



Tribal Technical Advisory Group



To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board | 50 F Street NW | Washington, DC 20001 | (202) 507-4070 | (202) 507-4071 fax

September 11, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Reimbursement for Traditional Healing

Dear Administrator Brooks-LaSure:

On behalf of the CMS Tribal Technical Advisory Group (TTAG), I write to you regarding reimbursing traditional healing practices and services. This practice will enhance the ability of the Indian Health Service (IHS) and Tribal facilities to deliver culturally appropriate health care that is responsive to their communities' needs. These provisions represent the agency's recognition of the unique needs of the Tribal health care system, and we are proud to support the reimbursement for traditional healing.

CMS' approval of these beneficial provisions will help fulfill the federal trust responsibility for Indian health. The United States owes a special duty of care to Tribal nations, which animates and shapes every aspect of the federal government's trust responsibility to Tribes. This practice is deeply rooted in Treaties and authorized by the U.S. Constitution, the federal government's unique responsibilities to Tribal nations have been repeatedly re-affirmed by the Supreme Court, legislation, executive orders, and regulations.¹ Therefore, our TTAG leadership urges the Administration to seriously consider the following recommendations and be open to working with us to develop a method of reimbursing traditional healing in Indian Country.

I. The Biden Administration Should Develop an Administration-Wide Policy in Support of Funding and Reimbursement for Traditional Healing

TTAG leadership supports the various states' requests to cover traditional health practices furnished through IHS and Tribal facilities: Arizona, California, New Mexico, and Oregon. However, without a strong commitment from the Administration and White House, such as a government-wide policy, we fear that these requests will not overcome existing barriers that are often cited by CMS and the Department of Justice

¹ The Court has consistently held that the federal government has a trust responsibility to Tribes, which has formed the foundation for federal/Tribal relations. See *Seminole Nation v. United States*, 316 U.S. 286 (1942), *United States v. Mitchell*, 463 U.S. 206, 225 (1983), and *United States v. Navajo Nation*, 537 U.S. 488 (2003).

(DOJ) for not reimbursing for traditional healing. While we appreciate CMS entertaining these waivers, without support from the Administration, these waivers may not make it through the various levels of approvals.

The sovereignty and traditional practices of our Tribal nations predate the United States, and we support any recognition of this by the states, and we encourage the Administration and CMS to do the same. Tribes do not have a trust relationship with states, and it's not the states who should be taking these affirmative steps in recognizing the role of traditional medicine in improving health outcomes. This is the responsibility of the federal government.

TTAG leadership supports the advocacy efforts of Tribes in Arizona to lead the way for traditional healing, and wholeheartedly believe that the new reimbursements for traditional healing will directly result in better health outcomes for patients; by increasing third-party revenue to IHS and Tribal programs. It will help ensure that Tribal programs keep their facilities up to date and attract and retain providers. We firmly believe that the ability to be reimbursed for traditional healing practices is an important recognition of Tribal sovereignty and the centrality of traditional medicine to Tribal cultures.

Therefore, the Biden-Harris administration must advance a government wide policy that directs all agencies to identify barriers and develop strategies that support the use of traditional healing practices. This includes providing funding and permitting reimbursement for these practices.

II. CMS Should Develop a Policy that Permits the Reimbursement of Traditional Healing

In addition to an Administration-wide policy supporting traditional healing reimbursement, we ask that CMS develop a policy that supports the reimbursement for traditional healing services and practices.

In 2015, Arizona established a Traditional Healing workgroup in which federal, state, and Tribal officials came together to discuss approving traditional healing services under Medicaid. After years of advocacy, Arizona included this provision in the state's 1115 demonstration – another example of a state's recognition of Tribal sovereignty. We are happy to see this included in Arizona's renewal application and support the work done to get to this point.

TTAG reminds CMS of 100 percent FMAP and its essential role in fulfilling the trust responsibility. Reimbursing traditional medical practices alongside Western medicine is an important recognition of the equality of traditional medicine and how Tribal communities use it. This reimbursement options allows Tribes to use the additional third-party revenue to expand traditional healing services, coordinate the services within the facility, hire additional healers as appropriate, and create a space for ceremonial practices, which expands their capacity to provide culturally competent care to their patients. We believe that these objectives are important to fulfilling the trust

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responsibility and ensuring that Tribes have the resources needed to provide for their people.

Our TTAG leadership thanks you in advance for your consideration of these practices and for your understanding of the complexities of traditional healing in Indian Country.

Sincerely,

A handwritten signature in black ink that reads "W. Ron Allen". The signature is written in a cursive, flowing style.

W. Ron Allen, CMS TTAG Chair
Jamestown S'Klallam Tribe, Chairman/CEO

CC: Elizabeth Reese, Domestic Policy Council, White House