



# Tribal Technical Advisory Group



## To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board | 50 F Street NW | Washington, DC 20001 | (202) 507-4070 | (202) 507-4071 fax

December 20, 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

*Submitted via regulations.gov*

**Re: Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications (CMS-4205-P)**

Dear Administrator Brooks-LaSure:

On behalf of the CMS Tribal Technical Advisory Group (TTAG), I write to provide a response to the Centers for Medicare and Medicaid Services (CMS) proposed rule, “Medicare Program; Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications” (CMS-4205-P).

### ***Medicare Advantage Plan Marketing***

The TTAG appreciates the agency’s acknowledgement that financial incentives are contributing to behaviors that are driving an increase in Medicare Advantage (MA) marketing complaints received by CMS in recent years. As we have continued to make clear, these targeted marketing tactics often occur in Indian Country, and our folks are being enrolled in plans that do not serve their needs, sometimes losing benefits they had previously enjoyed. While we would still like to see the agency also focus on Tribal-specific issues as well, there are some general proposals here that we do support.

Specifically, our Tribal leadership supports the CMS proposal to redefine “compensation” to set a clear, fixed amount that agents and brokers can be paid regardless of the plan the beneficiary enrolls in. The proposal seems to ensure that the payment of agent compensation reflects only legitimate activities. We suggest that CMS continue to monitor whether the proposed national agent/broker fixed compensation amount of \$642 achieves the goals set forth in this rule. While we are hopeful that the proposed fixed compensation will eliminate the incentive for agents to blindly enroll folks in a plan that does not meet their health care

needs and improve the predictability of compensation for agents and brokers, we encourage the agency to develop a means to measure efficacy and enrollee satisfaction.

### ***Hospital Star Ratings***

The TTAG would like to take this opportunity to reiterate its belief that the Hospital Star Ratings methodology is incompatible with the Indian health system and results in an artificially low rating for our hospitals, which serves only to undermine confidence in our hospitals among the communities that we serve. Our leadership urges CMS to grant an exemption to hospitals that are run by the Indian Health Service and Tribal health systems. While the agency removed the ratings from the public profile, this did not go nearly far enough to address our concerns.

As you know, many IHS and Tribal hospitals have a low star rating, with many IHS and Tribal hospitals having no rating at all. The TTAG is concerned that the rating system does not adequately or fairly consider other federal reporting requirements that IHS facilities may have to comply with, or the population served. For example, our patient population includes higher proportions of patients with multiple complex chronic health conditions and lower socio-economic status, which both contribute to lower health status. If patients in the Indian health system are in worse health than the average non-Indian, then the Hospital Star Ratings will likely be negatively impacted simply for serving AI/ANs.

The TTAG is concerned that the rating system unfairly measures IHS reported Medicare data in way that masks quality and overemphasizes patient experiences, while failing to consider inadequate funding and the health and economic characteristics of the population being served. For these reasons, the TTAG once again requests that Indian Health Service and Tribally operated health facilities be exempt from the Hospital Quality Star Rating.

Our CMS/TTAG leadership appreciates your consideration of the above comments and recommendations and look forward to engaging with the agency further.

Sincerely,

A handwritten signature in black ink that reads "W. Ron Allen". The signature is fluid and cursive, with the first name "W." and last name "Allen" clearly distinguishable.

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