



“EQUAL ACCESS TO MEDICAID FOR ALL AMERICAN INDIANS AND ALASKA NATIVES ACT”

OVERVIEW OF LEGISLATIVE PROPOSAL

As of November 27, 2019

The Medicaid program is a critical component of the Indian health system. Medicaid resources now account for nearly 13 percent of total funding for the Indian Health Service (IHS), and an even greater amount for Tribally-operated health programs.¹ Yet, total IHS Medicaid reimbursements account for only a fraction of a percent of total Medicaid spending nationwide.

Congress intended that Medicaid resources serve “as a much-needed supplement to a health care program which for too long has been insufficient to provide quality health care to the American Indian.”² Tribes and IHS providers bill Medicaid for services which supplements very limited IHS appropriations.

But access to Medicaid has been uneven across Indian country. Medicaid is a jointly funded federal-state program that is managed by the individual states under certain federal parameters. Depending on the state they are located, IHS and Tribal programs have varying levels of access to Medicaid resources and services. This means that the Medicaid program is not providing equal access to Medicaid services for Indian people as there is a wide variation across the states in Medicaid eligibility, covered services, and reimbursement rates.

The proposed Equal Access to Medicaid for All American Indians and Alaska Natives Act (Act) is intended to provide greater access to and responsiveness of the Medicaid program for the Indian health system, while at the same time reducing regulatory burdens and costs on the states. It maintains and expands the rule that states are fully reimbursed for services received through Indian Health Care Providers (IHCPs) to American Indians and Alaska Natives (AI/ANs), thereby decreasing costs to the states.³ The Act makes Medicaid’s scope of services more consistent across states, and it creates an additional option for expanding Medicaid eligibility.

The main provisions of the proposal are:

1. Create an optional eligibility category under federal Medicaid law providing authority for states to extend Medicaid eligibility to all AI/ANs with household income up to 138% of the federal poverty level (FPL).
 - This could facilitate the extension of Medicaid eligibility to AI/ANs in states, such as Oklahoma and South Dakota, with lower Medicaid eligibility levels.
2. Authorize IHCPs across all states to receive Medicaid reimbursement for all mandatory and optional services described as “medical assistance” under Medicaid and specified services authorized under the Indian Health Care Improvement Act (IHCA)—referred to as Qualified Indian Provider Services—when delivered to Medicaid-eligible AI/ANs.
 - Currently, Indian health care providers only receive reimbursement for health services that are authorized for all providers in a state. This reinforces the direct relationship between Tribes and the federal government in ensuring access to a comprehensive set of health services.

¹ Samantha Artiga, Petry Ubri, and Julia Foutz, *Medicaid and American Indians and Alaska Natives* (Washington, DC: Kaiser Family Foundation, Sep. 7, 2017), Figure 4.

<https://www.kff.org/medicaid/issue-brief/medicaid-and-american-indians-and-alaska-natives/>

² H.R. Rep. No. 94-1026-Part III at 21 (May 12, 1976), reprinted in U.S.C.A.A.N. 2796

³ For purposes of the Act, AI/ANs are defined as individuals eligible to receive services from the IHS.

3. Extend full federal funding (through 100% FMAP) to Medicaid services furnished through urban Indian health programs to AI/ANs, in addition to services furnished through IHS/Tribal providers to AI/ANs.
 - Under current law, only services provided to AI/ANs through HIS and Tribal-operated facilities are funded 100% by the federal government. Services to AI/ANs not received through an HIS or Tribal facility (such as through an urban Indian health program) currently are funded through a combination of state and federal funds.

In addition, the following items are included in the proposed Equal Access to Medicaid for All American Indians and Alaska Natives Act:

4. Clarify in federal law and regulations that State Medicaid programs are prohibited from over-riding (through waivers or State Plan Amendments) Indian-specific provisions in federal Medicaid law.
 - This provision would ensure that AI/ANs are not negatively impacted by state-imposed requirements under Medicaid such as adding co-payments.
5. Address the “four walls” limitations on IHCP “clinic” services by removing the restriction that prohibits billing for services provided outside a clinic facility.
 - Under the current system, IHS and Tribal clinics can only get reimbursed for services provided *inside* the facility. This restricts reimbursements for services like home visits, or services referred outside the IHS or Tribal facility. It will expand the type of services that 100% FMAP can be used for and offset limited purchased/referred care appropriations.

Implementing these provisions—and thereby strengthening the Medicaid program infrastructure for AI/ANs and IHCPs under federal law across all states—will expand access to a broader set of quality health care services for low- and moderate-income AI/ANs nationally by:

- (a) Creating greater uniformity in program eligibility;
- (b) Enabling greater consistency in the breadth of services for which IHCPs are authorized to receive reimbursement;
- (c) Providing consistency in 100% federal funding across all IHCPs for services provided to AI/ANs; and
- (d) Ensuring that state waiver authorities do not eliminate current federal law protections specific to AI/ANs and IHCPs.

All these changes cumulatively advance the federal trust responsibility for health care and do so without shifting costs to the states.