



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

September 12, 2025

The Honorable Mehmet Oz
Administrator
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted via regulations.gov

Re: Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency (CMS-1834)

Dear Administrator Oz:

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 and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency.

We greatly appreciate CMS's attention to our previous recommendations and recognition of the unique circumstances of Indian Health Service (IHS) and Tribal hospitals by maintaining separate payment for high-cost drugs in hospital outpatient departments through an add-on payment in addition to the All-Inclusive Rate (AIR). We also recognize the historic amendment allowing Tribal clinics to be reimbursed for service provided outside the "four walls" which will greatly enhance access to care for American Indian and Alaska Native (AI/AN) beneficiaries in rural and remote areas. These policies support Tribal clinics' ability to deliver care where it is most needed.

NOPAIN Act Implementation

The CMS Tribal Technical Advisory Group (TTAG) is concerned that CMS's proposed interpretation of the NOPAIN Act is too narrow and risks undermining the intent of the statute. Congress passed the NOPAIN Act to expand access to non-opioid alternatives for pain management to reduce reliance on opioids and prevent addiction.

In this rule, CMS limits separate reimbursement to only those non-opioid products that qualify as surgical supplies and require evidence of opioid-sparing effects before granting payment. This proposal will affect low-income individuals who will have to pay out-of-pocket for medications that do not qualify for separate payment under Medicare. This narrow approach excludes many safe, effective non-opioid pain management

therapies that Tribal and rural providers could otherwise use to reduce opioid dependence in high-risk and rural communities.

CMS should adopt a broader interpretation of the NOPAIN Act that ensures separate reimbursement for the full range of non-opioid pain management therapies to remove. This approach would remove financial barriers for patients and reduce opioid exposure, and ultimately decrease addiction rates while saving federal dollars.

Emergency Care Access & Timeliness eCQM and REHs

CMS's proposal to add the Emergency Care Access & Timeliness electronic clinical quality measure (eCQM) to the REH Quality Reporting Program (REHQR), beginning with the CY 2026 reporting period, will be a challenge for REHs with outdated infrastructure. CMS recognizes that there are technological, financial, and staffing barriers to eCQM adoption for REHs due to the lack of investment in Tribal REHs, CMS should consider cross-agency collaboration across HHS to modernize EHR systems for REHs. Without sufficient investments, REHs will be unable to modernize their systems to reduce administrative burdens by transitioning from the Median Time for Discharged ED Patients measure to the Emergency Care Access and Timeliness eCQM. Without sufficient investments, Tribes will continue to experience ongoing technological gaps, limiting their ability to improve the delivery of care to patients.

CONCLUSION

Our Tribal leadership sincerely appreciate CMS's ongoing engagement with TTAG and your recognition of the unique circumstances of the Indian healthcare system. We respectfully urge CMS to broaden its interpretation of the NOPAIN Act and make exceptions for Tribal REHs implementing new quality reporting requirements. We look forward to our continued collaboration to strengthen policies that uphold federal trust and treaty obligations.

Sincerely,

A handwritten signature in black ink that reads "W. Ron Allen". The signature is written in a cursive, flowing style.

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