14th Annual National HHS Tribal Budget and Policy Consultation Session

March 8-9, 2012

Executive Summary

The 14th Annual National HHS Tribal Budget and Policy Consultation Session was held March 8-9, 2012, at the Hubert H. Humphrey Building in Washington, DC. Ken Lucero, Chair, Secretary's Tribal Advisory Committee (STAC) and Tribal Council Member, Pueblo of Zia; and Paul Dioguardi, Director, Office of Intergovernmental and External Affairs (IEA), served as the Tribal and Federal Moderators, respectively. The session opened with Rex Lee Jim, Vice President, Navajo Nation, providing the opening blessing. Tribal opening remarks were delivered by Jefferson Keel, President, National Congress of American Indians; Lieutenant Governor, Chickasaw Nation; and STAC Member; as well as Jace Killsback, Vice-Chairman, National Indian Health Board (NIHB); Tribal Council Member, Northern Cheyenne Tribe; and STAC. Both expressed gratitude to the Administration for its attention to and support of Tribal issues, noting the increase in the Indian Health Service (IHS) budget. Notwithstanding, Lieutenant Governor Keel and Councilman Killsback argued that Indian Country is still in need of various health care services, e.g., of outpatient care and substance abuse and suicide treatment, as lack of health care services has resulted in the worst health care disparities in the country in Indian Country. On behalf of HHS, Mr. Dioguardi welcomed the Tribal leaders and representatives, assuring them that the issues raised over the course of the 2-day meeting (in addition to those raised during the regional consultation sessions) would be addressed by the STAC at its quarterly meetings.

As the attendees awaited the arrival of HHS Secretary Kathleen Sebelius, Councilman Lucero acknowledged Mr. Dioguardi and his office for its work in making sure Tribes have access to grants and HHS staff receive training on working with Tribes. Councilman Lucero also acknowledged the STAC and Intradepartmental Council on Native American Affairs' (ICNAA) efforts to give Tribes greater access to programs and to improve Tribal State relations. Finally, he commented that the STAC had formed two subcommittees (the Self-Governance Subcommittee and the State Tribal Relations Subcommittee) and set its 2012 priorities: funding (making sure Tribal programs don't receive cuts); being a part of the sequestration process if programs will get cuts; outreach and technical assistance on the ACA; Tribal State relationships; and policy and regulatory issues.

When the Secretary arrived, she reconfirmed HHS' commitment to working with Tribes and utilizing their input in work across the Department. She acknowledged previous requests to have the Office of Management and Budget (OMB) present at the consultation, but said it was important that HHS hear from Tribes first. Secretary Sebelius highlighted areas where Tribes had informed HHS; and she said the Fiscal Year (FY) 2013 budget makes a $6.3 billion dollar investment in Tribal programs (with just under a 3% increase to the IHS—including $54 million dollars for contract health services and $81 million dollars for health care facilities construction). Among her other remarks, the Secretary recognized IHS Director Yvette Roubideaux for her leadership, especially pertaining to her work with the U.S. Department of Veterans Affairs (VA)—confirming IHS as the "payer of last resort;" and she indicated that the "477" workgroup was making progress; and the list of grant opportunities detailing Tribes' eligibility is now at 850 items, with copies of the matrix available electronically and in hard copy. Before listening to Tribal leader and representative's

feedback, the Secretary reiterated her commitment to improving the health of American Indians and Alaska Natives (AI/ANs), saying the HHS leadership team gives her direct feedback to inform the formation of policy.

After Tribal leaders' self-introductions, the floor was opened for them to address the Secretary. Highlights of the comments and/or concerns included the following: overarching agreement that the Indian health care system is drastically underfunded; frustration with States' lack of cooperation/consultation with Tribes; concern about increasing contract health costs; need for specialty care services and providers; requests for facilities construction; requests for direct funding to Tribes; support for the Special Diabetes Program for Indians (SDPI); and a need for more youth and elder programs.

Before opening the floor for Tribal leaders' comments on national issues, Councilman Lucero asked the HHS agency heads to provide self-introductions. The following individuals were present: Aryana Khalid, Chief of Staff, Centers for Medicare and Medicaid Services (CMS); Yvette Roubideaux, Director, IHS; George Sheldon, Acting Assistance Secretary, Administration for Children and Families (ACF); Paul Dioguardi, Director, IEA; Mary Wakefield, Administrator, Health Resources and Services Administration (HRSA); Kathy Greenlee, Assistant Secretary, Administration on Aging; Mirtha Beadle, Deputy Administrator, Substance Abuse and Mental Health Services Administration (SAMHSA); and Judith Monroe, Director, Office for State, Tribal, Local and Territorial Support, Centers for Disease Control and Prevention. Tribal comments on national issues focused on questions related to the Agreement in Principle letter regarding Medicaid and Arizona Tribes; lack of Tribal leader representation at the consultation, especially from Alaska; the need for Regional Youth Treatment Centers (RYTCs); States' non-compliance and struggles with implementing requirements of the Indian Child Welfare Act (ICWA); the decrease in the amount of money to Tribes and the number of Tribes receiving Title IV-E assistance via development grants; suicide and behavioral health issues plaguing Indian Country; the need for services for the elderly; concerns about cancer and diabetes; and transportation issues for Head Start.

Norris Cochran, Deputy Assistant Secretary, Office of Budget, discussed the issue of an HHS budget sequestration. Deputy Assistant Secretary Cochran shared budget data for FY 2012-2013, explaining that sequestration is a budget management tool. Under current law, he said the Budget Control Act allowed the President to raise the debt ceiling, but mandated a $900 billion reduction in discretionary spending over 10 years. The Act also calls for a deficit reduction of $1.2 - $1.5 trillion via spending cuts (mandatory and discretionary) and/or revenue generation. Failure on either would result in sequestration. With the Administration wanting to work with Congress to avoid sequestration, Deputy Assistant Secretary Cochran said the focus now is on enacting the balanced framework proposed in the President's budget. For HHS, enactment of sequestration would result in a $6.7 billion hit (relative to what Congress appropriates in 2013). He clarified that should sequestration go forward, there is a 2% limit to Medicare and OMB would determine how other cuts would go forward. A key issue is what this would mean for HHS activities, e.g., would there be discretion on how money is distributed. Deputy Assistant Secretary Cochran said each account would be treated the same, but there may be some flexibility within an account. In terms of the timeline, he said sequestration would not go into effect until January 2013. He also indicated that IHS program reductions would be limited to a 2% reduction; but IHS administrative reductions

could be deeper. In response to Deputy Assistant Secretary Cochran's presentation, many Tribal leaders contended that all Tribal programs and budgets should be excluded from sequestration.

Mayra E. Alvarez, Director of Public Health Policy, Office of Health Reform (OHR), kicked off the session on the ACA by sharing recent releases regarding implementation of various provisions. Ms. Khalid discussed CMS' role in implementation of the ACA; and Geoffrey Roth, Senior Advisor, IHS, discussed IHS' lead role on ACA implementation. Highlights of their comments included the following:

- The ACA will protect people from insurance abuses, increase access to affordable care, and strengthen the Medicare program.
- ACA has an 80/20 rule (Medical Loss Ratio) that requires insurance companies to spend 80% of premium dollars on actual services or improvements to services or else give money back to beneficiaries.
- By taking away cost sharing requirements for American Indians, 54 million have been able to take advantage of at least one free service.
- In 2011, $4 billion was recollected and will go back into the Medicare Trust Fund due to Medicare fraud and abuse.
- CMS is responsible for delivery system reform initiatives—on the Medicare side focusing on payment changes, readmissions, and health care acquired conditions.
- CMS will manage the Center for Medicare and Medicaid Innovations, trying to take models, leverage them, and share them with the country.
- Staff in the Center for Consumer Information and Insurance Oversight (CCIIO) are working to have Tribal user groups as Exchanges are developed.
- An Indian-specific PowerPoint presentation for awareness and outreach is being created.
- Over 50 Tribes have applied for May 1, 2012, health coverage through the FEHB [Federal Employees Health Benefits] program.

Tribal leaders' comments and/or concerns regarding implementation of the ACA focused on the definition and identification of "Indian;" the need for long-term care services; a request for an Indian Addendum to address Indian-specific requirements; questions about sponsorship to pay premiums; Tribal participation in the implementation of Exchanges; and options for Tribes in States that are turning back money for Exchanges.

Robert McGhee, STAC Member and Treasurer, Poarch Creek Band of Creek Indians, served as the Tribal Moderator for the second day of the 14th Annual National HHS Tribal Budget and Policy Consultation Session. Councilman McGhee was accompanied by Federal moderator Emily Barson, Deputy Director, IEA. The session opened with Councilman Antone providing the opening blessing, followed by an introduction of the panelists for the *Tribal State Relations* session.

Lillian Sparks, Chair, Intradepartmental Council on Native American Affairs, acknowledged the challenges voiced by Tribal leaders during regional consultation sessions about Tribal State relations. She and Mr. Dioguardi assured the group that Secretary Sebelius is urging States to work with Tribes; and reconfirmed the STAC's commitment to addressing Tribal State relations as one of its priorities. Dr. Roubideaux emphasized the magnitude of the Secretary's letter to State governors, as well as CMS and HHS' requirements that States consult with Tribes for waivers and the

development of State Exchanges, respectively; and Cindy Mann, Deputy Administrator and Director, Center for Medicaid and State Operations, CMS, also commented on the value of robust consultation between States and Tribes. She reiterated that CMS requires consultation with Tribes before a State waiver can be approved. To that end, she said waiver documents and information on certification of consultation will be on the CMS website. Before ending her remarks, Deputy Administrator Mann also stressed the importance of Tribes getting into consultation around the 2014 ACA implementation, both on the Exchange side and on the Medicaid and CHIP [Children's Health Insurance Program] side. Following the Federal representatives' remarks, Councilman McGhee opened the floor for Tribal leaders' comments. Among their concerns included State officials' lack of understanding about Tribes, Tribal sovereignty, and culture and the need for cultural competency training; States' proposed cuts in Medicaid; need for the Federal government to monitor implementation and compliance of the ICWA and the need for tribally developed training and technical assistance to support child welfare agencies; concern that ACF does not define what constitutes States' "good faith" effort with Tribes for IV-E Tribal State relations; requests that traditional foods be obtainable via Food Stamp and Commodity programs; concerns about the TANF program operating through the States; request for direct funding to Tribes; request that HHS assist Tribes in discussions with CMS regarding the encounter rate for the Healing Lodge of the Seven Nations; and requests for clarification regarding specific types of care, eligibility requirements, and optional services included in Arizona's Agreement in Principle. Pertaining to the latter, Deputy Administrator Mann said, "I do have the list of benefits that will be restored and the childless adult group that will be restored, so I'll make the list available and maybe we can have a call next week to make sure everyone is aware of the discussions going on in the finalization of making sure that the billing follows favorably to the Tribal health facilities."

Several Federal representatives spoke about the cross cutting issue of behavioral health before hearing from Tribal leaders and representatives. Deputy Administrator Beadle indicated that SAMHSA funded close to $71 million in programs last year for Tribal communities and behavioral health; Rose Weahkee, Director of Behavioral Health, IHS, provided materials on Youth Regional Treatment Centers (YRTCs) and other initiatives IHS is working on (noting there are 127 methamphetamine and suicide prevention programs and 65 domestic violence and sexual assault programs in Indian Country); and Vicki Turetsky, Office of Child Support Enforcement, ACF, said the Child Support Program views behavioral health as beginning with the family. She said theirs is a separately funded Tribal program, so funds do not go through the State; and State and Tribal program directors are brought together several times a year to exchange ideas and share positive models. To that end she said they are planning to publish a Notice of Proposed Rulemaking (NPR) that contains the best ideas that they received from Tribal directors. Tribal leaders expressed optimism that SAMHSA's $40 million Behavioral Health Tribal Prevention Grant in the FY 2013 would be approved; expressed disappointment over many Tribes losing their Garrett Lee Smith grants; and questioned how States would be held accountable for consulting with Tribes. Additional concerns spoke to limited staffing of behavioral and mental health specialists; the importance of including culture, cultural and traditional practices, and a variety of learning approaches in behavioral health services; a Substance Abuse Prevention and Treatment Block Grant funding distribution methodology that yields minimal or no benefit to Tribes; need for continued funding of Indian Country Methamphetamine Initiative funds to Tribes; requests for support of the Systems of Care program; and a need for recovery programs.

After hearing opening remarks from Ellen Murray, Assistant Secretary for Financial Resources; Sally Howard, Chief of Staff, HHS, and Dr. Roubideaux, for the *Indian Health Service Budget Formulation Team Testimony* session, Gary Hayes, Chairman, Ute Mountain Ute Tribe, presented the IHS FY 2014 Budget Recommendations. The following four main recommendations were cited:

1. Protect prior years' increases from budget rollbacks, freezes, recessions, and sequestration.
2. Fully fund the IHS' total need of $26.1 billion over the next 10 years. This includes funding for personal medical care; community and public health services; investments in health facilities and sanitation; and contract support costs.
3. Fully fund current services ($163.5 million) and other financial obligated requirements ($305.9 million) as a fundamental budget principle.
4. Support the FY 2014 Tribal request for a $456 million increase in program expansion and services; and $47 million increase in program expansion for facility related programs (for a total FY 2014 budget request of $5.279 billion—based on FY 2012 enacted planning base of $4.3 billion).

Rex Lee Jim, Vice President, Navajo Nation, discussed the accomplishments of the Department and next steps for improvement. He shared recommendations from HHS' own study on how to improve the grants process, and he noted that through the recommendations from the STAC that HHS has developed a consolidated list of grants that are available to Tribes and Tribal organizations. He recommended that the list be made available in a user friendly format and posted on the IHS website. Vice President Jim also provided other overarching recommendations as follows: increasing Tribal set-asides in the President's FY 2014 budget; implementing new and expanded authorities contained in the IHCIA; and quickly moving forward with advancing the HHS pilot projects under the Title VI authorities, as recommended by the Tribal Federal Workgroup. Vice President Jim said that in order to be successful, Tribes and the Federal government must work together as partners and identify the available resources to improve the quality of and access to health care for AI/ANs and ultimately bring Tribal health care into the 21st century. He also contended that to fulfill trust obligations grounded in the Constitution, the Administration must put forth a robust budget of at least $2 billion annually to move forward with funding the Indian health care system's true need of $26.1 billion. Follow-up discussions mainly addressed the impact on health care systems without funding increases.

During the *Tribal Leaders and HHS Roundtable Discussion,* Deputy Secretary William Core commented that the needs in Indian Country clearly surpass the resources at this time; and he reiterated the commitment of the President, Secretary Sebelius, and Dr. Roubideaux to provide the best health and human services that they can. He also commented that the consultation process has grown over the last 3 years and is the cornerstone for HHS when it comes to hearing and using Tribal leaders' guidance to shape the Department's agenda.

Mr. Dioguardi thanked the group for its attendance and encouraged them to participate in the regional consultations, saying the conversations would continue through the work of the STAC and other committees throughout the Department. The consultation closed with Vice President Jim proving the closing blessing.