

**U.S. Department of Health and Human Services
15th Annual Tribal Budget and Policy Consultation**

March 8, 2013

EXECUTIVE SUMMARY

The U.S. Department of Health and Human Services (HHS) hosted its 15th Annual Tribal Budget and Policy Consultation on Friday, March 8, 2013, in Washington, DC. The consultation, previously scheduled for two days, was shortened due to inclement weather. The session was facilitated by Tribal Moderators Gary Hayes, Chair, Secretary's Tribal Advisory Committee (STAC) and Chairman, Ute Mountain Ute Tribe; and Roberta Bisbee, At-Large Member, STAC and Councilwoman, Nez Perce Tribe, as well as Federal Moderator Paul Dioguardi, Director, Office of Intergovernmental and External Affairs. Tribal leaders and other attendees convened in the Main Hall of the Hubert H. Humphrey Building to hear and respond to updates/priorities from Federal representatives on the HHS, human services, and Indian Health Service (IHS) budgets; and the Affordable Care Act (ACA). The agenda also included a roundtable discussion, featuring remarks from HHS Secretary Kathleen Sebelius.

Chairman Hayes invited Chester Antone, Councilman, Tohono O'odham Nation, to open the consultation session with a blessing. Following the prayer, the Chairman invited Cathy Abramson, Chair, National Indian Health Board (NIHB); Tribal Council Member, Sault Ste Marie Tribe of Chippewa Indians; and Member, STAC, to give the opening remarks on behalf of the Tribes. Councilwoman Abramson acknowledged the benefit of the respective groups coming together to discuss the health of Indian Country. Echoing the sentiments of her remarks, Chairman Hayes said the needs of Indian people are at the forefront of their concerns. Citing President Obama's signing of the Violence Against Women Act (VAWA) as evidence, Chairman Hayes said, "When we work together, things can change." After thanking the members of the STAC, Secretary Sebelius, and Federal partners for their commitment to addressing the challenges that face American Indians and Alaska Natives (AI/ANs), Chairman Hayes indicated that the first STAC Report—highlighting the committee's activities and accomplishments—will soon be distributed throughout Indian Country. Before hearing from Co-facilitator Mr. Dioguardi, Councilwoman Bisbee welcomed the Tribal leadership to the consultation. On behalf of HHS and Secretary Sebelius, Mr. Dioguardi also extended a welcome to the participants, giving a special acknowledgement to the Tribal partners that helped develop the meeting agenda. He commented that every year the consultation sessions get better; and he said the partnership between Tribes and the Federal government continue to get stronger and produce policy changes that improve the lives of Indian people. After he covered the protocol for the meeting, the floor was opened for Tribal leader introductions, followed by introductions from HHS representatives.

Norris Cochran, Deputy Assistant Secretary for Budget, provided an overview and update on the HHS budget. Highlights from his presentation included the following:

- Congress has not enacted the FY 2013 budget, which includes significant increases for IHS and other HHS programs targeted to AI/ANs. The Administration's preference is for the appropriations bill that funds the IHS to be passed as a piece of legislation, but if Congress proceeds with a continuing resolution (CR) for the rest of the year, an increase for IHS will be sought.
- Sequestration is now in effect, so the spending authority under the current CR is reduced by 5 percent across all budget lines. The Administration hopes to override sequestration and hit deficit reduction targets through other mechanisms.
- FY 2014 will be a big year because the ACA offers a lot of opportunities for reimbursements. Although reimbursements through private health insurance/Medicaid are not a direct replacement for appropriated dollars, at the local level they will be significant.
- A number of States are expanding their Medicaid programs, which will hopefully have a meaningful impact in communities across the country.
- Through the ACA, there have been positive talks with the Department of Veterans Affairs on a unique reimbursement mechanism that is included in the Act. Over time it should provide additional revenue to clinics and additional opportunities for care, as well as reduce burdens for AI/AN veterans.
- Development of the FY 2014 budget is still underway. The Office of Management and Budget (OMB) will decide when the budget goes to Congress.

In closing, Deputy Assistant Secretary Cochran said that despite the bigger picture of the budget environment remaining extremely tight, the Administration remains committed to improving care in Indian Country. In response to Deputy Assistant Secretary Cochran's presentation, Tribal leaders commented on the need for full IHS funding; the importance of notifying Congress of the impact sequestration will have on the lives of people in Indian Country; the Federal government's trust responsibility to Tribes; the need to continue Head Start programs; the urgency in having IHS offices ready to do reimbursements and follow-up on claims; and the need for a fetal alcohol spectrum disorders (FASD) medical diagnosis in order to provide services.

Catherine Oakar, Senior Policy Advisor, Office of Health Reform; Yvette Roubideaux, Director, Indian Health Service; Cindy Mann, Centers for Medicare & Medicaid (CMS) Deputy Administrator and Director of the Center for Medicaid and Children's Health Insurance Program (CHIP) Services; and Gary Cohen, Deputy Administrator and Director of the Centers for Consumer Information and Insurance Oversight, served as the Federal presenters to address the ACA. With the 3rd anniversary of the ACA approaching, the presenters discussed past and future activities. Ms. Oakar focused her comments on how the ACA strengthens the health care system and increases access to care. She noted that 24 States and the District of Columbia have been conditionally approved to partially or fully run their health insurance Marketplace; and she said the implementation of health information technology is moving forward. She noted that key consumer protection rules have been finalized; the Rate Review program has resulted in a decline in double digit premium increases over the last 2 years (from 75% in 2010, to 14% in 2013); mental health and substance abuse disorder benefits are being expanded; and prenatal care is being improved for expectant mothers. With an emphasis being placed on outreach, Ms.

Oakar encouraged the group to spread the word about <http://tribalhealthcare.org/> and <http://www.healthcare.gov/> as web resources for information on the ACA.

Dr. Roubideaux said the IHS is a big part of the activities related to ACA and the reauthorization of the Indian Health Care Improvement Act (IHCIA). Now, she said the IHS is transitioning from an implementation focus to a practical focus, i.e., being ready for 2014. To that end, the IHS Area Directors received a template for business planning that they will distribute to help facilities prepare for 2014; and training is now available on the ACA because of IHS discretionary budget dollars that were used for outreach and education. Finally, Dr. Roubideaux said implementation of IHCIA continues, as she noted various updates on contract health services; facilities construction; and the U.S. Department of Veterans Affairs (VA)-IHS National Federal Reimbursement Agreement.

Ms. Mann updated the group on the status of the ACA implementation in terms of Medicaid changes. For the 2014 coverage, she said the two big changes were: 1) Medicaid coverage/eligibility will expand tremendously; and 2) the way Medicaid operates, i.e., the way the application works and the way people get on and stay on the program, will change a great deal. Regarding eligibility expansion, Ms. Mann said that under the ACA everybody with income below 133% of the Federal poverty line will be eligible for Medicaid. She reminded them, however, that the Supreme Court said the Secretary does not have the authority to penalize a State for not doing the Medicaid expansion. Noting that the Federal government will fully pay for the cost of the expansion for 3 years (with generous support thereafter), she said 26 governors have announced their support for the expansion and Minnesota actually has a signed deal. In terms of the way Medicaid operates, Ms. Mann said changes will happen in every State: Medicaid will have an income test; there will be less reliance on paperwork to show eligibility; a simpler process for renewal will be employed; applicant's can apply online, via the phone, in-person, or by mail; and there will be one streamlined application for Medicaid, CHIP, and the premium tax credit and cost-sharing reductions on the exchange. Ms. Mann thanked the Tribal leaders for their input on the streamlined application, saying it is expected to be out in April 2013. She said the CMS wants to work with the Tribal leaders on outreach to ensure that Indian Country knows about available coverage and gets enrolled. Other items she addressed included the Agreement in Principle with New Mexico on its waiver to expand managed care (which will not include mandatory enrollment for AI/ANs); consultation progress being made in California to replace benefits that were cut by the State; new regulations for comment; grant opportunities for Tribal communities; and the Navajo Feasibility Study (which is undergoing Departmental review).

For his portion of the presentation, Mr. Cohen talked about what the health insurance Marketplaces have to offer to AI/ANs. He focused his remarks on eligibility, Tribal sponsorship, and the qualify health plan (QHP) addendum. Mr. Cohen said the Center for Consumer Information and Insurance Oversight (CCIIO) has been working with Tribal communities to design application questions in a way that will accurately capture information to determine eligibility for Medicaid and CHIP, enrollment in a QHP, advance premium tax credits, cost-sharing exemptions, and special monthly enrollment periods. He said the goal of the work is to make sure the Marketplaces are designed in a way that will enable AI/ANs to take advantage of the opportunities available to them, e.g., no co-pays or other cost-sharing for certain members

that purchase insurance through the Marketplace. Mr. Cohen told the Tribal leaders that the application process will provide for an AI/AN to attest that he/she is a member of a Federally-recognized Tribe and that attestation will be used to determine eligibility for cost-sharing exemptions and monthly special enrollment periods. He said electronic data sets from IHS or the Bureau of Indian Affairs (BIA) do not contain elements necessary to verify Indian status as defined in the ACA, so a national data source can't be approved at this time to verify Indian status for the special ACA provisions. Acknowledging concerns about the definition of Indian and the process of determining Indian status, Mr. Cohen said the Federally-facilitated Marketplace will verify Indian status through a paper documentation process in accordance to standards provided in the Social Security Act. He noted that State-based Marketplaces can work directly with Tribes for the purpose of electronic verification. Mr. Cohen also said the Federally-facilitated Marketplace will not be able to establish a process that will facilitate Tribal premium sponsorship for year one. Regarding the model QHP addendum (designed to facilitate the inclusion of Indian health care providers in the QHP provider networks and to help insurers comply with health plan certification standards), Mr. Cohen said it will be finalized soon. He added that the addendum will be used to highlight key provisions in Federal law that apply when contracting with Indian health care providers and to help form relationships between issuers and Tribes. Finally, Mr. Cohen confirmed that Tribes are eligible to receive grants to be Navigators, saying a funding announcement is forthcoming; and trainings and other materials are being developed to encourage people to apply; and he said people are available to come to the Tribal Nations to do outreach and education. Following the ACA presentation, Tribal leaders expressed concern about States not giving Tribes a "seat at the table" as programs are implemented; the need for a single, operational definition of "Indian;" the need for Marketplaces to do things to integrate IHS; the importance of allowing Tribal sponsorship of premiums; the need for consultation specifically on the Federally-facilitated Marketplace with Arizona Tribes and others in Indian Country; the impact to Tribal members in States that do not expand Medicaid; and States' lack of understanding concerning government-to-government relations and consultation.

George Sheldon, Acting Assistant Secretary, Administration for Children and Families, began the discussion on human services budget priorities. He noted the significance of the VAWA signing to address violence against women on Tribal lands. Before hearing from Tribal leaders, Acting Assistant Secretary Sheldon said that in response to sequestration, the Department's goal is to cut travel, technical assistance, and conferences before cutting services. Tribal leaders offered comments, which included concern about Head Start designation renewals and lack of communication therein; the need for waivers in response to Head Start teacher credentialing requirements; and the effect of sequestration on Tribal child welfare, family support, and mental health programs. In regards to the latter, budget and legislative recommendations were provided. Additionally, it was also recommended that two Tribal representatives be appointed to the Commission to Eliminate Child Abuse and Neglect Fatalities from the six slots the President is authorized to appoint. Before closing the session on human services, Acting Assistant Secretary Sheldon informed the Tribal leaders that ACF would be establishing a Tribal Advisory Council and he encouraged them to make nominations; and he also indicated that a committee was formed to ensure as full implementation of the Indian Child Welfare Act (ICWA) as possible.

Andy Joseph, Councilman, Colville Confederated Tribes and Board Member, National Indian Health Board; and Chairman Hayes shared responsibility for presenting testimony on the FY

2015 IHS budget recommendations on behalf of the IHS Budget Formulation Workgroup. Councilman Joseph complimented President Obama for understanding Tribes' unique government-to-government relationship with the Federal government and said he shares their vision of achieving optimum health for Indian people. Under the current Administration, he said IHS has gained historical increases. Noting that the true needs-based budget of Indian health care system is \$27.6 billion dollars, he said the United States has a legal responsibility that is reaffirmed through treaties, Executive Orders, and congressional actions to provide health care services to AI/ANs. Chairman Hayes presented the following national budget recommendations, developed by Tribal representatives from the 12 IHS areas:

- 1- Phase in full funding for IHS' total need-based budget of \$27.6 billion over 12 years.
- 2- Increase the FY 2015 IHS budget to \$5.3 billion.
- 3- Protect prior year health care gains and advance health care outcomes.

Chairman Hayes said that in addition to the national budget recommendations, Tribes in each area were asked to prepare budget recommendations for specific funding levels. From those recommendations, he said the national workgroup determined that a minimum increase of 19.7% is needed to address the disease burden and health care delivery system issues brought forth by the Tribes. He said the workgroup also recommends an increase of \$178.8 million for IHS to meet its binding fiscal obligations to staff new health facilities, pay contract support costs, and to plan and construct health facilities on the health care facilities priority list. Beyond those costs, he said the workgroup recommends \$528.4 million for the critical health services and new facility authorities aimed at slowing the growth of health disparity rates in Indian communities. Lastly, Chairman Hayes said that uncertainty about the FY 2013 and 2014 budgets, as well as the effect of sequestration, compromise the Administration's ability to provide future increases to the IHS budget. Therefore, he requested that the Secretary (if given discretion in the future) give IHS the highest priority.

Secretary Sebelius joined the meeting to address the Tribal leaders. She recognized and thanked members of the STAC for their work on that committee, as well as Mr. Dioguardi and Ms. Stacey Ecoffey for organizing the consultation session. She also acknowledged Dr. Roubideaux and the Tribal leaders for their efforts in assuring the reauthorization of the VAWA occurred and gave stronger protections for women in Indian Country. After assuring the attendees that the consultation process is taken seriously, Secretary Sebelius addressed the HHS budget situation. The cut for HHS, she said, is \$15.5 billion for the remainder of 2013. Among the impacts of the cut include 3,000 fewer in-patient admissions and 804,000 fewer outpatient visits at IHS facilities, about 70,000 children who will lose Head Start slots, and a 2% across the board cut to every Medicare providers' payment beginning April 1, 2013. She said the President is eager to work with Congress, with an understanding that there has to be balance and smart strategic investments, while reducing expenditures. Notwithstanding the tough budget times, Secretary Sebelius said the FY 2013 request to Congress was a \$6.3 billion investment for Tribal programs, an increase from the year before (including an increase for IHS). Before ending her remarks, the Secretary encouraged the Tribal leaders to let their voices be heard on Capitol Hill; and regarding the need for a single definition of Indian, she said she is in support of the definition that matches IHS and Medicaid eligibility. To that end, she said they will be working with Tribes to get a legislative solution and providing technical assistance to Congress that is

consistent with Tribes' recommendations. In response to the Secretary's remarks, Tribal leaders articulated the unmet needs in Indian Country, sought the Secretary's continued support in advancing Tribal-State relationships, underscored the importance of language grants to Indian communities, called for an HHS-wide grant model for Tribal grants, and reemphasized their desire to have Tribal programs exempted from sequestration or sequestration softened because of the government's trust responsibility. They also shared concerns about Tribal Epidemiology Centers not being viewed as a public health authority, research definitions and sampling issues, staffing at IHS facilities, the Medicaid administrative match, and burdens created by various Head Start designated renewal triggers.

Prior to leaving the consultation, Secretary Sebelius acknowledged and agreed with the sentiment that promises and commitments to Indian Country are not entitlements, but rather treaty obligations; and she assured the Tribal leaders that she would follow-up on the issues they raised.

The 15th Annual Tribal Budget and Policy Consultation ended with Chairman Hayes thanking the participants for their attendance and thanking Ms. Ecoffey and her team for putting the session together. Mr. Dioguardi also thanked the attendees for their participation, saying the regional consultations across the country will be informed by the day's discussion. The meeting adjourned after Councilman Antone provided a closing blessing.

A full transcript of the meeting is available under separate cover.