

March 26, 2018

Randy Pate  
Director  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

**RE: Request for Enforcement Action on Summary of Benefits and Coverage Documents**

Dear Director Pate:

I write on behalf of the Tribal Technical Advisory Group (TTAG) of the Centers for Medicare and Medicaid Services (CMS) to bring to your attention ongoing issues regarding the Summary of Benefits and Coverage (SBC) documents prepared by qualified health plans (QHPs) offered through the Marketplace. Specifically, the TTAG has concerns that these SBCs in many cases do not accurately describe the cost-sharing protections available to eligible American Indians and Alaska Natives (AI/ANs) under the Affordable Care Act (ACA), as required by federal law and regulations. These inaccuracies both have slowed efforts to enroll AI/ANs in comprehensive health insurance through the Marketplace and, in some instances, represent that the health plan issuers are not applying the cost-sharing protections correctly.

The TTAG advises CMS on Indian health policy issues involving Medicare, Medicaid, the Children's Health Insurance Program, and any other health care programs funded (in whole or part) by CMS. In particular, the TTAG focuses on providing policy advice to CMS regarding improving the availability of health care services to AI/ANs under these federal health care programs, including through providers operating under the health programs of the Indian Health Service (IHS), Tribes, Tribal organizations, and urban Indian organizations (I/T/Us).

The TTAG recognizes and appreciates the past efforts of CMS to address concerns about inaccuracies in Indian-specific SBCs, including the development of SBC templates for the cost sharing plans for AI/AN's. Nonetheless, we believe that the agency can take additional steps to ensure eligible AI/ANs receive the protections mandated under federal law. A recent review of the Indian-specific SBCs for eight QHPs offered across four states found that inaccuracies in these SBCs appear somewhat common, particularly those for limited cost-sharing variation (L-CSV) plans. Tribal representatives presented these findings to CMS at the last TTAG meeting in

D.C. in late February, and Tribal representatives had an opportunity to discuss these findings in a phone call with your staff on March 5, 2018. The TTAG requests that CMS take appropriate enforcement action, in these four states and where needed elsewhere, to ensure that QHP issuers comply with federal law and regulations regarding the preparation of Indian-specific SBCs.

### Background

Under the ACA, AI/ANs who meet the definition of Indian and enroll in a QHP qualify for one of two types of comprehensive cost-sharing protections, meaning they pay no deductibles, co-insurance, or copayments when receiving essential health benefits (EHBs) from Indian health care providers (IHCPs) or non-IHCPs. Eligible AI/ANs with a household income between 100% and 300% of the federal poverty level (FPL) and are eligible for premium tax credits can enroll in zero cost-sharing (Z-CSV) plans, and all other eligible AI/ANs can enroll in L-CSV plans. Enrollees in Z-CSV plans do not need a referral from an IHCP to receive cost-sharing protections when served by non-IHCPs. Enrollees in L-CSV plans, however, must obtain a referral from an IHCP to avoid cost-sharing when served by non-IHCPs.

Under 45 CFR 147.200—which implemented section 2715 of the Public Health Service Act (PHS Act), as added by the ACA—QHP issuers must provide an SBC that details, in plain language, simple and consistent information about benefits and coverage. The SBC must summarize the key plan or coverage features, such as covered benefits, cost-sharing provisions, and coverage limitations and exceptions, “in the form, and in accordance with the instructions for completing the SBC, that are specified by the Secretary in guidance.”<sup>1</sup>

On February 14, 2012, CMS, in conjunction with the Departments of Labor and Treasury (collectively, the Departments), issued a final rule that included regulations requiring QHP issuers to prepare a single SBC for each plan offered through a Marketplace, as well as CMS issued an SBC template to help issuers meet this requirement.<sup>2</sup> The Departments updated these regulations and the SBC template in a final rule issued on June 6, 2015.<sup>3</sup> In comments on the proposed version of this rule, the TTAG cited past inaccuracies in some SBCs voluntarily prepared by some issuers to describe Z-CSV and L-CSV plans and asked the Departments to provide sample language, for use by issuers in the preparation of SBCs, to describe how these plan variations impact cost-sharing for services received at in-network and out-of-network providers.<sup>4</sup> The TTAG raised similar concerns in a May 29, 2014, letter to the Center for

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<sup>1</sup> See 45 CFR 147.200(a)(3).

<sup>2</sup> See TD 9575/CMS-9982-F, “Summary of Benefits, Coverage, and Uniform Glossary” (77 FR 8668), at <https://www.gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf>.

<sup>3</sup> See TD-9724/CMS-9938-F, “Summary of Benefits and Coverage and Uniform Glossary” (80 FR 34292), at <https://www.gpo.gov/fdsys/pkg/FR-2015-06-16/pdf/2015-14559.pdf>.

<sup>4</sup> See TTAG “Comments on Summary of Benefits and Coverage and Uniform Glossary Proposed Rule (CMS-9938-P),” dated February 28, 2015, at <https://www.nihb.org/tribalhealthreform/wp-content/uploads/2015/03/TTAG-Comments-on-CMS-9938-P.pdf>.

Consumer Information and Insurance Oversight (CCIIO) at CMS, asking the agency, among other recommendations, to 1) require issuers to develop SBC for each cost-sharing variation of their QHPs and 2) require Marketplaces to develop an SBC template for Z-CSV and L-CSV plans.<sup>5</sup>

CMS subsequently took steps to address concerns about inaccuracies in SBCs prepared for Z-CSV and L-CSV plans. In the final Notice of Benefit and Payment Parameters for 2016, CMS amended 45 CFR 156.420 and 156.425 to require QHP issuers to provide SBCs that accurately represent plan variations in accordance with 45 CFR 147.200, beginning no later than November 1, 2015; the rule also stipulated that issuers cannot combine information about multiple plan variations in one SBC.<sup>6</sup> On July 13, 2016, CMS released SBC templates for Z-CSV and L-CSV plans and posted these documents on the CCIIO Web site.

Despite these efforts by CMS, Tribal representatives have continued to report a number of examples of 1) inaccuracies in some SBCs and 2) incorrect application of the cost-sharing protections by QHP issuers. Most recently, as noted above, a review of the Indian-specific SBCs for eight QHPs offered in four states—Alaska, Montana, New Mexico, and Oklahoma—found that at least some of these SBCs for QHPs offered in each state contained inaccuracies. The complete findings of the review are attached in a letter from the IHS Tribal Self-Governance Advisory Committee.

### Discussion

SBCs serve as a critical tool for educating (potential and current) QHP enrollees about the federal cost-sharing protections available to them, as well as a tool for ensuring that QHP issuers themselves understand and accurately apply these protections. Without accurate SBCs, AI/ANs seeking to enroll in QHPs are not presented with an accurate understanding of the cost-sharing protections available under the various plans offered in a Marketplace, leading these individuals to opt not to enroll in a plan or to enroll in a plan without fully understanding their cost-sharing liabilities. It is also important to note that inaccuracies in SBCs often represent more than a paper failing; in many cases, these inaccuracies mirror incorrect application of cost-sharing protections for AI/AN enrolled in QHPs.

As discussed above, CMS has taken a number of steps to ensure the accuracy of Indian-specific SBCs, including providing QHP issuers with a template for preparing these documents, yet problems persist in this area. The TTAG therefore urges CMS to take appropriate enforcement action, in the four states identified above and where needed elsewhere, to ensure that issuers

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<sup>5</sup> See TTAG letter to CCIIO on “Qualified Health Plans and Indian-Specific Cost-Sharing Variations,” dated May 29, 2014, at <https://www.nihb.org/tribalhealthreform/wp-content/uploads/2014/07/TTAG-Letter-to-CCIIO-QHPs-and-AI-AN-CS-Var-2014-05-20d.pdf>.

<sup>6</sup> See CMS-9944-F, “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016” (80 FR 10750), at <https://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03751.pdf>.

comply with federal law and regulations regarding the preparation of Indian-specific SBCs, as less aggressive measures to address these issues appear to have proven inadequate.

Specifically, the TTAG requests that CMS, in states where the agency directly enforces SBC requirements, take immediate steps to ensure that QHP issuers violating these requirements come into compliance. The TTAG also asks CMS to initiate a process to determine the need for agency intervention<sup>7</sup> in states that have responsibility for enforcing SBC requirements but have reportedly failed to do so<sup>8</sup> (and, if finding that these states have not substantially enforced SBC requirements, take appropriate enforcement action on their behalf). As pointed out by CMS in a recent letter to state officials in Idaho:

Under section 2723 of the PHS Act (42 U.S.C. § 300gg-22) and implementing regulations at 45 C.F.R. § 150.101 , et seq., states have primary enforcement authority over the Part A market requirements with respect to health insurance issuers ... Pursuant to section 2723(a)(2) of the PHS Act, however, **if the Secretary of the Department of Health and Human Services (HHS) makes a determination that a state has failed to substantially enforce a provision of Part A of title XXVII of the PHS Act [which includes the SBC requirements in section 2715], the Secretary must enforce that provision in the state.** Accordingly, on behalf of HHS, CMS has a responsibility to enforce the Part A market requirements once a determination is made that a state is not substantially enforcing one or more of those provisions.<sup>9</sup> (Emphasis added.)

### Conclusion

Thank you for the opportunity to express our concerns about persistent inaccuracies in the Indian-specific SBCs prepared by QHP issuers. As always, we appreciate the continuing efforts by CMS to ensure that SBCs accurately describe the cost-sharing protections available to eligible AI/ANs. The TTAG remains willing to assist CMS in these endeavors in any way possible. Please contact Melissa Gower, Chair of the TTAG ACA Policy Subcommittee,

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<sup>7</sup> See 45 CFR 150.209 through 150.219.

<sup>8</sup> 45 CFR 150.205 identifies sources of information that can trigger an investigation of state enforcement as:

- (a) A complaint received by CMS.
- (b) Information learned during informal contact between CMS and State officials.
- (c) A report in the news media.
- (d) Information from the governors and commissioners of insurance of the various States regarding the status of their enforcement of PHS Act requirements.
- (e) Information obtained during periodic review of State health care legislation. ...
- (f) Any other information that indicates a possible failure to substantially enforce.

<sup>9</sup> See letter from CMS Administrator Seema Verma to Idaho Gov. C.L. “Butch” Otter and Department of Insurance Director Dean L. Cameron, dated March 8, 2018, at <https://www.cms.gov/CCIIO/Resources/Letters/Downloads/letter-to-Otter.pdf>.

at [Melissa.Gower@chickasaw.net](mailto:Melissa.Gower@chickasaw.net) if you have any questions on the issues addressed in these comments.

Sincerely,

A handwritten signature in black ink that reads "W. Ron Allen". The signature is written in a cursive style with a large initial "W" and a long, sweeping underline.

Ron Allen, Chair,  
Tribal Technical Advisory Group

Cc: Kitty Marx, Director, CMCS Division of Tribal Affairs, Centers for Medicare and Medicaid Services

Attachment: Letter from the IHS Tribal Self-Governance Advisory Committee to the TTAG, "Review of Summary of Benefits and Coverage Documents," dated March 1, 2018.

# IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Sent electronically to: [rallen@jamestowntribe.org](mailto:rallen@jamestowntribe.org)

March 1, 2018

Mr. W. Ron Allen  
Tribal Chairman and CEO, Jamestown S'Klallam Tribe  
Chair, Tribal Technical Advisory Group (TTAG)  
1033 Old Blyn Highway  
Sequim, WA 98382

## **RE: Review of Summary of Benefits and Coverage Documents**

Dear Chairman Allen:

I write on behalf of the Indian Health Service (IHS) Tribal Self-Governance Advisory Committee (TSGAC) to report on a recent survey conducted by the TSGAC. The TSGAC reviewed a sample of Summary of Benefits and Coverage (SBC) documents to assess their accuracy in describing the cost-sharing protections provided to eligible American Indians and Alaska Natives (AI/ANs) under the Affordable Care Act (ACA).<sup>1</sup> Specifically, the TSGAC reviewed sixteen Indian-specific SBCs describing bronze-level qualified health plans (QHPs) offered by eight issuers across four states. SBCs are a critical tool for educating (potential and current) enrollees in Marketplace plans about the cost-sharing protections available to them, as well as a tool for ensuring that the plans themselves understand and accurately apply the federal protections.

We are providing this information to you in your role as Chairman of the TTAG in an effort to coordinate the efforts of the TSGAC and the TTAG with an aim to secure needed revisions to the preparation and review of SBCs.

### Background

On February 14, 2012, CMS, in conjunction with the Departments of Labor and Treasury (collectively, the Departments), issued a final rule that included regulations requiring QHP issuers to prepare a single SBC for each plan offered through a Marketplace, as well as a general SBC template to help issuers meet this requirement.<sup>2</sup> The Departments updated these

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<sup>1</sup> AI/ANs who meet the definition of Indian under the ACA and enroll in a Marketplace plan qualify for one of two types of comprehensive cost-sharing protections, meaning they pay no deductibles, co-insurance, or copayments when receiving essential health benefits (EHBs) from Indian health care providers (IHCPs) or non-IHCPs. Eligible AI/ANs with a household income between 100% and 300% of the federal poverty level (FPL) and who are eligible for premium tax credits can enroll in zero cost-sharing (Z-CSV) plans, and all others can enroll in limited cost-sharing (L-CSV) plans. Enrollees in Z-CSV plans do not need a referral from an IHCP to receive cost-sharing protections when served by non-IHCPs. Enrollees in L-CSV plans, however, must obtain a referral from an IHCP to avoid cost-sharing when served by non-IHCPs.

<sup>2</sup> See TD 9575/CMS-9982-F, "Summary of Benefits, Coverage, and Uniform Glossary" (77 FR 8668), at <https://www.gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3228.pdf>.

regulations and the general SBC template in a final rule issued on June 6, 2015.<sup>3</sup> In comments on the proposed version of this second rule, the TTAG cited past inaccuracies in some SBCs voluntarily prepared by some issuers to describe zero cost-sharing variation (Z-CSV) and limited cost-sharing variation (L-CSV) plans and asked the Departments to develop sample language, for use by issuers in the preparation of SBCs, to describe how the Z-CSV and L-CSV plan variations impact cost-sharing for services received at in-network and out-of-network providers.<sup>4</sup>

The TTAG raised similar concerns in an earlier May 29, 2014, letter to the Center for Consumer Information and Insurance Oversight (CCIIO) at CMS, asking the agency, among other recommendations, to 1) require issuers to develop separate SBCs for each cost-sharing variation of their QHPs and 2) require Marketplaces to develop an SBC template for Z-CSV and L-CSV plans for use by issuers operating in their Marketplace.<sup>5</sup>

CMS subsequently took steps to address concerns about inaccuracies in SBCs prepared for Z-CSV and L-CSV plans. In the final Notice of Benefit and Payment Parameters for 2016,<sup>6</sup> CMS amended 45 CFR 156.420 and 156.425 to require QHP issuers to provide SBCs that accurately represent plan variations, beginning no later than November 1, 2015; the rule also stipulated that issuers cannot combine information about multiple plan variations in one SBC. In addition, on July 13, 2016, after engaging with Tribal representatives, CMS released SBC templates for Z-CSV and L-CSV plans and posted these documents on the CCIIO Web site.<sup>7</sup>

Despite these efforts by CMS and Tribal representatives, Tribal representatives have continued to identify a number of examples of 1) inaccuracies in some SBCs and 2) incorrect application of the cost-sharing protections by QHP issuers.

The TSGAC, in response to these deficiencies, decided to conduct a larger sampling of SBCs to determine the extent of the problems. Disappointingly, from this review of eight Z-CSV and eight L-CSV SBCs, inaccuracies in the L-CSV Indian-specific SBCs appear somewhat common, although much less so for Z-CSV plans. These inaccuracies have the effect of depressing enrollment in Marketplace plans and resulting in eligible AI/ANs not securing the cost-sharing protections guaranteed to them in federal law. *We would like to emphasize that the inaccuracies in the reviewed SBCs are more than a paper failing as these inaccuracies have been found to mirror incorrect application of cost-sharing protections for AI/AN enrollees in Marketplace coverage.*

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<sup>3</sup> See TD-9724/CMS-9938-F, “Summary of Benefits and Coverage and Uniform Glossary” (80 FR 34292), at <https://www.gpo.gov/fdsys/pkg/FR-2015-06-16/pdf/2015-14559.pdf>.

<sup>4</sup> See TTAG “Comments on Summary of Benefits and Coverage and Uniform Glossary Proposed Rule (CMS-9938-P),” dated February 28, 2015, at <https://www.nihb.org/tribalhealthreform/wp-content/uploads/2015/03/TTAG-Comments-on-CMS-9938-P.pdf>.

<sup>5</sup> See TTAG letter to CCIIO on “Qualified Health Plans and Indian-Specific Cost-Sharing Variations,” dated May 29, 2014, at <https://www.nihb.org/tribalhealthreform/wp-content/uploads/2014/07/TTAG-Letter-to-CCIIO-QHPs-and-AI-AN-CS-Var-2014-05-20d.pdf>.

<sup>6</sup> The 2016 Notice of Benefit and Payment Parameters was issued on February 27, 2015.

<sup>7</sup> CCIIO required issuers to use the new SBC templates and associated documents for the 2018 coverage year. See the 3/11/2016 CCIIO FAQ linked below: [https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQS-30\\_final-3-11-16.pdf](https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQS-30_final-3-11-16.pdf)

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## Findings

The TSGAC conducted a review of two Indian-specific SBCs for eight QHPs offered across four states. The TSGAC reviewed SBCs for bronze-level plans, as bronze-level coverage is the preferred option for AI/ANs eligible for the comprehensive Indian-specific cost-sharing protections.<sup>8</sup> The findings are detailed in Attachment A: Analysis of SBCs for Zero and Limited Cost-Sharing Variations of Sample Marketplace Bronze Plans; Selected States, 2018.<sup>9</sup>

Key findings from the review of a sampling of SBCs include:

- In general, the Z-CSV plan SBCs are comprehensive and accurate, but the L-CSV plan SBCs have several inaccuracies.
- There is no consistency in the labeling of the SBCs to indicate that an SBC is for a Z-CSV or L-CSV plan, and several SBCs have no designation indicated on the front page of the SBC in this regard.
  - The use of the term “300%” as an SBC descriptor for the L-CSV could be misleading, as eligibility for L-CSV plans extends to AI/ANs of any income level (and without regard to whether the AI/AN qualifies for premium tax credits).
- In the series of terms that are defined in the SBC, a definition of AI/ANs (for purposes of eligibility for the Indian-specific cost-sharing protections) is not included.<sup>10</sup>
- In one Z-CSV plan SBC, the SBC indicates “no charge” when using an IHCP but “not covered” when receiving services from a non-IHCP.<sup>11</sup> Under a correct application of the Z-CSV protections, “no charge” for cost-sharing applies whether an enrollee is seen at an IHCP or non-IHCP.<sup>12</sup>
- At least one L-CSV plan SBC indicates that cost-sharing protections apply to services received at IHCPs (when the IHCP is in-network) and not to services received at non-IHCPs with a referral from an IHCP (or at out-of-network IHCPs).<sup>13</sup>
- Three of the L-CSV plan SBCs do not accurately describe the protections from payment of deductibles. The L-CSV plan SBCs should indicate that the Indian-specific cost-

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<sup>8</sup> Individuals eligible for the Indian-specific cost-sharing protections can enroll in a bronze-level plan and still receive the cost-sharing protections. For the general population, individuals must enroll in a silver-level plan to receive the partial cost-sharing protections available to those who have a household income at or less than 250% of the federal poverty level (FPL) and who are eligible for premium tax credits.

<sup>9</sup> Web links to the reviewed SBCs are included in Attachment A.

<sup>10</sup> Terms are defined in a linked Glossary Health Coverage and Medical Terms.

<sup>11</sup> See footnote 6 in Attachment A.

<sup>12</sup> However, “balance billing” charges might occur if an out-of-network provider does not accept the combined plan payment and patient cost-sharing as payment in full and charges an additional amount to the patient.

<sup>13</sup> See footnote 9 in Attachment A.



sharing protections include payment of deductibles, as well as other types of patient cost-sharing.<sup>14</sup>

- One L-CSV plan SBC incorrectly indicates, on pages 1-4, that cost-sharing payments are required, regardless of whether services are received at IHCPs or at non-IHCPs with a referral; however, the bottom of page 6 (last page) includes the following note:

"If you are a Native American enrolled on this plan and receive services directly from the Indian Health Service, Indian Tribe, Tribal Organizations, or Urban Indian Organization, or through referral under the contract health services, the services will not be subject to any Deductible, Co-payments, or Co-insurance."<sup>15</sup>

For clarity, the end note should be included as a note on all pages, or the tables should be revised to indicate in each cell that cost-sharing is waived at IHCPs or at non-IHCPs with IHCP referral.

- Some L-CSV plan SBCs exclude (intentionally or through oversight) certain services from the Indian-specific cost-sharing protections,<sup>16</sup> despite the fact that the protections apply to all covered essential health benefits (EHBs).
- With regard to the "Coverage Examples," some of the SBCs present the net estimated out-of-pocket (OOP) costs assuming the patient received services at an IHCP or at a non-IHCP with a referral; other SBCs present net estimated OOP costs assuming no benefit from the Indian-specific cost-sharing protections.<sup>17</sup>

Based on these findings, the TSGAC makes the following recommendations:

- Determine which governmental agency is responsible for reviewing the SBCs, depending on the type of Marketplace, and clarify this in sub-regulatory guidance.
- Indicate that reviews of SBCs are not performed merely to determine if SBC documents are posted at a live Web link but that a thorough evaluation of the content of SBCs is required.
- Although the Z-CSV and L-CSV SBC templates are offered as a guide to issuers and the specific language contained in the templates are not mandated for use, in reviewing issuer SBCs, recommend specific language to correct inaccuracies or confusing descriptions.

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<sup>14</sup> For example, the SBC for the "Montana Health CO-OP: CONNECTED CARE BRONZE NALCS" (L-CSV) plan repeatedly states that enrollees must pay a deductible, and the SBC for a Molina bronze plan offered in New Mexico indicates that the deductible is eliminated only when enrollees are seen at an IHCP. Neither of these SBCs indicates that deductibles are waived at non-IHCPs with referral from an IHCP. Also, see footnote 11 in Attachment A.

<sup>15</sup> See footnote 3 in Attachment A.

<sup>16</sup> See footnotes 7 and 10 in Attachment A.

<sup>17</sup> See footnotes 2a and 2b in Attachment A.

- Establish consistent descriptors to place in the header on the front page of each Indian-specific SBC—such as “AI/AN 02 CSV” and “AI/AN 03 CSV” or “AI/AN Z-CSV” and “AI/AN L-CSV”—and through a link to the “Glossary of Health Coverage and Medical Terms,” define the descriptors.
- Through a link to the “Glossary of Health Coverage and Medical Terms,” indicate that “AI/AN” eligibility for the Z-CSV and L-CSV plans, in part, is limited to “an enrolled Tribal member in a federally-recognized Tribe or a shareholder in an Alaska Native regional or village corporation.”
- Require issuers to present the net out-of-pocket costs in the Coverage Examples to reflect application of the Indian-specific cost-sharing protections (*i.e.*, assuming enrollees receive services from an IHCP or from a non-IHCP through a referral from an IHCP) and insert a note indicating that cost-sharing might be greater if seen at a non-IHCP without referral from an IHCP.
  - For example, an SBC prepared by Blue Cross Blue Shield of New Mexico for an L-CSV plan states: “Note: These numbers assume the patient received care from an IHCP provider or with IHCP referral at a non-IHCP. If you receive care from a non-IHCP provider without a referral from an IHCP your costs may be higher.”
- Revise the CCIIO Z-CSV and L-CSV SBC templates, as appropriate, based on the review of existing SBCs.

### Conclusion

Thank you for the opportunity to provide these concerns. We look forward to working with you and the TTAG (1) to present this information to CCIIO and (2) to ensure that these recommendations are considered, and implemented, as appropriate. If you have any questions or wish to discuss these issues further, please contact me at (860) 862-6192 or via e-mail at [lmalerba@moheganmail.com](mailto:lmalerba@moheganmail.com).

Sincerely,



Marilynn “Lynn” Malerba  
Chief, The Mohegan Tribe of Connecticut  
Chairwoman, Tribal Self-Governance Advisory Committee

cc: Kitty Marx, Director, Division of Tribal Affairs/IEAG/CMCS  
Devin Delrow, Director of Policy, National Indian Health Board  
Jennifer Cooper, Acting Director, Office of Tribal Self-Governance, IHS  
TSGAC Members and Technical Workgroup

Attachment: Analysis of SBCs for Zero and Limited Cost-Sharing Variations (Z-CSVs and L-CSVs) of Sample Marketplace Bronze Plans; Selected States, 2018

**ATTACHMENT A: Analysis of Summaries of Benefits and Coverage (SBCs) for Zero and Limited Cost-Sharing Variations (Z-CSVs and L-CSVs)  
of Sample Marketplace Bronze Plans; Selected States, 2018**

State	Issuer	Sample Bronze Plan	Plan Type	SBC Analysis							
				Z-CSVs				L-CSVs			
				CSV Designation in Plan Name <sup>8</sup>	No Deductible Indicated	No Copays/ Coinsurance Indicated	Accurate Coverage Examples	CSV Designation in Plan Name <sup>8</sup>	No Deductible Indicated (for Services Received at IHCPs or Non-IHCPs with Referral)	No Copays/ Coinsurance Indicated (for Services Received at IHCPs or Non-IHCPs with Referral)	Accurate Coverage Examples
Alaska	Premera Blue Cross	Preferred Plus Bronze 5250 HSA	PPO	AI/AN	Yes	Yes	Yes	AI/AN 300%	No <sup>11</sup>	Only at In-Network IHCPs <sup>9</sup>	No <sup>2a</sup>
Montana	BC BS of Montana	Blue Preferred Bronze PPO 201	PPO	None	Yes	Yes	Yes	None	Yes	Not stated for OPDs <sup>7</sup>	Yes <sup>1</sup>
	Montana Health CO-OP	Connected Care Bronze	PPO	NAZCS	Yes	Yes	Yes	NALCS	No	No	No <sup>2b</sup>
	PacificSource	PSN Bronze HSA 6550	PPO	(0)	Yes	Yes	Yes	(AI)	Yes <sup>3</sup>	Yes <sup>3</sup>	No <sup>2b</sup>
New Mexico	BC BS of New Mexico	Blue Community Bronze HMO 201	HMO <sup>4</sup>	None	Yes	Only at IHCPs <sup>6</sup>	Yes	None	Yes	Not stated for OPDs <sup>7</sup>	Yes <sup>1</sup>
	Molina	Molina Marketplace Bronze	HMO <sup>4</sup>	Molina AI/AN Zero Plan	Yes	Yes	Yes	Bronze AI/AN Limited Cost Sharing	Only at IHCPs	Only at In-Network IHCPs <sup>5</sup>	Yes
	New Mexico Health Connections	Care Connect Bronze Plus	HMO <sup>4</sup>	Zero CSR	Yes	Yes	No <sup>2a</sup>	None	Yes	Only at IHCPs	Yes <sup>1</sup>
Oklahoma	BC BS of Oklahoma	Blue Preferred Bronze PPO 206	PPO	None	Yes	Yes	Yes	None	Yes	Most services <sup>10</sup>	Yes <sup>1</sup>

**Notes:**

<sup>1</sup> This SBC correctly (1) calculates the patient cost-sharing assuming application of the LCSV protections and (2) indicates that the coverage examples assume the services are received at IHCPs or at non-IHCPs with a referral and that costs to plan enrollees could increase if services are received at non-IHCPs without a referral.

<sup>2a</sup> This SBC presents costs in the Coverage Examples as if there is no application of the LCSV protections. (To correct: (1) The Coverage Examples should be changed to reflect application of the LCSV protections; and (2) a footnote should be added stating "The coverage examples assume the services are received at IHCPs or at non-IHCPs with a referral and that costs to plan enrollees could increase if services are received at non-IHCPs without a referral.")

<sup>2b</sup> In the Coverage Examples, this SBC presents patient cost-sharing as if the LCSV protections are not added. And, this SBC incorrectly indicates in a footnote that the coverage examples assume the services are received at IHCPs or at non-IHCPs with a referral and that costs to plan enrollees could increase if services are received at non-IHCPs without a referral. (To correct: The footnote should remain and the Coverage Examples should be changed to reflect application of the LCSV protections.)

<sup>3</sup> The tables in this SBC indicate cost-sharing for services, regardless of whether they are received at IHCPs or at non-IHCPs with a referral; however, the bottom of page 6 (last page) includes the following note: "If you are a Native American enrolled on this plan and receive services directly from the Indian Health Service, Indian Tribe, Tribal Organizations, or Urban Indian Organization, or through referral under the contract health services, the services will not be subject to any Deductible, Co-payments, or Co-insurance."

<sup>4</sup> Only HMOs are available in the New Mexico Marketplace. These plans generally have no out-of-network coverage.

<sup>5</sup> For New Mexico Marketplace plans, Molina considers all IHCPs "in-network," regardless of whether they appear in the plan provider directory.

<sup>6</sup> Incorrectly indicates that health services are only covered at IHCPs.

<sup>7</sup> For pharmacy services, does not include the statement "Cost sharing waived at non-IHCP with IHCP referral" which is indicated for other services, such as physician services and tests. As such, incorrectly communicates that LCSV protections do not apply to prescription drugs.

<sup>8</sup> These SBC documents typically lack a descriptor on page 1 of the SBC labeling the document as the SBC for the 02/ZCSV or 03/LCSV. In addition, "AI/AN" needs to be defined through a live weblink (as are other terms used in the SBC); could be defined as "American Indians and Alaska Natives (AI/ANs) are defined under the Affordable Care Act as enrolled Tribal members and shareholders in Alaska Native regional and village corporations."

<sup>9</sup> Incorrectly states that co-insurance applies if receiving services at a non-IHCP. Could be remedied by adding "Cost sharing waived at non-IHCP with referral from IHCP."

<sup>10</sup> For "Preventive care/screening/immunizations", a 30% co-insurance is indicated at non-IHCP, non-participating providers. Could be remedied by adding "Cost sharing waived at non-IHCP with referral from IHCP."

<sup>11</sup> SBC States that deductibles apply (without saying elimination of deductibles if seen at an IHCP or through referral from an IHCP. Could be remedied by adding "Deductibles do not apply at non-IHCP with referral from IHCP."

<u>State</u>	<u>Plan</u>	<u>CSV</u>	<u>Link</u>
Alaska	Preferred Plus Bronze 5250	Z-CSV	<a href="https://www.premera.com/documents/042178_2018.pdf">https://www.premera.com/documents/042178_2018.pdf</a>
		L-CSV	<a href="https://www.premera.com/documents/042179_2018.pdf">https://www.premera.com/documents/042179_2018.pdf</a>
Montana	Blue Preferred Bronze PPO	Z-CSV	<a href="https://www.bcbsmt.com/sbc/2018/MT0550040-02.pdf">https://www.bcbsmt.com/sbc/2018/MT0550040-02.pdf</a>
		L-CSV	<a href="https://www.bcbsmt.com/sbc/2018/MT0550040-03.pdf">https://www.bcbsmt.com/sbc/2018/MT0550040-03.pdf</a>
	Connected Care Bronze	Z-CSV	<a href="https://www.mhc.coop/wp-content/uploads/2018/2018_MT_Native_American_Connected_Care_BRZ_NAZCS_SBC.pdf">https://www.mhc.coop/wp-content/uploads/2018/2018_MT_Native_American_Connected_Care_BRZ_NAZCS_SBC.pdf</a>
		L-CSV	<a href="https://www.mhc.coop/wp-content/uploads/2018/2018_MT_Native_American_Connected_Care_BRZ_NALCS_SBC.pdf">https://www.mhc.coop/wp-content/uploads/2018/2018_MT_Native_American_Connected_Care_BRZ_NALCS_SBC.pdf</a>
	PSN Bronze HSA 6550	Z-CSV	<a href="https://www.pacificsource.com/2018/SBC/23603MT0290004-02.pdf">https://www.pacificsource.com/2018/SBC/23603MT0290004-02.pdf</a>
L-CSV		<a href="https://www.pacificsource.com/2018/SBC/23603MT0290004-03.pdf">https://www.pacificsource.com/2018/SBC/23603MT0290004-03.pdf</a>	
New Mexico	Blue Community Bronze HN	Z-CSV	<a href="https://www.bcbsnm.com/sbc/2018/NM0390079-02.pdf">https://www.bcbsnm.com/sbc/2018/NM0390079-02.pdf</a>
		L-CSV	<a href="https://www.bcbsnm.com/sbc/2018/NM0390079-03.pdf">https://www.bcbsnm.com/sbc/2018/NM0390079-03.pdf</a>
	Molina Marketplace Bronze	Z-CSV	<a href="http://www.molinahealthcare.com/members/nm/en-US/PDF/Marketplace/summary-of-benefits-bronze-zero-2018.pdf">http://www.molinahealthcare.com/members/nm/en-US/PDF/Marketplace/summary-of-benefits-bronze-zero-2018.pdf</a>
		L-CSV	<a href="http://www.molinahealthcare.com/members/nm/en-US/PDF/Marketplace/summary-of-benefits-bronze-lcs-2018.pdf">http://www.molinahealthcare.com/members/nm/en-US/PDF/Marketplace/summary-of-benefits-bronze-lcs-2018.pdf</a>
	Care Connect Bronze Plus	Z-CSV	<a href="http://mynmhc.org/care-connect-bronzeplus-0-hmo-ind-2018.pdf">http://mynmhc.org/care-connect-bronzeplus-0-hmo-ind-2018.pdf</a>
L-CSV		<a href="http://mynmhc.org/care-connect-bronzeplus-lim-hmo-ind-2018.pdf">http://mynmhc.org/care-connect-bronzeplus-lim-hmo-ind-2018.pdf</a>	
Oklahoma	Blue Preferred Bronze PPO	Z-CSV	<a href="https://www.bcbsok.com/sbc/2018/OK0320093-02.pdf">https://www.bcbsok.com/sbc/2018/OK0320093-02.pdf</a>
		L-CSV	<a href="https://www.bcbsok.com/sbc/2018/OK0320093-03.pdf">https://www.bcbsok.com/sbc/2018/OK0320093-03.pdf</a>