National Indian Health Board

Health Policy Update

Presented by:

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Director of Federal Relations,
National Indian Health Board

April 13, 2016

Presentation Overview

1) What is Health Policy?
2) Current Health Priority Items
    1) Definition of Indian
    2) Employer Mandate
    3) 100% FMAP
    4) Medicare-Like Rates
    5) CHEF Rule
    6) How Can You Become Involved?

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What is Health Policy?

- Actions or Decisions or Actions meant to achieve a specific health care outcome or goal
  - Laws and Statutes
  - Rulemaking
  - Other Guidance

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Health Policy Unique to Indian Country

- Trust Responsibility
- Laws
  - Indian Health Care Improvement Act
  - Indian Self-Determination and Educations Assistance Act
  - Snyder Act
  - Transfer Act
- Executive Order 13175
- President's Memo of November 5, 2009
- Tribal Consultation Policies
- Tribal Advisory Committees

Definition of Indian

- The ACA contain different definitions of “Indian”
  - Restricted to members of Federally Recognized Tribes
- This is a problem for a number of reasons
  - Tribes are sovereign nations and determine their own membership requirements
  - IHS eligibility is not dependent on being a member of a Federally Recognized Tribe
- Individual Mandate Hardship Exemption
- Legislation
  - Use the same definition that IHS and CMS uses
- Regulatory Fix

Employer Mandate

- Employers who employ at least 50 employees are responsible for offering health insurance to their employees
- Two kinds of penalties
  - When the Employer does not offer insurance to 95% of its full-time employees and their dependents
  - When the Employer offers insurance that is either unaffordable for the employee or does not provide a minimum level of coverage
- There is no penalty unless at least one employee enrolls in a Qualified Health Plan in the Marketplace and qualifies for a tax credit or cost-sharing reduction
- Individual Mandate
  - Indian Exemption

Employer Mandate

- Why is it bad for Indian Country?
  - Some Tribal governments don't have the resources to purchase insurance for their employees
  - When an employer offers insurance to AI/AN employees, AI/AN employees lose their tax credits, often times making it more expensive for them
  - If an AI/AN employee, with health insurance purchased for them by their employer (often times through federal funding), receives healthcare from the Indian Health Service, Tribes eventually end up paying the federal government to provide healthcare which is violation of their trust obligation
- Tribal Employment and Jobs Protection Act (H.R. 3080) and (S. 1771)
- Meetings with Treasury

100% FMAP Implementation

- February 26th, CMS issued a SHO letter Updating it's 100% FMAP Policy
- 100% Medicaid Reimbursement to a non-IHCP as long as certain conditions are met
  - IHS/Tribal Facility and non-IHCP must be enrolled in the State's Medicaid Program as rendering providers
  - There must be an established relationship between the patient and a qualified practioner at an IHS/Tribal facility
  - There must be a care coordination agreement between the IHS/Tribal facility and non-IHCP
- Powerful Negotiation tool for Tribes

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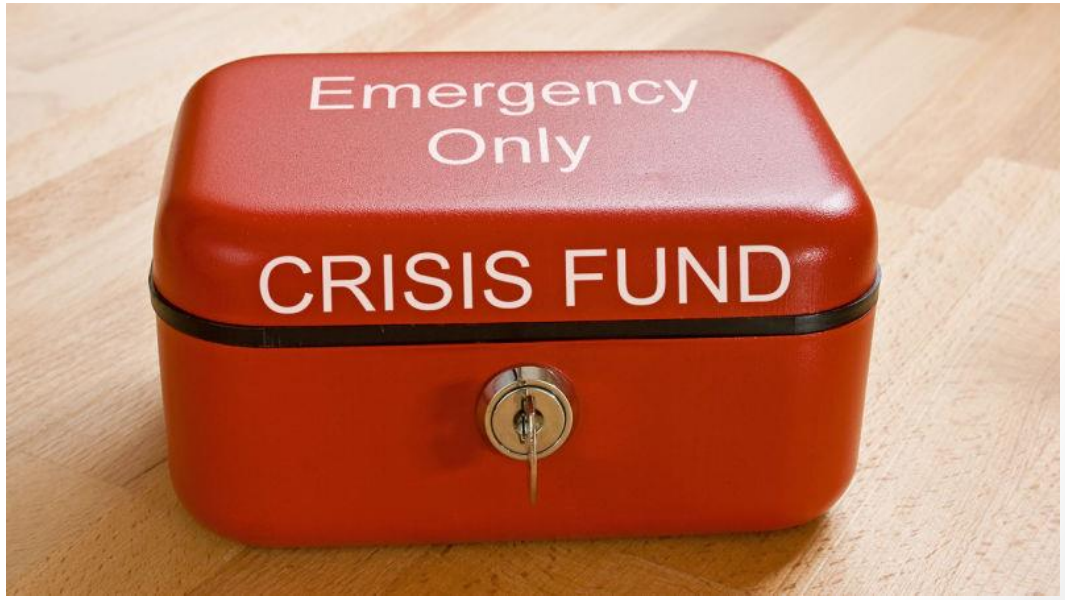
CHEF Proposed Rule

- Ineligible for CHEF until the cost of treatment for an episode care has reach a certain threshold
  - $19,000 for FY 2016
- Defines Alternate Resources to includes Tribal and Tribal-Self-Insured Plans
  - Concern this would mean Tribes would pay primary to federal government
- Lack of Tribal Consultation
- Comments due May 10th



New Medicare-Like Rates Final Rule

- NIHB coordinated a pan-Tribal comment on this
- I/T/Us can negotiate with certain IHCPs, who provide services through PRC, for payment at MLR
- Opt-in rule
  - Recognition of Tribal Sovereignty
  - Does not apply to Urban Programs
  - Capped at Most Favored Customer Rate
- Comments due May 20th

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How Do You Get Involved?

- Educational background
- Experience in Indian health care delivery systems
- Internships at Area Health Boards, NIHB, NCAI
- Meetings, teleconferences, webinars
- Read position papers, comment letters, strategic plans
- Check websites and subscribe to newsletters
- Develop Tribal position papers on policy issues from a Tribal perspective
- Attend meetings as an observer
- Ask to be on mailing list -- read e-mail discussions
- Join a Workgroup or Subcommittee
- Find a mentor
- Talk with people in your Tribe and Tribal health program about issues that may be important to them.

How Do You Get Involved?

- Develop a policy team at your Tribe and assign different topics to different people to cover.
    - Give people time to participate in teleconferences and meetings.
- Provide funding for key employees to attend state, Area, and national meetings.
- Hire a consultant on an hourly basis.
    - Share the cost with other Tribes.
- Help fund a position at the Area Health Board.

MMPC

- Premiere AI/AN Health Policy Committee
  - Standing Committee of NIHB
  - Open Membership
  - Increasing Participation
- Provides Technical Support for Tribal Technical Advisory Group (TTAG)

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MMPC

- Workgroups
  - Regulations Workgroup
  - IHS/Tribal Workgroup
  - Payment Reform Workgroup
- Listservs
  - Announcements
  - Tools/Resources
  - Discussion
- Website: http://www.nihb.org/tribalhealthreform/mmpc/

Consultation

- Attend Consultation and Listening Sessions!
- Write Letters!
- Talk to Your Leadership

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Sent via email: Tribal.Consult@treasury.gov

February 16, 2016

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National Congress of American Indians

ed Tribes it serves, we write
Committee (TTAC). While
he TTAC, we are concerned
Tribes who receive primary
ese services includes direct
rvices, optometry services,
e Tribes that negotiate with
ms, services, functions, and
tatives that you selected all

February 26, 2016

The Honorable Orrin Hatch
Chairman
Senate Finance Committee
219 Dirksen Senate Building
Washington, DC 20510

RE: Exemption for Indian Tribes from the Emp

Dear Chairman Hatch and Ranking Member Wyde

On behalf of the National Indian Health Board (
(NCAI), Self-Governance Communication and Ed
Committee (DSTAC), the United South and Easte
Chippewa Indians, and the Northwest Portland
federally-recognized Tribes we serve, we write to
Employment and Jobs Protection Act (S. 1771),
legislation would exempt Tribes and Tribal empl
Protection and Affordable Care Act (ACA). It wo
under the employer mandate and ensure that the
toward federally recognized Tribes. With loom
communities in 2016, we believe that swift Comm
Senate is crucial.

Since the earliest days of the Republic, all branch
nation's obligations to the Tribes and its special t
treaties, executive orders, statutes, and Supreme C
a "major national goal . . . to provide the resources,
and tribal members to obtain the quantity and qual
eradicate the health disparities between Indians an

[1] 25 U.S.C. § 1601(2)

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TESTIMONY ON BEHALF OF THE NATIONAL INDIAN HEALTH BOARD
STACY A. BOHLEN, EXECUTIVE DIRECTOR

QUIET CRISIS UPDATE BRIEFING

OFFICE OF CIVIL RIGHTS EVALUATION
U.S. COMMISSION ON CIVIL RIGHTS
FEBRUARY 19, 2016

On behalf of the National Indian Health Board (NIHB)[1] and the 566 federally-recognized Tribes we serve, I submit this testimony to provide updates on the 2003 Report "A Quiet Crisis: Federal Funding and the Unmet Needs of Indian Country."

The federal promise to provide Indian health services was made long ago. Since the earliest days of the Republic, all branches of the federal government have acknowledged the nation's obligations to the Tribes and the special trust relationship between the United States and American Indians and Alaska Natives (AI/ANs). The United States assumed this responsibility through a series of treaties with Tribes, exchanging compensation and benefits for Tribal land and peace. The Snyder Act of 1921 (25 USC 13) legislatively affirmed this trust responsibility. As part of upholding its responsibility, the federal government created the Indian Health Service (IHS) and tasked the agency with providing health services to AI/ANs. Since its creation in 1955, IHS has worked to fulfill the federal promise to provide health care to Native people.

Since 2003, Congress enacted several pieces of important legislation that have the potential to greatly improve AI/AN health. In passing the Affordable Care Act (ACA) (P.L. 111-148), Congress also reauthorized and made permanent the Indian Health Care Improvement Act (IHCIA). As part of the IHCIA, Congress reaffirmed the duty of the federal government to American Indians and Alaska Natives, declaring that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians -- to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy." [2] In addition, the ACA itself provides several

[1] The National Health Board (NIHB) is a 501(c) 3 not for profit, charitable organization providing health care advocacy services, facilitating Tribal budget consultation and providing timely information and other services to all Tribal Governments. Whether Tribes operate their own health care delivery systems through contracting and compacting or receive health care directly from the Indian Health Services (IHS), NIHB is their advocate. Because the NIHB serves all federally-recognized Tribes, it is important that the work of the NIHB reflect the unity and diversity of Tribal values and opinions in an accurate, fair, and culturally-sensitive manner. The NIHB is governed by a Board of Directors consisting of representatives elected by the Tribes in each of the twelve IHS Areas. Each Area Health Board elects a representative and an alternate to sit on the NIHB Board of Directors.
[2] Indian Health Care Improvement Act, §103(2009).

Questions?

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