

# Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

May 23, 2013

*Sent electronically*

Gary Cohen  
Director, CCHIO

Cindy Mann  
Director, Medicaid and State Operations, CMS

## **RE: Health Insurance Marketplaces Applications**

Dear Mr. Cohen and Ms. Mann,

On May 1, 2013, the Centers for Medicare and Medicaid Services (CMS) released three different paper applications for the Health Insurance Marketplaces under the Affordable Care Act (ACA). While a single version was made available for review and comment previously, significant changes were made with regard to issues involving American Indians and Alaska Natives (AI/AN) without specific Tribal consultation. The resulting forms are likely to be confusing for AI/AN consumers who are already ambivalent about enrolling in Medicaid and the Indian health organizations that attempt to assist them.

We realize that the forms published are intended to be final; however, they have not yet gone to print, so there is still time to make a few minor changes. This letter is requesting you to consider recommendations about two pages of the application that specifically affect AI/AN: 1) the cover page, specifically answers to the question, “Who can use this application?,” and 2) Appendix B. Both of these pages have sufficient white space to fit the recommended wording, and it would not create any problems for any of the other pages.

### “Who can use this application?”

On the front page of each application the first or second item of information is titled, “Who can use this application?” The short form informs AI/AN that they cannot apply using the short form, while neither of the other two other forms tells AI/AN that they should use it to apply. The table below compares the wording on the three applications.

*Figure 2. Comparison of Wording on “Who can use this application?”*

<b>Name of Form</b>	<b>Who can use this application?</b>
Application for Health Coverage & Help Paying Costs (Short Form)	Single adults who: <ul style="list-style-type: none"><li>• Aren’t offered health coverage from their employer</li><li>• Don’t have any dependents and can’t be claimed as a dependent on someone else’s tax return</li></ul> <b>NOTE:</b> If any of the following apply, you need to fill out a different form to make sure you get the most benefits possible:

	<ul style="list-style-type: none"> <li>• You're married or have dependent children.</li> <li>• You were in the foster care system, and you're under age 26.</li> <li>• You have items that can be deducted from your income. If your only deduction is student loan interest, you <b>can</b> use this form.</li> <li>• You're American Indian or Alaska Native.</li> </ul>
Application for Health Coverage and Help Paying Costs	<ul style="list-style-type: none"> <li>• Use this application to apply for anyone in your family.</li> <li>• Apply even if you or your child already has health coverage. You could be eligible for lower-cost or free coverage.</li> <li>• If you're single, you may be able to use a short form. Visit <a href="http://HealthCare.gov">HealthCare.gov</a>.</li> <li>• Families that include immigrants can apply. You can apply for your child even if you aren't eligible for coverage. Applying won't affect your immigrant status or chances of becoming a permanent resident or citizen.</li> <li>• If someone is helping you fill out this application, you may need to complete Appendix C.</li> </ul>
Application for Health Coverage	Anyone who needs health coverage can use this application. If someone is helping you fill out this application, you may need to complete Appendix D.

There are two issues related to who can use each application: 1) wording on the cover of the application does not indicate which form AI/AN should use; and 2) AI/AN should be able to use Appendix B, which asks for AI/AN specific information with the short form.

The first issue is that none of the applications indicate that AI/AN **can** use the application, although one application (the short form) says AI/AN **cannot** use that application. It would appear that CCIIO intends AI/AN to use the long form ("Application for Health Coverage and Help Paying Costs") since it has attached Appendix B ("American Indian or Alaska Native Family Member (AI/AN)"). However, the cover page makes no mention of AI/AN as potential users, despite having a lot of space to encourage immigrants to apply. The Application for Health Coverage has Step 3 that asks, "Are you or is anyone in your family American Indian or Alaska Native?" However, there is nothing on the cover page with regard to "Who can use this application?" to tell AI/AN that they can use it.

The second issue is that Appendix B has been developed as a stand-alone page that should be useful for the Short Form applications. There is no reason a single adult who is AI/AN should not be able to use the short form with Appendix B attached.

## Appendix B Wording

Some of the wording in Appendix B could have been improved if Center for Consumer Information and Insurance Oversight (CCIIO) had consulted with Tribes.

The title of the appendix is, “American Indian or Alaska Native Family Member (AI/AN)”. This is confusing when individuals are applying as individuals and not in a family plan. Even though the wording below the title states, “Complete this appendix if you or a family member are American Indian or Alaska Native,” it looks like people are being asked to give information about their family members. It would not be unreasonable for a person to think they have to give information about their parents, just to establish their qualification as Indian, even if they are not applying for health insurance for their parents and their parents may not be living in the same household.

At the top of the page, there is an attempt to explain why it would be helpful for AI/AN to identify themselves and fill out Appendix B:

American Indians and Alaska Natives can get services from the Indian Health Services, Tribal health programs or urban Indian health programs. They also may not have to pay cost sharing and may get special monthly enrollment periods. Answer the following questions to make sure your family gets the most help possible.

There are a number of problems with this paragraph on the form. The name Indian Health Service (IHS) does not have an “s” on the end. The statement about getting services from the I/T/U does not clearly state that people who enroll in insurance plans through the Exchange/Marketplace can continue to get their health care from the I/T/U. Furthermore, it is not clear that the cost sharing and special enrollment periods apply specifically to AI/AN. It is condescending and culturally inept to state, “Answer the following questions to make sure your family gets the most help possible.” “Getting the most help possible” sounds like welfare and dependency, which is different from being entitled to certain provisions and protections under the law. People who are eligible for Indian health care do not consider it to be welfare, but rather to be the result of contractual obligations that U.S. government incurred through treaties and other forms of land cessions by Tribes.

Question 3 is awkwardly written. “Has this person ever gotten. . .” would be better asked as “Has this person ever received. . .”

In Question 4, the “how often” is confusing. A person could answer “3 times” or “yearly”. If a person received a payment more than 12 months ago, it is not likely to be relevant. A better way to ask the question may be, “Since January 1, 2012, did you receive. . .” While the other questions on Appendix B have a box to check for “no,” this question does not. It seems to assume people had income to report.

The significance of “reported on this application” seems to be lost in all the wording. Instead of sounding helpful, it sounds threatening. A better way to frame this might be:

There are special rules that allow American Indians and Alaska Natives to qualify for Medicaid and CHIP. If you have income from some sources, it is not counted for Medicaid and CHIP eligibility. We will use the information you provide here to reduce your income on your Medicaid and CHIP applications. Please list any income that you reported on your federal income tax that relates to the following. . .

### Summary

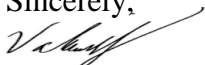
In addition to the two pages of the applications that will have a direct impact specifically on AI/AN, we have identified some concerns that will affect not only AI/AN, but also the general public and we have attached those in an addendum to this letter.

We realize that CMS expects most people to use an on-line application. It is possible that Native Americans are more likely to use the paper applications compared to other groups, particularly given the limited funding available for enrollment assistance in states where Tribes are located and the lack of access to the Internet and computers on reservations.

The TTAG asked to be involved in the formulation of questions for AI/AN, and we are disappointed that decisions were made without adequate Tribal consultation. However, we note that the paper forms are not finalized, as there is still a need to insert telephone numbers and other information. We hope this will give CCHIO another opportunity for Tribal Consultation on this important issue. If there is not time for a formal Tribal Consultation process, we request that you meet with the TTAG ACA Policy Subcommittee to find solutions to these problems.

The concerns raised in this letter highlight the need for proper AI/AN-specific training of navigators, in person assisters, and call center staff. There is likely to be a great deal of confusion about the meaning of the application wording and how to answer the questions. Assistance will be needed from people who understand the purpose of the questions and can communicate effectively with Native Americans. For more information on these issues, please contact Jennifer Cooper at [jcooper@nihb.org](mailto:jcooper@nihb.org). Thank you for considering this request.

Sincerely,



Valerie Davidson

cc: Kitty Marx, Director, Tribal Affairs Group, CMS  
Yvette Roubideaux, Director, IHS

Addendum: Issues Identified that Will Affect All Paper Application Users,  
Including American Indians and Alaska Natives

Ostensibly, the move from one form to three forms was intended to create shorter and simpler forms for some people to use. The following table shows how the three forms compare.

*Table 1. Comparison of Three Application Forms for Health Insurance Marketplace*

<b>Name of Form</b>	<b>Number of Pages</b>	<b>Number of Steps</b>	<b>Appendices</b>	<b>Intended Use</b>
Application for Health Coverage & Help Paying Costs (Short Form)	5	5	Appendix C – Assistance with Completing this Application	Single adults who are not AI/AN
Application for Health Coverage and Help Paying Costs	12	6	Appendix A – Health Coverage from Jobs Appendix B – American Indian or Alaska Native Family Member (AI/AN) Appendix C – Assistance with Completing this Application	Anyone in Family
Application for Health Coverage	5	5	Appendix C – Assistance with Completing this Application	Anyone who needs health coverage

Some of the issues that AI/AN consumers are likely to have will affect all consumers, including the following:

- The names of the different applications are not clearly different enough to distinguish one from another.

For example, one form says “short form” but the corresponding long form does not have “long form” in the title. All three applications have titles that start with the words “Application for health coverage” and the only thing that distinguishes the one that does not include help paying for costs is that it does not have those words in the title. The absence of the words does not actually tell the user anything.

*Recommendations for alternative titles:*

1. Application for Health Insurance and Help Paying Costs (Short Form for Single Adults)
  2. Family Application for Health Insurance and Help Paying Costs
  3. Application for Health Insurance Only (no tax credits or help paying costs)
- Use of the words “health coverage” instead of “health insurance” will be confusing.

For example, many AI/AN already have “health coverage” through the Indian Health Service (IHS), Tribal health programs and/or urban Indian programs. What they do not have is health insurance and the name of the application does not clearly state that they are applying for health insurance.

- The order and numbering of appendices will be confusing because two of the applications have an Appendix C, but no Appendix A or B.

People who see Appendix C will think that Appendix A and B have been lost from the application. Since Appendix C is on all three applications, it would seem that Appendix C should be re-numbered as Appendix A. If the intent is to keep the Appendix C the same as in the on-line application, then the form should have a specific statement prior to Appendix C that says there is no Appendix A or Appendix B for this version of the application.