



Legislative & Policy Update

NW Portland Area Indian Health Board
Quarterly Board Meeting
Hosted by the Suquamish Tribe

October 19, 2016

Report Overview

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Status of FY 2017 IHS Budget

- Congress enacted a continuing resolution through December 9, 2016 – funding pro rated and at FY 2016 level.
- Senate and House Committees' Interior, Environment and Related Agencies appropriation bills reflect differences (detailed on next slide)- to be negotiated.
- Committee reports
 - Senate requests GAO report on Advance Appropriations
 - House questions the distribution of population growth funds; and directs IHS to provide a report on full funding for IHClA
 - Concurrence on CSC; CSC for domestic violence, zero suicide initiative; and volunteer dentists/credentialing



Status of FY 2017 IHS Budget⁷

	FY2016	President	Senate	House
Overall	\$4.8B	\$5.2B \$377M ↑ FY 2016	\$4.99B \$186m ↑ FY 2016	\$5.07B \$271m ↑ FY 2016
Clinical	\$3.23B	\$3.47B	\$3.31B	\$3.37B
PRC	\$914.1m	\$962m	\$914.1m	\$960m
Preventative Health	\$155m	\$166m	\$157m	\$166m
Other services	\$173m	\$175m	\$172m	\$176m
CSC	\$717m	\$800m	\$800m	\$800m
Facilities	\$523m	\$569m	\$543m	\$557m

Contract Support Costs

- President's FY 2017 IHS budget proposes an increase of \$82m above FY 2016 level for Contract Support Costs (CSC)
- Senate and House Committees' Interior, Environment and Related Agencies bills continue the FY 2016 enacted policy of appropriating an indefinite amount ("such sums as may be necessary") to separate accounts for IHS and BIA.
 - Not classified as mandatory yet.
- CSC Policy - Several recommended changes to the CSC Policy were made and discussed during the September 15-16, 2016 CSC Workgroup meeting.
 - IHS will finalize by the end of October.



Veteran's Administration

- On September 12, 2016, the Veteran's Administration issued a Dear Tribal Leader Letter (DTLL)
- In October, 2015, VA submitted a Plan to Congress to Consolidate Programs of the Department of Veterans Affairs and conducted Tribal Consultations.
- As part of implementation of this Plan, tribal consultation is being sought on tribal health programs participation in the core provider network and potentially transitioning from the current reimbursement agreement structure to a model under which tribal health programs deliver care to all those eligible for services.
- In person consultation:
 - September 28, 2016 at 9:00am-11:00am at the Smithsonian National Museum of the American Indian (NMAI)
- Written comments are due on November 5, 2016 and can be sent to: tribalgovernmentconsultation@va.gov



CHAP Expansion


- On June 1, 2016, IHS issued a DTLL to create a National Indian Health Service Community Health Aide (CHA) Program.
- The goal is to fully utilize CHAs within the Indian health system.
- Telephone consultation on October 4 at 12 noon PST.
- Two in person consultations:
 - NIHB Annual Consumer Conference on September 19 in Scottsdale; and
 - NCAI Annual Convention on October 9 in Phoenix.
- Comments are due on October 27 (extended from July 29, 2016).



Tribal Premium Sponsorship

- On July 18th, IHS issued a DTLL on a new, draft circular to address the purchase of health insurance by tribes, tribal organizations and urban Indian organizations under Section 402 of IHClA.
- Provides guidance on when T/TO can purchase health insurance coverage for IHS beneficiaries using-in part or in whole ISDEAA funding or other IHS appropriated funding.
- One telephonic consultation held; two in person scheduled:
 - NIHB Annual Consumer Conference on September 19 in Scottsdale; and
 - NCAI Annual Convention on October 9 in Phoenix.
- Comments are due on October 31.





⁷ Catastrophic Health Emergency Fund (CHEF)

- Proposed rule issued on January 26, 2016 (81 Fed. Reg. 4239–44).
 - Adds “tribal” resources to the list of alternate resources.
- No tribal consultation on this rule before it was issued.
- DTLL issued on June 1, 2016 stating that IHS would engage in additional tribal consultation.
- DTLL issued on July 29, 2016 with tribal consultations set, as follows:
 - Telephone consultations on August 16 and October 24
 - In person consultations at NIHB ACC on September 19 in Scottsdale, and NCAI Annual Convention on October 9 in Phoenix
- Comments are due on October 31.

Other Policies

- IHS Re-alignment of IHS Headquarters
 - All Tribes Call on 9/29/16 and in person discussion at NCAI on October 9.
 - Comments due November 5
- SAMSHA's Draft Tribal Behavioral Health Agenda (TBHA)
 - Sets forth a framework, priorities and strategies to address behavioral health issues in Indian country.
 - Comments due on October 31.
- CMS MACRA MIPS & APM
 - Final Rule issued on October 14.



Other Policies-cont'd

- CMS Medicare Expansion of Diabetes Prevention Program Proposed Rule
 - Proposed to expand the Medicare Diabetes Prevention Program beginning 1/1/2018.
 - Tribal consultation has been requested before final rule issued.
- CMS Managed Care Final Rules
 - All Tribes Call on 10/5/17.
 - CMS will provide an overview of Indian specific provisions and comments on an Indian health addendum
 - Effective 7/1/17; CHIP provisions effective 7/1/18
- CMS 100% FMAP -- CMS issued a letter to State Health Officials on 2/26/16 re-interpreting the scope of services to be considered “received through” an I/T to qualify for 100% FMAP:
 - CMS to issue a FAQ on new policy – still pending.



STAC Meeting Update

- Last meeting was September 13-14; next meeting is December 7-8
- Tribal leaders have made several requests to Secretary Burwell, including:
 - Quality of Care Issues at the Indian Health Service
 - Tribal Budget Formulation Workgroup's Recommendations for the FY 2018 IHS Budget
 - Office for AI/AN Programs at the Office of Management and Budget
 - Advocacy on the Veterans' Administration Memorandum of Understanding
 - Senior Level HHS Position Dedicated to Coordinating Tribal Policies at ACF
 - Indian Child Welfare Act Implementation
 - 1115 Waiver Approval
 - Transition Plan for the Next Administration



MMPC & CMS TTAG Update

- Medicare, Medicaid and Health Reform Policy Committee (MMPC) next face-to-face meeting on November 2.
 - Priority List
- CMS TTAG conference call and face-to-face meetings on October 12 and November 3-4, respectively.



Litigation Impacting Indian Health⁷

- Section 2901(b) -- Payer of Last Report
 - *Redding Rancheria v. Burwell*, No. 15-152 (DDC)
 - IHS has argued in this litigation that Section 2901(b) of the Affordable Care Act (ACA), enacted in 2010, invalidated the IHS's longstanding policy exempting tribal self-insured health plans from the payer of last resort rule.
- Section 105(l) under ISDEAA – Lease Compensation
 - *Maniilaq Association v. Burwell*, No. 14-2035 (RMC)
 - Court held that IHS should negotiate proper lease compensation under 105(l) of the ISDEAA.
 - On July 27, Judge issued a Final Order in favor of Maniilaq.
 - IHS did not appeal the Final Order.





Indian Legislative Issues 114th Congress

- Employer Mandate Bills (S. 1771 & H.R. 3080)
- Indian Health Service Reform Bills (S. 2953 & H.R. 5406)

Indian Legislative Bills in 114th Congress

- Senate and House Bills Exempting Tribes from the ACA Employer Shared Responsibility Mandate
 - S. 1771-Tribal Employment and Jobs Protection Act introduced by Sen. Daines (R-MT) on 7/15/15; co-sponsors Senators Thune (R-SD), Crapo (R-ID), Rounds (R-SD), McCain (R-AZ), Risch (R-ID)
 - H.R. 3080 introduced by Rep. Noem (R-SD) on 7/15/15; 27 bi-partisan co-sponsors
 - Senate bill referred to Finance Committee; House bill passed Ways and Means Committee.



Indian Legislative Bills in 114th Congress

- Senate and House Bills Reforming the Indian Health Service in response to issues in the Great Plains region.
 - S. 2953 -- The Indian Health Service Accountability Act of 2016 was introduced by Sen. Barrasso (R-WY) on 5/19/16.
 - H.R. 5406 – The Helping Ensure Accountability, Leadership and Trust in Tribal Healthcare Act was introduced by Rep. Kristi Noem (R-SD) on 6/8/16.
 - Senate bill referred to Finance; House bill reported favorably out of House Ways and Means on 6/15/16.
 - Both bills were amended and then approved in their respective committees on 9/21/16.





Indian Legislative Issues 114th ⁷ Congress

Other pending legislation:

- Advance Appropriations (H.R. 395)
- Tribal Programs Exemption from Sequestration (S. 1497/H.R. 3063)
- Department of Interior Tribal Self-Governance Act of 2015 (2. 286)
- Family Stability and Family Kinship Act of 2015 (S. 1964)
- Native American Suicide Prevention Act of 2015 (H.R. 3166)
- Correct Inconsistencies in the ACA/IHCIA (S. 2114)

Important Dates

- Several comments are due in the next 3 weeks.
- Portland Area Budget Formulation Meeting – November 29, 2016.
 - Location: Portland, OR
- NCAI Transition Plan Submissions
 - Due: Wednesday, October 19, 2016
 - Submit to: Nicole Hallingstad, Director of Operations, NCAI, nhallingstad@ncai.org



Discussion?

