



# 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

December 20, 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

*Submitted via regulations.gov*

**Re: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program (88 FR 82510)**

Dear Administrator Brooks-LaSure:

On behalf of the CMS Tribal Technical Advisory Group (TTAG), I write to provide a response to the Centers for Medicare and Medicaid Services (CMS) proposed rule, “Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program” (88 FR 82510).

### ***Cost Sharing Reduction Adjustment***

We are glad to see the proposed recalibration of the cost sharing reduction (CSR) adjustment factors for American Indian and Alaska Native (AI/AN) zero cost sharing and limited cost sharing plan variant enrollees for the 2025 benefit year. These Indian-specific cost-sharing protections serve as important and effective means of upholding the federal trust responsibility to AI/ANs. This is a marked improvement over the existing factors and will better capture increased utilization from members with zero cost-sharing enrollments and mitigate adverse incentives that might otherwise discourage issuers from seeking to enroll Tribal populations. We appreciate CMS’ attention to this problem and urge it to continue to monitor the accuracy of the revised factors and make any needed adjustments to ensure that they are as accurate as possible.

This adjustment would have the combined effect of helping stabilize premiums in the Marketplace – the stated goal of the risk adjustment program – by protecting AI/AN enrollees from self-funding the Indian-specific protections, and incentivizing insurance companies to enroll AI/ANs who are eligible for these plans. Our leadership hopes this proposal will have a positive downstream effect by making it easier for plans to provide services to qualified AI/ANs. This would appropriately reward companies that make an effort to enroll and cover Indian Country.

***Essential Health Benefit: Dental***

The other provision the TTAG would like to offer its support for is the proposal to allow states to add a dental benefit as an essential health benefit (EHB), in line with the National Congress of American Indians (NCAI) resolution calling for all state Medicaid programs to offer adult dental benefits for AI/AN enrollees.<sup>1</sup> The TTAG generally supports agency action that would remove regulatory prohibitions on issuers from including services, so we are glad to see that CMS recognizes the positive impact that offering routine non-pediatric dental services as an EHB would have on its beneficiaries. As you well know, dental health is essential to the health of the whole being, and dental health is often lacking in Indian Country. Diseases of the mouth and access to oral health care are critical issues for many AI/ANs; in fact, more than 70 percent of AI/AN children aged two to five years have a history of tooth decay, as compared with 23 percent of White children.<sup>2</sup> AI/AN adult dental patients suffer disproportionately from untreated decay, with twice the prevalence of untreated caries as the general U.S. population and more than any other racial or ethnic group; AI/AN adult patients are also more likely to have severe periodontal disease, to have missing teeth, and to report poor oral health than are the general U.S. population.<sup>3</sup>

These numbers do not surprise anyone who grew up or lives in Indian Country; however, they are staggering, nonetheless. There is an oral health crisis in Indian Country. The reasons for poor dental health in Tribal communities include factors such as geographic isolation that continue to limit availability of providers, economic and racial disparities, and the historical trauma of decades of inadequate health care.<sup>4</sup> Our TTAG leaders applaud the agency's dedication to its mission to achieve health equity and the agency's recognition of the need for increased dental health coverage.

Our CMS/TTAG leadership appreciates your consideration of the above comments and look forward to seeing the positive impact these proposals will have on the health of our people.

Sincerely,



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

---

<sup>1</sup> The National Congress of American Indians Resolution #NO-23-032. "Supporting Standard Coverage of Oral Health Care Services under Medicaid" (2023). Available at: <https://ncai.assetbank-server.com/assetbank-ncai/assetfile/5329.pdf>. Accessed December 19, 2023.

<sup>2</sup> Kathy R. Phipps, Dr.P.H. and Timothy L. Ricks, D.M.D., M.P.H. "The oral health of American Indian and Alaska Native children aged 1–5 years: results of the 2014 IHS Oral Health Survey." *Indian Health Service Data Brief* (April 2015). Available at: [https://www.ihs.gov/doh/documents/IHS\\_Data\\_Brief\\_1-5\\_Year-Old.pdf](https://www.ihs.gov/doh/documents/IHS_Data_Brief_1-5_Year-Old.pdf). Accessed December 13, 2023.

<sup>3</sup> *Id.*

<sup>4</sup> Brian (Speepots) Cladoosby. "Indian Country Leads National Movement to Knock Down Barriers to Oral Health Equity." *American journal of public health*. Vol. 107, S1 (2017). Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5497874/>. Accessed December 13, 2023.