



Legislative & Policy Update

NW Portland Area Indian Health Board
Quarterly Board Meeting
Silver Reef Hotel Casino - Ferndale, WA
Hosted by the Lummi Nation
July 17, 2018



Report Overview

1. Legislation in 115th Congress
2. FY 2019 -- FY 2021 Appropriations
3. Current & Pending Federal Policies
4. State Policy Issues Discussion
5. Upcoming National/Regional Meetings



Legislation in 115th Congress



Legislation in 115th Congress

- House Opioid Package -- SUPPORT for Patients and Communities Act, H.R. 6
- Senate Opioid Package - Opioid Crisis Response Act, S. 2680
- The Native Behavioral Health Access Improvement Act of 2018 (S.2545 & H.R. 3704)
- The PROGRESS for Indian Tribes Act (S.2515)
- Restoring Accountability in the Indian Health Service Act of 2017 (H.R. 4874/H.R. 2662/S. 1250)
- VA MISSION Act of 2018 (S. 2906 & H.R. 5674)
- List of Other Legislation – Still Pending



House Opioid Package (H.R. 6)

- SUPPORT for Patients and Communities Act, H.R. 6, was introduced by Rep. Greg Walden (R-OR) on 6/13/18.
- Combines over 60 pieces of legislation to address the national opioid crisis.
- Includes regulatory fixes to Medicare, Medicaid and the Children’s Health Insurance Program (CHIP) to expand the use of non-opioid therapies for pain management, expands telehealth and e-prescribing services, allows for more flexibility in prescribing medication-assisted treatments, and improves Medicare and Medicaid surveillance of opioid prescribing practices.
- Establishes parity between tribes and states under several provisions, including grant funding.
- Passed House on 6/22/18 by a vote of 396-14; pending in Senate.



Senate Opioid Package (S. 2680)

- Senate HELP Committee package is under Opioid Crisis Response Act, S. 2680, introduced by Sen. Alexander Lamar (R-TN) on 4/16/18, includes over 20 related bills.
- Section 101 of the bill authorizes tribes as eligible entities (parity with states and territories) for funds under 21st Century Cures Act.
- Includes a 5% tribal set aside amounting to \$25 million per year.
 - H.R. 6 does not include reauthorization of 21st Century Cures Act.
- Reconciliation with House on package pending.



The Native Behavioral Health Access Improvement Act of 2018 (S.2545 & H.R. 3704)

- Introduced by Sen. Tina Smith (D-MN) on 3/14/2018; 5 co-sponsors.
 - Companion bill to Native Health Access Improvement Act of 2017 (H.R. 3704)
- Authorizes a special behavioral health program for Indians.
- Appropriates \$150 million each year for FY 2018-2022 for providing services for prevention and treatment of mental health and substance use disorders.
- Establishes a technical assistance center.
- Senate bill referred to Senate Committee on Indian Affairs on 3/14/18; House bill referred to Subcommittee on Indian, Insular and Alaska Native Affairs on 9/13/17



The Practical Reforms and Other Goals to Reinforce the Effectiveness of Self-Governance and Self-Determination (PROGRESS) for Indian Tribes Act (S.2515)

- Introduced by Sen. John Hoeven (R-ND) on 3/7/18; 5 co-sponsors.
- Amends ISDEAA to provide further self-governance to Indian tribes by streamlining the Interior Department's self-governance process and providing tribes with greater flexibility to administer federal programs.
- Ordered to be reported out of SCIA without amendment on 4/11/18.



Restoring Accountability in the Indian Health Service Act of 2017 (H.R. 5874)

- H.R. 5874 was introduced by Rep. Kristi Noem (R-SD) on 5/18/18; 8 co-sponsors.
 - Related to S. 1250 and H.R. 2662. S. 1250 was introduced by Sen. John Barasso (R-WY); and H.R. 2662 was introduced by Rep Noem (R-SD) on 5/25/17.
- Seeks to reform IHS and offer better tools for recruiting the agency's staff and leadership, improve care standards, and dramatically increase accountability.
- Reported out of House Natural Resources Committee on 6/13/18.



VA MISSION Act of 2018 (H.R. 5674/S. 2906)

- Senate and House bills Introduced by Sen. Joe Manchin (D-WV) and Rep. David Roe (R-TN) on 5/22/18 and 5/11/18, respectively.
- Consolidates Department of VA community care programs, revises other VA health care programs and facilities provisions, and makes appropriations for veterans care.
- Establishes the Veterans Community Care Program to furnish hospital care, medical services, and extended care services through certain non-VA providers to veterans who are enrolled in the VA health care system or otherwise entitled to VA care.
- House: Reported and placed on Union Calendar on 5/11/18.
- Senate: Referred to VA Committee on 5/22/18.



Other Legislation in 115th Congress
Still Pending

- Special Diabetes Program for Indians Reauthorization Act of 2017 (S.747 & H.R. 2545)
- Native Health and Wellness Act of 2017 (H.R. 3706)
- Native American Suicide Prevention Act of 2017 (H.R. 3473)
- Drug Free Indian Health Service Act of 2017 (H.R. 3096)
- Independent Outside Audit of the Indian Health Service Act of 2017 (S.465)
- Tribal Veterans Health Care Enhancement Act (S.304)
- IHS Advanced Appropriations Act of 2017 (H.R. 235)



**FY 2019 – FY 2021
Appropriations**



FY 2019 IHS – Interior Appropriations Status

- President’s Budget Proposal Summary was released on February 12
- Senate Appropriations Committee Passed Senate Interior, Environment and Related Agencies Bill on June 14.
- House Appropriations Committee Passed Interior, Environment and Related Agencies Bill on June 19.
- Still need Senate and House to pass their respective bills, then reconciliation.



FY 2019 IHS- Interior Appropriations Committee Bills Highlights

- Senate and House Bills
 - Propose level funding or increases across all line items
 - Support funding for CHRs and Tribal Management Grants at FY 2018 enacted levels
 - Support funding for Health Educators with an increase.
 - Do not support President’s request for SDPI to be moved from mandatory to discretionary.



FY 2019 IHS- Interior Appropriations Committee Bills Highlights – cont’d

- Senate Bill
 - Increase of \$17.7M- staffing & opioid abuse
 - Generation indigenous \$6.5M
 - Youth pilot project \$1.8M
 - Essential detox services \$2M
 - Opioid grants \$10M
- House Bill
 - IHCIF \$125M
 - Accreditation Emergencies \$58M
 - Indian Health Professions \$21M increase

FY 2019 IHS Summary

	Enacted FY 2018	Pres Req. FY 2019	House AC FY 2019	Senate AC 'FY 2019
Clinical Svcs	\$3,603,094	\$3,688,883	\$3,813,960	\$3,718,161
Prev Health	169,929	89,058	176,160	174,742
Other Svcs	179,287	168,034	212,519	179,482
Services	3,952,310	3,945,975	4,202,639	4,072,385
Facilities	867,504	505,821	882,748	877,504
Total w/o CSC	\$4,819,814	\$4,451,796	\$5,085,387	\$4,949,889
Difference to FY 2018	--	-368,018	+265,573	+130,075
CSC	717,970	822,227	822,227	822,227
Total w/CSC	\$5,537,784	\$5,274,023	\$5,907,614	\$5,772,116

FY 2019 IHS Clinical Services

	FY 2018 Final	Pres Req.	House AC	Senate AC
H&HC	\$2,045,128	\$2,189,688	2,170,257	2,198,623
Dental	195,283	203,783	207,906	203,872
MH	99,900	105,169	106,752	105,281
Alcohol/SA	227,788	235,286	238,560	245,566
PRC	962,695	954,957	964,819	964,819
IHCIF	72,280	0	125,666	0
Totals:	\$3,603,094	\$3,688,883	\$3,813,960	\$3,718,161
Difference to FY 2018:	--	+85,789	+210,886	+115,087

FY 2019 IHS Preventative Health

	FY 2018 Final	Pres Req.	House AC	Senate AC
PH Nursing	\$85,043	\$87,023	\$90,540	\$89,159
Health Educ	19,871	0	20,568	20,568
CHRs	62,888	0	62,888	62,888
Immun AK	2,127	2,035	2,164	2,127
Totals:	\$169,929	\$89,058	\$176,160	\$174,742
Difference to FY 2018	--	-80,871	+6,231	+4,813



FY 2019 IHS Other Services

	FY 2018 Final	Pres Req.	House AC	Senate AC
Urban Health	\$49,315	\$46,422	\$60,000	\$49,315
IHP	49,363	43,394	70,765	49,558
Tribal Mngt	2,465	0	2,465	2,465
Direct Ops	72,338	73,431	73,431	72,338
Self Gov	5,806	4,787	5,858	5,806
Totals:	\$179,287	\$168,034	\$212,519	\$179,482
Difference to FY 2018:	---	-\$11,253	+\$33,232	+\$195



FY 2019 IHS Facilities

	FY 2018 Final	Pres Req.	House AC	Senate AC
M&I	\$167,527	\$75,745	167,527	167,527
Sanitation	192,033	101,772	192,033	192,033
HC Fac Const	243,480	79,500	243,480	243,480
Fac & Envir.	240,758	228,852	256,002	250,758
Equipment	23,706	19,952	23,706	23,706
Totals:	867,504	505,821	882,748	877,504
Difference to FY 2018:	--	-361,683	+15,244	+10,000



FY 2020 IHS Budget

- National Tribal Budget Formulation Workgroup co-chairs presented the recommendations for FY 2020 at the HHS Annual Tribal Consultation in D.C. on March 1 and to HHS Budget Council for the Tribal Budget Formulation in D.C. on April 11.
- Recommends over \$7 billion for FY 2020 (36% increase over FY 2017 enacted level).
- Recommends \$36.83 billion for tribal needs based budget to be implemented over 12 year period.
- Available at: https://www.nihb.org/legislative/budget_formulation.php



FY 2021 IHS Budget

- **SAVE THE DATE:** Portland Area Budget Formulation Meeting on November 15, 2018 in Portland, OR



FY 2019 Labor HHS Education Appropriations

- **DHHS**
 - Senate Appropriations Committee proposes:
 - \$90.1B overall, \$2.3B increase above FY 2018
 - \$2B increase above FY 2018 for NIH
 - \$145M increase above FY 2018 to fight opioid abuse
 - \$79M increase above FY 2018 for SAMHSA
 - \$280M increase for Head Start and \$50M increase for LIHEAP above FY 2018.
 - No funding increases for the ACA.



FY 2019 Labor HHS Education Appropriations – Cont'd

- **DHHS**
 - House Appropriations Committee proposes
 - \$89.2B overall, an increase of \$1.25B above FY 2018
 - \$1.25B increase above FY 2018 for NIH
 - \$663M cut to CDC and \$196M cut to HRSA below FY 2018 level
 - \$448M increase above FY 2018 level for SAMHSA
 - \$168M decrease below FY 2018 level to CMS's administrative funding.
 - No additional funding to implement the ACA.



FY 2019 Labor HHS Education Appropriations- Cont'd

- NPAIHB DHHS Funding Related Requests Update:
 - ACF, Low Income Energy Assistance Program (LIHEAP)
 - CDC, Good Health and Wellness in Indian Country
 - HRSA, Centers of Excellence
 - Office of the Secretary, Secretary's Minority's AIDS Initiative



Current & Pending Federal Policies

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Federal Reorganization Proposal Announced

- On 6/21/18, the Executive Office of the President issued a Reform Plan and Organization Recommendations for the Executive Branch.
 - In response to Executive Order 13781, which was issued on 3/13/17
- Report titled, *Delivering Government Solutions in the 21st Century*, recommends:
 - Combining Labor and Education Departments
 - Moving SNAP from USDA to HHS
 - Changing name of HHS to Department of Health and Public Welfare
 - Reducing USPS Commissioned Corp from 6,500 to 4,000



CMS Work Requirements Issue

- On 1/17/18, CMS issued a DTLL stating that CMS could not provide an exemption to the Work Requirements for AI/AN because of civil rights concerns.
- NCAI and NIHB worked with tribes and tribal organizations across the nation to address this issue.
- On 5/7/18, CMS updated its position, stating that they would actively consider state proposed accommodations for AI/AN from work requirements on a state by state basis.
- On 6/29/18, a Kentucky Federal Judge ruled that the Kentucky Waiver requiring work or community engagement was not consistent with the objectives of the Medicaid statutes and remanded the waiver back to the Administration.



CMS 4 Walls Limitation

- CMS determined that If a Tribal facility is enrolled in the state Medicaid program as a provider of clinical services under 42 CFR 440.90, the Tribal facility may not bill for services furnished by a non-Tribal provider or Tribal employee at the facility rate for services that are provided outside of the facility.
- Per CMS, under FQHC designation there is no requirement that the services be provided within the 4 walls.
- Section 1905 of the SSA recognizes outpatient Tribal clinics as FQHCs.
- CMS FAQ released January 18, 2017.
- Effective Date: January 30, 2021.
- Tribes are waiting for CMS Guidance currently under interval review.



IHS ISDEAA Sec. 105(l) Leases

- DTLL on 7/10/18 initiating tribal consultation on IHS FY 2018 appropriation to meet ISDEAA requirements (25 U.S.C. Sec. 5324(l) also known as 105(l)).
- This section authorizes IHS to enter into a lease with a tribal/tribal organization for a facility used for administration and delivery of ISDEAA services.
- IHS has received 55 proposals for FY 2018 estimated at \$18m and only has identified \$5m.
- IHS is considering use of new unallocated FY 2018 inflation increases and must notify Congress of any planned reprogramming but is seeking input before any formal action is taken.
- Comments are due 7/27/18.



IHS Sanitation Deficiency System

- DTLL on 7/2/18 seeking consultation on *IHS Sanitation Deficiency System (SDS)- A Guide for Reporting Sanitation Deficiencies in American Indian and Alaska Native Homes and Communities* (commonly known as the SDS Guide).
- 30-business day comment period in effect from 7/2/18 through 8/14/18.
- Comments are due on 8/14/18.



IHS VA Agreements

- DTLL dated 6/29/18.
- IHS and VA/VHA amended its agreement for reimbursement for direct health services to eligible AI/AN Veterans at 77 facilities, which:
 - Extends the terms of the IHS and VA/VHA Reimbursement Agreement an additional 3 years beyond the existing term to a new date of 6/30/22.
 - Updates a provision to bring the agreement into conformance with VA pharmacy policy related medications.



IHS Indian Health Care Improvement Fund

- DTLL 6/8/18 Indian Health Care Improvement Fund (IHCIF) Workgroup Recommendations on IHCIF formula changes.
- Four tribal consultations took place (3 in person/1 telephonic) in June.
- Comments were due 7/13/18.
- NPAIHB submitted comments and had a strong presence at Seattle consultation.
 - Main concern in the proposed formula change is alternate resource factor.



IHS Behavioral Health Initiatives

- DTLL 5/18/18 initiating tribal consultation on the funding mechanism to distribute behavioral health initiatives that are currently distributed through grants.
- Total funding amount appropriated for behavioral health initiatives is \$59.2m.
- IHS has held virtual learning sessions and tribal consultations on June 7 and 20.
- Comments are due on 8/1/18.



IHS Manual, PRC Chapter Revisions

- DTLL on 5/18/18 initiating tribal consultation on IHS Manual at Part 2 – *Services to Indians and Others- Chapter 3- Purchased/Referred Care*
- DTLL on 7/6/18 extended comment period to 8/6/18.
- NPAIHB submitted joint comments with CRIHB on 7/6/18.



Other IHS Pending Issues

- Special Diabetes Program for Indians - Funding distribution for FY 2019 DTLL issued 7/12/18
 - IHS decided not to make any changes.
- Contract Support Costs – Indian Health Manual, Chapter 3 CSC, rescission of 97/3 split language



SAMHSA

- Tribal Consultation on 42 CFR Part 2 on 7/31/18 – 11:30am-1pm PST.
 - Register at: https://42cfr_tribal_listening_session.eventbrite.com
 - Written comments due 9/14/18.
- Reminder: Grant Opportunities
 - Tribal Opioid Response Grant – due 8/20/18
 - State Opioid Response Grant requires “states to Assess needs of tribes and include strategies to address needs” – due 8/13/18
- Upcoming events



State Policy Issues Discussion

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National/Regional Meetings

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July 2018-August 2018

- SAMHSA Tribal Technical Advisory Committee Meeting, July 22-23, 2018, Washington, D.C.
- SAMHSA Town Hall and Joint Tribal Advisory Committee Meeting, July 24, Washington, D.C.
- Medicare, Medicaid and Health Policy Reform Committee Meeting, July 24, Washington, D.C.
- CMS Tribal Technical Advisory Committee Meeting, July 25-26, 2018, Washington, D.C.
- NIHB Behavioral Health Conference, July 25-27, 2018, Washington, D.C.
- 2018 AI/AN Data Symposium, July 26, 2018, Washington, D.C.
- ATNI Drug & Alcohol Summit, August 8-9, 2018, Swinomish Casino Resort, La Conner, WA.
- IHS CHAP Meeting, August 17, 2018, Seattle, WA
- 2nd Annual DHAT Meeting, August 21-22, 2018, Tulalip, WA
- IHS PRC Meeting, August 21-22, 2018, Portland, OR



September-October 2018

- ATNI Fall Convention, September 17-20, 2018, Coeur d'Alene Hotel Resort, Worley, ID
- NIHB National Tribal Health Conference & TLDC Conference, September 17-18, 2018, Oklahoma City, OK
- STAC Meeting, September 24-25, 2018, Fairbanks, AK
- IHS TSGAC Fourth Quarter Advisory Committee Meeting, Washington, D.C.
- QBM, October 15-18, 2018, Shoshone-Bannock, ID
- NCAI 7th Annual Convention and Marketplace, Denver, CO



Discussion
