



**NORTHWEST
PORTLAND
AREA
INDIAN
HEALTH
BOARD**

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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 Shoshone 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 #11-01-04
Recommendation to Adopt a Uniform Definition
of "Indian" for the Affordable Care 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 Idaho, Oregon, and Washington on health related issues; and

WHEREAS, the NPAIHB is dedicated to assisting and promoting the health needs and concerns of Indian people; and

WHEREAS, the primary goal of the NPAIHB is to improve the health and quality of life of its member Tribes; and

WHEREAS, The Patient Protection and Affordable Care Act (ACA) contains numerous favorable procedural rules, cost-sharing protections, and mandatory enrollment exemptions that apply specifically to American Indians and Alaska Natives (AI/AN), and are often referred to generally as "Indians" in the ACA; and

WHEREAS, these Indian specific provisions do not uniformly define the term "Indian," and in many cases do not include any definition at all, which creates enormous potential for confusion in the implementation of the ACA and makes it likely that many AI/ANs will not receive the benefits and special protections intended for them in the law; and

WHEREAS, on July 1, 2010, the Centers for Medicare and Medicaid Services (CMS) adopted by regulations a definition of "Indian" in its implementation of the Medicaid cost sharing protections enacted in Sec. 5006 of the American Recovery and Reinvestment Act (ARRA), which broadly defines the term "Indian" consistent with the Indian Health Service's ("IHS") regulations on eligibility for IHS services;¹ and

WHEREAS, the definition adopted by CMS is a definition of "Indian" used throughout Titles XIX and XXI (Medicaid and CHIP) of the Social Security Act has the meaning given the term in Section 4 of the Indian Health Care Improvement Act (IHCIA); and

WHEREAS, reliance on different definitions to implement the various Indian provisions of the ACA would result in administrative costs and lost opportunity that would thwart the intention of Congress to provide access to health care coverage; and

WHEREAS, if a narrower definition than that adopted by CMS to implement the Medicaid cost sharing protection were used to apply the protections for Indians under the Exchange Plans or Tax Code inconsistent outcomes would result creating administrative confusion and uncertainty; and

WHEREAS, the ACA references to the meaning of "Indian," must be reconciled by using a single implementation definition in order to achieve the objectives of this law; and

NOW THEREFORE BE IT RESOLVED, that the Northwest Portland Area Indian Health Board supports the adoption of the definition of Indian consistent with the CMS definition used in the July 1, 2010 cost-sharing regulation and used in Section 4 of the Indian Health Care Improvement Act.

BE IT FUTHER RESOLVED, that it is the sovereign right of tribal governments to determine their tribal members based on their tribal constitution and enrollment ordinances and that this resolution shall not diminish that right.

¹ In regulations effective July 1, 2010, HHS/CMS interpreted Section 5006 of the Recovery Act, which amended Sec. 1916 of the SSA (codified at 42 U.S.C. § 1396o).

CERTIFICATION

NO. 11-01-04

The foregoing resolution was duly adopted at the regular session of the Northwest Portland Area Indian Health Board. A quorum being established; 32 for, 0 against, 0 abstain on October 21, 2010.

Andrew C. Joseph Jr.
Chairman

10-21-10
Date

Brenda Nielson
Secretary