



# Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

## The Message Is Straightforward: “No Repeal Without First a Replacement Plan”<sup>1</sup>

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While the future of the Patient Protection and Affordable Care Act (Affordable Care Act or ACA) remains unclear, a strong, clear message is needed to protect the interests of Tribes and their citizens. **The core message is simple, and straightforward: “No repeal without a clear replacement plan.”** A commitment is sought for no repeal of the ACA without first identifying, evaluating, and enacting replacement provisions.

Ending up with no replacement law enacted would be devastating to AI/ANs and Indian health care programs that draw on the expanded Medicaid coverage and federal financial assistance for Marketplace coverage (premium tax credits and cost-sharing protections) made available by the ACA to improve access to health care services. Provisions that involve an expenditure of federal funds may be affected through the “budget reconciliation” process, such as, Medicaid expansion authority for AI/ANs in households with income up to 138% of the federal poverty level; premium tax credits; cost-sharing protections; Internal Revenue Code section 9021, which excludes from taxable income health benefits provided by Tribal governments to AI/ANs, whether provided or purchased by the IHS, Tribes, or Tribal organizations; and instituting Medicaid block grants.

Medicaid expansion has led to a significant reduction in the number of uninsured AI/ANs. It is estimated that Medicaid enrollment among AI/ANs increased by more than 217,368, or 14.9%, from 2013 to 2015,<sup>2</sup> with additional enrollment growth occurring in 2016 as outreach efforts have continued and more states have implemented the expansion.<sup>3</sup> Significant potential exists for future enrollment growth, as among the 35 states with federally-recognized Tribes, 16 have not yet authorized the Medicaid expansion. Another 251,000 AI/ANs will be able to secure coverage as, over time, each of the remaining non-Medicaid expansion states move to implement the expansion.<sup>4</sup> Even though this is a significant impact to Indian healthcare systems, it is estimated that overall the AI/AN population on Medicaid makes up less than 1% of total Medicaid spending. This expansion has been a positive step toward the federal government fulfilling the federal trust responsibility to provide healthcare to AI/AN’s.

There are specific Indian cost-sharing protections along with monthly special enrollment periods that have also assisted in the facilitation of access to care for the AI/AN population. It is imperative to continue these protections.

**Requesting a commitment that the replacement plan be (1) identified, (2) evaluated, and (3) enacted before voting to repeal the ACA is straightforward, reasonable, and necessary in order to protect the recent progress made in expanding the availability of health care services to many AI/ANs.**

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<sup>1</sup> This brief is for informational purposes only and is not intended as legal advice. For questions on this brief, please contact Doneg McDonough, TSGAC Technical Advisor, at [DonegMcD@Outlook.com](mailto:DonegMcD@Outlook.com).

<sup>2</sup> Census Bureau, 2013-2015 American Community Survey, 1-Year Estimates.

<sup>3</sup> Alaska, Montana, and Louisiana implemented the Medicaid expansion in September 2015, January 2016, and July 2016, respectively.

<sup>4</sup> Matthew Buettgens, *Estimates of Health Coverage Changes Under the ACA and How Actual Progress Could Be Evaluated* (Washington, DC: Urban Institute, Feb. 19, 2015), 10. The figure applies to the start of the 2015; the current figure might be lower, as several states have begun to implement the Medicaid expansion since that time.