Health Care Reform Fact Sheet:

Self-Implementing IHCIA Provisions

On July 22, 2010, the Director of the Indian Health Service, Dr. Yvette Roubideaux, MD, MPH, issued a Dear Tribal Leader Letter to provide an update on the implementation of the Indian Health Care Improvement Act (IHCIA). The following is a list of sections that IHS considers “effective immediately” upon passage of IHCIA:

**Section 113, Exemption of Certain Fees** requires federal agencies to exempt Tribes from paying licensing, registration, and other fees imposed by federal agencies. Prior to the new law, Tribes have paid a registration fee to the Drug Enforcement Agency (DEA) for each primary care provider that prescribes controlled substances. The DEA has notified their field offices and the IHS that it will no longer charge Tribal providers for this fee.

**Section 125, Reimbursement from Certain Third Parties of Costs of Health Services** allows IHS, Tribal programs and urban Indian organizations to be reimbursed from third parties for reasonable charges billed for services provided to beneficiaries of these plans. This provision also permits Tribes and urban Indian organizations to recover the cost of care provided to beneficiaries injured by a third party in accordance with the Federal Medical Care Recovery Act. Because this provision now allows Tribal self-insurance plans to pay IHS for services to plan beneficiaries, Tribes can volunteer to provide authorization for IHS to bill their self-insurance plan in a Public Law 93-638 contract, the Annual Funding Agreement, or by written letter to the respective IHS health facility that provided the services.

**Section 1226, Crediting of Reimbursements** under various programs, including those under Titles XVIII, XIX, and XXI. This provision clarifies that reimbursements be returned to the service unit, the IHS, a Tribal program or an urban Indian health organization and that there be no offsets or limit on the amount obligated to the service unit. IHS Area Offices and service units will be instructed to document compliance with this provision.
Section 127, **Behavioral Health Training and Community Education** directs IHS to develop a plan to increase the staff providing behavioral health services by at least 500 positions within five years of enactment of the IHCIA.

Section 129, **Patient Travel Costs** continues to authorize funds to be used for travel costs of patients receiving health care services provided either directly by IHS, under contract health care, or through a contract or compact, and expands this authority to include reimbursement for costs for qualified escorts and transportation by private vehicle (where no other transportation is available), specially equipped vehicle, ambulance or by other means required when air or motor vehicle transport is not available.

Section 135, **Liability for Payment** clarifies that a provider has no further recourse against the patients for services authorized by the IHS under CHS. The IHS has been and will continue to notify providers that CHS-referred patients cannot be billed for any deductibles or fees or copays for CHS-referred care.

Section 151, **Treatment of Payments Under the Social Security Act Health Benefits Programs** reemphasizes that the IHS and Tribes update provider enrollment numbers and must provide the numbers to the HHS Secretary in order to receive reimbursements for payments from Medicaid, Medicare, Children’s Health Insurance Program, and other third-party payers for services. IHS will work with Tribes to determine a strategy to ensure compliance with this provision.

Section 156, **Nondiscrimination Under Federal Health Care Programs** in qualifications for reimbursement for services, prohibits discrimination against Tribal health programs under federal health care programs if they meet the generally applicable state or other requirements for participation. This provision eliminates the requirement for licensure if standards for licensure are otherwise met. IHS may consider future implementation measures to ensure that this provision is consistently observed by all federal health care programs.

Section 157, **Access to Federal Insurance** allows a Tribe or Tribal organization carrying out a program under the ISDEAA and an urban Indian organization carrying out a program under Title V of the IHCIA to purchase coverage for its employees from the Federal Employees Health Benefits Program. While the law creates this new authority, a mechanism needs to be developed to administer this option for Tribes and urban Indian organizations.

**Section 162, Treatment of Certain Demonstration Projects** made the Tulsa and Oklahoma City clinic demonstration projects permanent service units. They are not subject to contracting or competing under the ISDEAA.
Section 171, Establishment of the Indian Health Service as an Agency of the Public Health Service expands the authorities of the IHS Director to: (1) facilitate advocacy for the development of appropriate Indian health policy and; (2) promote consultation on matters related to Indian health. These provisions are a significant step in acknowledging the importance of the government-to-government relationship between the U.S. and Indian Tribes and give the IHS Director broader responsibilities for advising the Secretary on matters related to Indian health, and to collaborate and coordinate with other agencies and programs of the Department.

For more information, or questions, contact NIHB Legislative Director, Jennifer Cooper, at jcooper@nihb.org.