

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.Tribalselfgov.org

Transmitted via e-mail: OIRA_submission@omb.eop.gov

February 29, 2016

Office of Management and Budget
Office of Information and Regulatory Affairs
Attn: CMS Desk Officer

**RE: CMS-10519, Agency Information Collection Activities: Submission for OMB Review;
Comment Request**

Dear OMB Desk Officer:

On behalf of the Indian Health Service Tribal Self-Governance Advisory Committee (TSGAC), Established in 1996, the TSGAC provides information, education advocacy and policy guidance for the implementation for Self-Governance within the Indian Health Service (IHS). I write to submit comments on the CMS Paperwork Reduction Act notice and comment request (CMS-10519).

Thank you for the opportunity to comment on CMS's intention to collect information regarding Physician Quality Reporting System (PQRS) and the Electronic Prescribing Incentive (eRx) Program. The notice stated these incentives and reporting programs have had data integrity issues and that CMS will be engaging in a four year project that will "evaluate incentive payment information for accuracy and identify improper payments, with the goal of recovering these payments" and in order to avoid future data integrity issues.¹ The notice invited comment on, among other things, "[t]he necessity and utility of the proposed information collection for the proper performance of the agency's functions."

We welcome CMS's efforts to ensure that payments to health care providers are properly made, and we fully support evaluating the accuracy of incentive payment information to avoid future data integrity issues. However, we are concerned about the necessity and utility of collecting information in order to recover past payments from ITUs.

Indian health providers are deeply committed to providing their patients with high-quality care, and they have worked hard to successfully implement quality improvement and reporting programs. However, the current year and future funding of ITUs should be insulated from efforts to recoup past incentive payments that CMS made in error. Indian health programs are chronically underfunded, and they receive their funding one year at a time rather than receiving advanced appropriations like other entities such as the Veterans Administration. ITUs also do not have the ability to pass costs along to their patients as the private sector can. Therefore, CMS reaching years into the past, determining that it has incorrectly made an incentive payment under a quality improvement program, and seeking to recover payment would be devastating to the current year budgets of many Indian health programs that already struggle to meet the needs of their patients. The diminishment of current or future Indian health program budgets due to such a retroactive assessment would be inconsistent with the federal government's trust responsibility and would endanger the health and well-being of Indian patients.

¹ 81 Fed. Reg. 5015 (Jan. 29, 2016)

We encourage CMS to reconsider the purposes to which it intends to put the information it will collect regarding the PQRS and eRx programs. CMS should evaluate incentive payment information in order to improve the administration of quality improvement programs and avoid future data integrity issues. However, the agency should insulate the Indian Health Service and Indian health providers from attempts to recoup prior year payments that CMS made in error. Further, CMS should consult with Tribes regarding this information collection and the uses to which it intends to put the information that it gathers.

Thank you for this opportunity to comment. Should you need additional information or have questions regarding these comments, please contact me at (860) 862-6192; or via email: lmalerba@moheganmail.com. Thank you.

Respectfully submitted,



Marilynn "Lynn" Malerba
Chief, The Mohegan Tribe of Connecticut
Chairwoman, Tribal Self-Governance Advisory Committee
Board Member, Self-Governance Communication and Education Tribal Consortium

cc: Robert McSwain, Acting Director, Indian Health Service
P. Benjamin Smith, Director, Office of Tribal Self-Governance, IHS
TSGAC and Technical Workgroup Members
Kitty Marx, Director, DTA, CMCS/CMS