

# Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

Submitted online at <http://www.regulations.gov>

September 25, 2014

Office of Management and Budget  
Office of Information and Regulatory Affairs  
Attn: CMS Desk Officer

**RE: CMS-10515, Agency Information Collection Activities: Submission for OMB Review; Comment Request**

Director Donovan:

I write on behalf of the Tribal Technical Advisory Group (TTAG) to comment on the Centers for Medicare & Medicaid Services' (CMS) intention to collect information from the public.<sup>1</sup> The Paperwork Reduction Act<sup>2</sup> requires federal agencies to publish a 30-day notice in the Federal Register concerning proposed collections of information. CMS proposed the following collection of information: 4. *Type of information collection request: Extension of currently approved collection; Title: Payment Collection Operations Under sections 1401, 1411, and 1412 of the Affordable Care Act and 45 CFR part 155, subpart D; Use: An Exchange makes advance determination of tax credit eligibility for individuals who enroll in Qualified Health Plan (QHP) coverage through the Exchange and seek financial assistance.*

The TTAG advises CMS on Indian health policy issues involving Medicare, Medicaid, the Children's Health Insurance Program, and any other health care program funded (in whole or in part) by CMS. In particular, the TTAG focuses on providing policy advice to CMS regarding improving the availability of health care services to American Indians and Alaska Natives (AI/ANs) under these Federal health care programs, including through providers operating under the health programs of the Indian Health Service, Indian Tribes, tribal organizations, and urban Indian organizations (referred to as Indian Health Care Providers or I/T/Us).

Thank you for the opportunity to respond to the Notice. According to the proposed collection of information:

Section 1402 of the Affordable Care Act provides for the reduction of cost sharing for certain individuals enrolled in a QHP through an Exchange, and section 1412 of the Affordable Care Act provides for the advance payment of these reductions to issuers. The statute directs issuers to reduce cost sharing for essential health benefits for individuals with household incomes between 100 and 400 percent of the Federal

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<sup>1</sup> 79 Fed. Reg. 50913 (August 26, 2014)

<sup>2</sup> Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3506(c)(2)(A)

poverty level (FPL) who are enrolled in a silver level QHP through an individual market Exchange and are eligible for advance payments of the premium tax credit.

The Health and Human Services plans to use the collected data to make payments or collect charges from Issuers. The TTAG strongly recommends that CMS indicate that there are Indian-specific cost-sharing reductions that are different from the standard cost-sharing reductions.

American Indians and Alaska Natives, meeting the definition of Indian under the Affordable Care Act (ACA), are eligible for either a zero cost-sharing plan variation” or a “limited cost-sharing plan variation,” depending on their household income level.<sup>3</sup> The zero cost-sharing variation is available to an Indian with income that does not exceed 300% of the federal poverty level (FPL). The limited cost-sharing variation is available to an Indian who does not seek a determination of eligibility based on income or who is not eligible for the zero cost-sharing variation. The zero cost-sharing plan variation requires no cost-sharing for essential health benefits (EHBs), whether provided by an in-network provider or not. The limited cost-sharing variation requires no cost-sharing for EHBs provided by an Indian Health Care Provider (IHCP) or through referral from contract health services to a non-IHCP.

These important protections are a result of the federal trust responsibility to provide healthcare for Indians and it is important that these protections are not overlooked. In order to better promote issuer and enrollee understanding of the ACA provisions, the TTAG asks that CMS include a short statement on the Indian-Specific cost-sharing protections when describing the general cost-sharing protections in this notice. We thank you for providing an opportunity to comment on this information request.

Sincerely,



W. Ron Allen  
Tribal Chairman and CEO, Jamestown S’Klallam Tribe  
Chairman, TTAG

Cc: Kitty Marx, Director, CMS Division of Tribal Affairs

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<sup>3</sup> In this comment, the term “American Indians and Alaska Natives” is used to describe all persons eligible for services from an Indian Health Care Provider. The term “Indian” is used to describe individuals who meet the definition of Indian as found in the Affordable Care Act.