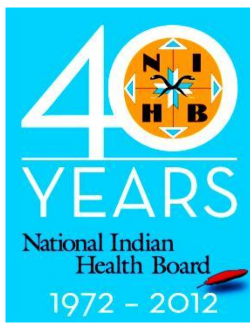
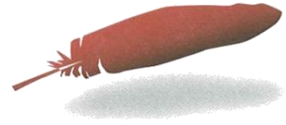


National Indian Health Board



Submitted via *regulations.gov*

September 12, 2012

Martique Jones,
Director, Regulations Development Group,
Office of Strategic Operations and Regulatory Affairs.
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention CMS-10320/OCN 0938-1086
Room C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Comments of CMS-10320/OCN 0938-1086; Health Care Reform Insurance Web Portal Requirements

Dear Ms. Jones,

I write on behalf of the National Indian Health Board (NIHB)[1], regarding the request for comments on CMS-10320/OCN 0938-1086 pertaining to the Health Care Reform Insurance Web Portal Requirements published in the *Federal Register* on August 15, 2012 (Request for Comments).[2]

Through CMS-10320, a Paperwork Reduction Act notice, CMS is requesting comments on the type and utility of data collected from insurers for the Health Care Reform Insurance Web Portal, which is being developed pursuant to Sections 1103 and 10102 of the Affordable Care Act (45 CFR part 159). Insurers are to provide information quarterly on their health plans to the Department of Health and Human Services (HHS), and HHS will display the information on *healthcare.gov*. The information is to help the public make educated decisions about issuers offering private health insurance.

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[1] Established 40 years ago, NIHB is an inter-Tribal organization that advocates on behalf of Tribal governments for the provision of quality health care to all American Indians and Alaska Natives. NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service ("IHS") Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance Act ("ISDEAA"), or continue to also rely on IHS for delivery of some, or even most, of their health care, NIHB is their advocate.

[2] 77 Federal Register 48986, August 15, 2012.

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We support the collection and dissemination of information on health plans outlined in the Request for Comments as the activity will provide information that is necessary for individuals to make educated decisions about plan options. We would like to highlight two areas, though, where additional information that is specific to American Indians and Alaska Natives (AI/ANs) would improve the quality and utility of the information collected, and subsequently result in a decrease in the information collection burden AI/ANs experience when securing health insurance coverage and accessing health care services.

<u>Use of the Health Care Reform Insurance Web Portal to Facilitate Tribal Sponsorship</u>

One critical element to consider when selecting a plan is the net premium and cost-sharing amounts an applicant will be responsible for paying, after any available premium assistance. For AI/ANs, premium assistance may include "Tribal Sponsorship". Tribal Sponsorship models envision interested Tribes and Tribal organizations paying all or part of an AI/AN applicant's share of the premium for a health insurance plan secured through a Health Insurance Exchange (Exchange). Although not currently designed to do so, the Health Care Reform Insurance Web Portal could provide an opportunity to collect, and then disseminate, information on potential Tribal Sponsorship options for AI/AN applicants. We encourage CMS to consider establishing such a mechanism to gather and disseminate information on Tribal Sponsorship options.

In the final rule on Exchange establishment, CMS confirmed that an "Exchange may permit Indian tribes, tribal organizations and urban Indian organizations to pay aggregated QHP [Qualified Health Plan] premiums on behalf of qualified individuals…"[3] (See § 155.240) In the Preamble to the Final Rule, CMS went further in stating, "We encourage Exchanges to include this [Tribal Sponsorship] option as part of its consultation with tribal governments."[4]

Through the Tribal Technical Advisory Group to the Centers for Medicare and Medicaid Services (TTAG), there have been discussions with CMS-CCIIO[5] staff about the possibility of establishing a Web portal to facilitate Tribal Sponsorship that mirrors the functionality of that described in this Request for Comments. Namely, the Web portal would provide tribes and tribal organizations with a password-protected mechanism to submit and update information on Tribal Sponsorship to HHS, including providing contact information for specific tribes offering Tribal Sponsorship and/or contact information for a tribal organization that may coordinate Tribal Sponsorship for multiple tribes. The information would be made available to Exchange enrollment staff, applicant assisters (such as Navigators and in-person assisters), as well as through *healthcare.gov* to help AI/ANs make educated decisions about their insurance options, including the availability of assistance with premiums that may be available through Tribal Sponsorship.[6]

[3] 77 *Federal Register* 18346, March 27, 2012, CMS, "Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans," (CMS-9989-F), ("Final Rule").
[4] 77 *Federal Register* 18338.
[5] Center for Consumer Information and Insurance Oversight, CMS, Department of Health and Human Services (HHS).
[6] To the extent, the online component of the Federally-facilitated Exchange (FFE) is separate from http://www.healthcare.gov, it would be beneficial to have similar Tribal Sponsorship information available on the FFE Website(s).

At present, individuals seeking insurance information through *healthcare.gov* are asked if the category "American Indian or Alaska Native" applies.[7] If the box is checked, a Website for the Indian Health Service is made available. The purpose of a "tribal Web portal" is to create a mechanism that enables, at a minimum, information on Tribal Sponsorship to be gathered by HHS and injected into the Exchange enrollment process. Tribes would maintain the information provided through the portal, although Exchange/call center staff would need to be trained on what to do with the information.

At its simplest, the tribal Web portal may involve a tribe submitting a phone number to HHS that would be provided (via *healthcare.gov*, the Exchange Web site, in-person, or online) to Exchange applicants who claim to be members of the tribe. ("The XXX tribe may assist in paying the premium for some tribal members. Contact the XXX tribe at YYY-YYY-YYYY if you would like see if you may be eligible.") A more elaborate version of the tribal Web portal is being developed by the State of Oregon's Exchange (ORHIX). The ORHIX tribal Web portal may have the capability to enable the Exchange to automatically ping against a roster of individuals that a tribe is willing to sponsor, and the amount of the premium contribution of the tribe would be indicated. (The business rules developed for the ORIX tribal Web portal may be useful to the developers of *healthcare.gov*.)

We are recommending that, at a minimum, HHS develop a tribal Web portal capacity that enables some static information to be made available by tribes to the Exchange/call center staff so that the information could then be made available to AI/applicants during the Exchange application process.

Posting of Information on Plan Provider Networks: Inclusion of Indian Health Care Providers

Many AI/ANs receive a majority of their health care services through the Indian Health Service (IHS), tribally-operated health programs (i.e. programs operated by a tribe or tribal organization), or urban Indian health programs. Together, these providers are referred to as Indian Health Care Providers, or I/T/U. As AI/ANs use the website to select a plan, it is critical that they know whether their usual Indian Health Care Provider is in the plan's network of providers. We assume that other consumers will also want to know if their current doctor is in the plan's network, and hope the website is designed to provide this type of information. The difference for AI/ANs is that instead of looking for the name of a specific doctor, they may look for the name of the I/T/U facility where they are most likely to seek care.

We recommend that this information be supplied by health plans to HHS, and the information be posted by HHS (and Exchanges). Although Federal law allows I/T/U providers to bill health plans for services provided to the plan's enrollees whether or not the I/T/U provider is in the plan's network, it is decidedly preferable that the I/T/U be part of a plan's network. Doing so will facilitate coordination of care, minimize duplication of services, and provide greater certainty to the I/T/U providers in the timeliness and amount of payments.

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[7] http://finder.healthcare.gov/about_me/results?utf8=%E2%9C%93&state=OK&audience=hthy&nojs=n&situation=need&age=3&native=y&no_afford=y&x=34&y=18

<u>Conclusion</u>

If CMS were to establish the functionality in the Health Care Reform Insurance Web Portal that permits the voluntary submission and maintenance of Tribal Sponsorship-related information by tribes and tribal organizations, we believe this will improve the quality and utility of the information collected for the Health Care Reform Insurance Web Portal. Ultimately, establishing such a Web portal will reduce the information collection burden on AI/applicants who may otherwise not be aware of Tribal Sponsorship. Likewise, the posting of information on the I/T/U providers included in each plan's network will improve the quality and utility of the information available on each health plan and also reduce the information collection burden AI/ANs experience when securing health insurance coverage and accessing health care services.

We appreciate the opportunity to provide comment on CMS-10320. We are available to provide additional information as may be necessary to fully consider our recommendations.

Sincerely Yours,

Cathy Abramson
Chairman, National Indian Health Board

Cc: Marilyn Tavenner, Acting Administrator, CMS
Kitty Marx, Director of Tribal Affairs, CMS
Dr. Yvette Roubideaux, Director, IHS
Stacy Bohlen, Executive Director, NIHB
H. Sally Smith, Chairwomen, MMPC