Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

Maximizing Health Care Resources

2023 Tribal Self-Governance Conference

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Self-Governance Communication and Education

Increase Funding| IHS and Third Party

- Increase program funding from IHS
- Increase Third Party Resources
  - Medicare
  - Medicaid
  - CHIP
  - VA
  - Private Insurance (including Affordable Care Act)

IHS | Funding Increases

- IHS Budget increases
- Assume additional PSFAs retained by IHS
- Take Area and HQ Shares
- Update CSC
  - ➢indirect cost rate
  - ➢Proper accounting of expenditure of IHS funds can result in increased CSC

IHS | Section 105(*l*) Leases

- Section 105(*l*) of the ISDEAA ***requires*** the IHS and BIA to enter a lease with a T/TO for any facility owned or leased by the program used to carry out the ISDEAA scope of work.
- Tribes across the country are taking advantage of this opportunity. Set process with IHS.
- Leases must be fully funded, though IHS can decline unreasonable or duplicative costs.
- Congress has now guaranteed full funding of all Section 105(l) leases, providing “such sums as may be necessary” in an “indefinite discretionary” appropriation

ISDEAA | Expand Scope and Billing

- Expand Scope of Work
  - Can add PSFAs even if IHS does not pay (e.g., long-term care)
- Expanding scope of work expands services you can bill to Third Party Resources

ISDEAA | Services to Non-Beneficiaries

- Section 813(c) of the IHCIA authorizes T/TOs to determine to serve non-eligible individuals if no denial or diminution of services to eligible beneficiaries
- Services to non-bens must be paid for by the non-ben (usually through third-party coverage like private insurance or Medicaid)
- Opportunities for innovative partnerships with Non-IHS Providers

3rd Party Resources| Overview

- Enrolling patients in available third-party sources to pay for their care increases revenues for tribal programs and saves IHS and tribal resources for other patient care
- Payor of Last Resort rule requires all other forms of coverage to pay first before IHS funds are used
- Enrolling patients in third party coverage gives them more flexible health care coverage

Medicaid| Tribal Provisions

- AI/AN are exempt from premiums and cost-sharing in Medicaid
- Trust resources exempt from the calculation of income for purposes of determining Medicaid eligibility
- CMS reimburses States 100 percent of the cost of Medicaid services received through IHS/tribal facilities (100% FMAP)

Medicaid| Tribal Provisions

- Many tribal facilities are eligible to receive the IHS OMB rate for services provided to Indians
- IHS is the payor of last resort, so Medicaid pays first
- Special managed care protections for IHS/Tribal providers and Indians enrolled in Medicaid managed care plans

Medicaid| Expand Benefits

- Every State's Medicaid plan is different and covers different optional services
- Every State Medicaid Plan has special provisions for IHS and tribal providers. Some are better than others
- The best plans generally allow IHS/tribal providers to bill for up to 5 encounters a day per patient at the IHS OMB encounter rates

Medicare| Overview

- Medicare provides services to persons over 65 and disabled population
  - Part A – Hospital Insurance
  - Part B – Medical Insurance
  - Part C – Medicare Advantage Plans
  - Part D – Prescription Drugs

Medicare| Tribal Sponsorship Part B Plans

- Tribes have the authority to sponsor (pay for) Medicare Part B premiums for their eligible patients.
- Section 402 of the Indian Health Care Improvement Act authorizes tribes to use federal funds to do so
- Tribes can then bill Medicare Part B for the cost of providing services to their members, which is more than the cost of the premiums
- Tribes must make each sponsorship payment separately

Medicare| Tribal Sponsorship Part D Plans

- Tribes have the authority to sponsor (pay for) Medicare Part D premiums for their eligible patients
- Tribes can then bill Medicare Part D for the cost of pharmaceuticals, which is more than the cost of the premiums
- Tribes can enter into contracts with Part D providers to reimburse them for services. Part D providers are required to use an Indian-specific contract addendum that protects tribal rights

VA| Tribal Reimbursement Agreements

- The IHS and the VA have entered into a national MOU and a reimbursement agreement
- Section 405(c) of the IHCIA requires VA to pay for health care for AI/AN veterans, primary to IHS and T/TOs, for all services "provided through" the IHS or T/TO health programs
- Many T/TOs have entered into sharing/reimbursement agreements with the VA for direct care services
- "PRC for Native Veterans Act" (Jan. 2021) clarified that VA must also reimburse for PRC (and not just during the COVID-19 emergency)

Tribal Sponsorship | Premiums

- Section 402 of the IHCIA authorizes tribes to use federal sources of funding (*e.g.*, PRC funding) to buy insurance coverage for their members in their service area
- Tribes can use this authority to buy coverage for their members on the private market, or through the ACA marketplace
- The tribal health provider then bills the plan for providing services to the member
- In a well designed plan, the cost of buying coverage is often less than what the plan pays

Questions?

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For more information on the TSGAC Affordable Care Act/IHCIA Project, please visit the Health Reform website at: Health Reform - Tribal Self-Governance (tribalselfgov.org)

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