

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

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Submitted via –

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January 14, 2014

Ms. Kitty Marx,
Ms. Nancy Goetschius
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independent Avenue, Southwest
Washington, DC 20201

Re: Response to CMS Request to Review CMS Guidance to Qualified Health Plans regarding Cost-sharing Protections under Contract Health Services

Dear Ms. Marx and Ms. Goetschius:

I write on behalf of the Tribal Technical Advisory Group (TTAG) to the Centers for Medicare and Medicaid Services (CMS) regarding the CMS request to provide comments on draft CMS guidance to Qualified Health Plans (QHPs) pertaining to cost-sharing protections for members of Indian tribes through Contract Health Service (CHS). The guidance is in the form of a Q & A document.

The TTAG advises CMS on Indian health policy issues involving Medicare, Medicaid, the Children's Health Insurance Program, and any other health care program funded (in whole or part) by CMS. In particular, the TTAG focuses on providing policy advice to CMS regarding improving the availability of health care services to American Indians and Alaska Natives (AI/ANs) under these Federal health care programs, including through providers operating under the health programs of the Indian Health Service, Indian Tribes, tribal organizations and urban Indian organizations (referred to as I/T/Us or Indian Health Care Providers).

Thank you for discussing the Q&A document with us at the TTAG meeting on Wednesday, January 8, 2013. As promised, we have closely reviewed the draft Q & A document, and we propose edits to make the language consistent with the statutory definition of "contract health service," found at 25 U.S.C. § 1603(5). ("The term 'contract health service' means any health service that is—(A) delivered based on a referral by, or at the

expense of, an Indian health program; and (B) provided by a public or private medical provider or hospital that is not a provider or hospital of the Indian health service.”). This definition clearly includes both those services for which an Indian health program may pay and those for which it may not, which is the issue we discussed most on the call.

We also added some language to the last paragraph of the Q&A document to clarify that the referral eliminates any cost-sharing, including at the time of initial service. We think this will strengthen the understanding by the health care providers of the intent of this provision.

As requested, we are submitting the TTAG comments to you and Ms. Goetschius, and we are forwarding a copy to the leadership of the Center for Consumer Information and Insurance Oversight (CCIIO) at CMS.

Thank you again for your engagement with the TTAG. We believe this kind of communication will help avoid errors in implementation and improve the overall outcome for the Administration and for American Indians and Alaska Natives. Please let us know if you have any questions. As we said during the call, we think it is important that the tribal lawyers be included in discussion if OGC is further consulted and has concerns.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'V. Davidson', with a long, sweeping flourish extending to the right.

Valerie Davidson
Chair, CMS Tribal Technical Advisory Group

Cc: Gary Cohen, Deputy Administrator and Director, CCIIO
Dr. Yvette Roubideaux, Director, Indian Health Service

Attachment: Q&A Document on Cost-Sharing Reductions for Contract Health Services

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



Date: [XXX]

Subject: Cost-Sharing Reductions for Contract Health Services

Q: What documentation standards should apply for cost-sharing reductions for an item or service that has been furnished through referral from an Indian health program, including an urban Indian program, under contract health services?

A: Under 45 CFR 156.420(b)(2) and 156.430, HHS will reimburse cost-sharing reductions provided to eligible enrollees for an “item or service that is an EHB furnished . . . through referral under contract health services.” To document eligibility for reimbursement as a cost-sharing reduction on an EHB provided through referral under contract health services, and meet the standards set forth at 45 CFR 156.480, the issuer must retain documentation that includes the following information:

- Identification of the patient receiving the item or service (e.g. name and date of birth);
- The name and address of the provider delivering the item or service;
- A description from the provider of the item(s) or service(s) delivered to the patient authorized for contract health services funding, including the date(s) the item(s) or service(s) were is provided; and
- The name of the authorizing Indian health program contract health services program, contact information for the program, and the date of the referral authorization.

When a referral is received from an Indian health program, the patient shall not be required to pay any cost-sharing, including at the time of initial service. We also note that in accordance with 45 CFR 156.410(c), if a patient is issued a referral under contract health services after the item or service has been provided, or a QHP issuer fails to ensure that the cost-sharing is eliminated for an item or service furnished through referral under contract health services, the QHP issuer must ensure that the enrollee or provider, as applicable, is reimbursed for any excess cost-sharing paid within 45 calendar days of discovery.