



American Indian Health Commission for Washington State

"Improving Indian Health through Tribal-State Collaboration"

February 7, 2013

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Jamestown S'Klallam
Tribe

Executive Director
(Interim)
Brent Simcosky
Jamestown S'Klallam
Tribe

Member Tribes:

Chehalis
Colville
Cowlitz
Jamestown S'Klallam
Kalispel
Lower Elwha Klallam
Lummi
Makah
Muckleshoot
Nisqually
Nooksack
Puyallup
Quileute
Quinault
Samish
Saux-Suiattle
Shoalwater Bay
Skokomish
Snoqualmie
Spokane
Squaxin Island
Stillaguamish
Suquamish
Swinomish
Tulalip
Upper Skagit

Member Organizations:
**Seattle Indian Health
Board**
**NATIVE Project of
Spokane**

Richard Onizuka, Chief Executive Officer
Washington Health Benefits Exchange
810 Jefferson Street, SE
Olympia WA, 98501

RE: December 4, 2013 WHBE Tribal Consultation

Dear Mr. Onizuka:

On behalf of the tribes and urban Indian organizations (UIOs), the American Indian Health Commission (AIHC) would like to extend our sincere appreciation to you and your staff for a productive and engaging Washington Health Benefit Exchange (WHBE) Tribal Consultation on December 4, 2013. Your commitment to the government-to-government relationship with the tribes was evidenced by the attendance of key members of your management team. The purpose of this letter is to comment on the success of the WHBE and AIHC partnership and to request resolution of specific issues raised by consultation parties during and since the WHBE consultation.

Upon reflecting the year 2013, we see concrete outcomes of the collaborative relationship between the WHBE and the AIHC. It is with the dual effort of the Exchange and the AIHC that we have been able to engage dozens of Indian health care programs across the State of Washington in health care reform and, specifically, the Washington Healthplanfinder. With over sixty Tribal Assisters statewide, the American Indian/Alaska Native (AI/AN) population is getting the expert assistance in enrolling in Medicaid and qualified health plans. We believe that such an outcome will have a profound impact on the Washington Healthplanfinder's overall enrollment given that such a large number (roughly 80,000) of AI/AN are eligible for both Medicaid and Qualified Health Plan subsidies.

In the coming year, our focus remains on resolving barriers to AI/AN enrollment so that Washington Healthplanfinder leads the nation in AI/AN access to quality health care. Currently, AIHC, tribes, and UIOs have identified four major issues that have significantly impeded AI/AN enrollment in Washington Healthplanfinder: (1) the AI/AN verification process; (2) the Tribal Assister Certification process; (3) the role of the WHBE Tribal Liaison; and (4) engaging the Tribal Advisory Workgroup (TAW) at the leadership level. Unlike any other population, the AI/AN population can be philosophically averse to enrolling in Washington Healthplanfinder. The reluctance to do so can be greatly hindered when an AI/AN is unclear about how the process works. Each of these issues currently creates some roadblocks in enrollment, but the AIHC would like to continue providing technical support to the WHBE in removing barriers to AI/AN enrollment.

E-mail bsimcosky@jamestowntribe.org ** Website: www.aihc-wa.com

*Phone: 360-582-4870

The current process for verifying AI/AN status is creating unnecessary delays in enrollment and administrative burden upon WHBE staff. At the time of this letter, there were approximately 650 AI/AN individuals whose AI/AN status remains unverified because of the current obstacles in the WHBE process. The result is that after ninety days each of these individuals will be declared ineligible to receive the special benefits to which they are entitled to under federal law. As stated in your July 12, 2013, letter (Attachment A), WHBE certified Tribal Assisters have the authority to verify AI/AN status online. In practice however, Tribal Assisters have not been able to verify AI/AN status. Instead, an account worker at the WHBE is still required to review and approve documentation even after a Tribal Assister has already verified the applicant is an AI/AN. In order to address this issue, the AIHC is requesting that (1) WHBE implement its policy such that certified Tribal Assisters are able to verify AI/AN status with no further action required; and (2) WHBE adopt the AIHC verification draft policy (See Attachment B and C). The WHBE policy should reflect the special Good Faith Effort and ninety-day extension provisions for individuals who are unable to provide AI/AN status within the required time period. This verification policy and Good Faith Verification Form is based on your July 12, 2013, letter that provided an effective outline for our proposed policy and procedure.

The second issue, Tribal Assister Certification, remains a critical component to boosting enrollment numbers for the AI/AN population. Tribal Assisters have unique expertise in complex issues regarding the Indian health care delivery system. While many Tribal Assisters have received their certification, many more trained individuals are needed to meet enrollment needs. Unfortunately, the current process for certifying Tribal Assisters has also been administratively burdensome. Currently, the manual process requires hard-copy signature forms and does not allow for the electronic uploading of the required documents for certification. We are requesting that the Tribal Assister certification process be automated and streamlined to shorten the time period required for certification and reduce WHBE staff time. Our consultant, Lou Schmitz, has been an invaluable resource in resolving this issue as she has been working with each of the Tribal Assisters in the certification process.


Lastly, we echo the concerns raised by the tribes and UIOs at the WHBE tribal consultation on December 4, 2013, regarding the role of the TAW and the WHBE Tribal Liaison. During the consultation, the tribes and UIOs specifically identified the following issues for clarification:

- 1) Granting the Tribal Liaison and the TAW direct access to senior management and when appropriate, the WHBE Board;
- 2) Providing opportunity for the Tribal Liaison to attend all AIHC Delegate meetings as well as other Tribal health-specific meetings upon the request of AIHC, Tribes and UIOs;
- 3) Including the Tribal Liaison on all major WHBE policy discussions and providing access to all policy-related list serves, resources, etc.;
- 4) Providing the Tribal Liaison greater authority to resolve operational issues;
- 5) Providing training for WHBE staff on Tribal Consultation and government-to-government relationships and the role of the Tribal Liaison; and
- 6) Ensuring that the Tribal Liaison has sufficient capacity to perform the above tasks and is not burdened with administrative/clerical tasks that interfere with resolving important AI/AN policy

considerations. We remain concerned that the Tribal Liaison, Sheryl Lowe, has been tasked with resolving the AI/AN verification for the 600+ outstanding enrollment applications. Your Tribal Liaison is a treasure trove of skill and knowledge regarding the government-to-government process and requirements and Indian health policy issues. Assigning her to clerical tasks is an inefficient use of her expertise. We would like her involvement in all WHBE policy discussions. Utilizing Ms. Lowe as an AI/AN policy and public relations expert could save valuable time and money for the WHBE and for the tribes and UIOs.

We greatly appreciate your willingness to work with the tribes' and UIOs' in the above-identified issues. We look forward to a timely response and affording the Tribal Liaison direct access to you regarding these matters. AIHC values the opportunity to continue our working relationship with you and the WHBE. We believe that under your leadership, Washington will continue to set the bar for all other states in achieving great health care access for all AI/AN people across the State of Washington. Should you or your team have any questions or concerns, please contact Brent Simcosky, AIHC Executive Interim Director at 360-582-4870.

Sincerely,



Steve Kutz, Chair
American Indian Health Commission of Washington State

Attachments

cc:

Tribal Leaders
AIHC Delegates
Brent Simcosky, AIHC Executive Interim Director
Sheryl Lowe, WHBE Tribal Liaison
Michael Marchand, HBE Communications Director
Molly Voris, WHBE Policy Director
Pam MacEwan, WHBE Chief of Staff
Joe Finkbonner, NPAIHB Executive Director
Jim Roberts, NPAIHB Policy Analyst



July 12, 2013

The Honorable Marilyn Scott, Chair
American Indian Health Commission
Upper Skagit Tribe
255944 Community Plaza
Sedro Wooley, Washington 98284

The Honorable Brent Simcosky, Interim Executive Director
American Indian Health Commission
Jamestown S'Klallam Family Health Clinic
808 North 5th Avenue
Sequim, Washington 98382

Dear Ms. Scott and Mr. Simcosky:

Thank you for your June 17, 2013, letter regarding the verification process for American Indians and Alaska Natives (AI/ANs). As you know, the Affordable Care Act (ACA) requires verification related to AI/AN status as part of the special eligibility standards and processes for American Indians and Alaska Natives that are included in the federal law. The Exchange is pleased that the American Indian Health Commission (AIHC) has worked with us to design a flexible verification process that allow Tribal Assisters, Tribes, and Urban Indian programs (with the permission of the Tribes) to verify membership.

Some examples of how the verification process will be completed are as follows:

- Using the Washington Healthplanfinder website, an individual indicates that s/he is an American Indian, and selects the Tribe s/he is a member of from a drop-down menu that includes all federally recognized Tribes (including Tribes outside of Washington).
- If a Tribal Assister is helping her/him, the Tribal Assister can verify her/his status online through the Healthplanfinder web portal.
- If s/he is applying on her/his own and has documentation of her/his tribal status, those documents can be uploaded directly into Healthplanfinder. Verification documents submitted through Healthplanfinder will be processed by HBE Tribal Specialist, Sheryl Lowe, with support from the Client Services Specialist team.
- If s/he is applying without the assistance of a Tribal Assister or without documentation, s/he can proceed with her/his enrollment. S/he will be conditionally eligible for all relevant AI/AN specific eligibility standards and processes. After submitting her/his enrollment, the unverified individual will receive a notice from the Exchange, stating that s/he has 90 days to verify her/his tribal membership through a Tribal Assister or by uploading/sending in documents. The Exchange will also send notification to the Tribe the individual selected, requesting verification of her/his

The Honorable Marilyn Scott
The Honorable Brent Simcosky
July 12, 2013
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status. The Tribe can verify status online through the Healthplanfinder web portal (if it is a Washington Tribe).

In your letter, you voice concern that the 90-day verification period set forth in the ACA may not always be sufficient, particularly when enrollment documentation must be obtained by members of Tribes outside of Washington State.

If within 90 days of receiving notice from the Exchange an individual is unable to have a Tribal Assister, or Tribe, or Urban Indian Program verify her/his tribal status, and is unable to submit the required documentation directly to the Exchange, the ACA allows the Exchange to extend the verification period.¹ As you note in your letter, this extension is limited to situations where the applicant demonstrates s/he has made a "good faith effort" to obtain the required documentation. The Exchange will consider any request received for this type of extension on a case-by-case basis. We appreciate your suggestions of how a "good faith effort" might be demonstrated, and will work with the Tribal Advisory Workgroup (TAW) to develop guidelines for AI/ANs who would like to request this extension.

Finally, if Tribal membership documentation does not exist or is not reasonably available and the Exchange is unable to otherwise resolve the inconsistency, the ACA requires that the Exchange provide an exception, on a case-by-case basis, to accept an applicant's attestation along with an explanation of circumstances as to why the applicant does not have documentation.

We hope this addresses your concerns about the verification options available and the 90-day verification period. Thank you for your continued support of the Exchange.

Sincerely,



Richard K. Onizuka, Ph.D.
Chief Executive Officer

cc: AIHC Delegates
NPAIHB Delegates
Susan Johnson, DHHS
Deb Sosa, CMS
Joe Finkbonner, NPAIHB
Jim Roberts, NPAIHB
Vickie Lowe, AIHC
Heather Erb, AIHC
Roger Gantz, AIHC

¹ The ACA regulations about the verification process related to eligibility for enrollment in a QHP through the Exchange are located in 45 CFR §155.315.

**Washington Healthplanfinder
American Indian/Alaska Native Verification Policy and Procedure**

The Patient Protection and Affordable Care Act requires verification of enrollment in a federally-recognized tribe, Band, Pueblo or Rancheria, or Shareholder in an Alaska Native Regional or Village Corporation, in order to be eligible for special protections and benefits available to American Indians and Alaska Natives (AI/AN).¹ The process outlined below provides the necessary steps to verify AI/AN status.

1. **Enrollment in Washington Healthplanfinder.** An individual will indicate his or her status as an AI/AN during enrollment for health care coverage through the Washington Healthplanfinder. An AI/AN must specify through the Washington Healthplanfinder website or paper application the federally-recognized Tribe or Alaska Corporation of which he or she is a member. The Washington Healthplanfinder web portal has a drop-down menu that includes all federally-recognized Tribes (including Tribes outside the State of Washington).
2. **Documentation Required for Verification of AI/AN Status.**
 - a. Tribal Enrollment Card;
 - b. Certificate of Indian Blood Degree (CIBD) from Federally Recognized Tribe Listing Enrollment; OR
 - c. Letter from Federally Recognized Tribe or Alaska Corporation stating person is an enrolled member with enrollment number listed.
3. **Verification through a Tribal Assister.** If a tribal assister is helping an AI/AN, the Tribal Assister can manually verify AI/AN status online through the Healthplanfinder web portal so long as the Tribal Assister has viewed one of the documents listed in Section 2 above which verifies the AI/AN's enrollment. The Tribal Assister will not be required to upload the documentation to the Washington Healthplanfinder website.
4. **Verification through an In-Person Assister.** If an AI/AN is applying with the assistance of an In-Person Assister who is not a Tribal Assister, the In-Person assister may facilitate the verification process by uploading any of the documents listed in Section 2 into the Healthplanfinder. An In-Person Assister cannot verify status without uploading the required documentation as a Tribal Assister can.
5. **Self-Verification with Documentation.** If an AI/AN is applying on his or her own and has documentation of his or her tribal status, any of the documents listed in Section 2 can be uploaded directly into Healthplanfinder.
6. **Application without Documentation or Tribal Assister Verification.** If an AI/AN is applying for coverage in Washington Healthplanfinder without the assistance of a Tribal Assister or without documentation, he or she can proceed with his or her enrollment. An individual will be conditionally eligible for all relevant AI/AN specific benefits and protections.

¹ This policy and procedure does not apply to AI/AN Hardship Exemption which provides special protection from the Individual Mandate.

- a. **90-Day Verification Rule.**² After submitting his or her enrollment, the unverified individual will receive a notice from the Washington Healthplanfinder stating that he or she has 90 days to verify his or her tribal membership through a Tribal Assister or by uploading/sending in documents. The Exchange will also send notification to the Tribe the individual selected, requesting verification of his or her status. The Tribe can verify status online through the Healthplanfinder web portal (if it is a Washington Tribe).
 - b. **Extension of 90-Day Rule.** If within 90 days of receiving notice from the Washington Healthplanfinder the AI/AN is unable to verify tribal status, the Exchange will extend the 90-day period for verification. In order to receive an extension, the individual must demonstrate that he or she has made a good faith effort to obtain the required documentation. The Washington Healthplanfinder will consider any request for this type of extension on a case-by-case basis.
 - i. **Documentation of Good Faith Effort.** An individual seeking an extension of the 90-day period must complete a Statement of Good Effort which documents the efforts made to obtain required proof of tribal enrollment documents. These efforts may include (1) written requests; (2) phone calls; and/or (3) personal contact. Necessary documentation to demonstrate these efforts could include copies of written requests and a letter from the health clinic staff explaining the attempts made to obtain evidence of tribal enrollment.
 - ii. **No Documentation Available.** If Tribal membership documentation does not exist or is not reasonably available and the Washington Healthplanfinder is unable to otherwise resolve the inconsistency as outlined in section 6(b)(i), the Washington Healthplanfinder will provide an exception, on a case-by-case basis. A Statement of Good Effort as referenced in Section 6b(i) must be completed with an explanation of circumstances as to why the applicant does not have documentation.
7. **Information Exchange with Tribes.** The Washington Healthplanfinder will generate reports to WA State Tribes for verification.

² See 45 CFR 155.315(f).

Statement of Good Faith Effort

American Indian/Alaska Native Enrollment Verification

American Indians and Alaska Natives (AI/AN) applying for medical coverage through Washington Healthplanfinder must provide verification of enrollment in a federally-recognized tribe or Alaska Native Corporation within 90 days of receiving notice from the Washington Healthplanfinder that they are unable to verify AI/AN enrollment.

If you are unable to verify your AI/AN enrollment within the required 90-day time period, please tell us why. Please indicate what efforts you have made to obtain required proof of tribal enrollment documents. These efforts may include (1) written requests; (2) phone calls; and/or (3) personal contact. Please attach any documentation to demonstrate these efforts including copies of your written requests and a letter from the health clinic staff explaining the attempts made to obtain evidence of tribal enrollment.

Complete the information below for each household member that receives medical coverage and does not have proof of tribal enrollment. Sign and return this form to the following address:

Washington Health Benefit Exchange, P.O. Box 657, Olympia, Washington 98507

Last Name:	First Name:
Date of Birth:	
Tell us why you are unable to provide verification of tribal enrollment?	
<hr/> <hr/> <hr/> <hr/>	
Last Name:	First Name:
Date of Birth:	
Tell us why you are unable to provide verification of tribal enrollment?	
<hr/> <hr/> <hr/> <hr/>	

Use a separate sheet for additional household members

I declare, under penalty of perjury, the information above for each person is true, correct and complete to the best of my knowledge. I understand that I may continue to try to get any necessary documentation unless the Washington Healthplanfinder tells me that they already have the necessary documentation.

Signature: _____

Date: _____

Printed Name: _____

Daytime Phone Number: _____