

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Submitted electronically via: tribalgovernmentconsultation@va.gov

October 27, 2015

Honorable Robert A. McDonald
Secretary of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420

RE: Comments on Veterans Access, Choice and Accountability Act of 2014 (Choice Act)

Dear Mr. Secretary:

We write on behalf of the Indian Health Service Tribal Self-Governance Advisory Committee (TSGAC) to comment on the Secretary of Veterans Affairs' (VA) pending report to Congress concerning the consolidation of "all non-Department provider programs" pursuant to the Veterans Access, Choice and Accountability Act of 2014 (Choice Act).¹ We appreciate the VA's October 7, 2015 request for Tribal consultation on this important report.

TSGAC strongly endorses the VA's affirmation in the Consultation Letter that the IHS and Tribal Health Programs will remain "members of [the VA's] core provider network"² with whom the VA can continue to enter into reimbursement Agreements for services to both AI/AN Veterans and non-AI/AN Veterans, and will do so outside the special conditions and requirements of the Choice Act and the Choice Improvement Act. We accordingly support the VA's recognition that inclusion in the core provider network "would preserve and build on VA's existing relationships with IHS and [Tribal Health Programs]," rather than subjecting these government-to-government agreements to consolidation as non-Department provider programs.³ Finally, we are also pleased to see reference to "future collaboration" that may focus on "streamlined credentialing processes and enhanced care options for Veterans."⁴ Maintaining and strengthening the current Agreements between VA and the IHS and tribal health programs (collectively, I/Ts) has wonderful potential for further improving both systems of care.

Alaska Tribal Health Programs were honored to enter into Sharing and Reimbursement Agreements with the VA in 2012. These Agreements were an expansion of ongoing efforts in Alaska to improve rates of enrollment and access to VA supported services by AI/AN Veterans, especially in remote parts of Alaska.⁵ They also implemented provisions of the 2010 amendments to the Indian Health Care Improvement Act (IHCIA) that expressly authorized sharing arrangements between the VA and I/Ts, and directed the VA to pay I/Ts for services provided to AI/AN Veterans.⁶ Since the

¹ Pub. L. No. 113-146, 128 Stat. 1754, 1755-65 (2014). This Report is due by November 1, 2015, and is mandated by Section 4002(c) of the VA Budget and Choice Improvement Act, Pub. L. No. 114-41, 129 Stat. 443, 461-62 (2015) [hereinafter "Choice Improvement Act"].

² Consultation Letter at 1.

³ *Id.*

⁴ *Id.*

⁵ In a recent report on AI/AN service in the armed forces, the VA acknowledged that although AI/ANs "serve at a high rate and have a higher concentration of female Servicemembers than all other Servicemembers," they also "have lower incomes, lower educational attainment, and higher unemployment than Veterans of other races," and are "more likely to lack health insurance and to have a disability, service-connected or otherwise, than Veterans of other races." UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, AMERICAN INDIAN AND ALASKA NATIVE SERVICEMEMBERS AND VETERANS 2 (Sept. 2012).

⁶ See 25 U.S.C. § 1645.

implementation of these Agreements, there has been a steady expansion of services to AI/AN Veterans (and to non-AI/AN Veterans as well, particularly in Alaska) who live near an I/T facility that is more accessible than a VA facility or that offers services that the VA cannot. In many ways, the 2010 IHCIA amendment can fairly be considered one of the important steps taken by Congress to expand access to local, culturally appropriate care for Veterans.

We greatly appreciate the VA's acknowledgment that nothing in the Choice Act should be allowed to disrupt these important partnerships between VA and I/Ts, or force Veterans to go through Choice intermediaries in order to benefit from the unique relationships between the VA and I/Ts. Nor should the Choice Act be used to disrupt payment provisions of these Agreements, which are cost based and ensure the viability of extending and maintaining access in some of the most remote and rural parts of Alaska and other parts of the United States. Imposing new rules associated with the Choice Act will interfere with the development of the partnerships between VA and I/Ts under which AI/AN and other Veterans are receiving well-coordinated care that makes the best use of both systems.

For the reasons stated above, we respectfully request that the Secretary's report to Congress explicitly recommend that the Agreements entered into with I/Ts (under 25 U.S.C. § 1645 or otherwise) be exempt from the pending non-Department consolidation. The report should also recommend that I/T programs should be able to bill and be paid by the VA directly, and without additional bureaucracy imposed by the Choice Act. We also look forward to further Tribal consultation regarding the VA's community care plan and trust it will build on the existing successes and Agreements, including expanding the opportunities for I/Ts to serve non-AI/AN Veterans. We also hope that the plan will include more reciprocal sharing of expertise, providers, equipment and facilities that can strengthen both systems of care and ensure greater access by all Veterans to the services they deserve.

The service of both Native and non-Native Veterans is honored in the Tribal communities, and we consider ourselves true partners with the VA in every aspect of ensuring that Veterans' needs are met. Your decision to maintain the existing agreements between the VA and I/Ts underscores the role that I/Ts play in addressing the special health needs of America's Veterans, as well as the government-to-government relationship that VA enjoys with Tribes. Ensuring the viability of the existing sharing agreements, and indeed expanding on their scope of services, are critical to respecting Tribal sovereignty and continuing to benefit Veteran health.

Thank you for your consideration of our recommendations. We look forward to providing additional comments as the VA works to improve care to Veterans. If you have any questions, you can reach me at (860) 862-6192; or via email: lmalerba@moheganmail.com. Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe
Chairwoman, TSGAC

cc: Robert G. McSwain, Principal Deputy Director, Indian Health Service
P. Benjamin Smith, Director, Office of Tribal Self-Governance, Indian Health Service
Ms. Stephanie Birdwell, M.S.W., VA, OPIA, Director – Office of Tribal Government Relations