IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

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U.S. Department of Health and Human Services
Office for Civil Rights
Hubert H. Humphrey Building, Rm. 509F
200 Independence Ave. SW
Washington, DC 20201

Attn: 1557 NPRM (RIN 0945-AA02)

Re: TSGAC Comments on RIN 0945-AA02, Nondiscrimination in Health Programs and Activities

On behalf of the Indian Health Service Tribal Self-Governance Advisory Committee (TSGAC), I write to offer the following comments on in response to its proposed rule on Nondiscrimination in Health Programs and Activities (RIN 0945-AA02). 80 Fed. Reg. 54172 (Sep. 8, 2015). Established in 1996, the TSGAC provides information, education advocacy and policy guidance for the implementation for Self-Governance within the Indian Health Service (IHS). We appreciate the opportunity to provide these comments.

Introduction

TSGAC appreciates OCR's efforts to engage Tribes regarding the implementation of the Affordable Care Act's (ACA) nondiscrimination provisions. Unfortunately, the Tribal Consultation/All Tribes Call scheduled to discuss this proposed rule occurred only 7 days before comments were due, giving Tribes little time to confer with OCR prior to comment. TSGAC hopes that OCR will make efforts in the future to engage in Tribal consultation as early as possible in the rulemaking process. Nonetheless, TSGAC appreciates the Department's efforts to consult with Tribes on this important rulemaking proposal.

We are concerned that the proposed regulations do not adequately address or reflect the unique political relationship between Indian Tribes and the United States and its Federal trust responsibility to provide health care services to Indian people. Like any other Executive Department Agency, the Department of Health and Human Services (the "Department") has a duty and responsibility to ensure that the laws it administers are implemented in a manner that respects Congress' authority to enact Indian-specific legislation that fulfills its unique trust responsibility to Indian Tribes and Indian people. As the Supreme Court has recognized, Congress' authority to authorize Indian-specific programs is subject to rational basis review, and will not be subject to claims of discrimination under strict scrutiny under Title VI of the Civil Rights Act or otherwise. As the Department has recognized in its Tribal Consultation Policy:

> "Since the formation of the Union, the United States (U.S.) has recognized Indian Tribes as sovereign nations. A unique government-to-government relationship exists between Indian Tribes and the Federal Government and this relationship is grounded in the U.S. Constitution, numerous treaties, statutes, Federal case law, regulations and executive orders that establish and define a trust relationship with Indian Tribes. This relationship is derived from the political and legal relationship that Indian Tribes have

> with the Federal Government and is not based upon race. This special relationship is affirmed in statutes and various Presidential Executive Orders …"[1]

Existing CMS regulations also recognize that Indian health programs are entitled to provide services to Indian people, and are exempt from the prohibition on discrimination on the basis of race, color, or national origin in Title VI of the Civil Rights Act. 45 C.F.R. § 80.3(d).

While the proposed regulations cross reference Section 80.3(d) once in definition of discrimination in proposed Section 92.101, that single cross reference is inadequate to protect Indian health programs' right to limit the provision of services to Tribal communities. Indian health programs, and Tribal governments more generally, frequently find themselves in the position of having to explain to individuals, agencies, and others, including at times the HHS Office for Civil Rights, the legal basis for their right to restrict the provision of services to the Tribal communities they have a mandate to serve. This requires Indian health programs to use their extremely limited resources to educate others in order to protect their rights and their patients. It is important, therefore, that it is evident from the face of the Section 1557 regulations, and from the Preamble, that Indian health programs are exempt from Title VI's nondiscrimination requirements when they restrict services to their Indian beneficiaries.

TSGAC requests that the proposed rule be amended to: (1) explicitly refer in the Preamble to the unique political status of Indian Tribes, the Federal trust responsibility for Indian health, and the Indian health program exemption to non-discrimination claims under Title VI and otherwise; (2) revise the proposed applicability provisions in Part 92.2 to include Indian health programs; (3) explicitly refer to Indian health programs in the text of the regulation regarding exceptions to the nondiscrimination provisions; and, (4) state that Tribal governments and Tribal health programs are exempt from claims of discrimination for limiting services to Indian people in the provisions regarding the application of Section 1557 to entities that provide or administer health insurance or coverage and employers that administer employee health benefit programs.

Indian Health Programs Are Exempt from Claims of Discrimination When They Limit Services to the Indian Beneficiaries they have a Duty to Serve under Title VI or Otherwise

Section 1557 of the ACA prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in health programs and activities. Section 1557 provides:

> [A]n individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) … be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments). …

42 U.S.C. § 18116(a).

Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, and national origin. 42 U.S.C. § 2000d *et seq.* Regulations implementing Title VI, however, recognize an explicit exemption for Indian health programs. These regulations provide:

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[1] Dep't of Health and Human Services Tribal Consultation Policy (Dec. 14, 2010), at 1; Centers for Medicare and Medicaid Services Tribal Consultation Policy (Nov. 17, 2011), at 1.

> *Indian Health and Cuban Refugee Services*. An individual shall not be deemed subjected to discrimination by reason of his exclusion from benefits limited by Federal law to individuals of a particular race, color, or national origin different from his.

45 C.F.R. § 80.3(d).

The Indian health program exemption to Title VI acknowledges the right of Indian health programs to limit services to Tribal communities without engaging in prohibited discrimination. This exemption is consistent with the Federal government's trust responsibility to provide for the health of Indian peoples and the government-to-government relationship between the United States government and Tribes.

The Centers for Medicare & Medicaid Services (CMS) has recognized the United States' trust responsibility to Indians and the unique political status of Tribal governments in its American Indian and Alaska Native Strategic Plan, prepared by CMS' Tribal Technical Advisory Group (TTAG). CMS TTAG, American Indian and Alaska Native Strategic Plan 2013–2018 (rev'd Feb. 20, 2014).[2] As the Strategic Plan recognizes, the United States' trust responsibility is rooted in the United States Constitution, and its parameters have evolved through judicial pronouncements, treaties, Acts of Congress, Executive Orders, regulations, and the government-to-government relationships between the Federal government and Tribal governments. *Id.* at 43.

In order to fulfill that trust responsibility, Congress has the authority to enact Indian-specific laws[3] and include Indian-specific provisions in general laws.[4] These Indian-specific laws and provisions are based on political, rather than racial, distinctions and do not violate prohibitions on racial discrimination. In *Morton v. Mancari* the United States Supreme Court recognized that "[t]he plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself." 417 U.S. 535, 551–52 (1974). The Court established the rational basis test as the standard for reviewing Indian-specific laws and provisions. *Id.* at 555 ("As

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[2] Available at https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/TTAG/Downloads/CMSAIAN-StrategicPlan2013-2018.pdf. The TTAG is an advisory body to CMS established in 2004. The American Reinvestment and Recovery Act of 2009 (ARRA) codified the existence of the TTAG. Pub. L. 111-5, § 5006(e)(1).

[3] *See, e.g.*, Indian Health Care Improvement Act, 25 U.S.C. § 1601, *et seq*.; Indian Self-Determination and Education Assistance Act, 25 U.S.C. §450, *et seq.;* Indian Education Act, 20 U.S.C. §7401, *et seq.;* Tribally Controlled Schools Act, 25 U.S.C. §2501, *et seq.;* Tribally Controlled College or University Assistance Act, 25 U.S.C. §1801, *et seq.;* Native American Housing Assistance and Self-Determination Act, 25 U.S.C. §4101, *et seq.;* Indian Child Welfare Act, 25 U.S.C. §1901, *et seq.;* Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §3201, *et seq.;* Indian Employment, Training, and Related Services Demonstration Act, 25 U.S.C. §3401, *et seq*.

[4] *See, e.g.*, 42 U.S.C. §1395qq (eligibility of IHS/Tribal facilities for Medicare payments); 42 U.S.C. §1396j (eligibility of IHS/Tribal facilities for Medicaid payments); 42 U.S.C. §1397bb(b)(3)(D) (assurance of CHIP services to eligible low-income Indian children); Elementary and Secondary Education Act, as amended, 20 U.S.C. §6301, *et seq.* (funding set-asides throughout this law for the benefit of children enrolled in the Bureau of Indian Affairs school system); Impact Aid Program, 20 U.S.C. §7701, *et seq.* (Federal aid to public school districts for Indian children living on Indian lands); Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. §§2326 and 2327 (funding set-aside for Indian vocational education programs and Tribal vocational Institutions); Higher Education Act, 20 U.S.C. §1059c (funding for Tribally-controlled higher education institutions); Individuals with Disabilities Education Act, 20 U.S.C. §1411(c) (funding set-aside for Bureau of Indian Affairs schools); Head Start Act, 42 U.S.C. §9801, *et seq.* (includes funding allocation for Indian Tribal programs and special criteria for program eligibility); Federal Highway Act, 23 U.S.C. §101, *et seq.* (1998, 2005, 2008 and 2012 amendments include funding set-asides for Indian reservation roads programs and direct development of regulations through Negotiated Rulemaking with tribes); American Recovery and Reinvestment Act of 2009, P.L. 111-5 (Feb. 17, 2009) (§5006 making amendments to the Social Security Act to provide various protections for Indians under Medicaid and CHIP, discussed below); Patient Protection and Affordable Care Act, P.L. 111-148 (Mar. 23, 2010) (various Indian specific provisions, discussed below)

long as the special treatment can be rationally tied to the fulfillment of Congress' unique obligation toward the Indians, such legislative judgments will not be disturbed."). Once the link between special treatment for Indians as a political class and the Federal government's unique obligation to Indians is established, "ordinary rational basis scrutiny applies to Indian classifications just as it does to other non-suspect classifications under equal protection analysis." *Narragansett Indian Tribe v. National Indian Gaming Comm'n.,* 158 F.3d 1335, 1340 (D.C. Cir. 1998).

The Indian hiring preference sanctioned by the Court in *Mancari* is only one of the many activities the Court has held are rationally related to the United States' unique obligation toward Indians. The Court has upheld a number of other activities singling out Indians for special or preferential treatment, *e.g.,* the right of for-profit Indian businesses to be exempt from state taxation, *Moe v. Confederated Salish & Kootenai Tribes,* 425 U.S. 463, 479-80 (1976); fishing rights, *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n,* 443 U.S. 658, 673 n.20 (1979); and the authority to apply Federal law instead of state law to Indians charged with on-reservation crimes, *United States v. Antelope,* 430 U.S. 641, 645-47 (1977). The Court in *Antelope* explained its decisions in the following way:

> "The decisions of this Court leave no doubt that Federal legislation with respect to Indian Tribes, although relating to Indians as such, *is not based upon impermissible racial classifications.* Quite the contrary, classifications singling out Indian Tribes as subjects of legislation are expressly provided for in the Constitution and supported by the ensuing history of the Federal Government's relations with Indians."

Antelope, 430 U.S. at 645 (emphasis added).

The courts continue to acknowledge the special political status of Indians and to uphold legislation singling out Indians on that basis. *See, e.g.*, *Am. Fed'n of Gov't Emps., AFL-CIO v. United States*, 339 F.3d 513, 522-23 (D.C. Cir. 2003) (finding outsourcing preference for Indian-owned firms was rationally related to the legitimate legislative purpose of promoting the economic development of Federally recognized Tribes and their members); *United States v. Wilgus*, 638 F.3d 1274, 1287-88 (10th Cir. 2011) (upholding exception to the Bald Eagle Protection Act for Indian Tribal members to possess eagle feathers); *E.E.O.C. v. Peabody W. Coal Co.*, 773 F.3d 977 (9th Cir. 2014) (rejecting Title VII challenge to Tribal member preference of company operating under lease pursuant to Indian Mineral Leasing Act); *Native Am. Arts, Inc. v. Contract Specialties, Inc.*, 754 F. Supp. 2d 386, 393-94 (D.R.I. 2010) (upholding Indian Arts and Crafts Act against equal protection challenge, finding the Act withstood rational basis review).

Both the Office of Civil Rights and the Proposed Regulations implementing Section 1557 of the ACA must recognize that the Indian Health Service and Tribes and Tribal organizations operating IHS funded programs through a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 450 *et seq*. are entitled to tailor their programs to serve the beneficiaries they have a mandate to serve. The right of Indian health programs to limit the provision of services to Indian communities is critical to fulfilling the Federal government's trust responsibility and congressional intent as expressed in Federal laws providing for the conservation and improvement of Indian health. The Indian health program exemption from Title VI ensures the continued viability of Indian health programs.

Section 1557 Proposed Regulations and Preamble Fail to Specifically Reference Indian Health Program Protections

A. *Preamble*

The Preamble to the proposed rule fails to mention the Indian health program exemption to Title VI's nondiscrimination provisions. Instead, the Preamble lists the IHS as an example of a health program or activity subject to the nondiscrimination requirements by virtue of being a program or activity conducted by HHS. It does not, however, state that IHS and Indian health programs are exempt from Title VI's requirements when limiting services to the Indian beneficiaries they serve, implementing Indian preference in hiring, or otherwise when fulfilling their mandate. 80 Fed. Reg. at 54195. This oversight exemplifies the need for more explicit language regarding the Indian health program exemption in both the text of the regulations and the Preamble.

The Preamble also mischaracterizes the nature of the Indian health program exemption. The Preamble states that the proposed rule's nondiscrimination provisions incorporate exceptions to the general prohibition of discrimination, including exceptions to Title VI. 80 Fed. Reg. at 54182. The Preamble then states that "[g]enerally, the exceptions … implementing regulations provide that it is not discriminatory to exclude a person from the benefits of a program that Federal law or executive order limits to a protected class." *Id.* A more accurate characterization of the Indian health program exemption would be that it reflects Federal law establishing that limiting Indian-specific programs to Indian communities is based on a political distinction rather than a racial classification. Additionally, the Preamble provides an example from the Age Act implementing regulations, but does not include an example from the exemption to the Title VI regulations that apply to Indian health programs. *Id.*

The Preamble should include language that explicitly states that the right of IHS, Indian health programs, and Tribes to restrict services and health care coverage to Indian communities and to implement Indian preference in hiring is based on a political, rather than racial, distinction, that this right furthers the Federal government's trust responsibility to conserve and improve the health status of Indians, and that it is confirmed in Federal statutes, case law, and regulations.

B. *General Provisions*

There is no reference to § 80.3(d) or Indian health programs in Subpart A—General Provisions. Subpart A provides:

> **§ 92.2 Application**
> …
> (b) Limitations:
> (1) Exclusions to the application of the Age Discrimination Act of 1975, as set forth at 45 CFR 91.3(b)(1), apply to claims of discrimination based on age under Section 1557 or this part.
> (2) [Reserved]

80 Fed. Reg. at 54215. This provision of the proposed regulations defines the general application of all of Part 92, but does not mention Indian health programs or even include a cross-reference to § 80.3(d). We note that the Preamble states that § 92.2(b) contains statutory limitations while § 92.101(c) contains regulatory limitations. 80 Fed. Reg. at 54173. This division is unnecessary. Further, the Indian exemptions from laws prohibiting discrimination on the basis of race, color, or national origin is more than a mere regulatory exception to Title VI. As stated above, the right of Indian health programs to restrict services

to Indian communities is well-established in Federal law. The regulations at § 80.3(d) merely reflect existing law.

The lack of a reference to the Indian health program exemption in the application section of the proposed regulations is significant because there are several different portions of the regulations that will apply differently to Indian health programs based on the exemption to Title VI. For instance, the notice requirements of proposed § 92.8 require that entities provide notice that they do not discriminate on the basis of race, color, or national origin. 80 Fed. Reg. at 54217. Of course, the Indian health system can and does discriminate based on political status of Indian people when it limits services to American Indian and Alaska Native people. While the IHS and Tribal health programs would be correct in stating they do not discriminate based on race in such a notice, any such notice is likely to be misleading. Acknowledgment of the Indian exemption to Title VI is needed in § 92.2 to clarify that the exemption is to be incorporated into the general application of the Part 92 regulations.

C. *Nondiscrimination Provisions*

TSGAC appreciates that the proposed regulations cross-reference the Indian health exemption from Title VI nondiscrimination regulations. The proposed regulation would state in Subpart B—Nondiscrimination Provisions:

> **§ 92.101 Discrimination Prohibited**
> …
> (c) The exceptions applicable to Title VI apply to discrimination on the basis of race, color, or national origin under this part. The exceptions applicable to Section 504 apply to discrimination on the basis of disability under this part. The exceptions applicable to the Age Act apply to discrimination on the basis of age under this part. These provisions are found at §§ 80.3(d), 84.4(c), 85.21(c), 91.12 through 91.15, and 91.17 through 91.18 of this subchapter.

80 Fed. Reg. at 54218. Although proposed § 92.101(c) briefly references § 80.3(d), which contains the Indian health program exemption from Title VI, this one cross-reference is insufficient. The reference is buried among other exceptions to other Federal laws and does not explicitly state that it applies to Indian health programs.

D. *Specific Applications*

Subpart C—Specific Applications to Health Programs and Activities, includes proposed § 92.207, entitled "Nondiscrimination in health related insurance and other health-related coverage." This section provides that covered entities may not discriminate on the basis of race, color, or national origin with regard to the provision or administration of health insurance or coverage. 80 Fed. Reg. at 54219. This section should explicitly state that Tribes are exempt from this requirement. Many Tribes sponsor health insurance for their citizens or maintain self-insured plans, and the proposed regulations should make clear that Tribes may continue to limit coverage to their communities.

Subpart C also addresses employer liability for discrimination in employee health benefit programs in proposed § 92.208. The proposed regulation states that an entity that provides employee health benefit programs will be liable for discrimination in that program if the entity is principally engaged in providing or administering health services or health insurance coverage; receives Federal financial assistance for the purpose of funding the

program; or is not principally engaged in providing or administering health services or insurance coverage but operates a health program or activity that receives Federal financial assistance and provides employee health benefits to employees of that program or activity. 80 Fed. Reg. at 54190. Tribal health programs are principally engaged in providing and administering health services, Tribal governments and their subdivisions receive Federal monies to fund employee health benefit programs, and Tribal governments and their subdivisions operate health programs and activities that receive Federal financial assistance. Section 92.208 should include an express exception for Tribal governments and Tribal health programs that choose to provide employee health benefits to Indian employees due to their political status as Indians because Indian-specific provision of services does not violate Title VI's prohibition on discrimination on the basis of race, color, or national origin.

Regarding the scope of the proposed regulation's application to employers, the Preamble notes that "this proposed rule would not extend to hiring, firing, promotions, or terms and conditions of employment" beyond the provisions of § 92.208 regarding employee health benefit plans. 80 Fed. Reg. at 54180–81. The proposed rule invited comment on excluding these forms of employment discrimination from the scope of the proposed regulations. TSGAC supports the exclusion of employment discrimination not related to the provision of employee health benefit plans from the scope of the proposed regulation. Title VII of the Civil Rights Act, prohibiting discrimination in employment on the basis of race, color, sex, national origin, and religion, is not one of the provisions enumerated in Section 1557.

As the Preamble notes, employment discrimination claims would continue to be able to be brought under Title VII and other laws. However, if OCR chooses to include employment discrimination in the Section 1557 regulations, we request that it specifically include language acknowledging the right of IHS, Indian health programs, and Tribes to give preference to Indians in employment. Indian Tribes are expressly excluded from the definition of "employer" under Title VII. 42 U.S.C. § 2000e(b). IHS is required by law to apply an absolute preference for Indians in hiring decisions. 25 U.S.C. §§ 472, 472a, 479; 42 C.F.R. §§ 136a.41–.43. Indian hiring preferences are based on political classifications and are not subject to laws prohibiting discrimination on the basis of race, color, or national origin. *See Mancari*, 417 U.S. 535.

Clarify that, DUE TO FUNDING CONSTRAINTS, the Indian Health Service Purchased and Referred Care program priority list (PRC) and management of PRC by Tribes and Tribal Organizations are not subject to these regulations regarding non-discrimination.

On average, the Indian Health Service is funded at less than 60 percent of the level of need. One of the programs that is persistently underfunded is Purchased and Referred Care (PRC), which has also been called Contract Health Services. The primary strategy used by the Federal government and Tribes to manage the limited PRC resources is a Priority List. Everyone can agree that medical care to preserve life and limb is the highest priority. After that, the priorities can be perceived as discriminating against one protected group or another (on the basis of disability, age, gender). Currently, some services are excluded from PRC, such as cosmetic surgery with certain exceptions including reconstructive surgery after breast cancer surgery.

Most health systems have defined benefit plans and can raise their rates to pay for additional services that are covered. Both Medicaid and Medicare are can receive supplemental funding to cover required services. However, the Indian Health Service budget

is considered discretionary by Congress and the funding is not related to the cost of providing services.

Unless Congress provides full funding to cover all medical needs, we believe that Tribes have the authority to make these types of trade-offs, and that they should be held harmless regarding discrimination on the basis of disability, age and sex.

Recommended Amendments to the Section 1557 Regulations

TSGAC recommends that the proposed Section 1557 regulations and the Preamble be amended to specifically reference the Indian health program exemption to Title VI's prohibition on discrimination on the basis of race, color, or national origin. Specifically, we recommend the following:

- Explicitly state in the Preamble to the regulations that although IHS is an example of a health program or activity subject to the nondiscrimination requirements by virtue of being a program or activity conducted by HHS, that IHS and Indian health programs are exempt from Title VI's prohibition on discrimination on the basis of race, color, or national origin when designing and limiting the services to the beneficiaries they have a mandate to serve. Include language that states that the right of IHS, Indian health programs, and Tribes to restrict services and health care coverage to Indian communities is based on a political, rather than racial, distinction; furthers the Federal government's trust responsibility to conserve and improve the health status of Indians; and is well-established in Federal statutes, case law, and regulations.

- Add subsection § 92.2(b)(2) as follows:

  > (2) Exceptions to the application of Title VI of the Civil Rights Act, as set forth at 45 CFR 80.3(d), exempt Indian health programs from claims of discrimination based on race, color, or national origin under Section 1557 or this part when designing and implementing programs limited to the beneficiaries they serve.

- Revise subsection § 92.101(c) as follows:

  > (c) The following exceptions apply to this part.
  >
  > (1) The exceptions applicable to Title VI apply to discrimination on the basis of race, color, or national origin under this part. These provisions are found at § 80.3(d) of this subchapter and exempt Indian health programs from claims of discrimination on the basis of race, color, or national origin when limiting services to their beneficiaries.
  >
  > (2) The exceptions applicable to Section 504 apply to discrimination on the basis of disability under this part. These provisions are found at §§ 84.4(c) and 85.21(c) of this subchapter.
  >
  > (3) The exceptions applicable to the Age Act apply to discrimination on the basis of age under this part. These provisions are found at §§ 91.12 through 91.15, and 91.17 through 91.18 of this subchapter.

- Add subsection § 92.207(e) as follows:

  > (e) Exceptions to the application of Title VI of the Civil Rights Act, as set forth at 45 CFR 80.3(d), apply to this section and exempt Tribal governments and Tribal health programs that provide or administer health-related insurance or other health-related

coverage from claims of discrimination on the basis of race, color, or national origin when limiting services to American Indians and Alaska Natives.

- Revise subsection § 92.208 as follows:

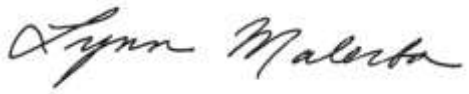
  (a) A covered entity that provides an employee health benefit program to its employees and/or their dependents shall be liable for violations of this part in that employee health benefit program only when ….
  (b) Exceptions to the application of Title VI of the Civil Rights Act, as set forth at 45 CFR 80.3(d), apply to this section and exempt Tribal governments and Tribal health programs from claims of discrimination on the basis of race, color, or national origin when limiting benefits to American Indians and Alaska Natives.

Conclusion

In closing, thank you for considering these amendments to the proposed rule. These amendments are necessary to ensure that any party reading the regulations is aware of the Indian health program exemption to Title VI's nondiscrimination provisions and to ensure that Indian health programs continue to be able to serve Indian communities as intended.

TSGAC appreciates this opportunity to provide comments on the proposed Section 1557 regulations. Should you need additional information or have questions regarding these, please contact me at (860) 862-6192; or via email: lmalerba@moheganmail.com. Thank you.

Respectfully submitted,



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