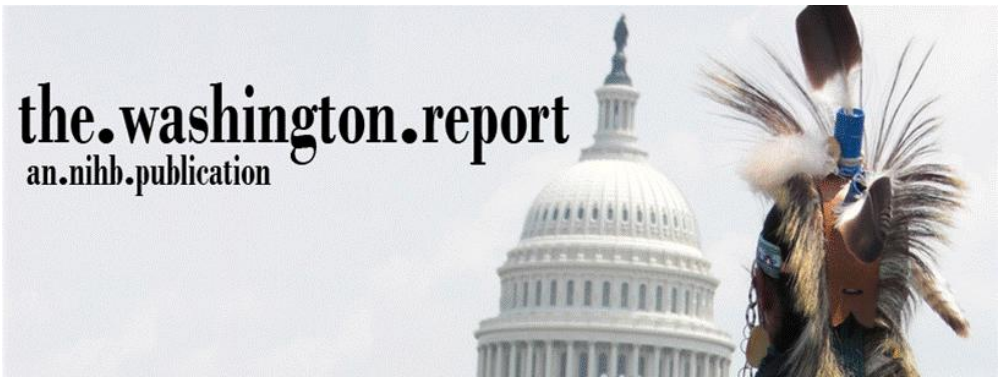

National Indian Health Board

ISSUE 11 -32
DECEMBER 2, 2011

INSIDE THIS ISSUE

NIHB UPDATES

Michelle Hayward Joins NIHB Board

The California Rural Indian Health Board (CRIHB) has appointed a new Tribal leader to the National Indian Health Board. Replacing Reno Franklin, Michelle Hayward is the new California Area Representative to the NIHB. Ms. Hayward serves as Secretary of the Redding Rancheria Tribal Council in Redding, CA, as well as the new Chair of CRIHB.

HILL UPDATES

Supercommittee Fails

In a November 21st press release, the Joint Select Committee on Deficit Reduction aka Supercommittee officially admitted defeat. Created as a part of the Budget Control Act of 2011, which also raised the federal debt limit, the Supercommittee was a bipartisan, bicameral 12-member Congressional panel tasked with developing a plan to reduce the federal deficit by a minimum of $1.2 trillion by November 23rd. Ultimately, the group could not come to an agreement on how to reduce the deficit due to more partisan issues like increasing federal tax revenue or reforming entitlement programs.

A contingency plan for Supercommittee failure was built into the Budget Control Act. Since the Supercommittee has failed, on January 15, 2012, a process known as "sequestration" is triggered. Through this process, $1.2 trillion in automatic, across-the-board cuts are made to federal spending over the next decade: half from defense spending and half from non-defense spending (including mandatory spending). If Congress does not act in the next year, then these cuts will go into effect starting on January 2, 2013 and continue through Fiscal Year (FY) 2021.

Although the vast majority of federal spending is subject to the across-the-board cuts discussed above, a number of programs are either exempt or subject to special rules under sequestration. Many safety-net programs are exempt from these funding reductions or limits entirely. Examples are: Social Security, Medicaid, the Children's Health Insurance Program (CHIP), and the Supplemental Nutrition Assistance Program (SNAP or food stamps).

Other programs are subject to special rules and reduction limits. For example, cuts to Medicare may only be achieved in up to a 2% reduction in provider payments. Medicare beneficiaries would likely not see a change in their coverage. The Indian Health Service also falls under special rules. Under sequestration, funding may be reduced to the two IHS budget accounts by up to 2% in any fiscal year. Thus, it is possible that the Indian Health Services and Indian Health Facilities accounts may see cuts of up to 2% in

appropriated funding annually between FY 2013 and FY 2021.

However, all of this ultimately depends on Congressional action or inaction in the coming year. NIHB continues to monitor the situation and will report on new information as it develops.

House Energy and Commerce Committee Approves CLASS Repeal

On November 30th, the House Energy and Commerce Committee voted to approve H.R. 1173, *The Fiscal Responsibility and Retirement Security Act of 2011*. The bill would repeal the Community Living Assistance Services and Supports (CLASS) Act, a provision in the Affordable Care Act, which establishes a voluntary national long-term care insurance program.

The bill is now en route to the House floor, where it could be voted upon before the end of the year. The Obama Administration has had difficulty implementing the program, but at present, it is unclear whether the repeal will make it to the President's desk.

ADMINISTRATION UPDATES

President Hosts 3rd Annual White House Tribal Nations Conference

Today, President Obama hosted the White House Tribal Nations Conference at the Department of the Interior. As part of President Obama's ongoing outreach to the American people, this conference provided leaders from the 565 federally recognized tribes the opportunity to interact directly with the President and representatives from his Administration. This is the third White House Tribal Nations Conference the Obama Administration has hosted.

Tribal leaders heard remarks from agency heads, including Department of Health and Human Services Secretary, Kathleen Sebelius. They also participated in breakout sessions with senior Administration officials including one called, "Improving Access to Healthcare, Education, Housing, Infrastructure and Other Federal Services." Indian Health Service (IHS) Director, Dr. Yvette Roubideaux reported out Tribal concerns that included stressing the need for more resources, care for Indian veterans, and implementation of the Affordable Care Act and Indian Health Care Improvement Act.

The President then gave remarks, which can be viewed here.

The White House today also released a report, "Achieving a Brighter Future for Tribal Nations," which provides a summary of some of the many actions the Obama Administration has taken to address the concerns of American Indians and Alaska Natives. The report is available here.

Treasury and IRS Request Comment on General Welfare Exclusion for Tribal Benefit Programs

The Internal Revenue Service (IRS) and Treasury Department are requesting Tribal comment regarding the application of the general welfare exclusion to Tribal government programs that provide benefits to Tribal members. According to the Internal Revenue Code, an individual's gross income includes income from all sources (including non-monetary) and can therefore be taxed. However, The Internal Revenue Service has held that under a limited general welfare exclusion, that payments under governmental social benefit programs for the promotion of the general welfare are not includible in a recipient's gross income.

The IRS has received inquiries from Indian tribal governments about the application of the exclusion to tribal government programs that provide benefits to tribal members. These programs may include, but are not limited to:

- Housing (for example, programs providing housing on and off the reservation, with income limits different from those of the United States Department of Housing and Urban Development);
- Cultural (for example, programs involving tours of sites that are historically

significant to a tribe; language preservation programs; community recreational programs; cultural and social events);
- Education (for example, programs providing tutors or supplies to primary and secondary school students; job retraining programs for adults);
- Elder programs (for example, programs providing heating assistance or meals).

In response to these inquiries, and to provide clarity and certainty to Indian tribal governments and consistency in applying the exclusion, the IRS and the Treasury Department are considering issuing guidance. In comments, Tribes are being asked to describe current or proposed Tribal benefit programs, and how the general welfare exclusion applies.

The deadline for the submission of comments is February 13, 2012, and comments may be emailed to: Notice.Comments@irscounsel.treas.gov. Please include "Notice 2011-94" in the subject line of any electronic communications.

For more information, click here

Berwick Leaves CMS, Tavenner Nominated to Replace

Centers for Medicare and Medicaid Services (CMS) Administrator, Dr. Don Berwick, leaves the agency today. He was nominated by President Obama in early 2011, but was never confirmed because 42 Senate Republicans succeeded in blocking the appointment. Berwick remained head of the agency, but only on a temporary, year-long basis.

Berwick is being replaced by his deputy, Marilyn Tavenner, whose nomination the President has submitted to the Senate for confirmation.

IHS Schedules Call on FY 2012 Budget Request

In a recent blog post, the Director of the Indian Health Service (IHS), Dr. Yvette Roubideaux, noted that although the country is currently operating under Fiscal Year (FY) 2012, a budget for the IHS has yet to be enacted by Congress. Additionally, Tribes continue to have ongoing questions regarding the Administration's budget request for IHS. With this in mind, IHS is hosting a Tribal conference call to provide clarification on these issues.

Date: Tuesday, December 6
Time: 11:00 am EDT
Topic: Discuss the overall budget, and any of the priorities, such as CHS and CSC.
Call in number: 866-600-9311
Participant Passcode : 4431083

CMS Releases Final Tribal Consultation Policy

On November 17th, the Centers for Medicare & Medicaid Services (CMS) released the final version of its Tribal Consultation Policy. The final policy is the result of comments to CMS by its Tribal Technical Advisory group and other Tribal leaders. To discuss the policy further, CMS has scheduled an All Tribes conference call:

Date: Friday, December 9, 2011
Time: 1:00-3:00 pm EST
Call-in: 1-888-637-7740
Passcode: 538239

To view the final policy and the Dear Tribal Leader letter announcing it, please visit: www.nihb.org

HHS Funds Exchanges in 13 States

On November 29th, the Department of Health and Human Services (HHS) awarded nearly $220 million in Affordable Insurance Exchange grants to 13 states to help them create Exchanges, giving these states more flexibility and resources to implement the Affordable Care Act. The law gives states the freedom to design Affordable Insurance Exchanges – one-stop marketplaces

where consumers can choose a private health insurance plan that fits their health needs.

The Department also released several Frequently Asked Questions providing answers to key questions states need to know as they work to set up these new marketplaces. Critical among these are that states that run Exchanges have more options than originally proposed when it comes to determining eligibility for tax credits and Medicaid. And states have more time to apply for "Level One" Exchange grants.

These awards bring to 29 the number of states that are making significant progress in creating Affordable Insurance Exchanges. States receiving funding this week include: Alabama, Arizona, Delaware, Hawaii, Idaho, Iowa, Maine, Michigan, Nebraska, New Mexico, Rhode Island, Tennessee, and Vermont.

Of the 13 states awarded grants Tuesday, 12 are receiving Level One grants, which provide one year of funding to states that have already made progress using their Exchange planning grant. The 13th state, Rhode Island, is receiving the first Level Two grant, which provides multi-year funding to states further along in the planning process.

Forty-nine states and the District of Columbia have already received planning grants, and 45 states have consulted with consumer advocates and insurance companies. Thirteen states have passed legislation to create an Exchange.

States have many opportunities to apply for funding. To accommodate state legislative sessions and to give states more time to apply, HHS also announced a six-month extension for Level One establishment grant applications. Applications now will be accepted until June 29, 2012 (the original deadline was December 30, 2011).

For the FAQs, visit:
http://cciio.cms.gov/resources/regulations/index.html#hie.
For more information on Affordable Insurance Exchanges, visit:
http://www.HealthCare.gov/law/features/choices/exchanges/index.html
For more information on the states receiving grants, visit:
http://www.healthcare.gov/news/factsheets/2011/05/exchanges05232011a.html

Administration Takes Steps to Encourage Use of Health Information Technology

On November 30th, U.S. Department of Health and Human Services (HHS) Secretary Kathleen Sebelius released a report showing that doctors' adoption of health information technology (IT) doubled in two years. HHS also announced new actions to speed the use of health IT in doctors' offices and hospitals nationwide, which will improve health care and create jobs nationwide.

While protecting confidential personal information, health IT can improve access to care, help coordinate treatments, measure outcomes and reduce costs. The new administrative actions will make it easier for doctors and other health care professionals to receive incentive payments for adopting and meaningfully using health IT.

HHS also announced its intent to make it easier to adopt health IT. To encourage faster adoption, the Secretary announced that HHS intends to allow doctors and hospitals to adopt health IT this year, without meeting the new standards until 2014. Doctors who act quickly can also qualify for incentive payments in 2011 as well as 2012.

To meet the demand for workers with health IT experience and training, the Obama Administration has launched four workforce development programs that help train the new health IT workforce. The training is provided through 82 community colleges and nine universities nationwide. As of October 2011, community colleges have had 5,717 professionals successfully complete their training in health information technology. Currently there are 10,065 students enrolled in the training programs across the nation. As of November 2011, universities have graduated over 500 post-graduate and masters-level health IT

professionals, with over 1700 expected to graduate by July 2013.

For more information on how health IT can lead to safer, better, and more efficient care, and for a fact sheet about today's announcement, visit http://www.healthit.gov/

For more information about the Medicare and Medicaid EHR Incentive Programs, see http://www.cms.gov/EHRIncentivePrograms

New Funding Available for Next Generation of Health Care Innovations

On November 14th the Department of Health and Human Services (HHS) announced the Health Care Innovation Challenge from the Centers for Medicare and Medicaid Services (CMS) Innovation Center, a $1 billion program to test creative ways to deliver high quality medical care and reduce costs across the country.

NOTE: Tribal Governments are eligible to apply.

Funded by the Affordable Care Act, the Health Care Innovation Challenge will award grants to applicants who will implement the most compelling new ideas to deliver better health, improved care and lower costs to people enrolled in Medicare, Medicaid and the Children's Health Insurance Program, particularly those with the highest health care needs.

Award will be expected to range from approximately $1 million to $30 million over three years. Applications are open to providers, payers, local government, and community-based organizations and particularly to public-private partnerships and multi-payer approaches. The Challenge will support projects that can begin within six months. Each grantee project will be evaluated and monitored for measurable improvements in quality of care and savings generated.

Under this Challenge, up to $1 billion dollars will be awarded to innovative projects across the country that test creative ways to deliver high-quality health care services and lower costs. Priority will be given to projects that rapidly hire, train and deploy new types of health care workers.

Important Deadlines
Letter of Intent: December 19, 2011
Applications are due, January 27, 2012
Anticipated Award Date: March 30, 2012

All proposals should include the following elements:

• Workforce Development and Deployment: Proposed models should include the development and/or deployment of health care workers in new, innovative ways. The review process will favor innovative proposals that demonstrate the ability to create the workforce of the future.

• Speed to Implementation: All proposed models must be operational or capable of rapid expansion within six months.

• Model Sustainability: All proposals are expected to define a clear pathway to sustainability, and should consider scalability and diffusion of the proposed model.

To learn more about the Health Care Innovation Challenge and information about the application process please read the Funding Opportunity Announcement:
http://www.innovation.cms.gov/documents/pdf/innovation-challenge-foa.pdf

To read an overview of the Health Care Innovation Challenge, including important deadlines, please read the Fact Sheet (PDF):
http://www.innovation.cms.gov/documents/pdf/innovation-challenge-fact-sheet.pdf

Frequently asked questions:
http://innovations.cms.gov/initiatives/innovation-challenge/faq.html

HHS Releases Final Rule for MLR

Under the Affordable Care Act, insurance companies are required to spend 80 percent (individual and small group markets) or 85 percent (large group markets) of premium dollars on medical care and health care quality improvement, rather than on administrative costs, starting in 2011. If they don't, the insurance companies must provide a rebate to their customers starting in 2012.

In December 2010, the Department of Health and Human Services (HHS) issued a regulation implementing this provision of the Affordable Care Act, known as the medical loss ratio (MLR). The MLR will make the insurance marketplace more transparent and make it easier for consumers to purchase plans that provide better value for their money.

In the 2010 rule, HHS requested comments on a number of the MLR provisions. HHS is now issuing a final rule amending these provisions of the regulation to provide certainty going forward.

To view a factsheet addressing changes in the final rule, click here.

You are cordially invited to attend

National Indian Health Board's
29th ANNUAL CONSUMER CONFERENCE
Celebrating
NIHB'S 40th Anniversary

September 24- 28, 2012
DENVER, COLORADO

UPCOMING EVENTS

IHS BUDGET CALL
DATE: TUESDAY, DECEMBER 6
TIME: 11:00 AM EDT
TOPIC: DISCUSS THE OVERALL BUDGET, AND ANY OF THE PRIORITIES, SUCH AS CHS AND CSC.
CALL IN NUMBER: 866-600-9311
PARTICIPANT PASSCODE : 4431083

CMS ALL TRIBES CALL
TOPIC: FINAL CONSULTATION POLICY
DATE: DECEMBER 9, 2011
TIME: 1:00-3:00 PM EST
CALL-IN: 1-888-637-7740
PASSCODE: 538239

Sign Up for Washington Report, at:
http://www.nihb.org/legislative/washington_report.php

For More Information Contact:
Jennifer Cooper, JD, Legislative Director
jcooper@nihb.org **or**

Liz Malerba, Legislative Assistant
lmalerba@nihb.org