

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

P.O. Box 1734, McAlester, OK 74501

Telephone (918) 302-0252 ~ Facsimile (918) 423-7639 ~ Website: www.tribalsef.gov

Sent via fax Dr. Clancy: (202) 273-5787

Sent via email to Denise.Turk@ihs.gov

Original sent USPS

August 15, 2014

Dr. Carolyn Clancy
Interim Under Secretary for Health
Department of Veterans Affairs
Room 800
810 Vermont Avenue, NW
Washington, DC 20420

Dr. Yvette Roubideaux, Acting Director
Indian Health Service
Department of Health and Human Services
Suite 440, The Reyes Building
810 Thompson Avenue
Rockville, MD 20852-1627

Re: Request for VA and IHS to Revisit the VA-IHS Reimbursement Agreement

Dear Dr. Clancy and Dr. Roubideaux:

I write on behalf of the Tribal Self Governance Advisory Committee to the Indian Health Service (TSGAC) regarding the national agreement between the Department of Veterans Affairs (VA) and the Indian Health Service (IHS), to provide reimbursement by the VA for services provided by the IHS and Tribal health programs to eligible American Indian and Alaska Native (AI/AN) Veterans. The agreement was signed on December 5, 2012, to implement section 405(C) of the Indian Health Care Improvement Act (IHCA). We appreciate the work that went into this national agreement, as well as the VA – local Tribal facility agreements between the VA and Tribes and Tribal Health Organizations (THOs).

After more than 18 months of experience, as well as new political and legal developments, we believe it is time to amend these agreements to address some additional opportunities to improve health services for our nation's veterans. For instance, with the recent enactment of the Veterans Access, Choice and Accountability Act of 2014, PL 113-146, as well as the experience and infrastructure developed as a result of the national and local agreements between the VA and the IHS, Tribes and Tribal health organizations, we believe Indian health care providers are well positioned to assist the VA in expediting implementation of this new law.

The Veterans Access, Choice and Accountability Act of 2014, authorizes the VA to pay for healthcare when veterans choose to seek care at non-VA facilities. To seek care at a non-VA facility, a veteran must meet certain eligibility criteria. The eligibility conditions outlined in this Act are applicable in many of the areas where Tribes are located. Some of THOs have elected under federal law to serve non-Indians in their service areas, and some of those individuals are also eligible for VA health services. In addition, Tribes and THOs can provide access to specialty health care through the Purchased/Referred Care (PRC) program (formerly called Contract Health Services) and there is an opportunity for greater cooperation between VA and Tribes to more fully utilize this capability to serve Veterans.

We request that the VA reopen discussions with Tribes, THOs, the IHS and urban Indian clinics as soon as possible to address the following issues and modify the existing contracts accordingly:

1. Scope of services covered. The current VA-IHS National Agreement only covers "direct care services," even though there is no such limitation in Section 405(c) of the IHCA or the payor of last resort provision in Section 2901(b) of the ACA. Section 405(c) of the IHCA mandates reimbursement for all services provided "through" the IHS or a Tribal health facility, and Section 2901(b) makes Tribal health facilities the payors of last resort "notwithstanding any other provision of law."-- that includes any provision of law governing VA reimbursement. Accordingly, there is no basis for entering into an Agreement in which the scope of services is limited to direct care services provided at an IHS or Tribal facility. PRC must also be reimbursed by the VA. Some IHS locations (operated by Tribes or by the IHS directly) provide all services, even primary care, through PRC.
2. Referrals. One of the main barriers to access to care for American Indian and Alaska Native Veterans is lack of proximity to a VA facility. It is difficult for people to travel to a VA facility, and incur an unnecessary expense when care is available at a closer Tribal health care facility. The Agreement should contain language that states the primary care provider at the IHS, Tribe or THO or Urban Indian Health (I/T/U) facility is authorized to make referrals for care. Requiring veterans to travel to a VA facility to obtain a referral for care when the primary care provider located at an I/T/U facility is able to make the determination of whether a referral is necessary poses an unnecessary and costly barrier to access.
3. Services for veterans who are not eligible for IHS. Tribal health programs are often located in rural areas of the country that have poor access to VA facilities. Some Tribal health programs may choose to provide services to non-IHS beneficiaries, and could provide an important source of access to care for non-IHS eligible veterans. We believe the VA – local Tribal facility agreements should be modified to be flexible enough to allow Tribal health facilities to also provide care to non-IHS eligible Veterans.

In addition, we believe that American Indian and Alaska Native veterans would be better served if urban Indian clinics entered into agreements with the VA similar to the ones with IHS, Tribes and THOs. The Veterans Access, Choice and Accountability Act of 2014 calls for a report on this issue.

We invite you to discuss these issues and recommendations in greater detail at the next TSGAC Quarterly Meeting in Washington, DC, which will be held on October 8th and 9th, 2014 at the 12 and K Hotel, located at 1201 K Street, NW. If you are available to meet with us on either of these days, please have your staff contact Terra Branson at (918) 302-0252 or via email terrab@tribalsef.gov .

We look forward to continuing to work with you to address these important issues. If you have any questions, you can reach me at (860) 862-6192; or via email: malerba@moheganmail.com

Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe
Chairwoman, TSGAC

cc: Mr. P. Benjamin Smith, Director, Office of Tribal Self-Governance, IHS
Ms. Stephanie E. Birdwell, M.S.W. Director, Office of Tribal Government Relations, VA
TSGAC Members
TSGAC Technical Work Group Members