

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Sent electronically to denise.turk@ihs.gov

October 22, 2019

RADM Michael D. Weahkee, MBA, MHSA
Assistant Surgeon General, U.S. Public Health Service
Principal Deputy Director
Indian Health Service
U.S. Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

**RE: Summary of Issues from the Tribal Self-Governance Advisory Committee (TSGAC)
Meeting September 30-October 1, 2019**

Dear RADM Weahkee:

On behalf of the TSGAC, we extend our thanks to you for your active participation in the September 30-October 1 Committee meeting. We appreciate the on-going commitment of you and your senior staff to attend TSGAC meetings and engage in meaningful and respectful dialogue with Tribal leadership on these critically important issues. The following is a summary on some of the key issues and recommendations discussed:

- 1. HHS Operational Division Access to IHS Patient Data:** We appreciated the opportunity to speak with Mr. Robert Pittman, Deputy Director, Office of Public Health Support, during the meeting regarding which HHS operating divisions currently have access to IHS data and to gain a better understanding of how IHS shares this data and for what purpose. However, we remain concerned regarding the use of IHS data for any research purposes (e.g. the National Institute of Health *All of Us* Research Program). Tribal governments have inherent sovereign rights to govern research that occurs with our citizens and on our lands. In some cases, Tribes have established research codes, laws, and oversight processes to govern research to ensure it benefits their respective nations and to reduce risks of harm.

Recommendation/Action: We request that IHS conduct formal consultation with Tribes to establish a data management policy which provides clear processes and guidelines to govern the use and sharing of IHS-collected data with other HHS operating divisions that may be used for research purposes. We also request that Tribal representation be included on the IHS Internal Review Board.

- 2. IHS Opioid Funding:** The TSGAC previously provided formal comments to you regarding the distribution on the \$10 million to support opioid abuse prevention and treatment.¹ To reiterate, the TSGAC strongly disagrees that the funding should be dispersed through a competitive grant methodology and recommends a formula-driven distribution through the Tribal Size Adjustment Formula.

Recommendation/Action: We request that IHS provide a timely decision regarding the distribution of these funds and ask that you provide any further response to the ideas proposed by the Committee.

¹ Please see TSGAC letter to RADM Weahkee dated September 3, 2019.

3. **Pharmacy Benefits Manager (PBM):** IHS has not yet provided guidance to Tribes regarding outstanding claims and claim denials. The only recent progress that has been made is with CVS Caremark. We believe that with IHS and Tribes working together, we can improve this process with other PBMs as well.

Recommendation/Action: We ask that you provide a formal response and status update, along with a current timeframe, regarding IHS's role in resolving these outstanding claims.

4. **IHS Tribal Consultation Policy and Process:** The Agency has embarked on numerous Tribal consultations over the past fiscal year on many key issues, including but not limited to, IHS Contract Support Costs Policy, IHS Sanitation Deficiency System, IHS Purchased/Referred Care Policy Draft IHS Strategic Plan (FY 2019-2023), Mechanism to Distribute Behavioral Health and New Behavioral Health Funding to address Opioids. During the most recent TSGAC meeting, we appreciated the presentation by Mr. Ben Smith, Deputy Director for Intergovernmental Affairs, and his succinct summary of the IHS Tribal Consultation and Policy and Process.

Recommendation/Action: As we previously stated in a joint TSGAC/Direct Service Tribal Advisory Committee letter dated 8/10/18, we recommend that IHS establish a formal Federal/Tribal Consultation Workgroup to review the existing IHS consultation policy and provide any recommended changes/updates. We ask the IHS establish a Workgroup charter, timeline, budget and process for identifying Tribal representation.

5. **Identification of TSGAC representatives to serve on the newly-established 105(l) lease sub-group.** The TSGAC appreciates the Agency's action in establishing this technical sub-group workgroup to work with you regarding the expected future costs of 105(l) leases. The following individuals have been officially appointed to serve as the TSGAC representatives on this workgroup:

a. Primary Delegate:
Candice E. Skenandore, Self-Governance Coordinator, Oneida Nation
Phone: (920) 869-4281
Email:
cskena10@oneidanation.org

b. Alternate:
Melanie Fourkiller, Policy Advisor, Choctaw Nation Health Services Authority Choctaw Nation of Oklahoma
Phone: (580) 924-8280
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In closing, the TSGAC appreciates our continued partnership and willingness to engage in discussion with the Agency. If you have any questions or would like to discuss these comments in further detail, please contact me at lmalerba@moheganmail.com. Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe of Connecticut
Chairwoman, IHS TSGAC

cc: Jennifer Cooper, Acting Director, Office of Tribal Self-Governance, IHS
TSGAC Members and Technical Workgroup