



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

May 25, 2024

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: Medicare Program; Request for Information on Medicare Advantage Data

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) request for information, "Medicare Program; Request for Information on Medicare Advantage Data" (CMS-4207-NC). High-quality data is essential to help ensure that American Indians and Alaska Natives (AI/ANs) achieve the highest possible level of health and well-being, a duty held by the federal government.

More specifically, it is important for Tribes to have access to Medicare Advantage (MA) marketing and consumer decision-making data to help combat the misleading marketing practices currently plaguing Indian Country. Brokers are enrolling people in plans that do not work for them. Some examples of this include: (1) plans that do not cover the particular medication a person takes, such as a brand of insulin, which causes a delay in the receipt of life-dependent prescriptions; (2) plans changing due to contracts, or unregulated marketing ploys that encourage vulnerable Elders to switch plans and now certain providers and equipment they use are not covered or the service is "out of network". These harmful marketing tactics are made worse by the fact that MA brokers are not required to demonstrate an understanding of the federal protections for Tribes and the unique relationship between the Tribal health care system and Medicare. As a result, MA brokers are doing more harm than good for enrollees in Indian Country.

We urge CMS to produce separate reports on different categories of data. There must be one that highlights MA data on AI/AN enrollees specifically, so that we can accurately track these data points. The current data provided includes "other health plans" such as Traditional Medicare, Medicaid, Medicare cost plans, and Programs of All-Inclusive Care for the Elderly (PACE). However, it is essential to provide data solely on MA in order to properly assess the enrollment and utilization of MA plans by AI/ANs.

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We also urge CMS to provide more timely data. The most recent data currently available is from 2021. With such outdated information, it is impossible to accurately depict and analyze the current landscape of Medicare Advantage utilization in Indian Country. This data lag is a constant issue brought forth by Tribal leaders and other advocate voices, and this must be addressed. When the data we're working with in 2024 is from the height of the COVID-19 pandemic, it is impacting the quality of our analyses because so much has changed since 2021.

Lastly, CMS must improve its reporting of race data. The way this data is categorized and provided needs to change. Racial data captured in the 2020 census shows that 87 percent of White Americans, 88 percent of Black Americans, and 83 percent of Asian Americans are classified as one race alone.¹ In contrast, just 39 percent of American Indians and Alaska Natives are classified as one race alone. This depicts the legacy of the complex effects that hundreds of years of colonization have had on the identities of Native Americans.² This data makes clear the impact that reporting solely on single-race AI/ANs can directly and negatively impact the quality of data collected on AI/ANs enrolled in MA plans. In Oklahoma, for example, the overall numbers for AI/ANs on Medicaid are single race only. When Oklahoma has seen these folks updated to multi-race, it significantly increases the representation of AI/ANs when you show the multiple-race folks. Anything we can do to reflect the scope of our numbers is important. Therefore, CMS should provide multi-race data as follows: "AI/AN alone and in combination." This action should correct the issue because any AI/ANs who are multi-race would then be included in the AI/AN category.

The TTAG leadership is very concerned about the number of "other" and "unknown." While it is only 2.4 percent of the total, we are concerned that many AI/ANs would fall into this category. Along these lines, there is a critical need for data broken down into an AI/AN group to understand how the MA system works – or doesn't work – for Indian Country.

We appreciate your consideration of the above comments and recommendations and look forward to engaging with the agency further.

Sincerely,



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

¹ Nicholas Jones, et al., United States Census Bureau. "2020 Census Illuminates Racial and Ethnic Composition of the Country" (August 12, 2021). Available at: <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>.

² Robert Maxim, et al., The Brookings Institution. "Why the federal government needs to change how it collects data on Native Americans" (March 30, 2023). Available at: <https://www.brookings.edu/articles/why-the-federal-government-needs-to-change-how-it-collects-data-on-native-americans/>.