last does not apply to seasonal or scientific jobs in government. Among themselves, the veterans are ranked by the degree to which they are compensable. The ratings of the register are listed in order of ratings plus ten points.

Under the rule of three, an agency is permitted to hire any one of the persons on a register; except for good reasons to the Office of Personnel Management for passing over a veteran.

An agency cannot pass over a veteran to select a lower ranking non-qualified person without a sufficient reason agreed to by the Office of Personnel Management.

Some federal examinations are available to preferential veterans entitled to preference. These include operators, messengers and

Noncompetitive Appointments

Veterans
Veterans whose active period of 180 days (unless service-connected disability) was not dishonorable. Veterans Readjustment Benefit Act to grade GS-11 or equivalent thereto.

- Served during the Vietnam War from May 7, 1964 to May 7, 1975 or
- First entered service

counseling can be a positive factor in eligibility determinations. However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether other access eligibility standards are satisfied.

Appeals Rights for Denials or Revocations of Clearances: Applicants and employees who are determined to not meet the standards for access to classified information shall be:

- provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;
- provided within 30 days, upon request and to the extent the documents would be provided if requested under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;
- informed of their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described above upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided to the employee prior to the time set for a written reply;
- provided a reasonable opportunity to reply in writing to, and to request a review of, the determination;
- provided written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;
- provided an opportunity to appeal in writing to a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except for a personal involvement by the agency head; and
- provided an opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head. A written summary or recording of such appearance shall be made part of the applicant's or employee's security record, unless such appearance occurs

in the presence of the appeals panel described above.

Determinations of Need for Access: A determination that an employee does not have, or no longer has, a need for access is a discretionary determination and shall be conclusive.

Reinvestigation Requirements: Employees eligible for access to classified information shall be the subject of periodic reinvestigations and may also be reinvestigated if, at any time, there is reason to believe that they may no longer meet the standards for access established in the order.

Employee Education and Assistance: The head of each agency shall establish a program for employees with access to classified information to educate them about individual responsibilities and to inform them about guidance and assistance available concerning issues that may affect their eligibility for access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse.

Employee Responsibilities: Employees granted access to classified information shall: protect classified information in their custody from unauthorized disclosure; report all contacts with persons, including foreign nationals, who seek in any way to obtain unauthorized access to classified information; report all violations of security regulations to the appropriate security officials; and comply with all other security requirements.

Employees are encouraged and expected to report any information that raises doubts as to whether another employee's continued eligibility for access to classified information is clearly consistent with the national security.

Sanctions: Employees shall be subject to appropriate sanctions if they knowingly and willfully grant eligibility for, or allow access to, classified. Sanctions may include reprimand, suspension without pay, removal, and other actions in accordance with applicable law and agency regulations.

Furloughs

This section deals with (non-pay) furloughs of employees of 30 days or less. Most furloughs would fall in this category. Furloughs for more than 30 days are handled under regular reduction-in-force rules. Furloughs of 30 days or less are covered by adverse action procedures. Regarding 30-day or less furloughs,

agencies have the right to take such action. However, there are rules they must follow.

Employees must be given at least 30 days advance written notice of furloughs of 30 days or less except in the case of "unforeseeable circumstances." Employees are entitled to appeal the action to the Merit Systems Protection Board, or grieve under an applicable negotiated grievance procedure.

The total number of days which any employees may be furloughed under the adverse action procedures may not exceed 30 calendar days (if consecutive) or 22 work days (if days a non-pay status).

Retirement coverage continues without cost to the employees on consecutive furloughs of 30 days or less. On discontinuous furloughs the coverage continues but contributions by the employee are adjusted in proportion to the basic salary received during each pay period.

Life insurance coverage for both consecutive and discontinuous furloughs continues. There is no cost to the employee during consecutive furloughs, but employees on discontinuous furloughs are assessed premiums if the salary during the pay period is sufficient to cover deductions.

Health insurance coverage continues during consecutive furloughs with the employee and agency paying their respective FEHB shares for each pay period in which coverage continues. The employee may either continue paying the premium while on non-pay status or resume making payments after returning to duty and pay status.

Those on discontinuous furloughs would make contributions if the salary in the pay period is sufficient to cover the cost of full deductions.

Regarding use-it-or-lose-it annual leave, such leave can be protected from forfeiture if a request for such leave has been made in writing well in advance of the furlough and for use at some period or periods before the end of the leave year.

Employees may be eligible for unemployment compensation during furloughs, depending on the laws of a particular state.

For More Information

For more information on your rights in a furlough, obtain a copy of *Your Furlough Guide*. For purchasing information, see the publication catalog in the center of this book or call 1-800-989-3363.

Reductions in Force General

An agency is required to use RIF procedures when an employee is faced with separation or downgrading for a reason such as reorganization, lack of work, shortage of funds, insufficient personnel ceiling, or the exercise of certain reemployment or restoration rights. If an agency is going to RIF employees, an agency must follow specific procedures to determine which employees will be affected by the RIF. Employees compete for retention on the basis of four factors, type of appointment (tenure), veterans' preference, total length of civilian and creditable military service, and performance ratings.

The agency decides whether a RIF is necessary, when it will take place, and what jobs are abolished. However, the abolishment of a position does not always require the use of RIF procedures. The agency may reassign an employee without regard to RIF procedures to a vacant position at the same grade or pay, regardless of where the position is located.

Competitive Area

First, the agency defines the competitive areas which are the geographical and organizational limits within which employees compete for retention. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency within a local commuting area. If a competitive area will be in effect less than 90 days prior to the effective date of a reduction-in-force, it has to be approved by the Office of Personnel Management (OPM) in advance of the RIF.

Next, the agency groups interchangeable positions into competitive levels based upon similarity of grade, series, qualifications, duties, and working conditions. For example, GS-2 typists are listed with GS-2 typists performing similar duties, and GS-9 accountants are listed with other GS-9 accountants performing similar duties. Additionally, supervisors and management officials are placed in competitive levels comprising only these positions.

Retention Registers, Competitive Service

A formula combining the four factors mandated by law (tenure, veterans' preference, length of service, and performance) is used to rank employees. Each competitive level becomes a retention register listing employees in order of their standing.

Tenure: Employees are ranked on a retention register in three groups according to their types of appointment. Group I, career employees who are not serving a probationary period. Group II, career employees who are serving a probationary period and career-conditional employees. Group III, term employees, status quo employees, and employees serving under temporary appointments pending establishment of registers (temporary employees in the competitive service are not competing employees for RIF purposes and are not listed on the retention register).

Veterans Preference: Each of the tenure groups is divided into three subgroups reflecting entitlement to veterans preference. A retired member of the armed forces is considered to be a veteran for RIF purposes only if the armed forces retired pay is directly based upon a combat-incurred disability or injury or if the retirement is based upon less than 20 years of active service, or if the employee has been working for the government since November 30, 1964, without a break of service of more than 30 days and retired below the rank of major (or equivalent). Subgroup AD includes eligible veterans with a compensable service-connected disability of 30 percent or more. Subgroup A includes eligible veterans not included in Subgroup AD. Subgroup B includes non-veterans and veterans not eligible for preference.

Length of Service: Employees are ranked by their service dates within each subgroup. Their service dates reflect their total federal service, civilian and creditable military service, and additional service credit for certain performance ratings. Note: The Defense Authorization Act of 1996 now allows credit of nonappropriated fund (NAF) service from January 1, 1966 to the present, if the employee moved, without a break in service, of more than three calendar days, from a NAF position to an appropriated fund (AF) position within the Department of Defense.

Performance: Employees receive additional service credit for performance. The extra credit is based upon the average of their last three annual performance ratings of record received prior to the date the agency issues specific RIF notices.

The extra credits are: 20 years for an "outstanding" rating; 16 years for an "exceeds fully successful" rating; 12 years for a "fully successful" rating.

For example, an employee who received an

outstanding rating and two exceeds fully successful ratings over the last three years, resulting in $20 + 16 + 16 = 52$, dividing by $3 + 17.3$. 17.3 is rounded up to 18 years of service credit which is added to the employee's length of service.

Retention Registers, Excepted Service (Schedule A and B)

Excepted service employees are those who have been designated as Schedule A or B workers. An agency must get OPM approval before designating an employee as Schedule A or B. Schedule A positions are those of a confidential or policy-determining character for which it is not practical to examine, such as appointments by agencies, positions at GS-15, and the entire executive civil service. Schedule B positions are those of a confidential or policy-determining character for which it is not practical to hold a competitive examination, such as positions filled by students in cooperative education programs.

Employees are listed on the register according to the same criteria used in the competitive service. The exception is that an employee who completes more than one year of current continuous excepted service under temporary appointments is in tenure group III.

Senior Executive Service RIF Procedures

Before an agency conducts a reduction-in-force that will affect SES members, it must have a plan that explains how its RIF procedures work and how the agency will determine who is affected. Removal of career executives in a RIF must be preceded by a specific written notice and must follow competitive procedures which give primary emphasis to performance. Veterans preference does not apply. An executive may appeal to MSPB whether the RIF complies with competitive procedures. Note: Non-career and limited-term appointees may be removed at the pleasure of the agency head.

SES career members who are affected by a RIF and have completed probation are entitled to placement in any vacant SES position in their agency for which they are qualified. If no such vacancy exists, OPM has 45 days in which to try to place the individual in an SES position in another agency.

If SES placement is not possible, the individual has fallback rights to a GS-15 position, and still retains his or her former SES salary. SES members who meet the age and service requirements may elect discontinued service

retirement in lieu of a GS-15 position. (See Discontinued Service Retirement, page 144.)

Release

Employees are released from a competitive level in the inverse order of their retention standing, beginning with the employee with the lowest standing on the retention register. In other words, all employees in Group III are released before employees in Group II, and all employees in Group II are released before employees in Group I. Within the subgroups, all employees in Subgroup B are released before those in Subgroup A, and all workers in Subgroup A are released before those in Subgroup AD. However, an agency may not release a competing employee from a competitive level while retaining in that level an employee with a specific limited appointment, specifically limited temporary or term promotion, or an employee who has received a written decision which removes or demotes the employee from the competitive level.

RIF Notices

An agency must give each employee at least 60 days specific written notice before he or she is reached for a RIF action. By law, when 50 or more Defense Department employees are facing separation by RIF, at least 120 days specific written notice must be provided. In unforeseeable circumstances, an agency may, with OPM approval, give an employee 30 rather than 60 days specific written notice of a RIF action.

In the RIF notice, the agency must include the employee's competitive area, competitive level, subgroup, service date, and annual performance ratings of record received during the last three years; the place where the employee may inspect the regulations and records; the reasons for proceeding out of order in retaining a lower-standing employee in the same competitive level; the information on reemployment rights; and the employee's right to grieve or appeal the agency's decision.

Rights to Other Positions

Competitive service employees in Groups I and II who have received specific RIF notices and have current performance ratings of at least "minimally successful" are entitled to an offer of assignment, if they have "bumping" or "retreating" rights to an available position in the same competitive area. The position must last at least three months; be one for which the released employee is qualified; have a pay rate

no higher than the employee's present position; have the same type of work schedule; and be within three grades of the employee's present position. Employees in Group III (term employees and status quo employees) have no rights to another job.

Bumping: "Bumping" means displacing an employee in a lower tenure group, or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the job, it may be a job he or she never held. In addition, it can be no more than three grades (or appropriate grade intervals) below the position from which the employee was released.

Retreating: "Retreating" means displacing an employee with less service within the released employee's own tenure group and subgroup. The position must also be the same position or essentially identical to a position held by the released employee in a federal agency on a permanent basis. An employee with a current annual performance rating of "minimally successful" only has retreat rights to positions held by employees with the same or lower ratings. Also, the position can be no more than three grades (or appropriate grade intervals) below the position from which the employee was released. The exception is for those in subgroup AD (veterans with a compensable service-connected disability of 30 percent or more). Their limit is five grades (or appropriate grade intervals).

Grade Intervals: The grade limits of an employee's assignment rights are determined by the grade progression of the position from which the employee is released. The difference between successive grades in a one-grade occupation is a grade difference, and the difference between successive grades in a multi-grade occupation is a grade-interval difference. For example, an employee released from a GS-11 position that progresses GS-5-7-9-11 has bump and retreat rights to positions at GS-5. An employee released from a GS-9 position that progresses GS-6-7-8-9 has bump and retreat rights to positions at GS-6.

Use of Vacant Positions

An agency is not required to offer vacant positions in a RIF, but may choose to fill all, some, or none of them. When an agency chooses to fill a vacancy with an employee reached for a RIF action, it must follow subgroup retention standing. A RIF offer of assignment to a vacant position can only be in the same competitive

area, and must be within three grades (or grade-intervals) of the employee's present position. At its discretion, the agency may offer employees reassignments or voluntary changes to lower-graded positions in other competitive areas in lieu of RIF.

RIF Appeals and Grievances

An employee who has been separated, downgraded or furloughed for more than 30 days by RIF has the right to appeal in writing to the Merit Systems Protection Board (MSPB), if the employee believes the agency did not properly follow the RIF regulations. The appeal must be filed during the 30-day period beginning the day after the effective date of the RIF action. MSPB's review of agency action is limited to the written record unless MSPB determines that there are facts in dispute. If MSPB rules in favor of the employee, the agency must restore the employee to the job that the employee was separated from or should have been assigned. The agency is usually required to give back pay to the affected employee.

An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude RIF actions must use the negotiated grievance procedure. The employee may not appeal to the MSPB unless the employee alleges the action was based upon discrimination. The time limits for filing a grievance are set forth in the collective bargaining agreement.

Transfer of Function

A transfer of function takes place when a function ceases in one competitive area and moves to other competitive areas which do not perform the function at the time of transfer. The gaining competitive area may be in the same or different agency. An employee who is identified with the transferring function has the right to transfer only if faced with separation or downgrading in the competitive area that is losing the function. The losing competitive area may use adverse action procedures to separate any employee who chooses not to transfer with his or her function. If the transfer of function results in a surplus of employees in the gaining competitive area, all employees who elected to transfer with the function compete under RIF regulations for positions in the gaining organization.

Agency Job Placement Programs

Each agency has a Reemployment Priority List (RPL) program that gives Group I and Group II employees with a performance rating

above "unacceptable" who have received a specific RIF separation notice priority consideration over outside applicants for positions filled by their agency. The position must be within the same commuting area from which the employees were separated and at the same or lower grade than their former positions. Separated employees are eligible for the program as long as they did not refuse a RIF offer of assignment to a position at the same grade before their separation.

Group I employees can remain on the RPL for two years, while the time limit for Group II employees is one year. Excepted employees are also eligible for reemployment consideration. The procedures for them vary from agency to agency.

An employee must fill out an application and apply through the local personnel office within 30 days after being separated by RIF.

Benefits Accruing to Employees Affected by RIFs

Grade Retention: An employee who is placed in a lower graded position in his or her agency as a result of RIF procedures is eligible to retain the same grade for two years. The employee must have completed at least 52 consecutive weeks at a higher grade than that of the position to which he or she was demoted. The employee's retained grade is considered for most purposes (including pay and pay administration, retirement, life insurance, eligibility for training, promotions, and within-grade increases) as the grade of the position the employee holds after downgrading because of RIF. However, in any subsequent RIF the employee competes for retention based on the lower grade. For example, an employee who holds a GS-12 position and is downgraded because of RIF to a GS-9 position is still considered a GS-12 for most purposes, but for a subsequent RIF, would compete as a GS-9.

Pay Retention: An employee eligible for grade retention retains his or her pay for the same two-year period. At the end of the two-year period, the employee's grade is lowered. Should his or her pay at that time exceed the maximum rate of his or her new grade, he or she will retain his or her current rate of pay at that time. The exception being that the retained rate may not exceed 150 percent of the top rate of the grade to which it was reduced. The employee will receive only 50 percent of the annual comparability pay increases. If or when his or her pay is lower than or equal to the maxi-

mum rate of the new grade, it will be placed at the maximum rate and he or she will then receive full comparability pay increases.

Re-Promotion Priority: Agencies can give priority consideration to the re-promotion of employees who have been downgraded involuntarily to positions up to their former grade level.

Severance Pay: Severance pay is available to most individuals who have served at least 12 months continuously separated by RIF, provided that the employee has not declined to accept a position within two grades of his current level in the same commuting area is not eligible for an immediate annuity for either federal or armed forces service, and is not receiving any type of injury compensation benefits.

The benefit is computed at the rate of one week's pay for each year of service prior to separation. After ten years of service, an employee receives two weeks of pay for each additional year. For each year the employee is over age 40, an additional 10 percent of severance pay is received. The maximum is one year's salary which is paid out at regular pay intervals.

Unemployment Compensation: The unemployment insurance program for federal employees is administered by the Department of Labor through state governments. Separated employees should file a claim for benefits at their state employment service office or their unemployment insurance claims office where they also can register for work. Employees must bring their Social Security card, official notice of separation or non-pay status (Standard Form 50), and notice about unemployment insurance (Standard Form 8).

Unused Leave: All civilian employees covered by annual leave laws, upon separation from the federal service, are entitled to receive a lump sum payment for accumulated and accrued annual leave. There is no payment for unused sick leave. However, an employee who is separated from the federal government is entitled to have his or her sick leave re-credited if the individual is reemployed in the federal service. Unused sick leave is added to the total service of an employee who is eligible for annuity benefits under the Civil Service Retirement System (CSRS), but not for those under the Federal Employees Retirement System (FERS).

Health Insurance Benefits in RIFs

Separated Employees: After separation, employees not eligible for an immediate annuity continue to be covered by their Federal

Employees Health Benefits insurance for 31 days at no charge. They can enroll for an additional 18 months so long as they pay both the employee and employer share of the premiums, plus 2 percent for administrative costs. Department of Defense employees can continue their Federal Employee Health Benefits insurance for 18 months on the same terms as if they were still employed following RIF separation.

Retirees: Those employees who are eligible for an immediate annuity may continue their enrollment in the FEHB, if the retiree has been continuously enrolled or covered as a family member for the five years of service immediately preceding the commencing date of annuity payments, or for all service since the first opportunity to enroll. After retirement, the government continues to pay the same contribution that is paid for active employees.

Life Insurance Benefits in RIFs

Separated Employees: Separated employees are covered free by FEGLI for 31 days. An employee who is separated and is not eligible for an immediate annuity may convert all or part of his life insurance to an individual policy without having to take a medical examination. The individual policy may be purchased from any eligible insurance company selected by the employee as a private transaction between the employee and the company. The employee pays the entire premium of the conversion policy. The conversion must be made within 31 days after the effective date of the RIF or within 30 days after receiving the notice from the employing office about the right to convert, whichever is later.

Retirees: Employees who retire on an immediate annuity are eligible to continue their basic life insurance as well as all three types of optional insurance. At retirement, employees can elect a percentage of basic coverage they wish to retain after age 65. Retirees must have been insured for the basic coverage during the entire period the coverage was available or for the last five years of service immediately preceding the starting date of annuity payments.

Retirement Benefits in RIFs

Discontinued Service Retirement: An employee facing a reduction-in-force who meets normal age and service requirements for retirement may choose to retire at any point in the process (See Retirement section, page 144, for eligibility rules). Both the CSRS and FERS systems also provide for immediate retirement

with reduced age and service requirements for involuntarily separated (other than for cause on charges of misconduct or delinquency) employees who have not declined a reasonable job offer.

Once an employee receives official notice that he or she will be involuntarily separated, the individual may then retire, and is not required to wait until the action has been taken. However, if the notice is rescinded prior to the employee's retirement, the right to retire also terminates.

For discontinued service retirement, the employee must be at least age 50 with 20 years of creditable service, or be any age with 25 years of service. Under CSRS, the annuity is reduced by 2 percent for each year the individual is under age 55. There is no age reduction under FERS, but the employee is not eligible for the Annuity Supplement (payable under FERS until age 62 in lieu of Social Security benefits) until attainment of the Minimum Retirement Age (55 to 57, depending upon year of birth).

Early Voluntary Retirement: If OPM, responding to the request of an agency head, determines that an agency is undergoing a major RIF or reorganization that will result in a significant number of employees losing their jobs or having their pay reduced, it may authorize early retirement for employees in designated geographic areas or occupations during a limited period. The eligibility and computation factors are the same as those discussed in the above section regarding Discontinued Service Retirement.

Deferred Annuity: Under both FERS and CSRS, separating employees not meeting the requirements for an immediate annuity but who have at least five years of creditable civilian service are entitled to a deferred annuity. Under both systems, the annuity can commence at age 62. The annuity is computed under the law in effect on the date of the employee's separation.

Under FERS only, if the employee has at least ten years of creditable service, he or she may elect a reduced deferred annuity commencing at any time from Minimum Retirement Age until age 62. The reduction is 5 percent for each year the employee is under 62 when the annuity commences.

Career Transition Assistance

On September 12, 1995, President Clinton directed federal agencies to provide increased assistance to their employees who are affected

by RIF. As a result, executive branch agencies were required to set up Career Transition Assistance Programs (CTAPs) that offer career transition services to all agency employees affected by downsizing, give special selection priority to those who have been identified for separation by RIF, and provide rehiring priority to displaced agency employees through a Reemployment Priority List.

In addition, OPM is changing the way in which displaced federal workers receive priority consideration for employment in other agencies and is suspending the current Interagency Placement Program (IPP) and replacing it with an Interagency Career Transition Assistance Program (ICTAP). Instead of being referred through the passive, centralized IPP, which has proven to be ineffective, displaced employees will now be given the tools and resources to target specific positions in which they are interested, apply directly to agencies for the jobs, and exercise special selection priority for vacancies in other agencies.

The requirement to establish internal agency transition programs will not affect the Department of Defense's Priority Placement Program, which will continue to provide placement assistance to Defense workers impacted by downsizing. However, displaced DoD workers, like employees of other agencies, will be eligible to participate in the ICTAP.

For specific information on the above programs, employees should contact their own personnel office.

Department of Defense RIF Benefits

Relocation Services Program: Relocation services, also known as permanent change of station (PCS) benefits, are provided to defray the costs of transporting employees, their families, and households to new locations. Costs that the government will pick up include: the packing and shipment of up to 18,000 pounds of household goods; certain costs associated with buying and selling a home; a house hunting trip to the new location; expenses and per diem while traveling to the new location; and temporary quarters subsistence expenses. In addition, the Department of Defense has a contract to provide home sale assistance to certain employees. Rules and regulations governing PCS benefits can be found in Chapter 4 of the DoD Joint Travel Regulations, Volume 2.

Homeowners' Assistance Program: In situations where the real estate market is severely affected by full or partial base closures, certain

employees may receive assistance under this program. This program provides financial assistance to eligible military and civilian employee homeowners serving at or near military installations which are being closed, partially closed, realigned or reducing their scope of operations (see page 240). The Department of Army's Corps of Engineers administers the program. There are a number of requirements that must be met before the assistance can be paid. See Section 1013 of the Demonstration Cities and Metropolitan Development Act (P.L. 89-754). A copy of the law should be available from the offices of members of Congress free of charge.

In general, the program works in one of three ways. The government can reimburse you for part of your loss from selling your home, or buy your home by paying off the mortgage, or help you if you default on your mortgage.

For the benefit to be authorized, there has to be an announcement of a base closing or realignment action that affects your community. Second, a determination must be made that real estate values have dropped as a result of the base closing or realignment. Many other local factors may affect the price of the real estate, but these two conditions determine whether a community is eligible for the Homeowners Assistance Program.

An applicant must be a military member (Coast Guard included) or federal civilian or non-appropriated fund employee assigned or employed at or near the installation announced for closure or realignment and be the owner-occupant on the announcement date. Also eligible are: personnel transferred or terminated within six months prior to the announcement who were owner-occupants at the time of transfer; military personnel on an overseas, unaccompanied tour who departed within 15 months prior to the announcement and who are homeowners in the area; and civilian employee homeowners on an overseas tour with reemployment rights in the area affected by the closure. In addition, applicants must be relocating beyond commuting distance from the area.

The basic application is made on DD Form 1607, application for Homeowners Assistance Program. Part III of the form must be completed by a personnel officer. In addition, applicants must submit ENG Form 4161-R and a variety of documents to show evidence of ownership of the property, occupancy dates, assignment orders, efforts to sell the home

(whether it was sold), and mortgage details.

A complete application package can be obtained from either the housing office or the personnel office on a base.

DoD's Priority Placement Program (PPP): PPP assists DoD employees in locating positions within the agency. DoD sends personnel specialists to bases identified for closure to assist employees in their registration in PPP.

PPP uses a computerized system which continually matches the skills of displaced employees with vacant DoD positions. If an employee meets the skills and grade level of a vacant position, that opening must be offered to the employee.

The employee will only receive one valid offer. If that offer is declined, the employee is removed from the program. Moving expenses are paid by DoD to the extent authorized by appropriate travel regulations.

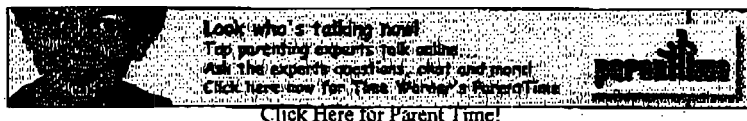
The employee must fill out registration forms which are available through DoD civilian personnel offices. The offices submit the forms to the support center.

Hiring Limitations: During downsizing, activities may choose to limit the number of employees they add to the employment rolls, or to limit movement within the activity. Limitations could include a total freeze on promotions or accessions, or a limited restriction whereby activities replace some of the employees who leave (for example, two employees hired for every five who leave). Limitations may cover the entire department, a component, a subordinate activity or an installation.

Voluntary Early Retirement Authority (VERA): The Office of Personnel Management delegates this authority to agencies to help them reduce staff by allowing employees to retire under reduced age and service requirements (age 50 with 20 years of service, any age with 25 years of service). The retirement annuity is reduced by 2 percent per year for each year the employee is under age 55. This is also referred to as early retirement or early out.

Buyouts: Buyouts are lump sum payments of up to \$25,000 paid by DoD to encourage employees to resign or retire. Buyouts are targeted at employees in specific grades, series, or locations to help avoid reductions in force and minimize involuntary separations. DoD's authority runs through September 30, 1999 (see Buyouts section, page 243).

Generally, activities must offer buyouts to their employees at least 30 days before they is-



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- ☐ **Creative Learning Stroke Support** A "series of multi-sensory oriented programs developed to help both teach and recover language lost to stroke, closed head injury, CVA and traumatic brain injuries."
- ☐ **Crotched Mountain Foundation** Foundation for "rehabilitative and educational services on behalf of children, adults and elderly persons."
- ☐ **Did You Know?** Facts on dyslexia.

- ☐ [Disability Connection](#) Apple computer tools for people with disabilities.
- ☐ [Disability Connection-Mac Access Passport](#)
- ☐ [The Disability SIG](#)
- ☐ [Disability/Polio Page](#) Disability resources.
- ☐ [Disabled Sports USA](#)
- ☐ [Disabled Students of Stanford](#)
- ☐ [Dyslexia Center](#)
- ☐ [Elwyn's Home Page](#)
- ☐ [Evan Kemp Associates Disability Resources](#)
- ☐ [Family Village - A Global Community of Disability-Related Resources](#).
- ☐ [Hearing and Hearing Disorders](#)
- ☐ [Helen Keller International](#) International public health information regarding primary eye care and the prevention of nutritional blindness.
- ☐ [Institute on Independent Living](#)
- ☐ [International Wheelchair Aviation](#) Pilots with disabilities.
- ☐ [The Interwork Institute](#)
- ☐ [Listserv and Web Site for CFS](#) Links to Chronic Fatigue Syndrome.
- ☐ [LS&S Group](#)
- ☐ [Mitsubishi Electric America Foundation](#)
- ☐ [National Ability Center](#) Skiing, swimming, horseback riding, and other sports and outdoor activities for the disabled. Located in Park City, Utah.
- ☐ [National Handicapped Sports and Recreation Association](#) Founded in 1967 to serve Vietnam veterans but also serves other disabled people in 56 chapters in 35 cities.
- ☐ [National Institute of Life Planning for Persons With Disabilities](#)
- ☐ [National Spinal Cord Injury Association](#)
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- ☐ [Sensory Integration International](#)
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- ☐ [Typing Injury Frequently Asked Questions \(FAQ\)](#)
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A pivotal moment

We must not become so giddy over new drug developments that we give up the fight for basic rights for people with HIV/AIDS.

Daniel Zingale

The exciting news that promising AIDS therapies may produce dramatic, long-term health improvements for many people living with HIV and AIDS has instilled in many of us a renewed sense of hope. Yet, we have a multitude of new concerns as we prepare to tackle the public policy challenges that the pandemic poses in its sixteenth year. The high cost of the new drug therapies is one example. But the sobering reality is that the cost of drugs is only one piece of a complex and challenging puzzle.

Clear clinical care guidelines are not yet available, and many questions remain about how best to use promising AIDS drug therapies. One thing, though, is clear: The promise of new therapies can only be realized if affordable, comprehensive healthcare and adequate access to prescription drugs are available to all Americans living with HIV and AIDS.

The inextricable links between stable, affordable housing, the ability to access care, and the promise of new drug regimens have also become clear. People living with HIV disease who are homeless or at risk of homelessness will never have any real opportunity to access potentially life-prolonging drug treatments if they are not provided with a stable living environment. AIDS Action has long held the position that the most effective response to the pandemic includes advocacy for AIDS research, prevention, care, and housing. Our philosophy has not altered.

While there is little doubt that access to care will be the most salient issue we face this year, our community must avoid the risks of a reductionist approach—of framing “access to care” simply in terms of the ability to purchase drugs. To limit the focus to the availability of prescription drugs is to deny the complexity of the needs of many HIV-infected individuals. Such an approach effectively guarantees access exclusively for individuals whose only barriers to adequate care are the availability and affordability of the drugs themselves. These drugs must be administered in the context of comprehensive primary care offered by trained providers. For many individuals living with HIV disease, accessing that medical care requires a stable living situation and the availability of vital enabling services, such as child care, transportation, and appropriate case management.

Our advocacy work will be conducted in an environment of budgetary retrenchment, not expansion. During Campaign '96, President Clinton made a commitment to balance the federal budget by 2002, provided the budget protects “Medicare, Medicaid, the environment, and education.” AIDS advocates breathed a collective sigh of relief as the President explained that the commitment to these programs and the fundamental humanitarian values they embody are every bit as important as the nation's need for fiscal control.

Sadly, initial indications are that this philosophy is not guiding the political push-and-pull toward achieving a balanced budget. The integrity and very nature of the Medicaid and Medicare pro-

grams are at risk. Also at risk is funding for AIDS programs, including HIV prevention, medical and social services provided through the Ryan White CARE Act, and housing provided through the Housing Opportunities for People With AIDS (HOPWA) program. No one can deny the need for a balanced budget. However, a balanced budget must be achieved with an underlying understanding that what is pleasing on paper in the form of diminished expenditures has very real consequences for millions of Americans.

Unfortunately, as has been the case for the past 15 years, our work will be made more difficult by legislative attempts to fight people living with HIV and AIDS. Although great strides have been made in the protection of the basic rights of people living with HIV disease, job loss, housing loss, denial of medical and social care, invasion of privacy, and a host of other indignities, some of them life-threatening, are part of daily reality for many people.

At a time when new hope has cast away the pall of discouragement that has long shrouded our community, it is easy for us to fall victim to excessive optimism. We can ill afford to harbor these notions at this pivotal moment. Let us join our voices as we engage the Clinton administration, the 105th Congress and, indeed, society at large, to take action. Our actions today may well frame the next chapter in the history of this pandemic. ■

David Zingale is executive director of AIDS Action, the only national organization devoted solely to advocating on behalf of all Americans living with HIV and AIDS and 1400 community-based organizations that serve them.

F A X

To: Sandra Thurman
Company:
Fax number: +1 (202) 456-2438
Business phone:

From: Jose Cabrero
Fax number: +1 (504) 865-5405
Business phone:
Home phone:

Date & Time: 7/8/98 2:37:43 PM
Pages: 3
Re: Louisiana State HIV Program Office Letter

For Sandra Thurman:

I have left you voice mail with my home phone number. I wish to discuss problems with the HIV State Office with you. I will follow this fax up with a copy of the letter certified mail as well as a letter to your office with additional details.

The faxed letter to the Louisiana State HIV office is a culmination of work over the last 9 months as well as futile requests and a lack of activity by the Louisiana State HIV Program Office in Washington in the department of Health, Education, and Welfare.

Additional aid will be sought from NOPWA and the CAEAR Coallition - Mr. Earnest Hopkins.

Thanks

**A. B. Freeman School of Business
Tulane University
New Orleans, Louisiana 70118**

July 8, 1998

**Mr. August Martin
State HIV Program Office
9th Floor , 1600 Canal Street
New Orleans, Louisiana 70112**

Dear Mr. Martin,

This letter follows up our conversation of July 8th, 1998. There are several issues that we discussed.

First on the matter of finances, I request that a copy of all public financial records required by law regarding AIDS funding from the Federal Government through Ryan White be turned over to me for public examination. I request the amount of grants, type of funding (Title 1, 2) and the agencies to which the funding was given for assistance to HIV patients in St. Tammany Parish. If there are forms that you are required to provide by law such as Form 990 with regards to 501-C3 funds, those forms should be sent.

I also wish to be "educated" on the following issues:

- 1. What services are being provided to HIV patients in St. Tammany and through what agencies? Please include all agencies that your office believes should be providing services to this area.**
- 2. What public meetings are supposed to be held by federal law and state guidelines by agencies receiving funds from the Federal Government via your agency?**
- 3. What notification process has there been to notify HIV patients of such meetings? I recollect phone conversations with your agency 6 months ago that these meeting were supposed to be advertised on the Times Picayune.**
- 4. Specifically, I was told by Bryan Jakes of AHEC that I could not attend the public meetings of his agency with a member of the media? What is Mr. Jakes legal grounds for barring me or any member of the media from a public meeting?**
- 5. Is NO AIDS receiving any type of funding for St. Tammany Parish? If so, why have they refused to render assistance to clients in the North Shore, specifically St. Tammany Parish?**

Please have your office provide the requested financial documentation required by law to me ASAP. I will pay when notified and required by law reasonable copying costs.

Please provide the information requested in the previous paragraphs. To ensure that no information is lost, each of your agency's answers should address a specific paragraph. If your agency is not required by law to provide any information to any of the matters, you should so state in writing.

It is believed by me that there is an inappropriate use of Federal monies. I intend to pursue the matter as necessary with a last resort of asking the Comptroller of the United States to conduct an audit. The slash in funding to patients, as well as the use of forged financial documents by agencies receiving funds from you is suspect. You have been advised of these forged documents over 6 months ago and that the Director of AHEC is in possession and has knowledge of such records and has refused to meet with the patient in question.

It is believed that documents have been forged for more than one patient in the Northshore and your agency should move to obtain originals from NO AIDS and AHEC, to present such records to the patients of those agencies in the Northshore and to launch a full scale investigation. These records should be examined for any signatures of patients from Jan 1, 1997 to the present from both agencies. It is imperative that your agency recognize the seriousness of forgeries in financial documents pertaining to Federal funds and entitlements.

I will be asking the Office of National AIDS/HIV Policy for assistance in resolving these problems. A copy of this letter was faxed to such office on this date directly from the computer, thus without a signature. A signed certified copy will be mailed to their office, as well as your office on July 9, 1998.

Please address your correspondence to me at the A. B. Freeman School of Business, address shown above. I may be contacted at 504-865-5405.

Sincerely,

Jose M. Cabrero

Copy: Office of National HIV Policy, White House

Sandy -
any chance
you could
"drop by" for
this?
I've
found this
event very
inspiring

National AIDS Fund

Come Celebrate!

No
Scheduling
conflict

The Fund's AmeriCorps Members are
completing their year of service.

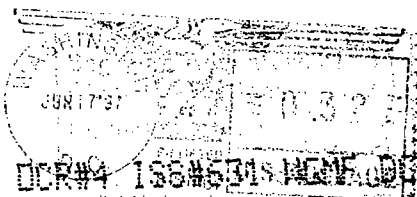
Please join us for the Awards Dinner.

Where: Radisson Barcelo Hotel
2121 P Street, NW
Washington, DC

When: July 11, 7:00pm

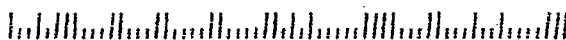
RSVP: Jenny Hamilton - (202)408-4848 ext. 221

Special thanks to our 1996-1997 AmeriCorps Funders:
Corporation for National Service, Elton John AIDS Foundation, and Metropolitan Life Foundation



00:26/06/19/97 DCR#4 166#531-14015-000 200

SANDY THURMAN
DIRECTOR
OFFICE OF NATIONAL AIDS POLICY
808 17TH STREET, NW, SUITE 820
WASHINGTON, DC 20006





One Corporate Drive
Suite 515
Shelton, CT 06484
TEL. (203) 929-3837
FAX (203) 926-0775

Raymond L. Torres
Director

June 12, 1997

Ms. Sandra Thurman, Director
National Office of AIDS Policy
The White House
Washington, D.C.

Dear Ms. Thurman,

On December 11 and 12, 1997, The Annie E. Casey Foundation, through its direct services arm Casey Family Services, will sponsor a conference on AIDS-affected children and families in Baltimore, Maryland at the Renaissance Hotel. Given your commitment to helping people touched by this disease, we would like to invite you to participate as the luncheon speaker on the first day of the conference.

We believe that this will be an important gathering, and anticipate that more than 300 social workers, medical personnel, policy makers, and the media will attend. Our focus will be on the special issues that affect children and youth whose parents, care givers, and other family members are infected with the AIDS virus. Specifically, we hope to increase awareness and understanding about these issues and use the conference to highlight promising strategies and interventions that can address them.

We are confident that this conference will make a significant contribution to the ways in which policy makers and administrators think about and address this critical topic and hope that your schedule allows you to accept our invitation.

The Annie E. Casey Foundation is a top 10 private charitable organization in America whose primary mission is to foster public policy, human services reforms, and community supports, that more effectively meet the needs of today's vulnerable children and their families. Among our emerging goals is a commitment to discover thoughtful ways of providing needed assistance to children of AIDS infected parents while the caregivers are ill or hospitalized, and to ensure that these children are properly cared for after the loss of their caretaker.



301 943-8435

Renaissance Hotel
in Baltimore, MD

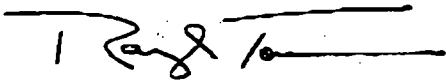
30 minutes
10:00 - 10:30
check in
where parents
are affected
by AIDS
loss + grief
issues of living
with HIV is
daily + what
check in the
let is
going
12-02-97 12:30

Ms. Sandra Thurman, Page 2

If you or your staff have any further questions, please feel free to call me or Joy Duva, a member of my staff.

Sincerely,

CASEY FAMILY SERVICES

A handwritten signature in black ink, appearing to read 'Raymond Torres', written over a horizontal line.

Raymond Torres
Director



Raymond L. Torres
Director

One Corporate Drive
Suite 515
Shelton, CT 06484

TEL. (203) 929-3837
FAX (203) 926-0775

Fax Transmission

To:	Sara Holewinski	Date:	June 12, 1997
Fax #:	(202) 632-1096	Pages:	3, including this cover sheet.
From:	Joy Duva		
Subject:	Letter to Sandra Thurman regarding national conference		

RECEIVED

PLEASE SEND:

- ☐ IMMEDIATELY
☐ ASAP
☐ CONVENIENCE

COMPLETED

____ TO ____
 REFERENCE #

FACSIMILE COVER PAGE

Weil, Gotshal & Manges LLP
 1615 L Street NW, Suite 700, Washington, DC 20036
 Main Telephone Number: (202) 682-7000
 Main Fax Number: (202) 857-0939

FROM: Jon PotterATTORNEY NO.: 2472 EXT.: 7146DATE: June 16, 1997

ROOM NO.: _____

CLIENT/MATTER NUMBER: 437510015TOTAL PAGES INCLUDING THIS PAGE: 5 PREPARED BY: Brenda**PLEASE DELIVER THE FOLLOWING PAGES TO:**

<u>Name</u>	<u>Facsimile Number</u>	<u>Telephone Number</u>
1. <u>Sandra L. Thurman</u>	<u>632-1096</u>	<u>632-1090</u>
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

COMMENTS: Richard Socarides at the White House suggested we work with you on the attached.**IF YOU DO NOT RECEIVE LEGIBLE COPIES OF ALL PAGES, PLEASE CALL: (202) 682-7087**TRANSMITTED BY: Brenda ON: 6-16-97 AT: 1:01 p.M.

CONFIRMED BY: _____ ON: _____ AT: _____ .M.

COMMENTS: _____

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NEW YORKERS FOR ACCESSIBLE HEALTH COVERAGE
EMPIRE BLUE CROSS AND BLUE SHIELD

June 16, 1997

The Honorable Sandra L. Thurman
Director
Office of National AIDS Policy
750 17th Street, N.W., Suite 600
Washington, D.C. 20503

Dear Director Thurman:

New Yorkers for Accessible Health Coverage is a coalition of organizations which individually and collectively represent the most vulnerable New Yorkers, including the ill, the elderly, and the disabled. Empire Blue Cross and Blue Shield provides health insurance to more New Yorkers than any other insurer.

As you may know, citizens who are permanently disabled when they are less than 65 years of age are not eligible for Medicare until after a 29 month waiting period. During the waiting period many disabled citizens obtain health insurance coverage from Empire. When they enroll in Medicare after the waiting period, these people often maintain their private insurance as a supplement, because the coverage differs and includes some services, such as prescription drugs and home health care, that are more limited under Medigap insurance. Thus, the decisions of these patients (many of whom have AIDS or cancer) to maintain private insurance is rational and prudent.

There are many reasons why disabled persons enrolled in Medicare would wish to change private secondary insurance, including the availability of less expensive coverage or coverage of different services. In New York, for example, where for many years only Empire offered an affordable policy for individuals regardless of pre-existing conditions, now many insurers offer similar or better policies through their managed care programs. Unfortunately, a disabled person under the age of 65 may not -- once enrolled in Medicare -- change insurers or change to a different policy sold by the same insurer, because the sale of such a policy would violate the Medicare anti-duplication statute. The Medicare anti-duplication statute was intended to prevent unscrupulous insurers from selling needlessly duplicative insurance to vulnerable elderly citizens who were already insured by Medicare. However, the statute has inadvertently prevented disabled consumers from acquiring economically prudent insurance policies that are otherwise widely available.

The particular interest of Empire and its insureds is because approximately 500 individuals are literally stuck in an Empire policy that has otherwise been terminated and replaced by alternative policies that offer substantially similar benefits for a lower premium. Because federal law does not permit these individuals to purchase new and better policies, Empire is required by New York law to continue their current coverage for as long as it cannot be replaced. The pool of insureds is quite small, however, and so the insureds would reduce their premiums significantly if federal law would permit them to purchase replacement insurance and they could drop this policy.

Essentially, the current anti-duplication law that was intended to protect consumers is now blocking disabled consumers from affordable insurance options that insurers have made available. To address this situation in a way that does not increase the risk for those whom the original legislation intended to protect, New Yorkers for Accessible Health Coverage and Empire Blue Cross and Blue Shield have developed the attached legislative proposal, which we hope to have included in the budget reconciliation legislation that Congress is currently considering. Please support us in this effort.

If your staff has questions about this proposal or the quandary posed by current law, Empire's counsel, Jonathan Potter, can be reached at 202/682-7146.

Thank you for your consideration and attention to this issue.

Mark Scherzer
Legislative Counsel
New Yorkers for
Accessible Health Coverage

Michael Stocker, M.D.
President
Empire Blue Cross and
Blue Shield

New Yorkers for Accessible Health Coverage includes the following organizations:

ACT UP, New York Chapter
American Association of Kidney Patients, New York Chapter
American Diabetes Association
Body Positive
Cancer Care
Cancer Patients Action Alliance
Cystic Fibrosis Foundation, Greater New York Chapter
Disabled in Action of Metro New York
Gay Men's Health Crisis
Greater New York Chronic Fatigue Syndrome Coalition
Hemophilia Association of New York
Huntington's Disease Society, New York, Long Island Chapters
**Interagency Council of Mental Retardation and Developmental
Disabilities Agencies**
Leukemia Society of America
Long Island Association for AIDS Care
National Alliance of Breast Cancer Organizations
National Association of People with AIDS
National Marfan Association
**National Multiple Sclerosis Society, Capitol, Long Island,
New York City, Rochester, Southern New York Chapters**
National Transplant Support Network
People With AIDS Coalition of New York
SHARE: Self-Help for Women with Breast Cancer
West Islip Breast Cancer Coalition for Long Island, Inc.

Medicare Anti-Duplication Provision

Section 1. In 42 U.S.C. § 1395ss(d)(3)(A)(v), insert "(a)" before "For", and after the first sentence insert:

"(b) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) is not considered to "duplicate" health benefits under this subchapter or subchapter XIX or under another health insurance policy if it --

(I) provides comprehensive health care benefits that replace the benefits provided by another health insurance policy,

(II) is being provided to an individual entitled to benefits under Part A or enrolled under Part B on the basis of section 226(b), and

(III) coordinates against items and services available or paid for under this title or subchapter XIX and pays for all benefits available under this policy up to the full amount the policy would have paid had it been primary.

Section 2. In 42 U.S.C. § 1395ss(d)(3)(A)(v), insert "(c)" before "For purposes of this clause".



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President

June 23rd, 1997

Elliot Han
Office of AIDS Policy
808 17th Street, NW Suite 820
Washington DC 20006

Dear Elliot:

I am writing to follow up on the conversation we had earlier today. As I mentioned, Advocates for Youth is planning a Health Education Lobby Day July 16. A major focus of our meetings will be to discuss the disturbing abstinence-only education component of the Welfare Reform Bill and the need for comprehensive sexuality education.

Youth from our peer education program, our internship program, and the Young Women's Project will be joining us for the day. We would like to arrange for a small group to meet with Sandra Thurman if this is possible.

Thank you for your attention to this matter. I have included in the following pages some information on Advocates for Youth, and our peer educators. If there are any other questions, please do not hesitate to contact me.

Sincerely,

David Mariner 783-4165 ex. 38
Legislative Associate

David@advocatesforyouth.org



American Red Cross

June 27, 1997

Sandra Thurman
Director
White House Office of National
AIDS Policy
808 17th Street, NW
Washington, DC 20503

Dear Ms. Thurman:

On behalf of the American Red Cross, I wanted to welcome you to your new position as Director of the AIDS Policy Office. As you may know, the American Red Cross has been a recognized provider of HIV/AIDS prevention education since 1985. In fiscal year 1996, more than 1.7 million people were reached with Red Cross HIV/AIDS prevention education programs in communities throughout the United States.

I would enjoy the opportunity to meet with you and discuss our HIV/AIDS education programs and our cooperative agreement with the Centers for Disease Control and Prevention and how we might work with your office to increase HIV prevention education efforts. Because of your deep commitment to international issues, I also would like to briefly share how we are connected with Red Cross societies throughout the world and the Red Cross Movement's dedication to HIV/AIDS prevention and care.

Please have your office contact Nina Warden at 703/206-7764 to confirm one of the attached dates that you may be available.

Thank you and I look forward to meeting with you.

Sincerely,

Susan Morrissey Livingstone
Vice President
Health and Safety Services

June 27, 1997

Susan Livingstone is available the following dates for a meeting:

July 14

Afternoon of July 15

July 23

Afternoon of July 24

July 25

August 20

August 22

Government of the District of Columbia
Department of Health
Washington, D.C. 20024

In Response reply to:
Agency for HIV/AIDS
717 14th Street, NW
Suite 600
Washington, D.C. 20005

June 17, 1997

Sandy Thurman
Director
Office on National AIDS Policy
808 17th Street
Washington, D.C. 20006

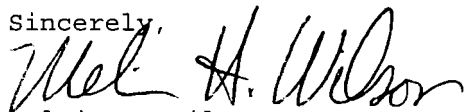
Dear Ms. Thurman:

My name is Mel Wilson and I am the Administrator for the Washington, D.C. Agency for HIV/AIDS. We met at a reception for Food and Friends which is an AIDS Service Organization which receives significant funds from my agency. We agreed that it would be useful if we could meet to discuss some of the AIDS issues which affect the District of Columbia. It is especially important for us to talk given we are both located in the same city and are only a few blocks from each other.

Therefore, it will be appreciated if you could schedule me and the Director of the District's Department of Health (Dr. Harvey Sloane) for a meeting with you. There are a number of important issues to discuss. As you know, the District has one of the nation's highest per capita rate of HIV/AIDS. Thus, the city has many needs for assistance and support.

Thank you for this opportunity to talk with you. Dr. Sloane and I look forward to meeting with you.

Sincerely,


Melvin H. Wilson
Administrator

CC: Dr. Harvey I. Sloane

Office of
National AIDS Policy

Correspondence Routing Slip

Tracking Number: G3854

Date Rcvd: 06-19-97

From: Melvin H. Wilson

DC Department of Health

Staff Action:

Reviewed By Sandy: _____ Reviewed By: _____

Assigned To: _____

RCVD: _____ DONE: _____

Recommendations/Instructions:

Urgent?: yes

To Support Staff: _____

Date of Response: _____

n:\corresli

FAX TRANSMITTAL

Agency for HIV/AIDS

Address: 717 - 14th St., NW Suite 600
Washington, DC 20005

Phone: (202) 727-2500 ext. 9605

Fax: (202) 727-8471 or ~~727-3773~~

TTY: (202) 727-0577 724-4689

DATE:

June 19, 1997

TO:

SANDY THURMAN / APTN: SARAH

FAX:

632-1096

FROM: **Melvin H. Wilson, M.B.A., M.S.W.**
Administrator

Number of pages to follow, including cover

2

RE:

Request for Meeting

MESSAGE:

Government of the District of Columbia
Department of Health
Washington, D.C. 20024

In Response reply to:
Agency for HIV/AIDS
717 14th Street, NW
Suite 600
Washington, D.C. 20005

June 17, 1997

Sandy Thurman
Director
Office on National AIDS Policy
808 17th Street
Washington, D.C. 20006

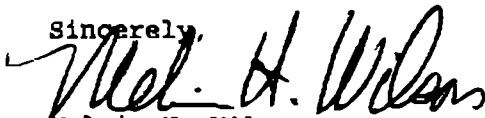
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Thank you for this opportunity to talk with you. Dr. Sloane and I look forward to meeting with you.

Sincerely,


Melvin H. Wilson
Administrator



Memorandum

Date June 11, 1997

From Director, National Center for HIV, STD, and TB Prevention,
Centers for Disease Control and Prevention (CDC)

Subject Invitation to Speak at the National Business and Labor
Conference on AIDS, September 29 & 30, 1997

To Sandy Thurman
Director, National AIDS Program Office

Because AIDS has become the leading cause of death among all Americans aged 25 to 44, and with more than 50% of the United States workforce in this age group, businesses and labor groups are becoming increasingly aware that they must prepare to respond to the epidemic. The American workplace can and must be used as a channel to promote HIV prevention education to employees, their families, and the community.

To assist in meeting this challenge, the Centers for Disease Control and Prevention (CDC) is holding its first-ever National Business and Labor Conference on HIV/AIDS. Taking place on September 29 and 30, 1997, at the Omni Shoreham Hotel in Washington, D.C., this two-day event will bring together the Nation's business and labor leaders with public health leaders to address HIV/AIDS workplace issues for a ground-breaking exchange of information, ideas, and motivation. A highlight of the Conference will be the bestowal of the National Business and Labor Awards for Leadership on HIV/AIDS at a gala dinner on the evening of September 29. The Awards will honor organizations who have exemplary HIV/AIDS workplace programs.

I invite you to speak at the morning plenary session on September 30. CDC can assist you in the preparation of your presentation.

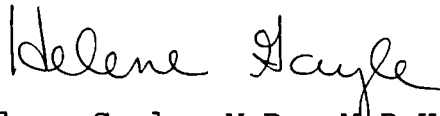
The National Business and Labor Conference on HIV/AIDS will bring together the Nation's business and labor leaders with public health leaders to address HIV/AIDS workplace issues for a ground-breaking exchange of information, ideas, and motivation. The goal of the conference is to encourage and

Page 2 - Sandy Thurman

enable businesses and labor groups to move forward with proactive workplace policies and education initiatives on HIV/AIDS while providing skills building for public health officials and others working with business and labor. We anticipate 500 participants from business and labor groups, trade associations, public health, community-based organizations, community planning groups, and AIDS service organizations from across the nation. Attached is a conference agenda.

Your participation would provide an excellent opportunity to reinforce the Administration's support for Federal, State, and local government partnerships with the American business and labor sectors to prevent the spread of HIV infection and AIDS.

Ms. Barbara Benson, Conference Coordinator, CDC, at telephone (404) 639-5213 will contact your office shortly to confirm your participation at the conference and provide assistance.

A handwritten signature in cursive script that reads "Helene Gayle".

Helene Gayle, M.D., M.P.H.

Attachment