Review of Health and Human Services Provisions in the Bipartisan Coronavirus (COVID-19) Response and Relief Supplemental Appropriations Act

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This issue brief from the Indian Health Service (IHS) Tribal Self-Governance Advisory Committee (TSGAC) provides Tribes and Tribal organizations a review of the coronavirus stimulus provisions in the Coronavirus Response and Relief Supplemental Appropriations Act of 2021.[1] The coronavirus stimulus package provides a total of $1.125 billion in new funding for IHS and Tribal health providers. The package includes:

- **$790 million Tribal-set-aside for contact tracing, surveillance, and other coronavirus-related;**
- **$210 million Tribal set-aside for I/T/Us to use for vaccine distribution and administration;**
- **$125 million Tribal set-aside at the Substance Abuse and Mental Health Services Administration (SAMHSA) for mental and behavioral health needs for I/T/Us; and,**
- **$1 billion for Tribal broadband infrastructure development that can be used for telehealth among other purposes.**

On December 27, 2020 President Trump signed into law the Consolidated Appropriations Act of 2021, which includes $908 billion for COVID-19 relief and $1.4 trillion in fiscal year (FY) 2021 discretionary appropriations that secure federal agency operations through September 2021.[2] The COVID-19 stimulus package provides another round of direct payments, enhanced unemployment benefits, education funding, and economic aid.[3]

The COVID-19 stimulus package includes an **extension of the deadline to December 31, 2021** by which the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Fund (CRF) resources must be spent, but does not grant any additional flexibility for use of funds.

[1] This brief is for informational purposes only. Authored by Sarah Sullivan, TSGAC Health Policy Consultant at SkSullivan16@outlook.com.
[2] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260. Division M and Division N (2020). https://www.congress.gov/bill/116th-congress/house-bill/133/text/enr?q=%7B%22search%22%3A%5B%22hr133%22%5D%7D&r=2
[3] Coronavirus Response and Relief Supplemental Appropriations Act, 2021, H.R. 133. Division-by-Division Summary of COVID-19 Relief Provisions (2020). https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Summary%20of%20H.R.%20133%20Coronavirus%20Relief%20Provisions.pdf

I. COVID-19 STIMULUS HEALTH CARE APPROPRIATIONS

Division M of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 includes $73 billion dedicated to the Department of Health and Human Services (HHS) to support public health[4] efforts to the following HHS agencies important for Tribes and Tribal organizations:

A. Centers for Disease Control and Prevention (CDC)

$8.75 billion is provided for the CDC to "plan, prepare for, promote, distribute, administer, monitor, and track coronavirus vaccines to ensure broad distribution, access, and vaccine coverage." [5] Of the $8.75 billion, $4.5 billion is to be allocated to state, local, territorial, Tribes, Tribal organizations, urban Indian organizations, and health service providers to Tribes.

$210 Million Tribal Set-Aside

The package includes a tribal set-aside of $210 million from the $4.5 billion to be transferred to the Indian Health Service (IHS) within the CDC section of Title III. Funds are available until September 30, 2024. The funding will be transferred to the IHS from the CDC and then allocated at the discretion of the IHS Director and distributed through IHS directly programs and to tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA). The amount provided to the Tribes and Tribal organizations shall be transferred as a one-time non-recurring basis. The $210 million for IHS, Tribal, and Urban Indian health programs authorizes funding to be used to "plan, prepare for, promote, distribute, administer, monitor, and track coronavirus vaccines to ensure broad-based distribution, access, and vaccine coverage." The act also allows funds to be used for the "construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response capability at the State and local level." Additionally, the act allows reimbursement for vaccine promotion, education, or related expenses incurred prior to enactment.

Additionally, $300 million shall be used for a targeted effort to distribute and administer vaccines to high-risk and underserved populations, including racial and ethnic minority populations and rural communities.

This section also includes language for the Director of CDC to provide an updated and comprehensive coronavirus vaccine distribution strategy and a spending plan to Congress within 30 days (January 26, 2021). The plan must include guidance for how states, localities,

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[4] "research, development, manufacturing, procurement, and distribution of vaccines and therapeutics; diagnostic testing and contact tracing; mental health and substance abuse prevention and treatment services; child care support; and other coronavirus-related activities." Coronavirus Response and Relief Supplemental Appropriations Act, 2021, H.R. 133. Division-by-Division Summary of COVID-19 Relief Provisions (2020). https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Summary%20of%20H.R.%20133%20Coronavirus%20Relief%20Provisions.pdf

[5] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260. Division M, Title III Centers for Disease Control and Prevention, 730 (2020). https://www.congress.gov/bill/116th-congress/house-bill/133/text

territories, Tribes, and Tribal organizations should prepare for, store, and administer vaccines, nationwide vaccination targets, and how an informational plan will be executed. This plan must also include how efforts will focus on high-risk and underserved populations "including racial and ethnic minority populations."[6]

B. Public Health and Social Services Emergency Fund

The Public Health and Social Services Emergency Fund is provided a total of $22.4 billion "for testing, contact tracing, surveillance, containment, and mitigation to monitor and suppress COVID–19."[7] Funds are available until September 30, 2022. Of the $22.4 billion, $2.5 billion will be set-aside for targeted efforts to improve testing and contract tracing capabilities in high-risk and underserved populations, including racial and ethnic minority populations and rural communities. **Funds must be made available within 21 days of enactment (January 17, 2021).**

$790 Million Tribal Set-Aside

A Tribal set-aside of $790 million is allocated from the $22.4 billion for the IHS to distribute to IHS directly operated programs and to Tribes and Tribal organizations under ISDEAA and to Urban Indian programs. Funds will be transferred on a one-time, non-recurring basis. Tribes and Tribal organizations receiving funds shall report to the Secretary on uses of funding, detailing current commitments and obligations no later than 60 days after funds are appropriated and quarterly thereafter. Funding can be used for a variety of activities, including:

- Testing, contract tracing, surveillance, containment, and mitigation;
- Support for workforce and epidemiology;
- Use by employers, elementary and secondary schools, child care facilities, institutions of higher education, long-term care facilities, or other settings;
- Scaling up testing by public health, academic, commercial, and hospital laboratories;
- Community based testing sites, mobile testing units, health care facilities, and other entities engaged in COVID-19 testing; and
- Other activities related to COVID-19 testing, contact tracing, surveillance, containment, and mitigation which may include interstate compacts or other mutual aid agreements for such purposes.
- Rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve coronavirus preparedness and response capability at the State and local level.

$3 billion is provided to the Provider Relief Fund (PRF) for health care related expenses or lost revenue directly attributable to the public health emergency. No less than 85 percent of

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[6] *Ibid,* p. 731
[7] Ibid, p. 737

unobligated funds in the Provider Relief Fund will be allocated through an application-based portal to reimburse health care providers for lost revenue from 2020. Funding can also be used for building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment (PPE) and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity. While this does not include a Tribal set-aside, Tribes should be able to submit these applications as other providers have.

C. Substance Abuse and Mental Health Services Administration (SAMHSA)

SAMHSA is allocated a total of $4.25 billion to provide increased mental health and substance abuse services and support.

$125 Million Tribal Set-Aside

SAMHSA is required to allocate a minimum tribal set-aside of $125 million for mental and behavioral health needs to Tribes, Tribal organizations, Urban Indian organizations or health service providers across SAMHSA programs. The act does not provide specific information on how SAMHSA should allocate these funds.

Of the $4.25 billion, the following SAMHSA programs are provided funding:

- $1.65 billion for the Substance Abuse Prevention and Treatment Block Grant;
- $1.65 billion for the Community Mental Health Services Block Grant;
- Minimum of $600 million for Certified Community Behavioral Health Clinics;
- Minimum of $50 million for suicide prevention programs;
- $50 million for Project AWARE to support school-based mental health for children;
- Minimum of $240 million for emergency grants to States; and
- $10 million for the National Child Traumatic Stress Network.

Additionally, SAMHSA must maintain a 20 percent set-aside for prevention, but may waive requirements for allowable activities, timelines, or reporting requirements for the Substance Abuse Prevention and Treatment Block Grant and the Community Mental Health Services Block Grant as necessary to facilitate the grantee’s response to the pandemic.

II. COVID-19 STIMULUS PACKAGE ADDITIONAL CORONAVIRUS RESPONSE AND RELIEF HEALTHCARE PROVISIONS

A. Section 101. Supporting Physicians and Other Professionals In Adjusting to Medicare Payment Changes During 2021

In order to support physician and other health care professions in adjusting to changes in payment of physicians’ services, Division N provides a one-time increase to the Medicare physician fee schedule (PFS) of 3.75 percent during 2021 and provide relief during the public

health emergency. The increase of 3.75 percent to the Medicare PFS are for services furnished on or after January 1, 2021 and before January 1, 2022. The language provides that "the increase in fee schedules that establish payment amounts will not be taken into account in determining fee schedules for services furnished after 2021."[8]

B. Section 102. Extension of Temporary Suspension of Medicare Sequestration

Section 102 of Division N provides a three-month delay of the Medicare sequester payment reductions through March 31, 2021. This temporary suspension will provide home health agencies and other provider financial flexibility.

C. Title IX Broadband Internet Access Service – Section 905. Grants for Broadband Connectivity

Section 905 establishes a grant program to support connectivity on Tribal lands throughout the country. The grants will be directed to Tribal governments to be used for broadband deployment, telehealth, distance learning, broadband affordability, and digital inclusion.[9]

$1 Billion Tribal Broadband Connectivity Grants

The stimulus package also includes a $1 billion Tribal set-aside for broadband infrastructure development under the U.S. Department of Commerce's Assistant Secretary of Communications and Information. The Tribal broadband connectivity grants will be used to expand broadband infrastructure, affordable broadband programs, distance learning, telework, and telehealth access and adoption by grants. Funds must be disbursed by the Assistant Secretary by September 30, 2021 and recipients have one year to spend the funds. Eligible entities include Tribal governments, Tribal colleges or university, Tribal organizations, Alaska Native Corporations, or the Department of Hawaiian homelands. An administration set aside of 2 percent shall be used for technical assistance to Tribal governments.

III. CONCLUSION

The TSGAC will continue to track the COVID-19 health care provisions and appropriations within the HHS agencies. For questions or comments to the TSGAC ACA/IHCIA team, please contact Cyndi Ferguson, TSGAC ACA/IHCIA Project Lead at cyndif@senseinc.com.

[8] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260. Division N, Title I Healthcare, Section 101, 1- 4 (2021). https://www.congress.gov/bill/116th-congress/house-bill/133/text

[9] Coronavirus Response and Relief Supplemental Appropriations Act, 2021, H.R. 133. Division-by-Division Summary of COVID-19 Relief Provisions (2020). https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Summary%20of%20H.R.%20133%20Coronavirus%20Relief%20Provisions.pdf