



Northwest Portland Area
Indian Health Board
Indian Leadership for Indian Health

Legislative & Policy Update

**Virtual NPAIHB Quarterly Board Meeting
July 14, 2020**



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Highlights

1. General News
2. Appropriations & Budget Formulation
3. New Indian Health Legislation
4. New Federal Policies
5. Litigation Updates



STAY SAFE
SAVE LIVES



We are

Community





General News

- **HHS Region X Consultation**

- HHS Region X Consultation is scheduled for August 18 from 9AM-2PM/PT and registration is open.

- **U.S. Commission on Civil Rights Assessment of COVID-19 and the Broken Promises to Native Americans (COMMENTS DUE July 24)**

- Requesting comments on how the pandemic has impacted Native American communities.

- Virtual Briefing on July 17 at 7AM PT/10AM ET.

- **IHS announces National Expansion of Community Health Aide Program (CHAP)**

- IHS is taking a phased implementation approach, starting with tribal consultation on the \$5 million from FY 2020 to support key components (i.e. establishment of certification boards, increasing community education, investing into training, and providing additional support).

FY 2021 IHS Appropriations House Bill Highlights

- In the bill, Title V would provide an additional \$15 billion in FY 2021 emergency infrastructure investments, including an additional \$1.5 billion for Indian Health Facilities.
- Proposes increase for Purchased/Referred of \$47.1 million over FY 2020, for a total of over \$1 billion
- Proposes funding for Tribal 105(I) Leases at \$101 million, and indefinite appropriation for 2 years – through 9/30/22.
- Rejects the proposed move and consolidation of the CHAP, CHR and Health Education to form a proposed Community Health Program, and proposed funding cuts to CHR, Health Education and Tribal Grants Management.
- Proposes CHAP increase of \$10 million (\$15 million total)

FY 2021 IHS Appropriations House Bill Highlights- Cont'd

- Proposes funding for new programs to address specific priority areas and underlying health conditions, including:
 - \$5 million to address Alzheimer's Disease and related cognitive health conditions with funds going towards a new Alzheimer's Disease education campaign, training curriculum for primary care practitioners, and to launch five pilot projects for early disease detection and diagnosis;
 - \$5 million to address HIV and Hepatitis C (HCV) in response to the President's Ending the HIV Epidemic: A Plan for America and Eliminating Hepatitis C in Indian Country initiative;
 - \$5 million to address maternal health priorities, with language encouraging IHS to launch a pilot project to evaluate maternal mortality risk factors and provide support to breastfeeding mothers.



FY 2021 Interior IHS Appropriations Summary

	FY 2020 Enacted	FY 2021 Pres Budget	FY 2021 House Bill	Diff FY 2020 & FY 2021 House
Clinical Svcs	\$3,934,831	4,177,800	4,127,177	+192,346
Prev Health	177,567	141,627	182,383	+4,816
Other Svcs	202,807	187,686	230,637	+27,830
Total Services	4,315,205	4,507,113	4,540,197	+224,992
Facilities	911,889	769,455	934,994	+23,105
Total w/o CSC	\$5,227,094	5,276,568	5,576,191	+349,097
CSC	820,000	855,000	916,000	+96,000
Total w/CSC	\$6,047,094	6,131,568	6,492,191	+445,097



FY 2021 IHS Clinical Services

	FY 2020 Enacted	FY 2021 Pres Budget	FY 2021 House Bill	Diff FY 2020 & FY 2021 House
Hospitals & Health Clinics	\$2,324,606	2,432,384	2,366,089	+41,483
Electronic Health Records	8,000	125,000	61,000	+53,000
Dental	210,590	219,128	222,027	+11,437
Mental Health	108,933	128,228	132,740	+23,807
Alcohol/SA	245,603	235,745	259,937	+14,334
Purchased and Referred Care	964,819	964,783	1,011,933	+47,114
IHCIF	72,280	72,280	73,451	+1,171
Totals:	\$3,934.831	4,177,800	4,127,177	+192,346

105(I) Lease Costs: The IHS Payments for Tribal 105(I) Leases account would be funded at \$101 million – same as President’s budget. However, it’s \$37 billion less than National Tribal Budget Formulation Workgroup’s request. House bill also authorizes an indefinite appropriation for 105(I) leases for 2 years – through 9/30/22.

Dental: \$2.5 million to expand Dental Support Centers across all 12 areas.

Electronic Health Records: \$61 million for EHR/IT modernization.



FY 2021 IHS Preventative Health

	FY 2020 Enacted	FY 2021 Pres Budget	FY 2021 House Bill	Diff FY 2020 & FY 2021 House
PH Nursing	\$91,984	95,353	96,251	+4,267
Health Educ	20,568	-	20,807	+20,807
CHRs	62,888	-	63,151	+63,151
Community Health	-	44,109	-	-
Immun AK	2,127	2,165	2,174	+47
Totals:	\$177,567	141,62*7	182,383	*+40,756

Community Health: This line item was proposed by the President and proposed to combine Health Education, CHRs and Community Health. This was rejected by the House!



FY 2021 IHS Other Services

	FY 2020 Enacted	FY 2021 Pres Budget	FY 2021 House Bill	Diff FY 2020 & FY 2021 House
Urban Health	\$57,684	49,636	66,127	+8,443
IHP	\$65,314	51,683	72,299	+6,985
Tribal Mngt	2,465	-	2,477	+12
Direct Ops	71,538	81,480	83,856	+2,376
Self Gov	5,806	4,887	5,878	+73
Totals:	\$202,807	187,686	230,637	+27,830

Urban Health: \$8,443 increase for urban health

IHP: \$6,985 increase for Indian Health Professions



FY 2021 IHS Facilities

769,455	FY 2020 Enacted	FY 2021 Pres Budget	FY 2021 House Bill	Diff FY 2020 & FY 2021 House
M&I	\$168,952	167,948	171,284	+2,332
Sanitation	193,577	192,931	196,265	+2,688
HC Fac Const	259,290	124,918	262,763	+3,473
Fac & Envir.	261,983	259,763	270,707	+8,724
Equipment	28,087	23,895	33,975	+5,888
Totals:	\$911,889	769,455	934,994	+23,105

Facilities: \$5m for energy efficient green infrastructure.

FY 2021 HHS Appropriations House Bill Highlights

- SAMHSA Tribal Behavioral Health Grants each got a slight bump (**\$22 million** total for substance abuse/**\$22 million** total for mental health)
- SAMHSA Tribal set-aside for medication-assisted treatment for opioids to **\$12 million**
- SAMHSA Tribal Zero Suicide maintained at **\$2.2 million** and AI/AN Suicide Prevention maintained at **\$2.931 million**
- CDC Good Health and Wellness increased to **\$23 million**
- CDC **\$150 million** Tribal set aside for public health.
- CDC Minority AIDS Initiative funds, **\$3 million** Tribal set aside.



New Indian Health Legislation

- **H.R. 2 – INVEST in America Act** ((Rep. Peter DeFazio (D-OR))
 - Provides \$5 billion in total funding for FY 2021-2025 for planning, design, construction, modernization, and renovation of hospitals and outpatient health care facilities within the IHS.
 - Authorizes \$2.7 billion for each year during FY 2020-2024 for construction, modernization, improvement, and renovation of water, sewer, and solid waste sanitation facilities that are listed on the IHS Sanitation Facilities Deficiency List.
 - **Status:** 7/1/20 Passed in the House (233-188)
- **S.3937 – Special Diabetes Program Reauthorization Act of 2020** ((Sen. McSally (R-AZ))
 - Provides 5 years of funding for the SDPI; increases funded to \$200 million annually; and authorizes tribes/tribal organizations to received SDPI awards through ISDEAA compacts and contracts.
 - **Status:** 6/10/20 Referred to the Senate Committee on Indian Affairs



GAO Report: COVID-19 Opportunities to Improve Federal Response and Recovery Efforts

- Six areas – Paycheck Protection Program (PPP); Economic Stabilization and Assistance to Distressed Sectors; unemployment insurance; economic impact payments; Public Health and Social Services Emergency Fund, and the Coronavirus Relief Fund account for 86% of the appropriations.
- **GAO Identified Challenges:**
 1. CDC reported incomplete and inconsistent data from state and jurisdictional health departments on the amount of viral testing occurring.
 2. The nationwide need for critical supplies to respond to COVID-19 quickly exceeded the quantity of supplies contained in the Strategic National stockpile.
 3. Confusion and questions about the SBA Paycheck Protection Program.
- **GAO Legislative Action Recommendations:**
 1. Require Department of Transportation to develop a national aviation-preparedness plan to ensure safeguards are in place.
 2. Provide Treasury with access to Social Security Administration's full set of death records and require Treasury use it to reduce improper payments.
 3. Utilize GAO recommended formula for any future changes to the FMAP during the current or any future economic downturn to help ensure that federal funding is targeted and timely.



Trump Administration COVID-19 Updates

- **June 30: Re-establishment of Ready Reserve Corps as part of the U.S. Public Health Service**
 - The CARES Act provides the authority to re-establish the Ready Reserve Corps, which will provide trained and ready personnel available on short notice to fill critical public health needs and provide compensation and benefits.
 - USPHS Commissioned Corps' deployments have increased more than 44% over the past six years and more than 4,500 of the 6,100 PHS officers have deployed during the COVID-19 pandemic.
 - USPHS Commissioned Corps will commission its first officers into the Ready Reserve Corps beginning in September 2021 and applications will be accepted beginning in Fall 2020.
- **HHS Extends COVID-19 Testing Public-Private Partnership with National Pharmacy and Grocery Retail Chains**
 - Extends its partnership with national pharmacy and grocery retail chains CVS, Rite-Aid, Walgreens, Quest (through Walmart), and eTrueNorth (Kroger, Health Mart, and Walmart) to continue to provide convenient access to COVID-19 testing.



HHS Provider Relief Funds

April 10-17: General Distribution 1

- \$30 billion distributed to Medicare FFS billing providers based on 2019 payments.
- **Allocation:** $\frac{\text{2019 MFFS payments}}{\$435 \text{ Billion (total MFFS 2019)}} \times \30 Billion

April 24: General Distribution 2

- \$9.1 billion distributed to Medicare FFS billing providers based on revenues from CMS cost report data. The allocation equates to approximately 2% of net patient revenues per eligible provider.
- **Allocation:** $\frac{((\text{Most Recent Tax Year Annual Gross Receipts}) \times \$50 \text{ Billion})}{\$2.5 \text{ Trillion}}$ – GD 1 Payment

Starting April 24: General Distribution 2

- \$10.9 billion available to Medicare FFS billing providers based on revenue submissions to the provider portal.

May 29: IHS/Tribal Targeted Distribution

- \$500 million to approximately 300 IHS and Tribal programs.
- **Allocation:** IHS & Tribal Clinics: \$187,000 + 5% (estimated service population x average cost per user).

July 20: Medicaid and CHIP Targeted Distribution Application Due Date

- \$15 billion available to providers participating in state Medicaid and CHIP programs (who have not received funding from the General Distribution funds).
- **Allocation:** 2% (Gross revenues x Percent of Gross Revenues from Patient Care) for CY 2017, 2018, or 2019.



SAMHSA Adoption of Revised Rule- Confidentiality of SUD Patient Records 42 CFR Part 2

- **Changes under the New Part 2 Rule:**

- Treatment records created by non-Part 2 providers based on their own patient encounter(s) are not covered by Part 2, unless any SUD records previously received from a Part 2 program are incorporated into such records.
- When an SUD patient sends an incidental message to the personal device of an employee of a Part 2 program, the employee will be able to fulfill the Part 2 requirement for “sanitizing” the device by deleting the message.
- An SUD patient may consent to disclosure of the patient’s Part 2 treatment records to an entity without naming a specific person as the recipient for the disclosure.
- Non-OTP and non-central registry treating providers are now eligible to query a central registry, in order to determine whether their patients are receiving opioid treatment through a member program.
- Declared emergencies that disrupt treatment facilities and services are considered a bona fide medical emergency for the purpose of disclosing SUD records without patient consent.



IHS Tribal Consultation: SDPI Offset/Prior Year Funds

(COMMENTS DUE August 28)

- **July 2 DTLL:** Initiation of tribal consultation on the use of approximately \$30 million in offset and prior-year funds from the Special Diabetes Program for Indians (SDPI).
- SDPI funds are available until expended, therefore prior-year (carryover) funds have accumulated over the years. There are 62 SDPI grants with large carryover balances relative to their annual grant amounts received an offset of 50-100% in FY 2020.
- Options for the use of the \$30 million include, a new grant funding opportunity for \$10 million per year for 3 years for eligible entities that do not currently have an SDPI grant, or open to all eligible entities to address diabetes-related risk factors.



CDC: Proposed Changes to National Diabetes Prevention Program **(COMMENTS DUE August 14)**

- **June 15 DTLL:** CDC is updating the Diabetes Prevention Program Standards and Operating Procedures (DPRP Standards) for the National Diabetes Prevention Program.
- CDC plans to revise the DPRP standards and associated information collection. Some of the key changes include:
 - changes for those serving vulnerable populations
 - optional collection of Hemoglobin A1C levels
 - weight/physical activity minutes to be combined (new method)
 - program enrollment motivation/enrollment source information



HRSA RFIs: HPSA Scoring Criteria and Maternity Care Health Professional Target Area Criteria **(COMMENTS DUE September 18)**

- **Request #1 - HPSA Scoring Criteria:** Requests input on changes that could be made to the Health Professional Shortage Area (HPSA) scoring criteria. These could include but are not limited to, new factors, components, or point weighting.
- **Request #2 - Maternity Care Health Professional Target Area Criteria:** Seeks input on the establishment of criteria for Maternity Care Health Professional Target Areas to improve maternal health and maternity care delivery, including public health strategies. Target areas would identify geographic areas or certain facilities (I/T/Us) within HPSAs that have a shortage of maternity care health professionals.



Litigation: Texas v. United States

- Legal challenge focuses on the constitutionality of the ACA's individual mandate provision, while Texas and other parties to the litigation have asked the Court to invalidate the entire ACA, since the individual mandate was considered by Congress to be an essential component of the legislation.
- **June 25:** The Department of Justice filed its brief arguing that the whole statute is invalid, but the relief granted by the Court should be more limited.
 - The brief ignores the federal responsibility to tribes by not even mentioning the Indian provisions of the ACA.
- **Status:** Supreme Court could hear arguments as early as October, but likely will not issue a decision until after the November elections.



Litigation: Tribes & Tribal Schools Sue E-cigarette Makers

- **June 18:** A number of tribes have sued e-cigarette manufacturer JUUL and associated companies requesting relief to combat the vaping epidemic that has resulted from a deceptive marketing scheme that has targeted Native youth and cost these tribes millions to combat vaping.
- Tribal complaints allege that JUUL has aggressively and deceptively marketed its products as a safe alternative to ordinary cigarettes, without disclosing the dangers they knew of addiction and the vaping-related illnesses and knowing that they are more susceptible to addiction than non-Native Americans.
- According to national youth tobacco survey data, 16.1% of AI/AN middle school students and 40.4% of AI/AN high school students currently use e-cigarettes compared to the general population rate of 10.5% of middle school students and 27.5% of high school students.
- **Status:** The lawsuits were filed in the U.S. District Court for the Northern District of California, which is in charge of the Multi-District Litigation coordination for the lawsuits already filed against JUUL.



Upcoming Important Federal Meeting Dates

- **July 22:** CMS Tribal Technical Advisory Group (TTAG) Virtual Meeting
- **July 24:** IHS Tribal Self Governance Advisory Committee Virtual Meeting
- **August 4 at 2PM PT:** NPAIHB Virtual HHS Region X Tribal Planning Session
- **August 5-6:** IHS Direct Service Tribal Advisory Committee Virtual Meeting
- **August 11 at 2PM PT:** NPAIHB Virtual HHS Region X Tribal Strategy Session
- **August 18:** HHS Region X Virtual Consultation



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Discussion and Questions

