

Indian Health Service National Supply Service Center Pharmacy Support Branch

December 18th, 2018

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CVS/Caremark

- **Technical Expert**
- **Specialty (R6)**
 - **~\$40M Identified**
- **Out of Network/Mailout (M2) – CY19**
- **October 2011 through Present**
- **Process**
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Questions?



Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

Tribal Best Practices in Third-Party Revenue Generation: Medicaid Outpatient Prescription Drug Reimbursement for Indian Health Care Providers

December 18, 2018

Presented by Doneg McDonough, Technical Advisor
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Tribal Best Practices and Critical Issues

- Today's Webinar will focus on –
 - Federal regulations issued in 2016 on Medicaid outpatient prescription drug (OPD) reimbursement for IHS, Tribal, and urban Indian health programs
 - State-by-state survey of Medicaid State Plans pertaining to OPD payment rules for IHCPs
 - **Key finding from survey is that 21 states currently are not using OMB encounter rate for payment for OPDs at I/Ts**
 - Includes CA, MI, MT, NM, NC, ID, WA (page 4 of TSGAC memo)
- Special thanks to Brian Wren, Chief Analytics/Revenue Officer, Choctaw Nation Healthcare Authority



State-by-State Survey of Medicaid Outpatient Pharmacy Payment Policies for I/T/Us

- Terms –
 - Outpatient prescription drugs (OPDs) (aka “covered outpatient drugs” (CODs))
 - OMB encounter rate (aka “OMB rate” or “IHS all-inclusive rate”)
 - State plan amendments (SPAs)
 - Center for Medicare and Medicaid Services (CMS)
- Information Sources –
 - Medicaid State Plans
 - Samples are provided for 3 states
 - Web links are provided for most states
 - Billing manuals
 - Web links are provided for some states
- OMB / IHS encounter rate development
 - Lower 48 states have a separate calculation from Alaska
 - Outpatient OMB encounter rate is \$427 for Calendar Year 2018 in lower 48 states



History of CMS 2016 Pharmacy Regulation

- CMS issued the Covered Outpatient Drugs Final Rule with Comment (CMS-2345-FC) on January 21, 2016
- Final rule published in the Federal Register on February 1, 2016 (81 FR 5170)
- FAQ document released by CMS on July 6, 2016



Topics Addressed by the Final Rule

- Addressed key areas of Medicaid drug reimbursement and changes made to the Medicaid Drug Rebate Program by the Affordable Care Act
- Assists states and the federal government in managing drug costs
- Established a long-term framework for implementation of the Medicaid drug rebate program
- Required each state to demonstrate compliance with requirements by June 30, 2017, to be effective no later than April 1, 2017, which was typically accomplished by issuance of a state plan amendment



FAQ Guidance

- States that currently paid IHS and Tribal (I/T) providers using OBM encounter rate could continue to do so and other states could implement this practice
- The reimbursement of I/T providers using the OMB encounter rate was determined to be in accordance with the Average Acquisition Costs (AAC) requirements of 42 CFR 447.518(a)(2)
- Encounter rate cannot be combined with the Medicaid Drug Rebate Program or any other bundled payment methodology




Steps for Tribes Considering Application of OMB Encounter Rate to OPDs

1. Tribes meet and request state to explore possibility of pharmacy reimbursement at the OMB encounter rate.
2. Tribes conduct in-depth analyses of current pharmaceutical costs and reimbursement.
3. Evaluate Rx utilization trends, including high-cost drug utilization, individual Rx averages, and overall pharmacy visits.
4. Prepare revenue projections based on the new rate.
5. Evaluate how this projection aligns with revenue projections under existing state Medicaid drug rules/limitations.
6. If analyses indicate encounter rate is preferred, Tribes work with state on designing associated rules.



State-by-State Survey of Medicaid State Plans Regarding Reimbursement to I/T/U Pharmacies

- Expanded TSGAC memo (dated December 17, 2018) on Medicaid Pharmacy Reimbursement for Indian Health Care Providers



**Health Care Reform
in Indian Country**
Self-Governance Communication & Education
Self-Governance Tribes Striving Towards Excellence in Health Care

**Medicaid Pharmacy Reimbursement for Indian Health Care Providers:
Potential for Using the OMB Encounter Rate¹**

December 17, 2018 (updated)

This Tribal Self-Governance Advisory Committee (TSGAC) brief seeks to provide guidance to Tribal health programs on Medicaid reimbursement for covered outpatient drugs (CODs). Specifically, this brief discusses the potential for reimbursing Indian Health Service (IHS), Tribal, and urban Indian organization (Indian health care providers (IHCP); or I/T/U) pharmacies at the Office of Management and Budget (OMB) encounter rate (aka the “OMB rate” or “IHS All-Inclusive Rate”).

Background

State Medicaid programs generally reimburse pharmacies for CODs based on a two-part formula consisting of the ingredient cost of a drug and a professional dispensing fee. States have the flexibility to determine reimbursement rates, consistent with applicable statutory and regulatory requirements. These reimbursement rates require approval by the federal Centers for Medicare and Medicaid Services (CMS) through the State Plan Amendment (SPA) process.

State Medicaid programs reimburse I/T/U pharmacies using a variety of methods. Some states



Three States with Medicaid State Plan Amendments Reimbursing I/T Pharmacies at the Encounter Rate

PAGE 2 & 3 OF TSGAC BRIEF –

- **Nebraska:** “Tribal pharmacies will be paid the federal encounter rate.”
 - Nebraska does not pay more than one encounter rate per beneficiary per day for pharmacy services.
 - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/NE/NE-17-0003.pdf>
- **North Dakota:** “All Indian Health Service, tribal and urban Indian pharmacies are paid the encounter rate by ND Medicaid regardless of their method of purchasing.”
 - North Dakota pays one encounter rate per beneficiary per day for a single diagnosis and additional encounter rates per beneficiary per day for multiple diagnoses.
 - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/ND/ND-16-0011.pdf>
- **Utah:** “Covered outpatient drugs dispensed by an IHS/Tribal facility to an IHS/Tribal member are reimbursed at the encounter rate in accordance with the Utah Medicaid Indian Health Services Provider Manual.”
 - Utah pays one encounter rate per prescriber per day, regardless of the number of prescriptions issued by the prescriber.
 - <http://www.medicaid.gov/State-resource-center/Medicaid-State-Plan-Amendments/Downloads/UT/UT-17-0002.pdf>



State-by-State Survey of Medicaid State Plans Regarding Reimbursement to I/T/U Pharmacies

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- Table 1. Medicaid Payment Methodologies
 - Summary of Medicaid payment methodologies for reimbursing I/T or I/T/U pharmacies in states with federally recognized Tribes

Table 1. Medicaid Payment Methodologies for Reimbursing I/T or I/T/U Pharmacies in States with Federally Recognized Tribes (as of 12/14/2018)

State	Has Specific Payment Methodology for I/T or I/T/U Pharmacies		Has Received Approval for SPA to Address CMS-2345-FC ^{1a, 1b}		Pays at the Encounter Rate ²		Notes on Specific Payment Methodologies for I/T or I/T/U Pharmacies
	Yes	No	Yes	No	Yes	No	
Alabama		X	X			X	--
Alaska	X		X			X	For drugs purchased through the Federal Supply Schedule (FSS), Alaska makes payments to I/T/U pharmacies not exceeding the acquisition cost, plus pays a professional dispensing fee.
Arizona	X			X	X		For drugs dispensed to adults ages 18 and older and for vaccine administration, Arizona pays I/T pharmacies at the encounter rate; the state pays as many as five encounter rates per beneficiary per facility per day but does not pay more than one encounter rate per beneficiary per facility per day for pharmacy services. ³
California	X		X			X	California makes payments to I/T/U pharmacies equal to the ingredient cost of drugs, plus pays a professional dispensing fee.
Colorado	X		X		X		Colorado pays I/T pharmacies at the encounter rate; the state does not pay more than one encounter rate per beneficiary per day for pharmacy services. ⁴

- Footnotes (PAGE 5 OF TSGAC BRIEF)
- Source List (PAGES 6 & 7 OF TSGAC BRIEF)



Two Examples of States Paying for Multiple OPD Encounters on a Single Day

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- Table 2. Multiple Encounter Payments

Table 2. Medicaid Payment Methodologies Allowing Reimbursement of Multiple Encounter Rates to I/T or I/T/U Pharmacies; Selected States		
State	Encounter Rate Payment Methodology Description	
	State Plan	Other State Guidance
North Dakota	<p>Attachment 4.19-B, section 32: "All Indian Health Service, tribal and urban Indian pharmacies are paid the encounter rate by ND Medicaid regardless of their method of purchasing."</p> <p>Attachment 4.19-B, section 29: "Health Services Payments to Indian Health Service (IHS) will be per encounter per day and based on the approved all-inclusive rates published each year in the Federal Register by the Department of Health and Human Services.</p> <p>An encounter for a 638 or IHS facility means an encounter between a recipient eligible for Medicaid and a health professional at or through an IHS or 638 service location.</p> <p><u>Multiple visits for different services on the same day with different diagnosis</u> IHS facilities are eligible for multiple encounter rates for multiple general covered service categories on the same day for the same recipient with a different diagnosis. ...</p> <p><u>Multiple visits for different services on the same day with the same diagnosis</u> IHS facilities are eligible for multiple encounter rates for multiple general covered service categories on the same day for the same recipient with the same diagnosis provided they are for different general covered service categories. The diagnosis code may be the same for each of the claims, but the services provided must be distinctly different and occur within different units of the facility. ...</p> <p><u>Multiple visits for the same type of service on the same day with different diagnoses</u> IHS facilities are eligible for multiple encounter rates for multiple same day visits for the same type of general covered service category if the diagnoses are different. ...</p> <p>The general covered service categories are Inpatient, Outpatient, Pharmacy, Vision, Dental, Mental Health, and EPSDT."</p>	<p>North Dakota Medicaid Indian Health Services and Tribally-Operated 638 Programs (guidance): "Services provided by Indian Health Services and/or tribal 638 facilities are paid with federal funds. IHS and tribally operated 638 programs are reimbursed an All Inclusive Rate (AIR) for inpatient and outpatient covered services. ... The AIR is the same for all IHS providers. The North Dakota Medicaid Program acts as the 'pass-through' agency for these services, which are funded with 100 percent federal funds. The IHS encounter rate is paid for any North Dakota Medicaid covered service when provided in an IHS clinic or hospital, with the exception of Ambulatory Surgical Center (ASC) and Physician Inpatient services. ...</p> <p><u>Billing Encounters (Multiple)</u> <i>Multiple visits for different services on the same day with different diagnosis:</i> IHS facilities are eligible for multiple encounter rates for multiple general covered service categories on the same day for the same recipient with a different diagnosis. ...</p> <p><i>Multiple visits for different services on the same day with the same diagnosis:</i> IHS facilities can be reimbursed for multiple general covered service categories on the same day for the same recipient with the same diagnosis provided they are for different general covered service categories. The diagnosis code may be the same for each of the claims, but the services provided must be distinctly different and occur within different units of the facility. ...</p> <p><i>Multiple visits for the same type of service on the same day with different diagnoses:</i> IHS facilities are eligible for multiple encounter rates for multiple same day visits for the same type of general covered service category if the diagnoses are different. ...</p> <p><i>Multiple visits for the same type of service on a different day with the same diagnoses:</i> IHS facilities are eligible for multiple encounter rates for different day visits for the same type of general covered service category. ...</p> <p><i>Multiple same day encounters that will not be reimbursed:</i> Multiple visits of the same general covered service categories with the same diagnosis are not reimbursed separately. ..."</p>
Oregon	<p>Attachment 4.19-B, section 12: "Under an encounter rate methodology, a single rate is to be applied to [a] face-to-face contact between a health care professional and an IHS beneficiary eligible for the Medical Assistance Program for services through an IHS, AI/AN Tribal Clinic or Health Center, or a Federally Qualified Health Clinic with a 638 designation within a 24-hour period ending at midnight, as documented in the client's medical record. The I/T Pharmacy will receive one encounter per prescription filled or refilled and will not be limited to a certain number of prescriptions per day."</p>	<p>American Indian/Alaska Native Services Administrative Rulebook: "Prescriptions dispensed by an IHS or Tribal 638 Pharmacy constitute a separate encounter reimbursed at the annually published IHS All-Inclusive-Rate; ... [a] single pharmacy encounter includes one prescription dispensed by one IHS or Tribal 638 Pharmacy to a Medicaid-eligible individual in a single 24-hour period ending at midnight. There is no limit on the number of encounters that may occur in the 24-hour period. The encounter rate is inclusive of dispensing services."</p>



Approved Medicaid State Plan Amendments (SPAs) for Paying Encounter Rate for OPDs

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- Attachments 3, 4 and 5: State Plan Amendments
 - Nebraska
 - North Dakota
 - Utah

**TSGAC Policy Brief: Medicaid Pharmacy Reimbursement for Tribal Programs:
Potential for Using the Encounter Rate**

Attachment 3: Nebraska

ATTACHMENT 4.19-B
Item 12a, Page 1 of 2

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
State Nebraska
METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES

Professional Dispensing Fees

Professional Dispensing Fee: A professional dispensing fee of \$10.02 shall be assigned to each claim



Findings for State-by-State Survey (1 of 3)

Recent Approvals of SPAs Associated with New Rule

Since the last update of survey (March 2, 2018), at least four additional states have received CMS approval for an SPA associated with the new rule. None of these states opted to have their Medicaid program reimburse I/T pharmacies at the encounter rate.

- **Maine:** The SPA indicated no changes to the current state Medicaid payment methodology for I/T/U pharmacies
- **Massachusetts:** The SPA indicated that the state has no I/T/U pharmacies currently enrolled in Medicaid and would establish a specific methodology for paying these pharmacies if any enrolled in the program
- **Mississippi:** The SPA did not indicate a Medicaid payment methodology for I/T pharmacies
- **New Mexico:** SPA indicated a Medicaid payment methodology for I/T pharmacies under which the state makes payments to I/T pharmacies equal to the lowest of 1) the ACA federal upper limit plus a dispensing fee; 2) the national average drug acquisition cost plus a dispensing fee; 3) the wholesaler's average cost plus 6% plus a dispensing fee; 4) the ingredient cost reported by the pharmacy plus a dispensing fee; or 5) the usual and customary charge



Findings for State-by-State Survey (2 of 3)

- Great variation in OPD payment policies for I/T/Us across states
- 21 states currently have not authorized encounter rate payment for OPD at I/Ts
 - WA and ID reported to be under consideration
- 10 states have not filed a SPA in response to CMS-2435-FC
 - Particular opportunity for Tribes in these states to work with states to implement preferred approach
 - In other states, Tribes continue to have ability to work with state to modify Medicaid State Plan with SPA
- In states with no current I/T/U pharmacies, one state (IN) established encounter rate policy and two others (MA and VA) stated in State Plan that I/T/U payment provisions would be added when I/T/U is established in state
- Differences in number of permissible encounter billings per beneficiary per day
 - A total of one encounter rate per beneficiary per day
 - One encounter rate per beneficiary per day for OPD, plus encounters for other services
 - No numeric limit on number of encounters billed for OPDs



Findings for State-by-State Survey (3 of 3)

- Encounter rate amount is not anticipated to be impacted by the use of the encounter rate for OPDs, at least for lower 48 states.
- In State Plans, and in the state-by-state survey findings, there is some uncertainty regarding application to urban Indian organizations.

Approaches

- Permitting multiple encounter rate payments per beneficiary per day would increase revenues to I/Ts.
 - A variety of approaches have been used to authorize multiple same-day payments (OR, ND, WY).
- States have an option of authorizing choice of multiple payment *options* for I/T/Us, with facilities being able to elect which payment approach to adopt.



Questions and Discussion

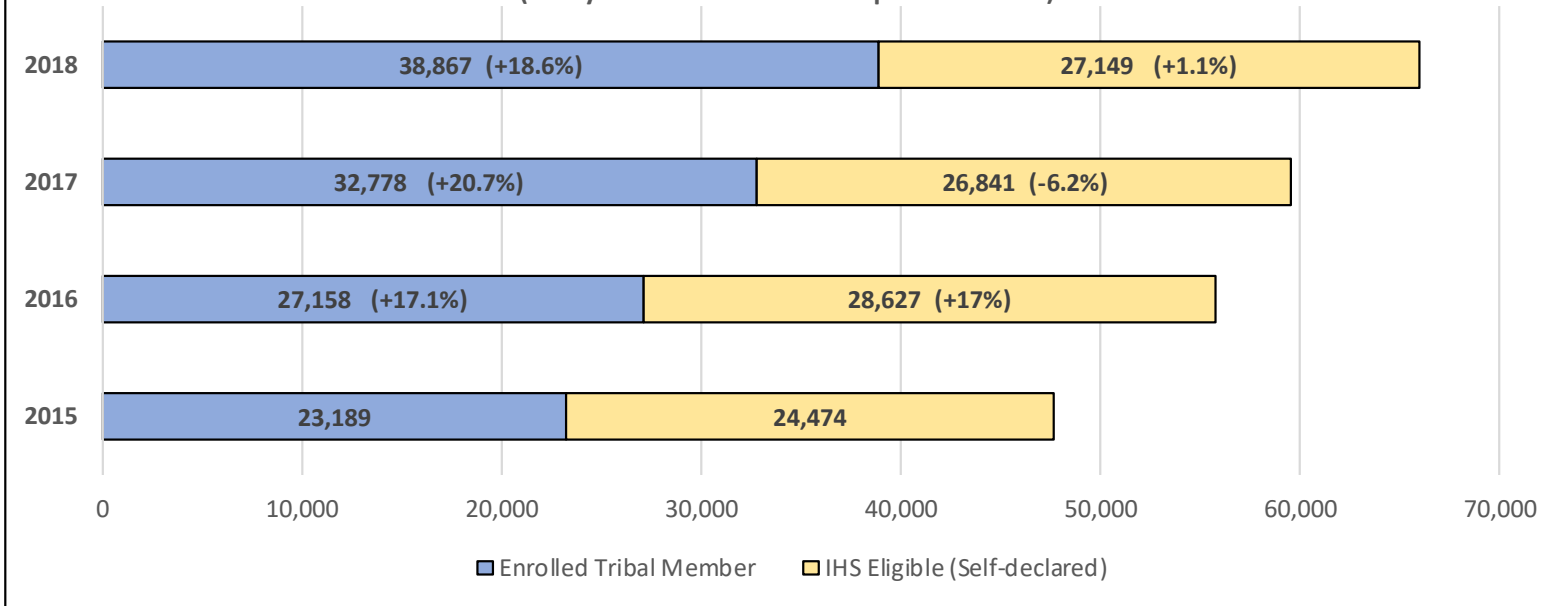


Health Insurance Marketplace Enrollment of American Indians and Alaska Natives

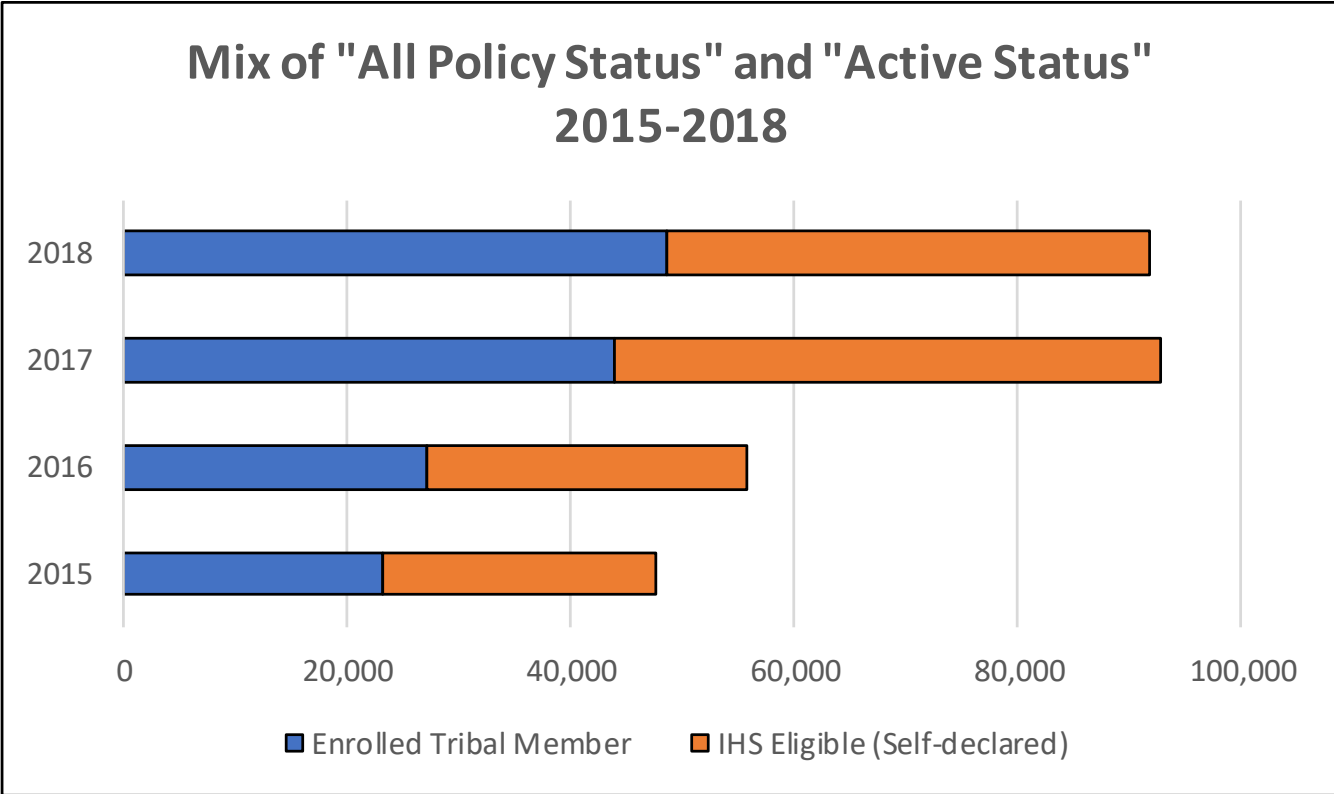


Federally-Facilitated Marketplace Enrollment: Tribal Citizens and Other IHS-eligible Individuals

Figure 1: Enrolled Tribal Members and IHS Eligibles (Self-Declared)
with Coverage through a Federally-Facilitated Marketplace, 2015-2018
(Policy in Active Status on Report Run Date)



Federally-Facilitated Marketplace (FFM) Enrollment: Tribal Citizens and Other IHS-eligible Individuals-- currently active (2015-2018) and previously active enrollments (2017 – 2018)



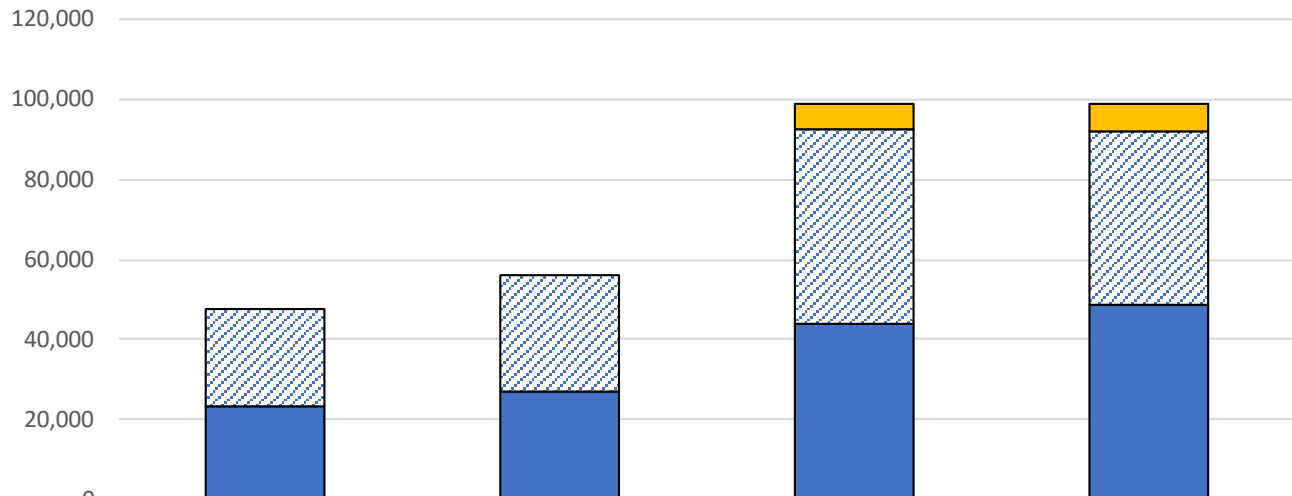
State-based Exchange (SBE) / Marketplace Enrollment: Tribal Citizens

Coverage Year	FFM or SBE?	AI/AN Category Sub-Category	Tribal Member				AI/AN Indicator (IHS Eligible)			
			No AIAN Enrollments on Application	At Least 1 AIAN Enrollment Detected but Not All	All AIAN Members Enrolled on Application	Totals	No AIAN Enrollments on Application	At Least 1 AIAN Enrollment Detected but Not All	All AIAN Members Enrolled on Application	Totals
2018	FFM	Plan Selections (All Policy Status)	0	1,636	46,922	48,558	0	1,725	41,546	43,271
	SBE	Average monthly enrollment			6,874	6,874				
	Total		0	1,636	53,796	55,432				
2017	FFM	Plan Selections (All Policy Status)	0	1,478	42,484	43,962	0	1,953	46,777	48,730
	SBE	Average monthly enrollment			6,258	6,258				
	Total		0	1,478	48,742	50,220				
2016	FFM	Plan Selections (Active Only)	0	936	26,222	27,158	0	1,061	27,566	28,627
	SBE	Average monthly enrollment				0				
	Total		0	936	26,222	27,158				
2015	FFM	Plan Selections (Active Only)	0	912	22,277	23,189	0	946	23,528	24,474
	SBE	Average monthly enrollment								
	Total		0	912	22,277	23,189				



Total Marketplace Enrollment (FFMs and SBEs): Tribal Citizens and Other IHS-eligible Individuals— currently active (2015-2018) and previously active enrollments (2017 – 2018)

**Total Enrollments of Tribal Citizens and Other IHS-eligible Individuals:
FFM and SBE Marketplaces, 2015 - 2018 (All Enrollments)**



	2015	2016	2017	2018
SBE: Enrolled Tribal Citizen			6,258	6,874
FFM: Other IHS-eligible	24,474	28,627	48,730	43,271
FFM: Enrolled Tribal Citizen	23,189	27,158	43,962	48,558

FFM: Enrolled Tribal Citizen
 FFM: Other IHS-eligible
 SBE: Enrolled Tribal Citizen



Enrollment Characteristics of Tribal Citizens with Health Insurance through FFM's (2018)

AI/AN Category	Tribal Member			
	No AIAN Enrollments on Application	At Least 1 AIAN Enrollment Detected but Not All	All AIAN Members Enrolled on Application	Total
Sub-Category				
<i>By SEP code</i>				
Indian tribes and Alaska natives specific SEP	0	312	9,528	9,840
All other SEPs	0	152	7,699	7,851
<i>By Gender</i>				
Female	0	750	21,150	21,900
Male	0	459	16,508	16,967
<i>By Age Group</i>				
0-17	0	41	6,973	7,014
18-34	0	499	10,644	11,143
35-64	0	668	19,957	20,625
65+	0	*	84	85
<i>By Metal Level</i>				
Catastrophic	0	0	139	139
Bronze	0	891	29,572	30,463
Silver	0	284	6,568	6,852
Gold	0	34	1,356	1,390
Platinum	0	0	23	23
<i>By Cost Sharing Reduction (CSR) Type</i>				
01: No CSR	0	50	3,034	3,084
02: Zero CSR for individuals that are AI/AN	0	1,046	28,913	29,959
03: Other CSR for individuals that are AI/AN	0	39	3,923	3,962
04 - 06: Standard income based CSR	0	74	1,788	1,862

