



Centers for Medicare & Medicaid Services: Protections for Indians Under Medicaid and CHIP

A. Funding Table

(Dollars in Millions)

Project/Activity	Program Level	FY 2009	FY 2010 – FY 2019
Protections for Indians Under Medicaid and CHIP	\$150.0	\$5.0	\$145.0

B. Objectives

The purpose of these provisions is to offer protections to Indian populations covered under Medicaid and the Children's Health Insurance Program (CHIP). This section prohibits State Medicaid programs from imposing cost-sharing on Medicaid-eligible American Indians and Alaska Natives (AI/ANs) for services that are provided directly or upon referral by Indian Health programs. This prohibits the collection of premiums, co-payments, or deductibles. Also, States may not consider the value of certain property when determining the Medicaid or CHIP eligibility of AI/ANs. Finally, certain income, resources, and property must be exempted from Medicaid estate recoveries.

In Medicaid managed care programs, AI/ANs are guaranteed the right to choose an Indian health care provider (as a primary care provider or outside of the managed care network). Access to sufficient numbers of Indian health care providers must be guaranteed. Special payment provisions are provided for Indian health care providers and clinics. Also, Indian Medicaid managed care programs may exclude non-Indians from enrollment with them.

The CMS Tribal Technical Advisory Group (TTAG) is officially recognized in law, to consult with CMS on policies impacting the tribes. Also, States are required to seek advice from Indian Health Programs and Urban Indian Organizations prior to submitting a Medicaid State plan amendment, waiver, or other proposal that would directly impact Indian populations.

C. Activities

CMS is working with States to incorporate these changes into their Medicaid State plans. Guidance for States is being developed in the form of State Medicaid Director letters and collaborative public/private development of regulations about the policy changes.

D. Characteristics

There are no grant awards or funds associated with this provision.



E. Delivery Schedule

Guidance on these provisions will be issued by July 1, 2009. The prohibition of cost-sharing for Indians is being included in the final rule entitled "Medicaid Program; Premiums and Cost Sharing." The rule was reopened for comments between March 26 and April 27, 2009. The effective date of the final rule is delayed until December 31, 2009. The delay of the effective date of this regulation does not delay the implementation of the requirements of this legislation.

F. Environmental Review Compliance

This provision does not require 1609(c) certification.

G. Measures

Measure: Number of States soliciting advice from AI/AN communities.

CMS will report the number of approved SPAs implementing the requirement to solicit advice from individuals who represent the interests of AI/AN populations. The number of SPAs that are submitted by States having at least one Indian Health Program or Urban Indian Organization will be compared to the total number of such States. We have a target of 100 percent compliance.

H. Monitoring and Evaluation

All Recovery Act programs will be assessed for risk and to ensure that appropriate internal controls are in place throughout the entire funding cycle. These assessments will be done consistent with the statutory requirements of the Federal Manager's Financial Integrity Act and the Improper Payments Information Act, as well as OMB's circular A-123 "Management's Responsibility for Internal Control."

States will submit State Plan Amendments to implement the provisions of the Recovery Act. These SPA submissions will be reviewed by CMS Central Office and Regional Office staff before approval. The number of approved SPAs will be tracked via the State Plan and Waiver database. These will be available publicly via the Electronic State Plan Amendment (eSPA) system.

CMS anticipates that this provision will be subject to review by the Office of the Inspector General (OIG). The OIG believes that there is a risk to Federal funds in the event that ineligible individuals benefit from these provisions.

I. Transparency

CMS will be open and transparent in all of its grant making activities that involve spending of Recovery Act funding consistent with statutory and OMB guidance. Guidance in the form of a State Medicaid Director's letter will be posted on-line.

The implementation of eSPA, a web-based application that will automate the current paper-based Medicaid State Plan amendment process, will make approved Medicaid State plan amendments will be available online. The eSPA system will be phased in during FY2010



Rules will be promulgated using the standard notice and comment procedures.

J. Accountability

To ensure that managers are held to high standards of accountability in achieving program goals under the Recovery Act, CMS will build on and strengthen existing processes. Senior CMS Center for Medicaid and State Operations officials will meet regularly with senior Department officials to ensure that projects are meeting their program goals, assessing and mitigating risks, ensuring transparency, and incorporating corrective actions. The personnel performance appraisal system will also incorporate Recovery Act program stewardship responsibilities for program and business function managers. Although the specific factors for managers' plans have not been developed, they will include responsibility for statutorily- required Recovery Act activities.

K. Barriers to Effective Implementation

No implementation barriers have been identified at this time.

L. Federal Infrastructure

Not applicable.