

Medicaid Work Requirements: An Update and Path Forward

NIHB

National Tribal Health Conference

Oklahoma 2018

Tribal Nations' Advocate to Address Arizona's Section 1115 Waiver

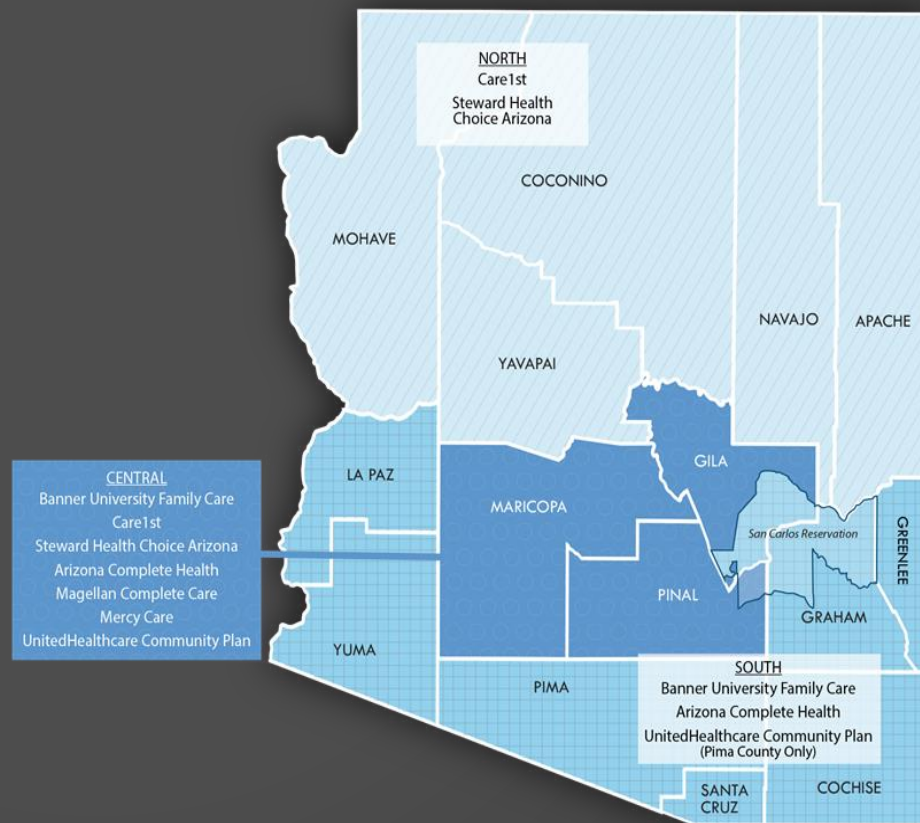
Arizona was last state to establish a Medicaid program (1982) that originally excluded AIAN. The *U.S. v. Arizona* lawsuit resulted in a settlement that IHS beneficiaries may participate in the program.

(Photo: Tribal advocates meet with AZ Governor's Health Policy Advisor to address work requirements on 12/19/17, She told the group the Waiver was submitted to CMS that day).



Importance of the Medicaid (SSA Title XIX) Program

Today the Arizona Health Care Cost Containment System (AHCCCS) insures that covered benefits are provided to 1.9 million individuals and families through managed care, including approx. half of the total American Indian population (369,101) through the American Indian Health Program (AIHP).

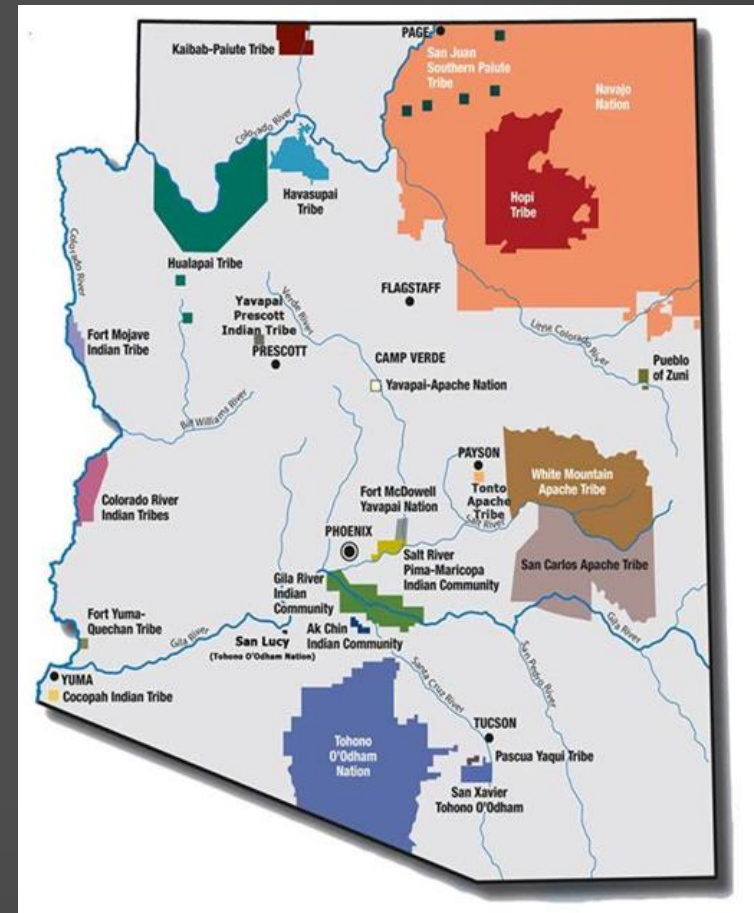


Note: Zip codes 85542, 85192, 85550 representing San Carlos Tribal area are included in the South GSA.

Importance of the Medicaid (SSA Title XIX) Program

The American Indian Health Program (AIHP), previously known as IHS AHCCCS, is the Fee-for-Service (FFS) health plan for Medicaid members served at ITU's.

Medicaid revenue, largely reimbursed at the 100% Encounter Rate, supports the necessary medical care provided by health care providers across the American Indian health care system.



2015-2018

- * **March 6, 2015:** SB1092 signed into law by Governor Ducey establishes a new statute, **A.R.S. 36-2903.09**. The annual submission of a Section 1115 Waiver to CMS, allows the State to impose a 5-year cap on Medicaid eligibility in one's lifetime, work and work reporting requirements and cost-sharing on "able-bodied adults". The law did not include an exemption for AIAN.
- * **October 1, 2015:** AHCCCS submits first SB 1092 Waiver Proposal "Access Care" to CMS.

2015-2018

- * **September 30, 2016:** CMS approves “Access Care” *cost sharing* provisions. The 5 year eligibility cap, work and work reporting requirements were not approved by the Obama Administration.
- * **February 8, 2017:** Tribes working with the Native American Caucus at the Arizona Legislature seek to amend A.R.S. 36-2903.09. Rep. Wenona Benally (D-LD 7) introduces **HB2479** amending the statute to exempt individuals served by IHS, Tribal and UIO’s. (Note: *The bill did not receive a hearing during the session*).

2015-2018

- * **April 19, 2017:** Secretary Price and Administrator Verma issue letter to all state Governors to affirm the new administration's approach to Medicaid community engagement requirements.
- * **July 28, 2017:** Section 1115 Waiver Tribal Stakeholder Meeting co-sponsored by San Carlos Apache Health Care Corporation, Gila River Health Care Corporation, Tuba City Regional Health Care Corporation, Inter Tribal Association of Arizona (ITAA) and the Advisory Council on Indian Health Care (AACIHC). Rep. Eric Descheenie (D-LD 7) begins to convene Stakeholder Group regularly .

2015-2018

- * **September 19, 2017** – Rep. David Cook (R-LD8) obtains legal analysis conducted by the Arizona Legislative Council – Does HB2479 violate the equal protection clause of the U.S. or AZ constitution or any other constitutional provision? **NO**
- * **December 19, 2017** – Arizona submits AHCCCS Works Waiver to CMS. It includes work, work reporting requirements and 1 year ban from Medicaid on able-bodied adults that fail to report. Arizona agrees to include an exemption for AIAN. Governor's office advises Tribes that legislation is not needed, but Stakeholders' disagree.

2015-2018

- * **January 11, 2018:** Executive Order issued by President Trump supporting Medicaid work requirements .
- * **January 17, 2018** – HB2228 introduced in the Arizona House of Representatives to amend **A.R.S. 36-2903.09**. Rep. Cook prime sponsor. (Bipartisan Support)
- * **January 17, 2018** – Letter sent to Tribal Leaders by Brian Neale, Director, CMS states, *“Unfortunately, we are constrained by statute and are concerned that requiring states to exempt AI/ANs from work and community engagement requirements could raise civil rights issues.”*

2015-2018

- * **February 14, 2018** – Letter from CMS TTAG to Administrator Seema Verma addresses tribal opposition to work requirements and disagreement with interpretation that exempting ITU beneficiaries is a violation of the Civil Rights Act.
- * **March 5, 2018** – By this date, CMS approve Kentucky, Indiana and Arkansas work requirements.
- * **April 10, 2018** – Trump Executive Order on Reducing Poverty in America by Promoting Opportunity and Economic Mobility issued.
- * **June 29, 2018** - Federal District Court judge rules Kentucky's section 1115 waiver failed to address the purpose of the Medicaid program - to furnish medical assistance.

April 12, 2018 – HB 2228 AHCCCS; annual waiver; applicability, passes unanimously & Governor Ducey signs the bill into law

15 B. SUBSECTION A OF THIS SECTION DOES NOT INCLUDE OR APPLY TO
16 AMERICAN INDIANS OR ALASKA NATIVES WHO ARE ELIGIBLE FOR SERVICES UNDER
17 THIS ARTICLE, THROUGH THE INDIAN HEALTH SERVICE OR THROUGH A TRIBAL OR
18 URBAN INDIAN HEALTH PROGRAM PURSUANT TO THE INDIAN SELF-DETERMINATION AND
19 EDUCATION ASSISTANCE ACT (25 UNITED STATES CODE CHAPTER 46) AND THE INDIAN
20 HEALTH CARE IMPROVEMENT ACT (25 UNITED STATES CODE CHAPTER 18).

Thank you!

Alida Montiel, Health Policy Director
Inter Tribal Association of Arizona

