

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

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Original sent via USPS

May 20, 2014

Ms. Mandy Cohen, MD, Acting Administrator
Center for Consumer Information and Insurance Oversight
Centers for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244-08010 CCIIO

RE: Request for Action on Outstanding Issues for American Indians/Alaska Natives under the Patient Protection and Affordable Care Act

Dear Dr. Cohen,

I am writing to you on behalf of the Tribal Self-Governance Advisory Committee (TSGAC), which represents the 341 Self-Governance Tribal nations that operate their own health care delivery systems with funding from the Indian Health Service (IHS). As Acting Administrator for the Center for Consumer Information and Insurance Oversight (CCIIO), you have an enormous responsibility that includes carrying out the federal trust responsibility for American Indians and Alaska Natives.

The earliest indicator of the performance of CCIIO in enrolling American Indians and Alaska Natives (AI/AN) in plans offered through the Marketplaces established under the Affordable Care Act (ACA) show that there is a huge gap between expectations and performance. On May 1, 2014, the Office of the Assistant Secretary for Planning and Evaluation (ASPE) for the Department of Health and Human Services (HHS), released the Issue Brief, *Health Insurance Marketplace: Summary Enrollment Report for the Indian Annual Open Enrollment Period*. Summary results indicate that enrollment by AI/AN in Marketplace plans is 70-90 percent below what was anticipated. We believe this extremely low enrollment of AI/ANs propels us to work jointly with CCIIO to re-examine its policy decisions regarding AI/AN and the Indian health system that serves them.

Self-Governance Tribes have worked together with other National and Regional Tribal organizations, including the National Indian Health Board, to comment on Notices of Proposed Rule Making (NPRMs), Paperwork Reduction Act (PRA) notices, and other CCIIO guidance documents from the beginning of CCIIO's work to implement the ACA. In many cases, the recommendations from Tribes were rejected by CCIIO. Two explanations often given include: 1) the Administration does not make any requirements on issuers because we want to encourage them to enter the Marketplaces, create competition, and drive down the cost of premiums; and, 2) we are too busy with other priority issues, but we will come back to these AI/AN issues later. In hindsight, we can see that issuers did enter the Marketplaces and there has been plenty of competition. Therefore, we hope the Administration will re-calibrate its strategy now and re-consider many of the recommendations from Tribes.

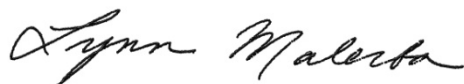
The Tribal Technical Advisory Group (TTAG) for the Centers for Medicare and Medicaid Services (CMS) has developed a CMS American Indian and Alaska Native Strategic Plan, which was recently amended

in February 2014 to include a section specifically for CCIIO. Both the Plan and its amendment contain important CCIIO objectives, including:

- On a regular basis review metrics that provide indicators of AI/AN participation in Marketplace plans and I/T/U participation as network providers in the Marketplace.
- CMS will work with IHS and Tribes to utilize the IHS National Data Warehouse in the data hub to provide an electronic method of verifying I/T/U users.
- CMS will provide an effective and timely enrollment case management system for problems AI/AN experience when attempting to enroll in Marketplace plans to assure that individuals receive the benefits for AI/AN under ACA.
- CMS will work to assure that Marketplace plans make accurate and timely payments to the I/T/U for services to people enrolled in Marketplace plans, and that the cost sharing reductions for AI/ANs are handled properly at the time of service.
- CMS will work with the TTAG to revise the application for the Indian and IHS beneficiary exemptions from the tax penalty prior to 2015, or at such time that revisions are being made, in order to make the questions more understandable for intended users.

We hope you will re-consider many of the recommendations provided by Tribal governments, consult with the TSGAC, TTAG and Self-Governance Tribes, and use this Strategic Plan as a guide to help address the current deficiencies in enrollment results. Should you need additional information or have questions regarding the report, please contact me at (860) 862-6192; or via email: lmalerba@moheganmail.com. Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe
Chairwoman, TSGAC

cc: Cindy Mann, Deputy Administrator and Director Center for Medicaid and CHIP Services
Dr. Yvette Roubideaux, Director, Indian Health Service (IHS)
P. Benjamin Smith, Director, Office of Tribal Self-Governance, IHS
Kitty Marx, Tribal Affairs Group, CMS
TSGAC Members and Technical Workgroup