



**NORTHWEST
PORTLAND
AREA
INDIAN
HEALTH
BOARD**

Burns-Paiute Tribe
Chehalis Tribe
Coeur d'Alene Tribe
Colville Tribe
Coos, Suislaw &
Lower Umpqua Tribe
Coquille Tribe
Cow Creek Tribe
Cowlitz Tribe
Grand Ronde Tribe
Hoh Tribe
Jamestown S'Klallam Tribe
Kalispel Tribe
Klamath Tribe
Kootenai Tribe
Lower Elwha Tribe
Lummi Tribe
Makah Tribe
Muckleshoot Tribe
Nez Perce Tribe
Nisqually Tribe
Nooksack Tribe
NW Band of Shoshoni Tribe
Port Gamble S'Klallam Tribe
Puyallup Tribe
Quileute Tribe
Quinault Tribe
Samish Indian Nation
Sauk-Suiattle Tribe
Shoalwater Bay Tribe
Shoshone-Bannock Tribe
Siletz Tribe
Skokomish Tribe
Snoqualmie Tribe
Spokane Tribe
Squaxin Island Tribe
Stillaguamish Tribe
Suquamish Tribe
Swinomish Tribe
Tulalip Tribe
Umatilla Tribe
Upper Skagit Tribe
Warm Springs Tribe
Yakama Nation

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RESOLUTION # 05-03-09

**Supporting Self-Determination under Section 813(b)(1)(B)
of the Indian Health Care Improvement Act**

WHEREAS, the Northwest Portland Area Indian Health Board (NPAIHB) is a tribal organization under P.L. 93-638 that represents forty-three Federally-recognized Indian tribes in Oregon, Washington and Idaho on health related issues; and

WHEREAS, the Northwest Portland Area Indian Health Board is dedicated to assisting and promoting the health needs and concerns of Indian people; and

WHEREAS, the primary goal of the Northwest Portland Area Indian Health Board is to improve the health and quality of life of its member tribes; and

WHEREAS, on March 22, 2005 the Indian Health Service (IHS) issued a Matrix of Comments from tribes and tribal organizations on the Draft Policy on Service to Non-Beneficiaries Under Section 813 of the Indian Health Care Improvement Act (IHCIA); and

WHEREAS, the Matrix of Comments indicates that the soon-to-be-finalized policy will continue to reflect the IHS' position that Section 813 requires that Tribes and the IHS jointly determine whether to serve non-beneficiaries under Indian Self-Determination and Education Assistance Act (ISDEAA) agreements, despite the plain language of Section 813 authorizing tribal governing bodies to make this determination on their own; and

WHEREAS, the policy is inconsistent with the language of Section 813 of the IHCIA by purporting it guide the IHS in evaluating a Tribes "proposal" to serve non-beneficiaries under its ISDEAA agreement; and

WHEREAS, the Matrix of Comments indicates that at least 21 Tribes or Tribal organizations objected to the language to the policy's language to "guide" IHS consideration of Tribal determinations under Section 813(b)(1)(B), and recommended that the language guiding this determination be removed from the policy; and

WHEREAS, the IHS dismissed these comments as "not responsive" to the policy, which the Agency characterized as "direct IHS Service Unit Policy" only, despite the draft policy language explicitly referencing ISDEAA agreements; and

WHEREAS, the proposed policy as it stands, will presumably "guide" the agency when Tribes propose to serve non-beneficiaries under their ISDEAA agreements, despite the conflicting language of the IHCIA; and

WHEREAS, the IHS has failed to respond to Tribal comments as “non-responsive” and then use that label to avoid responding to those comments in the development of a policy that will have significant impact on Tribally operated programs is contrary to the principles of Tribal Consultation.

NOW THEREFORE BE IT RESOLVED, the Northwest Portland Area Indian Health Board respectfully request that the IHS Director reconsider Tribal comments that were categorized as “comments not responsive to Direct IHS Service Unit Policy”; although they may not directly implicate direct service programs, the concerns will have a direct bearing on Tribally operated programs, and must be considered in a policy that will presumably “guide” the IHS when making determinations when Tribes propose to serve non-beneficiaries under their ISDEAA agreements.

BE IT FURTHER RESOLVED, that the Northwest Portland Area Indian Health Board recommend that the IHS withdraw all references of “joint determination” where Section 813(b)(1)(B) is concerned so that the policy is consistent with the IHCA and responsive to Tribal comments received during the Tribal consultation process.

CERTIFICATION

NO. 05-03-09

The foregoing resolution was duly adopted at the regular session of the Northwest Portland Area Indian Health Board. A quorum being present and voting; 29 for, 0 against, 0 abstain on April 21st, 2005.

Renee Capelman-Ballen
Chairman

April 21, 2005
Date

Stella M. Vestinus
Secretary