

National Indian Health Board



March 19, 2021

Elizabeth Fowler
Acting Director, Indian Health Service
U.S. Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Re: IHS Consultation on American Rescue Plan Act Distribution

Dear Director Fowler:

On behalf of the National Indian Health Board (NIHB),¹ please accept our comments on the planned distributions of the funds provided through the American Rescue Plan (ARP) Act, which President Biden signed into law on March 11, 2021. That Act directs \$6.1 billion to Indian Health Service (IHS) for distribution to IHS, Tribal, and Urban Indian health programs, a historic addition to the funding for the Indian health system. As such, we want to thank IHS for its work to prioritize Tribal consultation to ensure that the Agency distributes the funds in a manner that is consistent with the wishes of Indian Country.

In keeping with that overarching goal, NIHB appreciates the opportunity to share our recommendations.

Executive Summary

IHS must ensure that all Tribes have an opportunity to provide feedback on this funding, which as IHS has noted, is a one-time, non-reoccurring allocation and equivalent to its annual appropriation. While we appreciate the speed with which the agency has moved to schedule Tribal consultation, we are concerned that many Tribes have not been afforded an opportunity to provide meaningful input. One telephonic meeting (Wednesday, March 17) and a week and one day to submit written comments (Friday, March 19) after the ARP became law is simply not enough time to gather meaningful feedback. In addition to this impossibly short timeline, Tribes have a great number of other consultations to prepare for and attend during this same time period. These competing and urgent

¹ Established in 1972, the National Indian Health Board (NIHB) is an inter-Tribal organization that advocates on behalf of all federally recognized Tribal governments for the provision of quality health care to all American Indians and Alaska Natives (AI/ANs). The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), or continue to also rely on IHS for delivery of some, or even most, of their health care, the NIHB is their advocate.

demands create additional barriers to thoughtful reflection and thorough recommendations. **We respectfully request that IHS extend the deadline for Tribal comments.**

Furthermore, the agency should take care to gather feedback from all IHS regions. The funding at stake is on par with the agency's annual appropriation, and the same level of care the agency takes when formulating its annual budget should be given to determining allocations for the ARP funding, even if the timeline for that process must be accelerated.

IHS must increase transparency and provide complete tracking of the COVID funding it received for the Indian health system since the start of the pandemic. Although Tribes and Tribal organizations have asked for more transparency around COVID funding from IHS and other U.S. Department of Health and Human Services operating divisions, Indian Country still lacks some of the information it needs to understand how funding decisions were made and what funding may remain for allocation and distribution. This information should be shared in a way that is open, understandable, and accessible. Tribes may have questions and IHS must ensure that Tribal leaders have the opportunity to ask those questions and get answers. **In sum, IHS should provide maximum transparency on the allocations and distributions of prior COVID funding and ensure complete information is provided about its processes and distributions for the current funding.** Tribes must have easy access to this information and tracking on IHS platforms, including IHS/Tribal meetings.

Throughout the pandemic, Tribes have urged that none of the COVID relief funding should be distributed through competitive grants. Rather, IHS should distribute funding according to a formula to ensure all Tribes receive funding, and that all Tribes can avoid the administrative burden involved in the grants process. Further, NIHB urges the agency to use a formula vetted and approved through Tribal consultation. IHS should keep any reporting requirements associated with the funding to a minimum in order to allow Indian health facilities to dedicate their resources to treating and vaccinating against COVID-19 and addressing conditions that raise the risks of COVID-19 infection, treatment, and complications. Tribes ask for maximum flexibility in their use of the funding so that they can respond to the unique needs of their citizens.

Thank you for starting the dialogue on this issue and for your consideration of our comments.

Additional Discussion and Background

Increased Vulnerability

The COVID-19 pandemic highlighted, in stark relief, the inequalities impacting AI/AN people and the Indian health system. AI/AN populations have disproportionately higher rates of heart disease, diabetes, obesity, asthma, and other conditions that exacerbate the impact of this disease. According to the Centers for Disease Control and Prevention (CDC), AI/ANs were 3.7 times more likely than non-Hispanic whites to be hospitalized and 2.4 times more likely to die from a COVID-19 infection.² The Indian health system is working to reduce these adverse outcomes, but it lacks many of the resources needed to do the job. As outlined in the US Commission on Civil Rights' "Broken Promises" report, the federal government has chronically and substantially underfunded the Indian health system. As such, the system relies heavily on third-party insurance reimbursements to begin

² Centers for Disease Control and Prevention. COVID-19 Data Visualization. <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html>

to fill in the gaps.³ Unfortunately, the pandemic not only brought disease and death to Indian Country, but it also caused multiple levels of shut down to operations-- steps necessary to make every effort to reduce the spread of COVID. This resulted in the loss of much-needed third-party revenues.

When an unexpected catastrophe, such as a pandemic, occurs, the Indian health system is ill-equipped to absorb the impact. During a June 11, 2020 hearing before the House Interior Appropriations Committee, then-IHS Director Rear Admiral (RADM) Michael Weahkee stated that third-party reimbursements have decreased 30-80% below 2019 levels. The declines in both third-party insurance reimbursements and Tribal enterprise revenue have left Indian health care providers with fewer resources to combat the pandemic. COVID 19 has proved to be a “perfect storm” for a vulnerable system serving a vulnerable population.

Competitive Grants

The restrictions resulting from the COVID-19 pandemic have devastated many Tribal economies, particularly those that rely heavily on the hospitality industry. The economic downturn has forced many Tribes to lay off staff. This understaffing severely impairs their ability to compete for grants and essentially creates a situation where struggling Tribes, which may have the highest needs, have the most difficulty in writing and securing grants. Being left out of grant programs then further exacerbates the issues they face. IHS must avoid mechanisms that feed this damaging cycle, and NIHB urges the agency to send funding through formula funding to ensure all Tribes receive funding, and that all Tribes can avoid the administrative burden inherent in the grant process. NIHB also urges IHS to use a formula that is thoroughly vetted through Tribal consultation so that all Tribes have a meaningful opportunity to provide guidance and feedback. Although we appreciate the rapid consultation efforts, IHS must not trade expediency for meaningful Tribal input.

Reporting Requirements and Local Flexibility

NIHB urges IHS to streamline and simplify reporting requirements. Complex reporting requirements create an additional and unnecessary administrative burden on a system that is already understaffed and overwhelmed with the ravages of COVID-19. While we appreciate the need for the federal government to ensure that funding is spent on its intended purpose, oversight can be achieved with streamlined systems which allow Indian health care providers to use the majority of their time on patient care, which in turn, will bring this pandemic to an end.

NIHB urges IHS to maintain maximum flexibility in the use of the funding. The Congress acknowledged Tribal sovereignty when it allocated the funding in a way that would provide flexibility to Tribes. IHS should honor this intent and ensure that the Tribes can use funding as they see fit, addressing the unique needs of their citizens and patients, and strengthening the system overall. Furthermore, COVID 19 has impacted each region differently, and funding flexibility will allow Tribes to tailor their response and recovery efforts accordingly.

Special Needs

During the Tribal consultation meeting on March 17, 2021, some Tribal leaders spoke about behavioral health needs resulting from the COVID crisis. These needs include increased substance

³ 3 U.S Commission on Civil Rights. The Broken Promises Report: Continuing Federal Funding Shortfall for Native Americans (2018).

use disorder, mental illness, and trauma given the incredible loss of life many communities have experienced. These disparities require long-term supports, and some Tribes may need to build new facilities to address the behavioral health impacts of the pandemic. In addition, during the March 17 consultation, some Tribes shared concerns about the long-term medical support COVID “long haulers” will need, which IHS also must consider as it makes funding allocations.

Technical Assistance and Full information

In addition to general transparency for funding allocations and distributions to Indian country, NIHB urges IHS to provide complete information to individual Tribes. In the past, some Tribes have received COVID relief funding and not known what was allowed or how it fit into the broader scheme of funding. In some cases, Tribes were not provided information about the source of the funding. This contributed to an environment of confusion and uncertainty, which made it difficult to administer the funds. To avoid this issue in the future, IHS must provide full and clear information on these funds.

NIHB also urges IHS to ensure it provides timely technical assistance to Tribes. Tribes may struggle initially in their efforts to ramp up programming. Many Tribes will benefit from technical assistance, especially in areas that may be new efforts, such as certain public health activities.

Conclusion

Thank you for your careful consideration of the requests outlined above. Please feel free to contact NIHB’s COO and Director of Policy, Carolyn Hornbuckle, at chornbuckle@nihb.org or 202-374-2034, with any questions you may have.

Yours in Health,



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