



Assisting American Indian and Alaska Native Consumers



Helping American Indians and Alaska Natives Understand and Evaluate Marketplace Health Coverage Options

August 2022

The information provided in this document is intended only to be a general informal summary of technical legal standards. It is not intended to take the place of the statutes, regulations, or formal policy guidance that it is based upon. This document summarizes current policy and operations as of the date it was presented. We encourage readers to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information. This communication was produced and disseminated at U.S. taxpayer expense.

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Introduction

This presentation will cover:

- Overview of the Indian Health Service (IHS)
- Marketplace protections for American Indians and Alaska Natives (AI/ANs) under the Affordable Care Act (ACA)
- Scenarios: Assisting AI/AN consumers applying for Marketplace coverage

Definition of AI/ANs

- **For purposes of the Marketplaces**, an AI/AN consumer is a member of a federally recognized Tribe or an Alaska Native Claims Settlement Act (ANCSA) shareholder (referred to as a Tribal member).
- **For purposes of Medicaid and the Children's Health Insurance Program (CHIP)**, an AI/AN consumer is a member of a federally recognized Tribe, an ANCSA shareholder, or any individual eligible to receive services from the IHS.



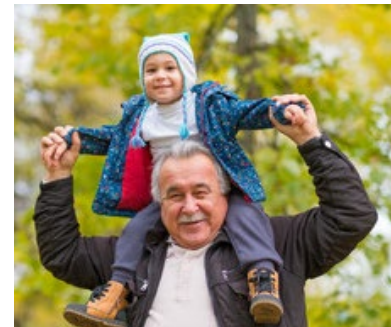
Definition of AI/ANs (Cont.)

Consumers who are eligible to receive services from the IHS, Tribal health care providers, or urban Indian health programs but are considered **non-Tribal members** include:

- Children and descendants of Tribal members;
- Pregnant women carrying a child of a Tribal member;
- Individuals who have a certificate of Indian blood from the Bureau of Indian Affairs (BIA), unless the certificate of Indian blood indicates membership in a federally recognized Tribe;
- Individuals who are members of state-recognized Tribes; and
- Others determined by the government to be Indians for purposes of the IHS and who may receive benefits from the IHS, Tribal health care, or urban Indian health programs.

Historical Background

- The Federal Government provides health care, social services, housing, education, and other services to consumers from AI/AN communities through federal agencies such as the U.S. Department of Health & Human Services (HHS), the Department of the Interior, and the Department of Education.
- According to the 2010 U.S. census, there are 9.7 million people in the U.S. who identify themselves as AI/ANs, either alone or in combination with one or more other races.
- Members of 574 federally recognized American Indian and Alaska Native Tribes and their descendants are eligible for services provided by the IHS. IHS serves approximately 2.56 million people.



The Indian Health Care System

- The Indian Health Service (I), Tribes and Tribal organizations (T), and Urban Indian Organizations (U) are the three components of the Indian health care system (I/T/Us). This includes:
 - 46 AI/AN IHS- or Tribally operated hospitals
 - Over 500 Indian health centers, clinics, and health stations, including urban programs

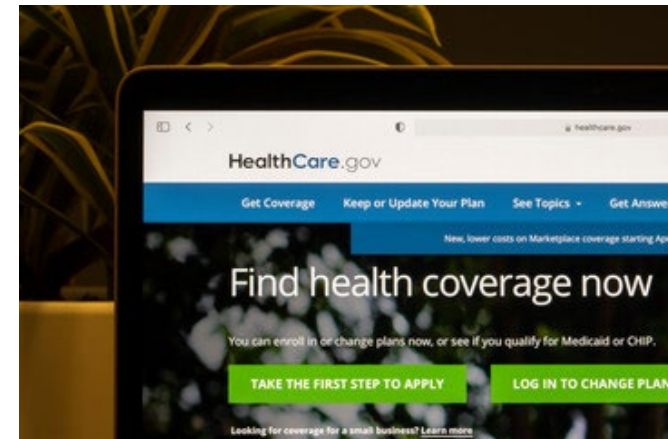


The Indian Health Care System (Cont.)

- When specialized services aren't available at these sites, health services may be purchased from public and private providers through the Purchased/Referred Care (PRC) Program, formerly known as Contract Health Services.
- If Tribal members enroll in a qualified health plan (QHP) through a Marketplace, they can continue to receive services from their local Indian health care provider without out-of-pocket costs.
- Tribal members who are eligible for advance payments of the premium tax credit (APTC) in the Marketplace can enroll in a zero cost sharing plan and are charged no cost sharing at any in-network provider.
- Tribal members who receive a referral through the PRC Program can have their cost sharing waived when enrolled in a limited cost sharing plan QHP.
 - No PRC Program referral is needed in zero cost sharing plans.

ACA: Benefits for Tribal Communities

- The ACA:
 - Permanently reauthorized the Indian Health Care Improvement Act and strengthens the IHS's role in health care delivery.
 - Ensures that consumers from AI/AN communities can continue to receive services from I/T/Us.
- Marketplaces benefit consumers from AI/AN communities by:
 - Providing opportunities for affordable health coverage through Marketplace QHPs, and
 - Providing a single, streamlined application to apply for enrollment in a QHP, subsidies for coverage through a QHP, and Medicaid or CHIP.



Marketplace Benefits for Members of Federally Recognized Tribes

- The ability to switch Marketplace plans once per month through a **Special Enrollment Period** (SEP).
- **Zero cost sharing** plans are available to Tribal members with household incomes between 100 percent and 300 percent of the federal poverty level (FPL) who qualify for premium tax credits and for items/services furnished through Indian health providers.
- **Limited cost sharing** plans are available to all Tribal members at any metal level, regardless of income or eligibility for premium tax credits.



Marketplace Benefits for Members of Federally Recognized Tribes (Cont.)

When consumers from AI/AN communities enroll in coverage through a Marketplace:

- They benefit by having greater access to services that may not be provided by I/T/Us.
- Tribal communities benefit through increased resources to their health programs.

Important Notes:

- Non-Tribal members residing in the same household as Tribal members generally are not treated as Tribal members when applying to enroll in coverage through a Marketplace.
- If the primary subscriber is a Tribal member and their family members are also Tribal members, they may qualify for cost-sharing reductions (CSRs) based on Tribal status. However, if another member of the family is on the policy and is not a Tribal member, the entire family will receive no more in CSR benefits than the non-Tribal family member.
- Non-Tribal members are subject to the general enrollment opportunity rules, including the Open Enrollment Period (OEP) and SEPs, and are not eligible for a monthly SEP unless they sign up on the same application as a Tribal family member.

Why Should AI/AN Consumers Consider Enrolling in a Marketplace QHP?

- **Access to Services:** By enrolling in a Marketplace health plan, AI/AN consumers may have year-round access to more covered health care services.
- **Low Cost:**
 - Due to special provisions, consumers who are Tribal members may be eligible for zero or limited cost sharing plans through the Marketplaces (depending on income and household size), which means no or lower costs for copayments, coinsurance, and deductibles. Tribal members may also be eligible for financial assistance through the Marketplaces to help lower monthly premium costs.
 - If you get services from an Indian health care provider, you won't have any out-of-pocket costs, like copayments, coinsurance, or deductibles, regardless of your income. (This benefit also applies to the PRC Program.)

Why Should AI/AN Consumers Consider Enrolling in a Marketplace QHP? (Cont.)

- **Flexibility:** Tribal members can sign up for a Marketplace plan at any time during the year, and they can change Marketplace plans up to once per month. However, they need to be aware that changes in coverage may not be immediate.
 - Regardless of when an application is completed, coverage is effective the first of the following month, as of 2022.



Special Provisions: Zero and Limited Cost Sharing Plans

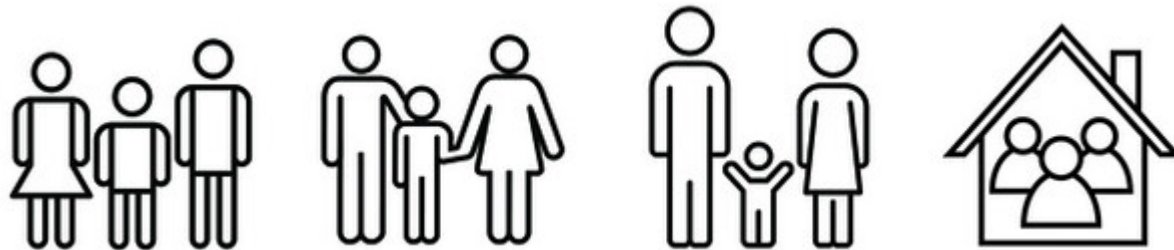
- Consumers who are Tribal members with income **between** 100 percent and 300 percent of the FPL:
 - Can enroll in a **zero cost sharing plan** at any metal level, which means no copays, deductibles, or coinsurance when receiving care from Indian health care providers or when receiving essential health benefits (EHB) through a QHP.
 - Do not need a referral from an Indian health care provider when receiving EHB through a QHP.
- All Tribal members, regardless of income:
 - Can enroll in a **limited cost sharing plan** at any metal level, which means no copays, deductibles, or coinsurance when receiving care from Indian health care providers.
 - Need a referral from an I/T/U to avoid cost sharing when receiving EHB through a QHP.

Note: Tribal members who qualify for CSRs are not exempt from premiums. However, they may qualify for APTC depending on income.

Special Provisions:

Special Enrollment Periods

- Tribal members and ANCSA shareholders may access an SEP once per month, rather than only being able to enroll during the yearly OEP or another SEP (if they qualify).
- In a Federally-facilitated Marketplace (FFM), if one family member on the application is eligible for the SEP, all family members who apply on the same Marketplace application are eligible. This is true even if different family members enroll in different Marketplace plans or if some family members are non-Tribal members. However, a state Marketplace might process the SEP differently.



AI/AN Medicaid and CHIP Protections

The following types of income are generally excluded when calculating AI/AN consumers' modified adjusted gross income (MAGI) for purposes of Medicaid and CHIP eligibility:

- Distributions from ANCSA Corporations and Settlement Trusts;
- Distributions from trust/reservation property;
- Income from property and rights related to hunting, fishing, and natural resources;
- Income from the sale and use of cultural/subsistence property;
- Student financial assistance provided by the BIA and/or a Tribe;
- Income that falls within the Internal Revenue Service (IRS) General Welfare Doctrine; and
- Any other income that is non-taxable according to federal law or IRS guidance.

Note: Consumers should contact their Tribe directly if they are unsure whether a certain type of income is exempt from MAGI.

For additional information, review the *American Indian and Alaska Native Trust Income and MAGI FAQ* at [CMS.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Outreach-and-Education/pdf/aian-trust-income-and-magi_11903-N.pdf](https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Outreach-and-Education/pdf/aian-trust-income-and-magi_11903-N.pdf).

Tribal Directory



- For more information about the process of enrolling in a Tribe, visit the BIA webpage on Tribal leaders at [DOI.gov/Tribes/enrollment.cfm](https://www.doi.gov/Tribes/enrollment.cfm).



- For more information about federally recognized Tribes and state-recognized Tribes, visit the National Conference of State Legislatures webpage at [NCSL.org/research/state-Tribal-institute/list-of-federal-and-state-recognized-Tribes.aspx#ak](https://www.ncsl.org/research/state-Tribal-institute/list-of-federal-and-state-recognized-Tribes.aspx#ak).

Tribal Documentation to Support Marketplace Applications

- The SEP and CSR protections for consumers from AI/AN communities in a Marketplace apply only to members of a federally recognized Tribe or ANCSA shareholders.
- When applying for Marketplace coverage, applicants must provide documentation that they are a member of a federally recognized Tribe or an ANCSA shareholder, such as:
 - A document issued by a federally recognized Tribe indicating Tribal membership
 - Tribal enrollment card that includes a Tribal seal and/or an official signature
 - A document issued by an Alaska Native village/Tribe or an ANCSA Corporation (regional or village) acknowledging descent, affiliation, or shareholder status
 - Certificate of Degree of Indian Blood (CDIB) issued by the BIA, if the CDIB includes Tribal enrollment information

Scenario: Mixed Tribal Status Household

The Shepherd Household:

- Charles is 29 years old and is a member of a federally recognized Tribe. Charles is a local entrepreneur and estimates that he will earn \$50,000 in 2022.
- Molly is 26 years old and is married to Charles. She is not a member of a federally recognized Tribe. Molly owns a small catering business with no other employees and estimates that she will earn \$12,000 in 2022.
- Charles and Molly have two daughters: Stacey, 5 years old, and Elizabeth, 3 years old. Both girls are members of the Tribe.



Scenario: Mixed Tribal Status Household (Cont.)



- Charles claims his parents, David and Kay, as dependents. David and Kay are both 56 years old and are members of the Tribe. Kay takes care of her grandchildren, while David teaches art classes at the local reservation. He estimates that he will earn around \$3,500 in 2022. Kay does not have any income for 2022.



- Last year, Molly was still covered under her parents' plan. The rest of the Shepherd household applied for an exemption and continued to use IHS for their health care needs. For Plan Year 2023, the entire Shepherd household wants to enroll in a Marketplace plan.

Scenario: Mixed Tribal Status Household (Cont.)

How Should a Mixed Tribal Status Household Apply for Marketplace Coverage?

- The entire Shepherd household can apply for Marketplace coverage on a single application. Filing a single application allows all family members, including non-Tribal members like Molly, to benefit from the SEP.
- Mixed CSR eligibility within a single policy:
 - If the primary subscriber is a Tribal member and their family members are also members of that community, they may qualify for CSRs based on Tribal status. However, if another member of the family is on the policy and is not a Tribal member, the entire family will receive no more in CSR benefits than the non-Tribal family member qualifies for (such as Molly in this scenario).
 - Non-Tribal family members may want to consider applying separately and being in their own enrollment group so that the family members who are Tribal members may take advantage of the more generous CSR benefits available to them.

Scenario: Mixed Tribal Status Household (Cont.)

Determining Household Size and Income

- Do David and Kay (Charles' parents) qualify as tax dependents? The IRS defines who meets the criteria to be a “qualifying relative” tax dependent. Information on who meets the criteria can be found on the IRS website at [IRS.gov/publications/p17/ch03.html](https://www.irs.gov/publications/p17/ch03.html).
- If David and Kay each meet the criteria to be a “qualifying relative” and can be claimed as a tax dependent, they can apply for coverage together on Charles' application. For the purpose of this presentation, let's assume that David and Kay qualify as tax dependents.
- Whose income is counted?
 - **For Medicaid/CHIP:** Only Charles and Molly's income will be counted when determining eligibility for Medicaid & CHIP. David's income will not be included because his income falls under the special provision excluding income from selling items of cultural significance. Aged, blind, and disabled Medicaid applicants have different eligibility rules.
 - **For Marketplace financial assistance:** The Shepherd household size is six people, and their estimated income for 2023 is the same as this past year, \$62,000.

Scenario: Mixed Tribal Status Household (Cont.)

Remember, certain types of Indian income and resources are **not** counted when determining Medicaid or CHIP eligibility determinations, including:

- Per capita payments from a Tribe that come from natural resources, usage rights, leases, or royalties
- Payments from natural resources, farming, ranching, fishing, leases, or profits from Indian trust land (including reservations and former reservations)
- Money from selling items of Tribal cultural significance, such as Indian jewelry or beadwork



Scenario: Mixed Tribal Status Household (Cont.)

Possible Eligibility Determinations for the Shepherd Household

- **CHIP:** Depending on the state where they live, Stacey and Elizabeth may be eligible for CHIP. Their parents will not have to pay out-of-pocket expenses for CHIP coverage due to special provisions for AI/ANs.
- **Zero cost sharing plan:** Community members who purchase health insurance in the Health Insurance Marketplace® and who have incomes above 100 percent and below 300 percent of the FPL may be eligible to enroll in a zero cost sharing plan, which means they will not have to pay out-of-pocket costs (like deductibles, copayments, and coinsurance) when they get care, but they will have to pay premiums and should qualify for APTC.
- **Limited cost sharing plan:** All Tribal members can enroll in a limited cost sharing plan, which means no copayments, deductibles, or coinsurance when they receive services from I/T/Us. They will need a referral from an Indian health care provider to avoid cost sharing when receiving EHB through a provider outside the Indian health system.

*Health Insurance Marketplace® is a registered service mark of the U.S. Department of Health & Human Services.

Scenario: Mixed Tribal Status Household (Cont.)

- Because the Shepherds' income of \$62,000 for a household of six is between 100 percent and 300 percent of the FPL, the Tribal members of the Shepherd household may qualify for a zero cost sharing plan.
- Based on household taxable income, the Shepherd household may also qualify for help paying the cost of monthly premiums under the Marketplace's general financial assistance program eligibility rules.



Scenario: Mixed Tribal Status Household (Cont.)

Important Considerations

- Molly is not a Tribal member; however, Tribal services may be available to her as the spouse of a Tribal member. Therefore, some of the ACA's provisions for Tribal members would also apply to Molly.
- Molly will only be able to enroll in and change QHPs during the OEP or an SEP. However, if Molly applies on the same Marketplace application as her husband, who is a Tribal member, she would be allowed to change plans monthly just as he is.
- Molly and Charles should talk through their option of enrolling in the same QHP together, which would require Charles to lose his Tribal member CSR benefits because the special CSR provisions are only offered on plans specifically for Tribal members.
- If Molly and Charles want to enroll in a plan together, they need to review their cost savings, if any, on a different plan for deductibles and other out-of-pocket costs unless they qualify for financial assistance through the Marketplace.

Key Takeaways

Special Marketplace provisions applicable to Tribal members and ANCSA Shareholders include:



Zero cost sharing plans with APTC if income is between 100 percent and 300 percent of the FPL.



No cost sharing for services through an Indian health provider or if referred through the PRC Program, regardless of income, if enrolled in a limited cost sharing or zero cost sharing plan.



Enroll in and change plans up to once a month (effective dates still apply).

Key Takeaways (Cont.)

Important things to keep in mind with mixed status families:



Same application, not the same Marketplace plan:

- Tribal family members will still be eligible for zero cost sharing or limited cost sharing plans, if otherwise eligible.
- Non-Tribal family members will benefit from the monthly SEP available to Tribal members if they apply together.



Medicaid/CHIP eligibility:

- Special income provisions – such as monies received from traditional, cultural activities – are not considered income for the Medicaid/CHIP income calculation.
- Medicaid/CHIP Indian protections apply for eligible consumers.

Resources for Assisters

- [HealthCare.gov/american-indians-alaska-natives](https://www.healthcare.gov/american-indians-alaska-natives)
- [CMS.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Outreach-and-Education](https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Outreach-and-Education)
- [Marketplace.cms.gov/technical-assistance-resources/working-with-aian.pdf](https://www.marketplace.cms.gov/technical-assistance-resources/working-with-aian.pdf)

