

# 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

September 20, 2010

Dr. Yvette Roubideaux, Director  
Indian Health Service  
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Rockville, MD 20852

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Mr. Paul Dioguardi, Director  
Office of Intergovernmental Affairs  
Dept. of Health & Human Services  
600E Humphrey Building  
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Washington, DC 20201

<paul.dioguardi@hhs.gov>

RE: IHS Billing Arrangements with Departments of Defense and Veterans Affairs

Dear Dr. Roubideaux and Mr. Dioguardi:

I write as Chair of the Tribal Technical Advisory Group (TTAG) which advises Centers for Medicare & Medicaid Services (CMS) on Indian health policy issues involving Medicare, Medicaid and Children's Health Insurance Program (CHIP). Recognizing that many Indian health issues are interrelated, TTAG members closely follow all such issues, including matters related to implementation of the amendments to the Indian Health Care Improvement Act (IHCIA) made by the Affordable Care Act (ACA). It is with regard to an IHCIA provision that I write.

The revised IHCIA Sec. 405 added a subsection (c) which requires the Department of Defense and Department of Veterans Affairs to reimburse Indian Health Service (IHS), tribe and tribal organizations when they provide services to beneficiaries eligible for services from either Department. As you know, establishment of a billing system with Department of Defense (DoD) and Department of Veterans Affairs (DVA) to implement Sec. 405(c) was listed as a high priority in the July 1, 2010, joint TTAG-National Indian Health Board letter responding to your request for identification of Indian Country priorities for ACA implementation.

We recently learned that although IHS personnel have had conversations with the DVA about up-dating the existing Memorandum of Agreement with that agency, no billing system to implement Sec. 405(c) has been set up. Further, we understand that neither Department of Health & Human Services (HHS) nor IHS has yet initiated any contact with the Defense Department to implement Sec. 405(c).

The TTAG is very concerned about the delay in undertaking any substantive implementation work for two significant reasons:

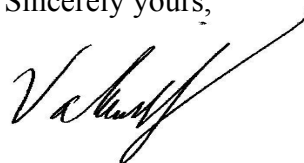
- First, the absence of billing arrangements with these departments means that IHS and tribal programs are losing meaningful revenue collection opportunities. All services our programs have provided on/after March 23, 2010, to DoD and DVA beneficiaries are due for payment, but without billing arrangements, our programs cannot yet collect the sums due. The more time that passes without such arrangements, the greater will be the administrative burden to have back claims submitted and paid. The opportunity to collect revenue from these departments – as Congress intended – must be actively pursued.
- Second, the TTAG is concerned that where Indian beneficiaries enrolled in Medicaid are also eligible for DoD or DVA services, Medicaid programs may begin rejecting IHS and tribal claims and assert that these other Departments are now the primary payers. Should this occur, our programs would experience reductions in third-party collections and have to devote greater administrative staff time to claims processing.

Your May 12, 2010 letter to tribal leaders correctly recognized that enactment of the ACA and IHCA amendments trigger a tribal consultation requirement and expressed your intention to partner with tribes on the implementation process. Our July 1 response letter concurred; we urged HHS and IHS to involve tribal leaders in all stages of implementation. We are disappointed that, to date, TTAG Members – who possess unique expertise in third-party billing/collection matters due to their involvement with the Medicare, Medicaid and CHIP programs – have not been invited by HHS or IHS to help establish billing procedures with DoD and DVA. Nor to our knowledge has any workgroup of tribal representatives been set up to partner with you on these matters.

Thus, I again urge you to involve TTAG Members in implementation activity generally, and in setting up efficient billing/collection mechanisms with DoD and DVA, in particular. Sec. 405(c) was enacted more than five months ago. There should be no further delay in identifying billing issues and developing procedures to resolve them so that our programs can collect back claims (March 23 to the present) and put in place systems for efficiently billing for future services to DoD and DVA beneficiaries.

I look forward to hearing from you regarding these matters.

Sincerely yours,



Valerie Davidson  
Chair CMS TTAG

cc: Kitty Marx, CMS TAG Director  
Stacy Bohlen, NIHB Executive Director