

JANUARY 4, 2017

## HEALTHCARE REFORM AND INDIAN COUNTRY

### REQUEST: Preserve the Indian Healthcare Improvement Act and Indian-specific provisions in the Affordable Care Act

- The Indian Healthcare Improvement Act (IHCIA) was enacted in 2010 as part of the Patient Protection and Affordable Care Act (ACA), though it is unrelated to the underlying healthcare reform legislation. It was tacked onto to the end of the law at Section 10221.
- It serves as the backbone legislation for the Indian Health Service (IHS)/Tribal/ and Urban Indian health system which provides healthcare services for American Indians and Alaska Natives (AI/ANs) in fulfillment of the federal government's trust responsibility for health that is derived from statutes, treaties, and Executive Orders.
- Provisions included in the IHCIA were a result of years of negotiations, meetings and strategy sessions. Tribes worked collaboratively with Congress to develop a final product that included impactful and bipartisan reforms.
- Tribes fought for over a decade to see this legislation move, and when ACA was moving through Congress in 2010, it was thought that this would be a good vehicle to get it enacted, not because it was related to healthcare reform.
  - The specific IHCIA authorizations and provisions represented an entirely discrete legislative effort that just so happened to culminate in the same public law.
- The IHCIA provides a wealth of new resources and opportunities for Tribal health care institutions, families, providers and patients. With the permanent reauthorization of the IHCIA, the Indian health care system has begun a new chapter in the delivery of quality health care to AI/ANs.
- In addition, there are Indian-specific provisions in the ACA other than the IHCIA that provide important protections and funding opportunities for the I/T/U system.
  - **Section 2901** which states that any I/T/U should remain the payer of last resort the payer of last resort for services provided by such notwithstanding any Federal, State, or local law to the contrary.
  - **Section 2902** which granted I/T/U providers permanent authority to collect reimbursements for all Medicare Part B services.
  - **Section 9021** ensures that any health benefits provided by a tribe to its members are not included as taxable income.
- IHCIA and other related ACA provisions should be preserved in any health repeal legislation to avoid putting the Indian health system into immediate jeopardy and erasing important gains for the health of AI/ANs.

## **MEDICAID REFORM IN INDIAN COUNTRY**

### **Request: Preserve Medicaid protections and expanded eligibility for American Indians and Alaska Natives**

- The Medicaid program is vital in fulfilling the federal trust and legal responsibility toward AI/ANs.
- In 1976, Congress enacted Title IC of the IHCA which amended the Social Security Act to require Medicare and Medicaid reimbursement for services provided in IHS & Tribal health care facilities.
- This was intended to help fulfill the federal trust responsibility and bring additional revenue into the Indian health system. The House Report stated: “These Medicaid payments are viewed as a much needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian.”
- With discretionary appropriations consistently falling far short of need, Medicaid provides the Indian health system with much needed funding to provide basic healthcare services to AI/ANs. Expanded eligibility under the Medicaid program has allowed the I/T/U system to realize important financial gains that have allowed expanded access to care and helped alleviate pressure off of discretionary appropriations.
  - Medicaid serves as a key source of revenue for I/T/U providers. According to the IHS Congressional Budget Justification, from FY 2011 to FY 2016 Medicaid reimbursements at IHS went up by 21.15% or \$171 million.
  - This funding stream helps fill a critical gap for the Indian health system and translates into patients receiving needed surgeries, preventative care, and oral healthcare which saves lives and taxpayer dollars
- Congress should ensure that increased Medicaid eligibility is continued for AI/ANs in any type of Medicaid reform to ensure that the I/T/U system does not experience significant funding shortfalls.

### **100% FMAP**

- Under current law, the federal government reimburses States for 100 percent of the cost of providing Medicaid services to AI/ANs.
- Also in 1976, Congress amended Section 1905(b) of the Social Security Act to apply a 100 percent federal medical assistance percentage (FMAP) paid for by the federal government for services provided to American Indians and Alaska Natives (AI/ANs) that were received through an IHS or Tribally-operated facility.
  - This ensures that IHS access to state Medicaid services does not burden the states with what is a federal responsibility.
  - The reimbursement by the federal government to states for Medicaid payments to IHS and Tribally operated facilities is critical in filling the gap created by inadequate IHS funding.
- Any plan to change the manner in which State Medicaid costs are reimbursed by the federal government must include a carve out for services provided to AI/ANs so that the federal government’s trust responsibility is not shifted to the States.

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