

DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

MEDICAID
REGIONAL INFORMATION LETTER

Region VIII
Federal Building
1961 Stout Street
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TO: State Medicaid Directors

SUBJECT: Use of BIA Education Funds as Match -- INFORMATION

We have received several questions from States regarding the use of Indian Education funds as the State's share of match in the Medicaid program.

Section 1903(a)(2) of the Social Security Act requires States to share in the cost of medical assistance expenditures and permits both State and local governments to participate in the financing of the non-Federal portion of the medical assistance expenditures.

42CFR433.51(b) states "...public funds are appropriated directly to the State or local medicaid agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section."

42CFR433.51(c) states "...public funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds."

The question, therefore, becomes, Are Federal funds received by BIA funded schools eligible to be used as public funds under 431.51(c)? The answer is a qualified YES.

We have obtained a legal opinion from the Department of the Interior concerning Section 381(h), 25 U.S.C. 2010(h). According to the opinion, this Section provides that "Notwithstanding any other provision of law, funds received by a Bureau funded school under this chapter shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program." Therefore, funds received under 25 U.S.C.A. 2010 may be used to match other Federal programs, including Medicaid. The provision applies to both BIA operated schools and BIA funded schools.

Now for the **qualifier**: The opinion also indicates simply because funds under this provision *may* be used as matching funds, does not mean that under all circumstances they *can* be used for a match. When Federal funds are given for a specific statutory purpose, the grantee must ensure that those purposes are effectuated. If, for example, funds are provided in an allotment formula for a gifted and talented program, based on the number of eligible students, the donee must ensure