

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education
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Submitted via: consultation@ihs.gov

October 28, 2016

Mary Smith, Principal Deputy Director
Indian Health Service
The Reyes Building
801 Thompson Avenue, Suite 400
Rockville, MD 20852

RE: Comments on Purchasing Health Care Coverage (IHS Circular 2016-08)

Dear Principal Deputy Director Smith:

I write on behalf of the Indian Health Service (IHS or Agency) Tribal Self-Governance Advisory Committee (TSGAC) to comment on IHS Circular 2016-08, Purchasing Health Care Coverage (Draft Circular). The Draft Circular addresses the purchase of health care coverage, commonly referred to as Tribal Premium Sponsorship (TPS or Sponsorship). Specifically, the draft Circular seeks to provide further detailed guidance to IHS Area Offices regarding the current IHS policy if IHS, Tribes or Tribal organizations, or an urban Indian organization (I/T/U) wishes to purchase coverage for IHS beneficiaries with funding provided under the Indian Self-Determination and Education Assistance Act (ISDEAA) or the Indian Health Care Improvement Act (IHCIA).

The TSGAC fully supports efforts by the IHS to facilitate inclusion of Sponsorship activities in a contract or compact. However, we have a number of concerns about the Draft Circular. Many of these concerns were communicated, in person, by Tribal leaders to IHS staff at the consultation sessions held over the past couple of months. Primarily, we are concerned that the Circular unreasonably limits the IHS and participating Tribes from exercising full authorities available in the ISDEAA and IHCIA.

The TSGAC requests that IHS take the following actions:

- Withdraw the Draft Circular.
- Rescind the October 24, 2013, Dear Tribal Leader Letter, which incorrectly interpreted section 402(b) of the Indian Health Care Improvement Act (as added by section 152 of the Indian Health Care Reauthorization and Extension Act of 2009). Please see the attached TSGAC letter dated April 15, 2014, requesting similar action.
- Coordinate through a workgroup comprised of I/T/U representatives (appointed by TSGAC, the Direct Service Tribes Advisory Committee, and IHS) to make recommendations to IHS to address the issues raised in the Draft Circular and other Sponsorship-related issues, including determining the preferred mechanism(s) for providing guidance to the I/T/U programs on Sponsorship.

We appreciate the opportunity to provide comment and our recommendation on the Draft Circular. Despite the above recommendation that the Draft Circular be withdrawn, we appreciate the efforts of the Agency to facilitate access to health care services. We all recognize that such programs help to

improve access to care for Tribal members and also provide needed revenue for I/T/U programs. However, the underlying principles and success of the self-governance program—including when Tribes begin taking on health service functions through Title I contracts—have demonstrated time and again that the development of such policies are most advantageous to Tribal citizens when Tribes have maximum flexibility to decide for themselves. We hope you will agree, and thank you for your efforts.

The TSGAC remains willing to assist IHS in this endeavor in any way possible. If you have any questions or wish to discuss these comments further, please contact me at (860) 862-6192 or via email at lmalerba@moheganmail.com.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe of Connecticut
Chairwoman, IHS TSGAC

cc: Mary Smith, Principal Deputy Director, Indian Health Service (IHS)
Jennifer Cooper, Acting Director, Office of Tribal Self-Governance, IHS
TSGAC Members and Technical Workgroup

Attachment:

- TSGAC, "IHS October 24, 2013 Letter Interpreting Section 402 of the Indian Health Care Improvement Act Letter to Director Roubideaux," dated April 15, 2014