

IHS TRIBAL SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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Letter sent via email: Gary.Cohen@hhs.gov

Original USPS

August 2, 2013

Mr. Gary Cohen
Deputy Administrator and Director
The Center for Consumer Information and Insurance Oversight (CCIIO)
Center for Medicare and Medicaid Services
Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244-08010

RE: Issues from the July 2013 Tribal Self-Governance Advisory Committee (TSGAC) Meeting

Dear Mr. Cohen,

On behalf of the Tribal Self-Governance Advisory Committee (TSGAC), we are writing to provide a follow up written summary of the most important issues that surfaced at our meetings in Washington, DC, on July 9-10, 2013. We appreciate Lisa Wilson attending the TSGAC meeting on behalf of the Center for Consumer Information and Insurance Oversight (CCIIO) and participating in our discussions. The following summarizes our main issues:

Electronic Verification

We are pleased that the Department of Health and Human Services (HHS) Secretary granted a hardship exemption from the individual mandate (tax penalty) for people who are eligible to use the facilities and programs funded by the Indian Health Service (IHS), including those operated by the IHS, Tribes and urban Indian programs (I/T/U). The key issue now is implementing the exemption in a manner that minimizes the burden on individual American Indians and Alaska Natives (AI/AN), as well as minimizing the administrative costs to the I/T/U facilities that will be called on to assist AI/AN in securing the exemption and minimizing the cost to the Federal government to process applications for exemptions.

As you know, we have prepared a report, "Enabling Electronic Verification of Eligibility for Indian-specific Benefits and Protections under Medicaid and the Patient Protection and Affordable Care Act (ACA), P.L. 111-148". The report outlines opportunities to use electronic verification for this purpose and has been endorsed by Dr. Yvette Roubideaux, IHS Director. As indicated in the report (which was also presented to Ms. Wilson at the TSGAC meeting,) the IHS National Data Warehouse contains data that matches the eligibility criteria for the Indian-specific hardship exemption (namely, persons who

are eligible for IHS services.) Further, as documented in the report, this IHS/Federal government maintained National Data Warehouse offers a mechanism to establish an efficient, cost-effective, and accurate way to identify – in real-time – a significant portion of people who would qualify for this hardship exemption. Ms. Wilson stated that CCIIO has been reviewing the report, and we later learned that CCIIO is planning a Tribal consultation to include this topic.

We would like to restate our request that a timeline for full-evaluation and implementation of an electronic verification mechanism built off the IHS National Data Warehouse be established and communicated to IHS and the TSGAC. We understand that CCIIO is facing great challenges to meet the October 1, 2013 deadline for the beginning of the first enrollment period for Exchanges, and we recognize that implementation prior to this date is not feasible. In fact, through the regulations for CMS-9958 issued on July 1, 2013, we understand CCIIO may only establish for 2014 paper processing of applications and the related verification of eligibility for the range of hardship exemptions. That said, we are asking that CCIIO prioritize establishing such a mechanism for IHS eligible persons and consider using the Indian-specific exemption as a vehicle for testing the development of an on-line, real-time capability.

Call Center for the Federally-Facilitated Marketplace (FFM)

TSGAC is preparing a report on AI/ANs experiences with the FFM Call Centers. We understand that you have had an opportunity to review some of the calls that have documented problems AI/ANs are having getting accurate and complete information from the Call Center. To address this problem, we recommend that a group of people working for the Call Center be trained on Indian issues and that calls from AI/ANs or I/T/U facilities be referred to these Indian experts. While the term “Indian desk” has been used to describe this operation, it is intended that the Indian experts could be located anywhere and could also take other calls if they are not receiving AI/ANs or I/T/U calls.

Tribes are working with the CMS Tribal Affairs Group to develop a list of questions and answers that can be used in addition to the two scripts that are currently available for Call Center customer service representatives. However, no amount of computer-prompted scripts can take the place of a person who is knowledgeable about Indian health issues, services, communities, families, and provisions in the ACA.

AI/AN Committee for Implementation of FFM

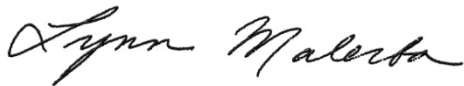
There are a number of issues arising related to the implementation of the FFM, and we believe there needs to be an advisory group to CCIIO comprised of AI/AN representatives from the States where there will be the FFM. This is already in place for states that have State-operated Exchanges. However, Tribes that are located in States that have decided not to operate Exchanges have nowhere to provide input and feedback during the implementation process. We think such a group can be helpful in assuring the success of the FFM in AI/AN communities.

Summary

We look forward to working with you and your staff in the next few months as the Marketplace becomes a reality and there is the potential for new resources to provide health care to American Indians and Alaska Natives. We appreciate your serious considerations of these comments and concerns.

Please contact me at any time on (860) 862-6192; or via email: lmalerba@moheganmail.com when you are able to report on a target date for implementation of an electronic verification mechanism and if you have any questions that I may be able to answer. Thank you.

Sincerely,



Chief Lynn Malerba, Mohegan Tribe
Chairwoman, TSGAC

cc: Kathleen Sebelius, Secretary HHS
Valerie Davidson, Chair, TTAG
Dr. Yvette Roubideaux, Director, IHS
P. Benjamin Smith, Acting Director, Office of Tribal Self-Governance, IHS
Marilyn Tavenner, Administrator, CMS
Kitty Marx, Director, Tribal Affairs Group, Office of External Affairs, CMS
Lisa Wilson, Senior Advisor, CCIIO, CMS
TSGAC Members and Technical Workgroup Members