



Testimony of Jeffrey Levi, PhD
Executive Director
Trust for America's Health

Before the Subcommittee on Federal Workforce, Postal Service
and the District of Columbia
Committee on Oversight and Government Reform

Thursday, May 14, 2009

Chairman Lynch, Ranking Member Chaffetz and members of the subcommittee, thank you for the opportunity to testify before you today to discuss protection of front-line federal workers during a public health emergency.

I am Dr. Jeffrey Levi, Executive Director of Trust for America's Health (TFAH). TFAH is a non-profit, non-partisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention a national priority.

The recent outbreak of the 2009 H1N1 influenza virus is an important wake up call for the nation, a clear reminder that influenza pandemics can happen -- that novel flu viruses do emerge and can threaten the nation's and the world's health. While so far not as virulent as some prior pandemic viruses, we are not yet out of the woods -- the virus has not finished playing out this season and there is a very real danger that it could return in a far more virulent form in the fall. In the meantime, scientists continue to be worried about the threat posed by the H5N1 avian flu virus.

The fact that this H1N1 outbreak originated in Mexico and moved rapidly to the United States is a reminder that we really must have detailed plans in place regarding the national response -- including how we protect federal workers -- *prior* to the emergence of a novel strain of flu. The National Strategy for Pandemic Influenza and Implementation Plan, issued in 2005 and 2006 respectively, make the assumption that we will have weeks or possibly months before a novel virus arrives in the U.S. In a globalized economy, where international travel is commonplace, that is not likely.

Mr. Chairman, I commend you for your concern about how we best protect our front-line federal workforce during a pandemic. TFAH maintains that the working definition of front-line workers should be relatively broad. Though different workers, depending on their duties, may require different levels of protection, we must keep in mind that the American people will and should expect continuity of operations in agencies across the federal government. Thus, we are not just talking about federal health care workers who will be providing direct services to the sick, but also those workers who provide police

protection, staff our prisons, help keep the economy functioning -- including payment of Social Security and other federal financial benefits -- and countless other tasks that are critical to the smooth functioning of our society. A severe pandemic will be disruptive of most aspects of our economy, but the federal government has a particular obligation to play a role in reducing those disruptions.

As a large employer, the federal government needs to be a role model for other public and private sector employers: Visible in its preparations, transparent in its approach to worker protection, and consistent with the policy recommendations of federal public health agencies, in particular the Centers for Disease Control and Prevention (CDC).

TFAH does not have the resources to systematically review the plans and policies of all federal agencies. However, based on our review of CDC and Occupational Safety and Health Administration (OSHA) recommendations and some familiarity with the National Strategy on Pandemic Influenza and policies being pursued in the private sector and in other countries around the world, we can recommend some critical areas of focus that we would urge this Committee to investigate:

1. How recently has each federal agency updated and reviewed its continuity of operations plans since the original 2006 mandate to create such plans? For example, the Office of Personnel Management pandemic strategy has not been updated since 2006.
2. Have the agencies been transparent with their customers and constituencies about what services will and won't be continued during a pandemic?
3. For those critical employees outside the health care delivery field who will be expected to work during a pandemic¹:
 - a. What structural changes in the workplace will be made to promote social distancing (e.g., requiring more physical space between workers, teleconferencing)?

¹ In 2008, HHS released three interim and final guidance documents regarding preparation for pandemic influenza: *Interim Guidance on the Use and Purchase of Facemasks and Respirators by Individuals and Families for Pandemic Influenza Preparedness*; *Considerations for Antiviral Drug Stockpiling by Employers In Preparation for an Influenza Pandemic*; and *Guidance on Antiviral Drug Use during an Influenza Pandemic*. Through its *Proposed Guidance on Workplace Stockpiling of Respirators and Facemasks for Pandemic Influenza* (May 2008), OSHA urged companies to review their business structures and consider stockpiling personal protective equipment for employees at high risk of exposure. These are not requirements, but recommendations for businesses and individuals to consider. Guidances are available here: *Use of Facemasks by Individuals* (interim): <http://aspe.hhs.gov/panflu/facemasks.html>; *Considerations for Antivirals* (final): http://www.pandemicflu.gov/vaccine/antiviral_employers.html; *Guidance on Antiviral Drug Use* (final): http://www.pandemicflu.gov/vaccine/antiviral_use.html; *Proposed Guidance on Respirators*: <http://www.osha.gov/dsg/guidance/stockpiling-facemasks-respirators.html>.

response to a federally declared emergency, we have a responsibility to be offering them the same level of protection as federal workers.

- e. As frontline workers are at higher risk due to their participation in the pandemic response, federal emergency leave policies should also protect workers who contract a disease such as pandemic flu as a result of his/her employment (e.g. hospital workers exposed to sick patients). Contracting influenza in the line of duty should not cost people their personal sick leave, and the federal government should cover all co-pays and deductibles for health care associated with an occupationally acquired infection.
5. Finally, we must also be sure that the federal government's leave policies consistently support compliance with CDC's public health recommendations regarding mitigation of disease transmission in the absence of a vaccine. This includes:
- a. Sufficient sick leave to comply with CDC recommendations to stay home while sick and immediately after recovery (since one can shed virus while no longer being symptomatic). At the beginning of this H1N1 outbreak, CDC was recommending that people stay home from work for two weeks. For those who have insufficient sick leave accrued, OPM should provide assurances that in a public health emergency additional sick leave will be available so there are no financial incentives to disregard public health advice. The current OPM pandemic plan, last updated in 2006 which is prior to release of these CDC recommendations, provides for flexibility in use of earned sick leave and allows advance use of leave for the given year, but no additional leave is provided.²
 - b. Sufficient sick or personal leave to assure compliance with recommendations regarding quarantine of households. CDC has recommendations in place that, under certain circumstances, would call on entire households of individuals with the flu to stay home as well for two weeks. OPM should assure those individuals in these situations that they will have paid leave to comply.
 - c. If schools and day care centers are ordered closed during a pandemic, OPM should also assure (a) that day care centers available to federal workers are in compliance and (b) that flexibility in use of leave is assured for parents needing to care for children home from school or day care.

Mr. Chairman, this is a rather comprehensive list of activities and policies that need to be in place to adequately protect its employees. Although the media attention is dying down and Americans are already showing signs of "flu fatigue," I urge Congress and the public to stay alert as to the seriousness of this threat. In the last few major flu pandemics, infections have come in waves, with a break of a few months in between outbreaks. We are entering summer now, and the public is likely to think the threat is gone and its government overreacted. If this or another virus comes back in a more virulent strain, the

² http://www.opm.gov/pandemic/OPM-Pandemic_AllIssuances.pdf

cooperation of workers and businesses will be critical to mitigating the medical, social, and economic effects of an outbreak.

I thank you for the opportunity to testify today and look forward to your questions.