

National Indian Health Board



July 27, 2010

Dr. Donald Berwick
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244-08010

Attention: CMS-2244-FC

RE: Comment regarding Section 5006(a) of ARRA

Delivered Electronically

Dear Administrator Berwick:

On behalf of the National Indian Health Board (NIHB) and the Centers for Medicare and Medicaid Tribal Technical Advisory Group (TTAG), we write in response to the definition of Indian contained in the Final Rule regarding Premiums and Cost Sharing.

Established in 1972, The National Indian Health Board advocates on behalf of all Tribal Governments, American Indians and Alaska Natives in their efforts to provide quality health care for ALL Indian People. The NIHB serves as conduit to open opportunities for the advancement of American Indian and Alaska Native health care with other national and international organizations, foundations corporations and others in its quest to build support for, and advance, Indian care issues.

Although generally leery of Interim Final Rules, in this instance, we agree with the assessment of the Centers for Medicare & Medicaid Services (“CMS”) that further delay in enacting rules regarding implementation of protections against premiums and cost sharing for Indians and Alaska Natives would have been harmful. In addition, CMS has provided opportunities for Tribal Leaders, directly and through the Tribal Technical Advisory Group to CMS, to be involved in the development of the rules. We also appreciate this additional comment period.

We strongly support the definition of “Indian” adopted in the new paragraph (b) added to Section 447.50. The inclusiveness of the rule assures both that all individuals who are considered “Indian” or “Alaska Native” will enjoy the protection of the rule and that determining who an Indian is will be administratively simple. We recommend this definition be applied when other protections against costs and access to benefits intended for Indians are being implemented.

The relationship of Indian people and tribes with their States varies widely, but even in the best of circumstances is fraught with potential difficulties. By making the definition broad and describing in the explanation of the rule the range of documentation that States should consider adequate, CMS has provided important direction to States about implementation and improved the likelihood that Indians will be able to enroll in Medicaid and enjoy its benefits without incurring costs that are inconsistent with the statute and with the Federal trust relationship with Indian tribes.

We also appreciate the clear exemption from co-payments for services provided under a referral from the contract health services program of the Indian Health Service, a tribal health program, and an urban Indian organization, whether payment was authorized or not. This rule reflects a correct understanding of the CHS program and assures that the rules adopted by CMS fulfill the intent of Congress, and of the tribal leaders who advocated for these changes to the law.

We expect these new rules to assist States in their continuing implementation of the protections for Indians against premiums and cost sharing. We know, however, that continued guidance from CMS to States may continue to be needed and look forward to that assistance being provided when needed.

We are extremely pleased with the commitment CMS has shown to working closely with the TTAG and Tribal leadership throughout the country in its work on implementation of Section 5006(a) of the American Recovery and Reinvestment Act of 2009 (“ARRA”). CMS’s presentation and engagement with Tribal leaders on this subject at a National Indian Health Board conference was remarkable for many reasons, but most memorable for the fact that CMS officials were applauded at the end for their openness and willingness to take time to think through the practical difficulties of implementing national Indian policy in 50 states. These rules demonstrate that the confidence the Tribal leadership expressed with their applause was justified.

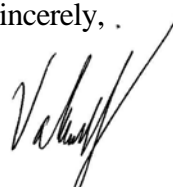
In closing, we greatly appreciate your commitment to work with Tribes to improve our relationship and build healthier communities throughout Indian Country. Please feel free to contact Stacy A. Bohlen at Sbohlen@NIHB.org if you have any questions or need further information. Thank you for your consideration of our comments.

Sincerely,



Reno Franklin , Chair, NIHB

Sincerely, .



Valerie Davidson, Chair, TTAG

cc: Senior Director
Legal & Intergovernmental Affairs