

National Indian Health Board



Sent via Email

September 11, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244

Re: Georgia's Section 1332 State Innovation Waiver

Dear Administrator Verma:

On behalf of the National Indian Health Board (NIHB),¹ we write to express concern about Georgia's Section 1332 State Innovation Waiver, which asks CMS to waive the requirement that the state either participate in the Federally-Facilitated Exchange (FFE) or operate a State-Based exchange (SBE).

The ability to enroll into a health insurance program directly through an exchange has streamlined enrolling American Indians and Alaska Natives (AI/ANs) into third party health insurance by providing an easy and convenient way to compare prices and benefits from different providers. Moving away from a centrally based marketplace will force consumers to navigate a variety of private marketplaces in order to find a plan that fits their needs. This will dramatically increase the time investment involved with finding a plan, which we believe will result in fewer people opting to enroll in a health insurance plan. We fear that if this waiver is approved, other states will attempt to follow suit and as such, we urge CMS to reject this waiver.

Lost Coverage and Impacts on Indian Health System

An analysis by the *Brookings Institute* found that the approval of this waiver could possibly result in 52,000 Georgians losing health insurance coverage.² This proposal also has the ability to impact

¹ Established in 1972, the National Indian Health Board (NIHB) is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives (AI/ANs). The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), or continue to also rely on IHS for delivery of some, or even most, of their health care, the NIHB is their advocate.

² Christen Linke Young and Jason Levitis, "Georgia's latest 1332 proposal continues to violate the ACA," *Brookings Institute*, Sept. 1, 2020.

Medicaid enrollment. The *Brookings* analysis also noted that during each annual open enrollment period 40,000 Georgians who utilized the FFE were found to be eligible for Medicaid and transferred to the state Medicaid agency.³ The current waiver makes no mention of a plan to replace that functionality of the FFE. It is likely that people would have to rely on the generosity of the private marketplaces, which have no financial incentive to make such referrals. This is concerning for us.

Third party revenue is a significant contributor to the financial stability of Indian health system clinics and hospitals. The importance of Medicaid, in particular, to the financial health of the Indian health system cannot be overstated. According to the Indian Health Service 2020 Congressional Justification, between Fiscal Year 2013 and Fiscal Year 2018, third party collections at IHS and Tribal facilities increased by \$360 million, with 65% coming from Medicaid, a substantial portion by any measure.⁴ Moreover, data show that the number of AI/ANs with Medicaid increased from 1,458,746 in 2012 to 1,793,339 in 2018. The 334,593 increase in Medicaid coverage is a 22.94% increase over 2012. In 2018, 33.55% of all AI/ANs had Medicaid compared to 29.55% in 2012.

We fear that the approval of this waiver would set a precedent that will embolden other states to apply for similar waivers. Any measure that makes it more difficult to enroll in private insurance or Medicaid endangers the fiscal health of the Indian health system. For that reason, we urge the agency to reject this waiver which would reduce access to publicly run health insurance marketplaces.

Thank you in advance for your consideration of our comments.

Sincerely,



Stacy A. Bohlen
CEO
National Indian Health Board

CC: Kitty Marx, Division of Tribal Affairs, CMS

³ *Id.*

⁴ Data show that the number of AI/ANs with Medicaid increased from 1,458,746 in 2012 to 1,793,339 in 2018. In 2018, 33.55% of all AI/ANs had Medicaid. National Indian Health Board Date Brief (2020).