

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

December 19, 2011

Kitty Marx
Director
Tribal Affairs Group (TAG)
Office of External Affairs
Central Office M/S: S1-20-21
7500 Security Blvd
Baltimore, MD 21244

RE: Questions for Application for Exchanges and Medicaid

Dear Ms. Marx,

On November 17, 2011, the Centers for Medicare and Medicaid Services (CMS) Tribal Technical Advisory Committee (TTAG) Affordable Care Act (ACA) Subcommittee met with representatives from the CMS Tribal Affairs Group, the CMS Center for Medicaid, CHIP and Survey & Certification (CMCS), and the CMS Center for Consumer information and Insurance Oversight (CCIIO) to discuss the consolidated application form being developed by CMS for optional use by States. The consolidated application will be used to screen applicants for eligibility for Medicaid, Children's Health Insurance Programs (CHIP) and the Exchanges. CMS, CMCS and CCIIO requested technical assistance from the ACA Subcommittee and the TTAG to recommend questions that would be included in the single application form for the purposes of qualifying people for the special benefits and protections provided to American Indians and Alaska Natives (AI/AN) through Medicaid, CHIP and Exchanges.

The request was limited to technical assistance on question(s) to ask within the application itself. It specifically did not include a request for additional comment on what the definition of an AI/AN should be for those programs. It was clear that the issue of the definition for Exchange Plans is still under consideration as an issue that arose in response to recent Notices of Proposed Rulemaking and in other communications to the Administration. In submitting this response, the TTAG and ACA Subcommittee are not commenting on what the definition of AI/AN should be for any of the Indian-specific provisions in Medicaid, CHIP or the Exchanges. The request made of the Subcommittee was to assist by identifying one or more simple, short questions that would allow applicants to identify themselves as AI/AN on the single consolidated Medicaid/Exchange application form. The ACA Subcommittee considered a variety of approaches and submitted the following recommendations to the TTAG for their review and to CMS to assure tribal input before the December 19, 2011, deadline.

The CMS Tribal Technical Advisory Group recommends the following question for the application:

Are you an American Indian, California Indian, Eskimo, Aleut, or other Alaska Native?
Yes or No

It is our view that anyone who uses a tribal enrollment card for citizenship verification on the Exchange application should be determined to have adequate verification of their eligibility as an “Indian” under both Medicaid and an Exchange Plan. For those who do not use this form of identification, we understand that the next step for someone who says “yes” will be to find an appropriate database to “ping”.

If Indian status has not been established through the citizenship information or standardized data match processes CMS may adopt, such as using IHS computerized registration list that include those who have been ever been served at a facility or program operated by IHS or a Tribe, then a Supplemental Form could be used to request information about the basis upon which the individual asserts that he or she is AI/AN. We have attached a list of questions that could be used on the Supplemental Form.

We contemplate the Supplemental Form as an attestation of the basis upon which an individual is asserts that they are AI/AN. We believe that this could appear on the computer screen for an individual to use as a follow up question if the verification discussed above is not successful. Also, hard copies could be made available with the paper application for Exchanges, or downloaded as additional forms from a website. The Indian Health Service, Tribes and Tribal organizations, and urban Indian organizations (collectively referred to as “I/T/U”) facilities assisting in enrollment in Exchanges can keep copies of the Supplemental Form on file so that they are available to applicants.

While the proposed questions for the Supplemental Form are lengthy, it should be noted that these are the criteria established in federal statute and case law that can be used to identify AI/AN. Eliminating any of these criteria could eliminate people who are entitled to special provisions and protections under federal law as AI/AN. CMS, CMCS and CCIIO can use the elements on the list to link to the specific programs and policies they administer. For example, the combination of being a member of a State recognized tribe and living in certain areas that can be identified by zip code on the application can qualify individuals for Medicaid protections through their eligibility for urban Indian health services.

We understand from discussions at the ACA Subcommittee meeting on December 15 that there will be a separate process to discuss how verification of Indian status will be handled. The ACA Subcommittee of the TTAG has asked to participate in the design of the verification process. We believe that TTAG involvement in the design of the verification process will produce better results.

Thank you for considering our recommendations for the application process. We trust that you will share this letter with all of the people in CMS who are involved in the design of the application.

Sincerely,



Valerie Davidson
Chair CMS TTAG



W. Ron Allen
Co-Chair CMS TTAG

Attachment: Questions for Supplement Form

**Suggested Questions for Supplemental Form
To Determine whether Applicants for Medicaid, CHIP, and Exchanges Qualify for
Special Benefits and Protections as American Indians and Alaska Natives**

Check all of the following that apply to you or one of your parents or grandparents:

- a ___ Member of federally-recognized Tribe, Band, Pueblo or Rancheria
- b ___ Stockholder in a village or regional Alaska Native Corporation formed under the Alaska Native Claims Settlement Act
- c ___ Have a Certificate of Degree of Indian Blood (CDIB) from the federal Bureau of Indian Affairs (BIA) or a Tribe
- d ___ Received services (or eligible to receive services) from the Indian Health Service or a Tribal health program
- e ___ Received services (as an American Indian or Alaska Native) from an urban Indian health program
- f ___ Received any cash or title to land from the federal government or a Tribe, including allotments, because of your status as an American Indian or Alaska Native
- g ___ Hold trust interests in public domain, national forest, or Indian reservation allotments in California; and/or name listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), or descendant of such Indian
- h ___ Received a loan, scholarship, housing, or other services from the Federal government or a Tribe that was designated for American Indians or Alaska Natives
- i ___ State or Tribal court handling a child custody, foster care, or adoption matter under the Indian Child Welfare Act (ICWA) has made a finding that you are a member of an Indian tribe or eligible for membership in a Tribe
- j ___ Member of a State-recognized tribe
- k ___ Can document American Indian or Alaska Native affiliation or status in some other manner