



# Health Care Reform in Indian Country

Self-Governance Communication & Education

*Self-Governance Tribes Striving Towards Excellence in Health Care*

## Treatment of Indian Health Benefits, including Tribal Sponsorship Payments, as Non-Taxable Income<sup>1</sup> December 6, 2019

This brief provides information to Tribes on whether health benefits provided by the Indian Health Service (IHS) or Tribes or Tribal organizations (T/TOs) are considered taxable income under the Internal Revenue Code (IRC). In general, the IRC stipulates that health benefits provided by IHS or T/TOs, including payment of premiums under a Tribal Sponsorship program,<sup>2</sup> are NOT considered taxable income for the recipient if the recipient is a Tribal member or the spouse or (underage) dependent of a Tribal member.<sup>3</sup> However, health benefits provided by IHS or T/TOs to other IHS-eligible individuals—such as family members over the age of 19 who are not enrolled Tribal members—might count as taxable income for the recipient.

### BACKGROUND

Under section 139D of the IRC, as added by section 9201 of the Affordable Care Act (ACA), qualified Indian health care benefits are not considered taxable income. Section 139D defines “qualified Indian health care benefits” as follows:

“(1) any health service or benefit provided or purchased, directly or indirectly, by the Indian Health Service through a grant to or a contract or compact with an Indian tribe or tribal organization, or through a third-party program funded by the Indian Health Service,

(2) medical care provided or purchased by, or amounts to reimburse for such medical care provided by, an Indian tribe or tribal organization for, or **to, a member of an Indian tribe, including a spouse or dependent of such a member,**<sup>4</sup>

(3) coverage under accident or health insurance (or an arrangement having the effect of accident or health insurance), or an accident or health plan, provided by an Indian tribe or tribal organization for medical care to a member of an Indian tribe, include a spouse or dependent of such a member, and

(4) any other medical care provided by an Indian tribe or tribal organization that supplements, replaces, or substitutes for a program or service relating to medical care provided by the Federal government to Indian tribes or members of such a tribe.”<sup>5</sup>

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<sup>1</sup> This brief is for informational purposes only and is not intended as legal advice. For questions on this brief, please contact Doneg McDonough, TSGAC Technical Advisor, at DonegMcD@Outlook.com.

<sup>2</sup> Federal regulations allow T/TOs to establish Sponsorship programs through which they pay premiums on behalf of sponsored individuals who enroll in qualified health plans (QHPs) through the Health Insurance Marketplace.

<sup>3</sup> If a Sponsored individual receives a tax refund (or reduced tax liability) as a result of a Tribe/TO paying the enrollee’s share of the health insurance premium, this tax refund amount may be taxable to the Sponsored individual.

<sup>4</sup> “Dependent” is defined as a child who will not turn 19 (or a student who will not turn 24) during the taxable year. See 26 U.S.C. § 152.

<sup>5</sup> See 26 U.S.C. § 139D(b).