



2020 Virtual Mid-Year Convention

RESOLUTION #2020 – 19

“OPPOSITION TO EXPANSION OF 100% FMAP TO NON-IHS/TRIBAL MEDICAID PROVIDERS WITHOUT A CARE COORDINATION AGREEMENT OR TRIBAL FQHC CONTRACT”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, Tribes have a unique government-to-government relationship with the federal government, and it is required that the federal government consult with tribes on any policy or action that will significantly impact tribal governments; and

WHEREAS, tribal nations are political, sovereign entities whose status stems from the inherent sovereignty they possess as self-governing people predating the founding of the United States, and since its founding, the United States has recognized them as such and entered into treaties with them on that basis; and

WHEREAS, the federal government's trust responsibility includes ensuring access to federal health programs like Medicaid; and

WHEREAS, 42 U.S.C. § 1396d(b) provides that the federal government will pay 100% Federal Medical Assistance Percentage (FMAP) for services "received through" an IHS or tribal facility; and

WHEREAS, the Centers for Medicare & Medicaid Services (CMS) State Health Official Letter (dated February 26, 2016) (SHO #16-002) and Frequently Asked Questions (FAQ) (dated January 18, 2017) expanded the 100% FMAP policy to allow for IHS and tribal facilities to enter into written care coordination agreements or Tribal Federal Qualified Health Center (FQHC) contracts with non-IHS/Tribal providers to furnish certain services for their patients who are AI/AN Medicaid beneficiaries and the amounts paid by the state for services requested by the facility under such agreements would be eligible for 100% FMAP under section 1905(b) of the Social Security Act; and

WHEREAS, the 100% FMAP for services "received through" an IHS or tribal facility is intended to benefit the IHS or tribal facility and the Indian Health System; and

WHEREAS, there have been legislative proposals that would expand 100% FMAP to all Medicaid providers who provide services to AI/AN without a care coordination agreement or Tribal FQHC contract thereby increasing significant Medicaid reimbursement funding to states and non-Indian providers with no guarantee that additional funding will support the Indian Health System or provide better care to individual AI/AN; and

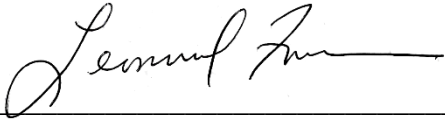
WHEREAS, any change to over 40 years of established Indian Medicaid policy without tribal consultation can potentially impact the coordination of care for AI/AN patients that IHS and tribal healthcare facilities provide; and

WHEREAS, changes to Medicaid and 100% FMAP for services "received through" an IHS or tribal facility must move forward in a manner that respects tribal sovereignty and upholds federal treaty and trust responsibilities; now

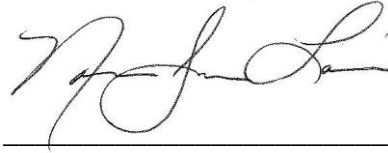
THEREFORE BE IT RESOLVED, that ATNI opposes efforts to expand the one hundred percent Federal Medical Assistance Percentage (100% FMAP) to a non-IHS/Tribal Medicaid provider without a care coordination agreement or Tribal Federally Qualified Health Center (FQHC) contract as described in the CMS State Official Health Letter dated February 26, 2016 (SHO #16-002) or CMS Frequently Asked Questions (FAQ) on Federal Funding for Services "Received Through" an IHS/Tribal Facility and Furnished to Medicaid Eligible American Indians and Alaska Natives dated January 18, 2017 as it would drastically decrease a vital funding resource to a chronically underfunded Indian Health System, resulting in decreased health services to American Indians and Alaska Natives.

CERTIFICATION

The foregoing resolution was adopted at the 2020 Virtual Mid-Year Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on June 30 – July 2, 2020, with a quorum present.



Leonard Forsman, President



Norma Jean Louie, Secretary