



# Montana-Wyoming Tribal Leaders Council

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**RESOLUTION # 2009-06-18-02**

## **A RESOLUTION ON INDIAN HEALTH CARE REFORM STRONGLY URGING THE APPLICATION OF THESE CORE REQUIREMENTS AND PRINCIPLES FOR THE LARGE LAND BASED TRIBES OF MONTANA AND WYOMING**

**WHEREAS**, the Montana-Wyoming Tribal Leaders Council (MT WY TLC) has been created for the express purpose of providing the Indian Tribes of Montana and Wyoming with a unified voice for Tribal governments and a collective organization to address issues of concern to all large land base Tribes and Indian people; and

**WHEREAS**, elected Tribal Leaders are duty bound to advance and direct the formation of national, regional and local policy and to provide leadership on issues affecting the Tribes and Indian reservations; and

**WHEREAS**, duly elected Tribal Chairs, Presidents and Council Members of the Tribal Governments comprise the membership of the MT WY Tribal Leaders Council and as such are fully authorized to represent their respective Tribes; and

**WHEREAS**, health policy and health care are of critical importance to all Tribal Governments, and

**WHEREAS**, each Tribe in this Area will submit Individual Health Policy Reform Statements based on their Reservation Concerns, Priorities and Recommendations, and

**NOW, THEREFORE BE IT RESOLVED THAT, the Montana Wyoming Tribal Leaders Council does hereby approve and strongly urge the application of the attached Core Requirements and Principles for the Large Land Based Tribes of Montana and Wyoming in all matters of policy for Indian Health Care Reform.**

### **CERTIFICATION**

**As the Chair and the Secretary, we the undersigned, do hereby certify that the foregoing Resolution was duly presented and approved, at the Board Meeting of the Montana Wyoming Tribal Leaders Council, which was held on the 18<sup>TH</sup> day of June of 2009 in Billings, Montana.**

Chairman **James Steele, Jr.**  
MT WY Tribal Leaders Council

Secretary **Patricia Enos-Bergie**  
MT WY Tribal Leaders Council



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### **Core Principles, Recommendations and Requirements for National Health Care Reform, Indian Health Care Reform, and Indian Health Service Reform for American Indian Tribes Honoring the Treaties, Executive Orders and Sacred Trust**

#### **PREAMBLE**

Since the beginning and in the Ancient History of this Great Land, The Native Tribes and Peoples of this Land co-existed with the Creator, the Land, the Animals, the Spirits, and the memory of our Ancestors. As Strangers came into our land, we involuntarily ceded Millions of Square Miles of Land and Sacrificed Millions of our Family and Tribal Lives who strived to protect our way of life as gifted by the Creator. As we were incarcerated onto Federal Indian Reservations, we began to lose our Traditional Leadership and form of government as well as the Traditional Warrior Societies and Traditional Medicine Leaders. In the Spirit of the Treaties and Executive Orders, we understood that the technical military might and sheer numbers of the Strangers had the danger of extinguishing the Lives and existence of the Tribes. The Chiefs and Leaders remaining, honored the Survival of their people by signing Treaties and Executive Orders which were intended to provide the safety and well being of the Tribes including Health Care “*As Long As the Grass Grows and the River Flows*”. It was the sincere belief that the Strangers would Honor their Word in Perpetuity and provide for Health Care and other Services for the Descendents of the Survivors who signed the Treaties. Today, we are petitioning the Federal Government to Honor their commitment to the Tribes and to Honor the Sacred Word of our Ancestors who were providing for the Survival of future Generations of Tribal Members. These Words were chosen to express our Ideas for Reform of *Indian* Health Care, and of Indian Health *Service*, as well as, to reform of Health Care for the general population, and, are submitted in the Spirit of our Ancestors and the Sacrifices that they made in the loss of land and lives. The following are Non-Negotiable Core Principles and Reform Recommendations for submission to President Barack Obama and the Congress of the United States on behalf of the Current Survivors and future Generations yet to come.

# Core Principles:

- **Core Principle 1**

**Treaties & Executive Orders:** The Treaties & Executive Orders shall be Honored into Perpetuity by the Federal and State Governments for the Provision of Services such as Health Care for the Loss of Land and Lives.

- **Core Principle 2**

**Loss of Land & Lives:** The Loss of Lives and Land continues to be the Basis of the Trust Responsibility of the Federal Government to the Tribes for the Provision of Services including Health Care.

- **Core Principle 3**

**Indian Health Care:** Indian Health Care is the Perpetual Agreement between the Federal Government and the Tribes and Tribal Governments to secure and provide the Best Possible Care for Tribal Members.

- **Core Principle 4**

**Indian Health Service:** Indian Health Service is the Primary Health Care Provider for Tribes and Tribal Members and I.H.S. must have adequate funding and support from the Federal Government.

- **Core Principle 5**

**Traditional Ways & Ceremonies:** Traditional Tribal Ways and Ceremonies must be integrated into all facets of Health Care for Tribal Members.

- **Core Principle 6**

**History, Language, & Culture:** All Tribal Members and Health Care Providers must recognize and be familiar with all aspects of Tribal Identity specific to the Tribes(s) being served.

- **Core Principle 7**

**The Right to Exist:** The Tribes have the Right to Exist and Flourish for the Health and Well Being of Tribal Members and future Generations of descendents.

- **Core Principle 8**

**Honoring of Indian Health Care in Perpetuity based of the Treaties and Executive Orders:** Treaties and Executive Orders must

be the basis of Tribal Negotiations for Health Care and must be Honored by the Federal Government and State Governments and all respective agents thereof.

- **Core Principle 9**

- **Maintaining & Honoring Government to Government**

- **Consultation at the Reservation and Tribal Level:** The Federal Government, both Executive and Congressional, must Honor and implement the Spirit of the Government to Government relationship at the Tribal and Agency Level, with the Tribal Government(s) of Jurisdiction. This includes the Protection of Tribal Sovereignty and Jurisdiction from any and all infringement on those powers by the Federal or State Government(s) and of their Agents.

- **Core Principle 10**

- **Honoring & Promoting Tribal & Reservation Health**

- **Budgets based on Need and Not Rule Making:** In order to truly to Honor their commitment to the Tribes through Treaties and Executive Orders, the Federal Government must fully fund the Tribes with budgets based on Need.

- **Core Principle 11**

- **Integration of Traditional Tribal Models of Health Care and Well Being into the Western Medical Model as administered by Indian Health Services and other**

- **Western Medical Partners:** Tribal Governments, Tribes, Tribal Members, and Health Care Providers must acknowledge and provide for Traditional Tribal Models of Health Care and Well Being in all facets of Health Care Delivery to the Tribe and Tribal Members.

- **Core Principle 12:**

- **Full funding for Tribal Infrastructure:** Meeting the Treaty and Trust obligations mandates that Tribal Governments are assured of permanent and full funding for their Tribal Infrastructure needs with funding from all federal agencies being provided directly to the Tribes.

- **Core Principle 13:**

- **Address Findings by U.S. Commission on Civil Rights:**

- Meeting the Treaty and Trust obligations requires addressing the findings in the two seminal documents entitled “*A Quiet Crisis*” Federal Funding and Unmet Needs in Indian Country (July 2003) and “*Broken Promises*” Evaluating the

Native American Health Care System (September 2004) developed by the U. S. Commission on Civil Rights. These documents have been central to discussion of Health Care Reform at all levels.

**In order to fully implement the core principles that maintain and support the Primacy of the Trust Relationship between the Federal Government and the Provision of Health Care to American Indians based on Treaties and Executive Orders with Tribal Nations, we provide the following recommendations on Health Care Reform:**

## **1. National Health Care Reform for all:**

Ensure that Tribal Rights under the Federal Trust Obligations are upheld and not adversely impacted by National Health Care Reform. As citizens of the United States of America with all civil rights protections that citizenship entails, individual American Indians shall be entitled to every option for health care accorded to any other American citizen however, the federal government, and states, shall not in any way from all federal agencies infringe or diminish, the human rights of Tribes, and shall take all necessary precautions to ensure and protect the sovereignty of the Tribal governments and the full implementation of the federal Trust Obligations to the Tribal Nations. Whether it be intentional or incidental and inadvertent, the Tribal Nations should not ever have their available options be reduced by the national plan that is being developed primarily by and predominantly for, non-Indians. Tribes should not be forced to relinquish their right to exist as Tribes, or to have their status and standing as political entities that is recognized in the U. S. Constitution, be diminished or threatened, as a result of having national health care reform for non-Indians, being imposed upon them as Tribes, or, as a result of lack of funding or *starvation* to Tribal health care systems.

## **2. Indian Health Care Reform:**

- In order to fully implement the core principles that maintain and support the primacy of the sacred Trust Relationship between the federal government and Tribes, the federal government and the states shall recognize, affirm, and partner to promote the sole authority of the Tribal governments to determine Tribal Membership. No agents of the federal, or the state governments shall attempt to circumvent or undermine the sovereignty of the Tribal Nations.

- Designate Treaties and Executive Orders as Mandating Full and Sufficient Levels of funding for the Tribes based on Need.
- Develop Tribal-Specific Needs Based Budgets identifying Tribal needs and priorities.
- Remove the “Payer of Last Resort Clause” from all legislation, rules, regulations and guidelines. In order to ensure adequate recurrent base funding, Indian Health Service and Tribally operated health systems shall be eligible to access third party billing and receive reimbursements from any public agencies or private sources; however, these revenues shall be *supplemental* and should not be relied upon to reduce or supplant base health care funding to Tribes. Direct funding to Tribes and Tribally managed health care systems is an implementation of the sacred Trust, and Treaty, and Executive Order, based obligation to Tribes.
- Provide for Immediate and Sustained Government to Government Consultation with all Federal Health Agencies.
- Provide for Immediate and Sustained Government to Government Consultation with the Office of Management and Budget to establish Needs Based Budgeting and the role of Budget Caps on the Provision of Health Care and Services to the Tribes.
- Provide Waiver and reimbursement to Indian Health Care for Previous and Current Rescissions to the Budget for Indian Country.
- Develop a Beneficiary Package of Services for American Indian Patients as well as a Patient Bill of Rights.
- Exempt Indian Tribes from any penalties, such as a mandatory insurance requirement, that could be part of health care reform working its way through Congress.
- Increase Indian enrollment in government programs, such as Medicaid, Medicare, SCHIP but only as Secondary to Treaty Obligations for the Provision of Health Care.
- Provide Training and Technical Assistance to Tribal Governments in the Issuance of Tribal Tax Exempt Bonds for the purpose of Joint Venturing with Federal-State Entities or in the Development of Tribal Health Facilities and Wellness Centers or other eligible initiatives.
- Exempt Tribes and Tribal Members from employer or individual Mandate Penalties.
- Ensure, promote and safeguard Tribal Sovereignty in all Tribal-State Negotiations by vetting, consulting, and planning through Tribally elected leadership, not just “representative Indians.”
- Provide for full access to Tribes for Eligibility for Federal Grants Listed in Grants.gov at the same government to government status as State Governments

- Provide Training of Tribal Health Department Staff on Project Management, Skills acquisition, and Certification/Credentialing.
- Provide Training for Tribal Health Department Staff on Third Party Eligibility, Certification, and Billing.
- Fully Fund Tribal Health Departments based on Need.
- Provide for funding and training of Tribal Health Department Staff in Health Department Standards and Certifications.
- Provide for Equitable distribution of State Health Block Grants either directly to the Tribes or provide for Tribal Health Block Grants.
- Ensure Passage of Indian Health Care Improvement Act.
- Emphasize the Need for Services to Large Land Based Federally Recognized Indian Tribes which by their Nature and Definition are *Super-Rural* and *Super-Frontier*.
- Ensure Compliance to Tribal or Area Institutional Review Boards.
- Ensure that Tribal Governments and their Agents retain Ownership of all Research and Data pertaining to the Tribe(s).
- Ensure Protection and Advocacy for all Tribal Citizens in Research Projects.
- Ensure HHS Office of Civil Rights Protect the Rights of Tribes, Tribal Governments, and Tribal Citizens.
- Ensure that Tribal Governments gain equal access and status as States and County Governments.
  - Provide for Full Access to Tax Exempt Bonds with all the necessary outreach, education and training that is required to allow this full access.
  - Provide for Area Epidemiology Centers and Tribal Health Departments to be Certified as Public Health Authorities equivalent to State and County Health Departments.
  - Expand options on reservations for long-term care.
  - Promote Wellness Planning and Facilities for the Tribes on an ongoing basis.
  - Provide Funds for Inter-Tribal Wellness Center near Sheridan, Wyoming.
  - Address Promising and Best Practices specific to American Indian Communities and Patient Populations.
  - Provide for Integration of Traditional Medicine and Practices into the continuum of Care for Indian Health Care.
  - Address Early Diagnoses and Treatment as a Funded Health Services Priority.
  - Address Long Term Care as a Funded Health Services Priority.

- Address Catastrophic Health Care as a Funded Health Services Priority.
- Provide for Recruitment and Retention of Primary Health Care Staff and an in depth assessment and review of current Tribal Health Facilities.
- Provide for Non-Emergency Transportation for Patients and Clients.
- Provide Life Lines for Tribal Members' Medical Personnel for routine and emergency communications and advice.
- Increase Funding for Contract Health Emergency Fund – CHEF- at the Area and Local levels of Indian Health Service and Tribal Compacts.
- Provide Detoxification and Treatment Capabilities for Indian Health Service and Compacts at the Reservation and Area Levels for Substance Abuse with emphasis on Methamphetamine and Prescription Drug Abuse.
- Increase Funding at all levels for Early Diagnoses, Treatment, and follow-up Specialty Clinics and Prioritize Medical Procedures, Screening and early Interventions.
- Provide required funding, decentralize the procedure for approval process and simplify access to Injury Prevention Programs including Drivers Education Programs.
- Develop Disease-Specific Data Models to ensure that Treatment and Policy Decision Makers have the latest up to date information of Incidence and Prevalence specific to each Reservation.
- Provide for Area Capacity for Indian Health Service and Tribal Fiscal Intermediaries.
- Conduct Studies on the different Health Care Models including self-insurance at the Tribal Level.

### 3. Indian Health Service Reform:

- Reorganize the twelve region divisions within Indian Health Service to ensure Level of Need Funding for *rural super frontier Tribes* with greatest trust land base. The twelve region system was arbitrarily determined in an outdated environ, it does not result in fair allocation of resources where reservation roads are inadequate or impassable due to weather, or where distances and disease burdens are greatest, and where there are no options for accessing quality health care.
- Remove the 'I/T/U — Indians, Tribes & Urbans' terminology and concept from any and all legislation and regulation. This concept has blurred and the status of federally recognized, large land base, large population Tribes to which Treaty Rights and Trust Obligations flow. Government to government Consultation should be based on a Tribal definition which is Consultation at the reservation –

community level. Consultation on a true government to government basis can not occur between the federal government and individual Indians who are not elected to positions within a Tribal Government. Utilizing the I/T/U concept simultaneously undermines meaningful Tribal consultations and results in diminished effectiveness of the Tribal governments' express recommendations to the federal governments and states. Consultation on a government to government basis shall continue to be required whenever the health of Tribes is potentially affected. This consultation should occur as early as possible in the design of any proposed changes or initiatives.

- Indian Health Service, and its designation of Self-Governance Tribes through Compacting Mechanisms under P.L.93-638, is the Primary Source of Health Care for American Indians under Treaty and Executive Order Requirements and should have funding and budgeting based on Need.
- Fully Fund Indian Health Service and Compact Tribes based on Need with a priority of Funding Relief at the Reservation Level.
- Include sufficient funding for Strategic Planning in full consultation and collaboration with Tribal Leaders and Tribal Communities so that I H S can eventually shift from Crises Management to improve the total quality of care on the reservations.
- Indian Health Service shall be the Agency of Primary Health Care Services and will be funded based on need with other insurance or federal coverage acting as secondary and supplementing sources of funding and reimbursement.
- American Indians shall be exempt from all Premiums, Co-Pays, and Deductibles where Federal Programs such as Medicare, Medicaid, SCHIP, and Private Insurance and Secondary and Supplemental Sources of funding for Indian Health Service and Tribal Health Care Systems are accessed by eligible individuals.
- Tribal Employees will be provided Health Coverage within the same mechanism and funding as Individual Tribal Members.
- Reduce work-force shortages in the Indian health system by providing employee incentives and investment in workforce development.
- Design and Implement measures to effectively Address Health Care Workers Shortages and Retention Issues.
- Address Promising and Best Practices specific to American Indian Communities and Patient Populations.
- Address Early Diagnoses and Treatment as a Funded Health Services Priority.
- Address Long Term Care as a Funded Health Services Priority.
- Address Catastrophic Health Care as a Funded Health Services Priority.
- Provide for Continuum of Care for American Indians addicted to Alcohol, Methamphetamine, and/or Prescription Drugs.

- Provide for an in depth assessment and review of current Health Facilities for Indian Health Service and Tribal Health Departments.
- Tribal Governments or their designated Agents will determine all Research on their Tribe(s) and as such need funding to promote the development and institutionalization of Institutional Review Boards at the Tribal and Area Level. All Research and Data will be retained and owned by the Tribe(s) being researched.
- The Tribal Health Care Providers at the Reservation Level will be providing the Internet Infrastructure Technology, Program Technology, and Health Information Technology in parity to the State and Private Health Care Facilities and Programs. This will include but not be limited to Telemedicine Capacity to Regional Medical Centers.
- Develop a Universal Plan for Sustainability for Indian Health Care as funded by Need.
- Ensure Safety Net of Health Services for all American Indians as defined by Treaties and Executive Orders as well as the Historical Practices of the Federal Government.
- Provide Supplemental Funding for Indian Health Care Priorities:
  - Pay Unpaid Bills
  - Provide for and improve fiscal integrity of Contract Health Service System.
  - Respond to Deferred Medical Procedures
  - Provide Full Funding of Contract Health Care
  - Provide Orthodontia Care especially for Children and Young Adults
  - Increase and expand Mental & Behavioral Health Therapies
  - Ensure early Diagnoses, Treatment, and Follow-Up for Area's Ten (10) Major Health Concerns
    - Funding of Prevention Activities including Wellness Centers
    - Provide Detoxification, Treatment, and Follow-Up for Methamphetamine Abuse
    - Provide Detoxification, Treatment, and Follow-Up for Prescription Drug Abuse
  - Fully Upgrade and Modernize Indian Health Care Facilities
  - Fund Programs to Recruit and Retain Primary Health Care Providers
  - Upgrade Formularies and Pharmacy Capacity
  - Provide for Local Tribal Dialysis Centers and Transplant Services
  - Provide Traditional Tribal Services and Apprenticeship Programs
  - Provide for Tribal Palliative and Hospice Care
  - Provide for Tribal Nursing Homes
  - Provide for Tribal Home Health Care Programs
  - Provide for Reservation Emergency Transportation Systems

- Provide for EMS Training and Certification at the Tribal Level
- Provide Funds for Adequate Sanitation Facilities and Services
- Review, Evaluate, and Re-structure Indian Health Service Programs to create efficient and non-reliance on the emergency departments

## **Conclusion:**

This document is the Product of a Process implemented by the Elected Tribal Leaders of the Large Land Based Federal Indian Reservations of the Billings Area which is located in Montana and Wyoming. The Tribal Council Committee and Jurisdiction for Health and with Technical Assistance from Tribal Health Staff brought recommendations that are inclusive of Compact Tribes and Direct Service Tribes to issue recommendations on National Health Care Reform; the Reform of Indian Health Care; and Reform of the Indian Health Service.

Each Tribe and Reservation has been provided the opportunity by the elected Tribal Leaders to develop their respective Tribal Response to Health Care Reform and submit to the appropriate Federal Agencies in the near future.

The Tribal Leaders have indicated that recommendations are based on the Unique Federal-Tribal Relationships defined and guaranteed by Treaties and Executive Orders.

The Tribal Leaders have indicated an ongoing concern for those 46 Million Citizens who do not have access to adequate Health Insurance and Coverage.

The Tribal Leaders stand ready to enter into any local, area, state, and national dialogue on all facets of Health Care Reform.