

Tribal Legislative Priorities on Medicaid

“EQUAL ACCESS TO MEDICAID FOR ALL AMERICAN INDIANS/ALASKA NATIVES”

LEGISLATIVE OVERVIEW

Goal: Authorize Indian Health Care Providers (IHCPs) in all states to bill Medicaid for all services authorized under Medicaid and the Indian Health Care Improvement Act provided to IHS-eligible individuals.

CREATE A DEFINED SET OF “QUALIFIED INDIAN PROVIDER SERVICES” —

Amend subsection 1905(a)(2) by striking the “and” before subparagraph (C) and inserting the following:

“and (D) Qualified Indian Provider Services (as defined in subsection (l)(4) of this section) and any other ambulatory services offered by an Indian Health Care Provider and which are otherwise included in the plan.”

CREATE A DEFINED SET OF “QUALIFIED INDIAN PROVIDER SERVICES” —

Add a new subsection 1905(l)(4) as follows:

“(A)(i) The term “Qualified Indian Provider Services” means all services described in paragraphs (1) through (29) of section 1905(a) and all services of the type described in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) sections 1616, 1616l, 1621b, 1621c, 1621d, 1621h, 1621q, 1665a, 1665m, when furnished to an individual as a patient of an Indian Health Care Provider (as defined in (B) of this subsection) who is eligible to receive services under the State plan and is eligible to receive services from the IHS (as defined in section 1905(l)(4)(C).”

“(ii) Notwithstanding any other provision of law, Qualified Indian Provider Services may be provided by authorized non-physician practitioners working within the scope of their license, certification, or authorized practice under federal, State, or tribal law.” [Provision might be best placed in an alternative section.]

CODIFY IN FEDERAL LAW THE DEFINITION OF IHCP FROM FEDERAL REGULATIONS AT 42 CFR 447.51 --

Amend Social Security Act Section 1905 (l)(4) by inserting the following as a new subparagraph (B):

“(B) The term “Indian Health Care Provider” means a health program operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 1603 of title 25) or inter-tribal consortium (as defined in section 5381 of title 25) or through an Urban Indian Organization (as defined in section 4 of the Indian Health Care Improvement Act) operating pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act.”

Goal: Expand Medicaid eligibility for Individuals eligible for services from the IHS.

ESTABLISH IN FEDERAL LAW AN OPTIONAL MEDICAID ELIGIBILITY CATEGORY COMPRISED OF INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES FROM THE IHS WITH HOUSEHOLD INCOME UP TO 138% OF THE FEDERAL POVERTY LEVEL (FPL) –

Amend section 1902 of the SSA by inserting at the end of subsection (a)(10)(A)(ii) the following:

“(XXIII) Beginning [October 1, 2019], who are individuals eligible to receive services from the Indian Health Service, as described in section 1905(l)(4)(C), who are under 65 years of age, not pregnant, not entitled to, or enrolled for, benefits under part A of title XVIII, or enrolled for benefits under part B of title XVIII, and are not described in clause (i), and whose income (as determined under subsection (e)(14)) does not exceed 133 percent of the poverty line (as defined in section 2110(c)(5) applicable to a family of the size involved, subject to subsection (k);”

ESTABLISH IN FEDERAL LAW INCREASED FMAP FOR HEALTH CARE SERVICES PROVIDED PURSUANT TO THE OPTIONAL MEDICAID ELIGIBILITY CATEGORY UNDER SECTION 1902(A)(10)(A)(II)(XXIII) –

Amend section 1905 of the SSA by inserting a new subsection (ff) as follows:

“(ff) INCREASED FMAP FOR THE OPTIONAL MEDICAID EXPANSION CATEGORY FOR INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES FROM THE IHS.—Subject to the third sentence of section 1905(b), the Federal medical assistance percentage shall be 90 percent with respect to amounts expended as medical assistance for services which are received by an individual described in section 1902(a)(10)(A)(ii)(XXIII).”

Goal: Apply consistent federal policy on reimbursement to states for services provided by IHCPs—including Urban Indian Organizations—to IHS-eligible individuals.

- EXTEND FULL FEDERAL FUNDING THROUGH 100% FMAP TO MEDICAID SERVICES RECEIVED BY OR THROUGH URBAN INDIAN ORGANIZATIONS TO INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES FROM THE IHS –

Amend the third sentence of section 1905(b) of the Social Security Act by inserting at the end of the sentence after “Act)”, and before the period at the end:

“or an Urban Indian Organization (as defined in section 4 of the Indian Health Care Improvement Act) operating pursuant to a grant or contract with the Indian Health Service under title V of the Indian Health Care Improvement Act”.

Goal: Preserve Access to Medicaid for AI/AN and IHCPs in Waivers.

- ESTABLISH IN FEDERAL LAW RESTRICTIONS ON STATE WAIVER AUTHORITY TO PROTECT PROVISIONS IN FEDERAL LAW AND REGULATIONS SPECIFIC TO INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES FROM THE IHS FROM STATE WAIVERS –

Amend [section 1115(d) of the Social Security Act [42 U.S.C. 1315] by inserting after section (d)(3) a new section (d)(4):

“The Secretary shall not approve a demonstration under section 1115 that would have the effect of reducing eligibility or services, or increasing enrollment fees, premiums, or similar charges, or deductions, cost sharing, or similar charges, with respect to individuals who are eligible under this title and who are described in 1905(l)(4)(C).”

Goal: Fix “four walls” limitation.

- MODIFY FEDERAL LAW TO REMOVE THE LIMITATION ON PAYMENT FOR SERVICES FURNISHED BY INDIAN HEALTH CARE PROVIDERS OUTSIDE A CLINIC FACILITY –

Amend section 1905(a)(9) [42 U.S.C. 1396d(a)(9)]³ by inserting after “address”:

“and including such services furnished in any location by personnel of a clinic operated by a tribe, tribal organization, or urban Indian organization described in (l)(2)(B).”

Questions?

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