



# Health Care Reform in Indian Country

Self-Governance Communication & Education

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

## Review of Affordable Care Act and Medicare Provisions in Recently Enacted Budget Reconciliation Bill (“Inflation Reduction Act”)<sup>1</sup>

August 17, 2022

This brief from the IHS Tribal Self-Governance Advisory Committee (TSGAC) provides to Tribes and Tribal organizations information on the Health Insurance Marketplace (Marketplace) and Medicare provisions included in a recently enacted budget reconciliation bill. On August 16, 2022, President Biden signed into law the Inflation Reduction Act (HR 5376), which contains several provisions designed to reduce premium costs for Marketplace enrollees and reduce out-of-pocket costs for Medicare enrollees.<sup>2</sup> A summary of these provisions appears below.

### Marketplace Provisions

The Inflation Reduction Act will **extend through 2025** expiring American Rescue Plan Act (ARP) provisions that expanded the amount of, and eligibility for, premium tax credits (PTCs) for Marketplace enrollees, including American Indian and Alaska Native (AI/AN) enrollees.<sup>3,4</sup> Specifically, the Inflation Reduction Act would extend ARP provisions that:

- Reduced the amount of the required household contribution to Marketplace plan premiums for PTC-eligible enrollees, effectively providing more generous tax credits to these individuals for 2021 and 2022<sup>5</sup> (with the Inflation Reduction Act continuing this provision for 2023, 2024, and 2025); and
- Extended eligibility for PTCs to Marketplace enrollees with a household income higher than 400% of the federal poverty level (FPL) for 2021 and 2022 (with the Inflation Reduction Act continuing this provision for 2023, 2024, and 2025).<sup>6</sup>

### Medicare Provisions

Among other Medicare provisions, the Inflation Reduction Act will:

- **Beginning in 2023**, cap out-of-pocket costs for insulin products at \$35 per month for Medicare Part D enrollees, including AI/AN enrollees;

---

<sup>1</sup> This brief is for informational purposes only and is not intended as legal advice.

<sup>2</sup> See H.R. 5376 at <https://www.congress.gov/bill/117th-congress/house-bill/5376>.

<sup>3</sup> The Marketplace, established by the Affordable Care Act (ACA), allows consumers to compare available health plans, determine eligibility for federal financial assistance (such as PTCs), and enroll in comprehensive health insurance coverage.

<sup>4</sup> The ARP, enacted in March 2021, also (1) waived repayment of excess PTCs for Marketplace enrollees for the 2020 tax year and (2) provided expanded tax credits for individuals who received unemployment compensation (and their family members), despite income level (if otherwise eligible for PTCs), in 2021. The Inflation Reduction Act will not renew either of these provisions.

<sup>5</sup> See Table 1 in Attachment 1 for pre- and post-ARP household contribution requirements by income level.

<sup>6</sup> The ACA limited eligibility for PTCs to individuals with a household income between 100% and 400% FPL.

- **Beginning in 2024**, expand eligibility for full-premium subsidies under the Medicare Part D Low-Income Subsidy (LIS) program to enrollees, including AI/AN enrollees, with an income at or less than 150% FPL (currently 135% FPL)<sup>7</sup>; and
- **Beginning in 2025**, cap out-of-pocket prescription drug costs at \$2,000 per year for Medicare Part D enrollees, including AI/AN enrollees, with the amount of the cap indexed annually in subsequent years<sup>8</sup>.

#### Other Health Care Provisions

The Inflation Reduction Act also will:

- Establish a Drug Price Negotiation Program, under which the federal Department of Health and Human Services (HHS) will negotiate prices for certain high-cost medications under Medicare;
- Require pharmaceutical companies to provide rebates to HHS under Medicare Part B and Part D for certain medications with prices increasing faster than inflation;
- Prohibit implementation of a rule related to the elimination of the anti-kickback statute safe harbor protection for prescription drug rebates;
- Provide coverage under Medicare Part D for adult vaccines recommended by the Advisory Committee on Immunization Practices;
- Address payments for biosimilar biological products under Medicare; and
- Provide coverage under Medicaid and CHIP for adult vaccines recommended by the Advisory Committee on Immunization Practices.

#### Additional Resources

- The full text of the Inflation Reduction Act is available at <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.
- A one-page summary of the Inflation Reduction Act is available at [https://www.democrats.senate.gov/imo/media/doc/inflation\\_reduction\\_act\\_one\\_page\\_summary.pdf](https://www.democrats.senate.gov/imo/media/doc/inflation_reduction_act_one_page_summary.pdf).
- A *Health Affairs Forefront* analysis of the Marketplace provisions in the Inflation Reduction Act is available at <https://www.healthaffairs.org/content/forefront/congress-poised-extend-enhanced-marketplace-subsidies-through-2025>.

---

<sup>7</sup> Currently, under the LIS program, Medicare Part D enrollees with an income between 135% and 150% FPL receive a partial premium subsidy, with the amount of the subsidy varying by income level.

<sup>8</sup> Medicare Part D currently has no hard cap on out-of-pocket prescription drug costs. In 2022, Medicare Part D enrollees pay a \$480 deductible and 25% coinsurance until their total out-of-pocket prescription drug spending reaches \$7,050. After enrollees reach this catastrophic coverage threshold, they pay either 5% of their total drug costs or \$3.95/\$9.85 for each generic and preferred/other drug, respectively.

**Attachment 1**

Table 1 below was drawn from a Kaiser Family Foundation brief titled “Impact of Key Provisions of the American Rescue Plan Act of 2021 COVID-19 Relief on Marketplace Premiums” and dated March 15, 2021. The table displays the household contribution levels required for premium tax credit calculations in the original Affordable Care Act. The table also identifies the revised household contribution percentages contained in the American Rescue Plan Act (for 2021 and 2022), and now extended under the Inflation Reduction Act through 2025.

Table 1: Percent of Income Paid for Marketplace Benchmark Silver Premium, by Income		
Income (% of poverty)	Affordable Care Act (before legislative change)	COVID-19 Relief (current law 2021-2022)
Under 100%	Not eligible for subsidies*	Not eligible for subsidies**
100% – 138%	2.07%	0.0%
138% – 150%	3.10% – 4.14%	0.0%
150% – 200%	4.14% – 6.52%	0.0% – 2.0%
200% – 250%	6.52% – 8.33%	2.0% – 4.0%
250% – 300%	8.33% – 9.83%	4.0% – 6.0%
300% – 400%	9.83%	6.0% – 8.5%
Over 400%	Not eligible for subsidies	8.5%

NOTES: \*Lawfully present immigrants whose household incomes are below 100% FPL and are not otherwise eligible for Medicaid are eligible for tax subsidies through the Marketplace if they meet all other eligibility requirements.

\*\*In the COVID-19 relief law, lawfully present immigrants in states that have not expanded Medicaid would continue to be eligible for marketplace subsidies. In addition, people receiving Unemployment Insurance (UI) are treated as though their income is no more than 133% of poverty for the purposes of the premium tax credit. This could extend premium tax credits to some individuals with incomes below poverty.

SOURCE: KFF