

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

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August 1, 2014

Submitted via email to: kitty.marx@cms.hhs.gov

Ms. Kitty Marx
Director
Division of Tribal Affairs
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Marx:

On behalf of the Tribal Technical Advisory Group (TTAG) to the Centers for Medicare and Medicaid Services (CMS), I submit the following comments on the Marketplace Call Center scripts and training modules provided to us on July 25, 2014. We greatly appreciate the opportunity to review these documents as CMS prepares for the second year of ACA open enrollment. In pursuit of improving the functionality of the Marketplace for American Indians and Alaska Natives (AI/AN), we request that CMS continue to share relevant materials with the TTAG in advance of their publication for technical review and comment.

A majority of edits and comments to the scripts and training can be found imbedded in the attached documents. However, we offer some additional comments below.

Timelines for Comment

We understand that there are very tight deadlines associated with materials intended for use during the upcoming open enrollment period. Nonetheless, it is extraordinarily difficult for the TTAG to provide comprehensive review of such large amounts of documents with comparatively little time to review. In this case, we were given approximately one week to review 23 documents (25, if assister materials sent to the Outreach and Education Subcommittee (O&E) are counted), comprising many hundreds of total pages. The TTAG requires far more time to review these types of materials in order to truly improve the AI/AN experience with the Marketplace. Without it, we are concerned that AI/AN will continue to encounter barriers to enrollment and that the TTAG will have to repeat the review process many times over. From our perspective, accuracy is more important than promptness.

Relevant Documents for Review

In addition to short timelines, upon review of some of the documents, it was discovered that they contained little or no relevance for AI/AN consumers. Of particular

note was, “PG_Assisting with the Online Application.” Over 100 pages, the document is simply a step-by-step instruction set for Marketplace staff on how to populate online applications, rather than discussing substantive issues concerning the ACA. Significant time and energy was spent reading and evaluating this file only to find that there was no reason for TTAG to comment. Another document appeared to be corrupted and led to computer crashes and a significant waste of time for the reviewer. The CMS Division of Tribal Affairs (DTA) should be able to recognize those cases where a document or policy truly has no relevancy for Tribal review.

Recurring Mistakes and the Need for a “Consistency Checklist”

In those materials that were germane to our work, we saw recurring, simple mistakes that the TTAG has identified and corrected in many previous regulation comments and edited instructional materials. Because of this, TTAG repeatedly finds itself having to fix these same basic mistakes when our focus should be on more nuanced policy issues. As a solution, we propose the development of a “consistency checklist.” The checklist would be developed and updated frequently by the TTAG in conjunction with the DTA and contain standardized language addressing the most common errors found in the ACA and other materials. The checklist could be provided to CMS employees and contractors charged with the development of these materials. In addition, a designated DTA staff member should use it to conduct an initial review of materials prior to their referral to TTAG. This will allow for expedited evaluation of documents by the TTAG and also for the expedited, and significantly more accurate, creation of documents by CMS. With the checklist in mind, we offer some initial items for inclusion:

- Alaska Native Claims Settlement Act (ANCSA) Shareholders: When referencing those AI/AN individuals who meet the criteria for “Indian” under all provisions of the ACA, shareholders in ANCSA corporations are very often omitted or referred to incorrectly. When discussing members of federally recognized Tribes, ANCSA shareholders must be referenced as well using the following language:
First reference:
Alaska Native Claims Settlement Act (ANCSA) Corporation Shareholder
(regional or village)

Additional reference(s) in a document:
ANCSA shareholders, shareholder status in an ANCSA Corporation
- Metallic Levels for Zero and Limited Cost-Sharing Plans: We continue to see materials that insist that all consumers may only receive cost-sharing reductions (CSRs) if they purchase a silver level plan. While this is true for CSRs available to the general public (those at 250% of FPL or less), zero and limited cost-sharing plans are available to AI/AN at every metallic level. In fact, AI/AN should be specifically encouraged to choose bronze plans because they provide the same Essential Health Benefits at the lowest cost. Every time CSRs are mentioned, there should be a note regarding AI/AN-specific plans and benefits.
- Indian Income and “Easier” Qualification for Medicaid: Multiple documents claim that under the ACA, certain Indian income is not counted when determining

eligibility for Medicaid or advance premium tax credits in order to make it “easier” for AI/AN to qualify. This income is exempted because of the federal trust relationship with Tribal nations, including Alaska Native villages, not because CMS is being generous to AI/AN. Further, the ACA does not contain these protections. They are in the American Recovery and Reinvestment Act (ARRA). Finally, due to the additional documentation that must be provided in order to achieve these protections, it is, in fact, not “easier” for AI/AN to qualify for Medicaid.

These items are just the beginning of what we expect will likely be a longer document. We request that CMS work with the O&E and ACA Policy Subcommittees in order to create a more comprehensive and ongoing checklist.

Again, we greatly appreciate the opportunity to review and improve upon these documents. Our suggestions in this and future letters are intended to ensure that both CMS and the TTAG are judiciously expending their limited resources and drafting concise, accurate, and useful documentation. We look to CMS and the DTA to ensure that AI/AN across the country have the chance to participate meaningfully in all the ACA offers, and remain willing to assist with the development of materials and policy that will allow that to happen.

Sincerely,



W. Ron Allen, Tribal Chairman/CEO
Jamestown S’Klallam Tribe
Chairman of the TTAG