



Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services



c/o National Indian Health Board | 910 Pennsylvania Avenue, SE | Washington, DC 20003 | (202) 507-4070 | (202) 507-4071 fax

April 5, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Recommended Changes to the “Tribal Indian Health Addendum to Medicare Part D Plan Agreement”

Dear Administrator Brooks-LaSure:

On behalf of the CMS Tribal Technical Advisory Group (TTAG), I write to provide recommendations for changes to the “Tribal Indian Health Addendum to Medicare Part D Plan Agreement” (Indian Part D Addendum) to update it to reflect current law, to improve equity, and to expand its scope so that it can be used not just for Part D plans, but also with other pharmacy plans. These recommendations come from the full TTAG membership.

Summary of Proposed Revisions to the Indian Part D Addendum

The TTAG has prepared an updated redlined version of the Indian Part D Addendum which does three things. First, it goes through the current Indian Part D Addendum and updates citations and references to reflect the updates that were made when CMS developed the Qualified Health Plan (QHP) Model Indian Addendum in 2013. To our knowledge, the Indian Part D Addendum has not been updated since it was developed in 2005, and many of the references should be updated to reflect the updates made in the QHP Model Indian Addendum.

Second, the redlined Addendum seeks to address issues of inequity that Indian Health Service, Tribal, and Urban Indian (I/T/U) pharmacies frequently experience. The original purpose of the Indian Part D Addendum was to facilitate inclusion of I/T/U pharmacies in Medicare Part D plan networks and address the complications that arise with the particular circumstances of I/T/U pharmacies and special protections in federal law. The revisions we recommend here are intended to address ongoing challenges that continue to impede I/T/U participation in networks or unfairly limit reimbursement due to the special circumstances of I/T/U pharmacies. For example, the revised Addendum would specifically protect and preserve the right of I/T/U pharmacies to acquire discounted pharmaceuticals through the 340B or Federal Supply Schedule programs and prevent pharmacy issuers from reducing reimbursements as a result. By ensuring access to networks and fair reimbursements, the revised Addendum can advance health equity by protecting the limited resources of the Indian health system and expanding access to necessary pharmaceuticals.

CMS TTAG Letter to CMS Administrator Brooks-LaSure

Re: Indian Part D Addendum

March 29, 2023

Page 2 of 3

Finally, the redlined Addendum proposes to not only cover Part D plans, but expand the Addendum's scope so that IHS and Tribal facilities could use it for other pharmacy plans as well. I/T/U pharmacies are currently encountering all of the issues with other pharmacy plans that led to CMS requiring Part D plans to offer contracts to them using the Indian Part D Addendum. Pharmacy benefit managers, managed care companies, health plan sponsors, and insurance companies are all resisting offers to contract with I/T/U pharmacies that contain provisions that reflect federal restrictions I/T/U pharmacies operate under, as well as their particular circumstances. These commercial pharmacy networks are increasingly refusing to reimburse I/T/U pharmacies for otherwise covered services due to I/T/U pharmacies asserting their federal rights and restrictions.

The TTAG recognizes that while the Medicare rules require the use of the Addendum by Part D plans, that regulatory requirement would not extend to other pharmacy plans. Nonetheless, the TTAG believes that expanding the scope of the Part D Addendum to reach other plans would be useful for IHS and Tribal pharmacies who are currently experiencing the same issues gaining access to other pharmacy plan networks that led to the Medicare program requiring the use of the Addendum for Part D plans.

Conclusion

The TTAG leadership looks forward to the continued partnership with CMS in developing policies and programs that work for and with the Indian health system, in accordance with the nation's trust responsibility to provide for the health of Tribal nations. We appreciate the efforts CMS has previously made to facilitate inclusion of I/T/U pharmacies in plan networks, and we look forward to working with CMS to bring the Indian Part D Addendum up to date to ensure it continues to fulfill this important goal. Access to pharmacy benefits is essential for the health of our Tribal citizens and for the flourishing of the Indian health system. We appreciate your consideration of the proposed revisions to the Addendum and look forward to engaging with the agency further.

Sincerely,



W. Ron Allen, CMS/TTAG Chair
Jamestown S'Klallam Tribe, Chairman/CEO

CC: Roselyn Tso, Director, Indian Health Service
Kitty Marx, Director, CMS Division of Tribal Affairs

Attachments

- **2023 TTAG Proposed Changes to Medicare Part D Indian Addendum Overview**
Further background on the Indian Addendum and an overview of the recommended changes.

- **Phase 1 Redline: Original Part D Addendum Updated with QHP Requirements**

This draft shows the existing Part D Indian Addendum with redline edits of only the changes and updates the Office of General Counsel approved when it created the Marketplace QHP Addendum.

- **Phase 2 Redline: Updated Part D Addendum with New Edits**

In this draft, all the QHP edits have been accepted. The redline edits are the new changes the TTAG is proposing to expand the scope of the Addendum beyond Part D to all Pharmacy Plans and to address the issues IHS and Tribes are experiencing.