

# **Indian Health Care Improvement Reauthorization and Extension Act (S. 1790)**

Paula Lee  
Assistant Regional Counsel  
Office of General Counsel, Region IX  
US DHHS

# **Indian Health Care Improvement Reauthorization and Extension Act (S. 1790)**

- **As enacted and amended by the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 [H.R. 3590], § 10221, \_\_\_ Stat. \_\_\_ (2010).**
- **Made permanent when President Obama signed the bill on March 23, as part of the Patient Protection and Affordable Care Act.**

# Past Efforts to Pass IHClA

- The authorization of appropriations for the IHClA had expired in 2000, and while various versions of the bill were considered by Congress since then, the act now has no expiration date.

# Long Term Care and Other Services (§ 124)

- Amends section 205 of the IHClA
- Entitled “Other Authority for Provision of Services; Shared Services for Long-Term Care”
- Provides authority for hospice, assisted living, long-term, and home- and community-based services.

# Epi-Centers (§ 130)

- Amends section 214 of the IHClA
- (Re)authorizes IHS and tribes to operate epidemiology centers in each service area.
- Epi-centers treated as a “public health authority” for purposes of the Health Insurance Portability and Accountability Act (HIPAA).
- Authorizes data sharing with tribally operated centers.

# Licensing (§ 134)

- Amends section 221 of the IHClA
- “Licensed health professionals employed by a tribal health program shall be exempt, if licensed in any State, from the licensing requirements of the State in which the tribal health program performs the services described in the [ISDEAA] contract or compact. . . .”

# Office of Indian Men's/Women's Health (§ 136)

- Amends section 223 of the IHClA
- Establishes within the IHS an Office of Indian Men's Health
- Office of Indian Women's Health already exists

# CHS Administration and Disbursement Formula (§ 137)

- Amends section 226 of the IHClA
- Directs Comptroller General to submit a report regarding the funding of the CHS program (including historic funding levels and a recommendation of the funding level needed for the program) and the administration of the CHS program.
- On receipt of the report, “the Secretary shall consult with Indian tribes regarding the [CHS] program . . . .”



# CHS (§ 137) (cont.)

- After consultation, Secretary may “negotiate or promulgate regulations to establish a disbursement formula for the contract health service program funding.”

# Purchasing Health Care Coverage (§ 152)

- Amends section 402 of the IHCA
- “(a) In General. Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or other law, other than section 404), to Indian tribes, tribal organizations, and urban Indian organizations for health benefits for Service beneficiaries, Indian tribes, tribal organizations, and urban Indian organizations may use such funding to purchase health benefits coverage (including coverage for a service, or service within a contract health service delivery area, or any portion of a contract health service delivery area that would otherwise be provided as a contract health service) for such beneficiaries in any manner, including through – (1) a tribally owned and operated health care plan; (2) a State or locally authorized or licensed health care plan; (3) a health insurance provider or managed care organization; (4) a self-insured plan; or (5) a high deductible or health savings account plan.”

# Purchasing Health Care Coverage (§ 152) (cont.)

- “(b) FINANCIAL NEED. – The purchase of coverage under subsection (a) by an Indian tribe, tribal organization, or urban Indian organization may be based on the financial needs of such beneficiaries (as determined by 1 or more Indian tribes being served based on a schedule of income levels developed or implemented by such 1 or more Indian tribes).”

# Nondiscrimination Under Fed Health Care Programs In Qualifications for Reimbursement for Services (§ 156)

- “A federal health care program must accept an entity that is operated by the Service, an Indian tribe, tribal organization, or urban Indian organization as a provider eligible to receive payment under the program for health care services furnished to an Indian on the same basis as any other provider qualified to participate as a provider of health care services under the program if the entity meets generally applicable State or other requirements for participation as a provider of health care services under the program.”

## (§ 156) (cont.)

- “Any requirement for participation as a provider of health care services under a Federal health care program that an entity be licensed or recognized under the State or local law where the entity is located to furnish health care services shall be deemed to have been met in the case of an entity operated by the Service, an Indian tribe, tribal organization, or urban Indian organization if the entity meets all the applicable standards for such licensure or recognition, regardless of whether the entity obtains a license or other documentation under such State or local law. In accordance with section 221, the absence of the licensure of a health professional employed by such entity under the State or local law where the entity is located shall not be taken into account for purposes of determining whether the entity meets such standards, if the professional is licensed in another State.”

# Access to Federal Insurance (§ 157)

- Allows an Indian tribe or tribal organization carrying out ISDEAA programs or an urban Indian organization to “purchase coverage, rights, and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization” from the federal employees health benefit program “if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee’s Fund. . .”

# Office of Direct Service Tribes (§ 172)

- Establishes an Office of Direct Service Tribes, to be located in the Office of the Director.

# Eligibility of California Indians (§ 192)

- Among other revisions, amended “Eligibility of California Indians”
- Subsection (a)(4) “Any Indian in California *of California* who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat.619), and any descendant of such Indian.”



# Health Services for Ineligible Persons (§ 194)

- Amends section 813 of the IHCA
- “In the case of health facilities operated under a contract or compact entered into under the [ISDEAA], the governing body of the Indian tribe or tribal organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract or compact to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of such Indian tribe or tribal organization shall take into account the consideration described in paragraph (1)(B). Any services provided by the Indian tribe or tribal organization pursuant to a determination made under this subparagraph shall be deemed to be provided under the agreement entered into by the Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act. The provisions of section 314 of Public Law 101-512 (104 Stat. 1959), as amended by section 308 of Public Law 103-138 (107 Stat. 1416), shall apply to any services provided by the Indian tribe or tribal organization pursuant to a determination made under this paragraph.”

# Health Services for Ineligible Persons (§ 194) (cont.)

- Paragraph (1)(B) referenced above provides:
- “(1)(B) the Secretary and the served Indian tribes have jointly determined that the provision of such health services will not result in a denial or diminution of health services to eligible Indians.”

# Cost Sharing (§ 197)

- Entitled “Tribal Health Program Option for Cost Sharing”
- “Nothing in this Act limits the ability of a tribal health program operating any health program, service, function, activity, or facility funded, in whole or part, or provided for in, a compact with the Service pursuant to title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.) to charge an Indian for services provided by the tribal health program.”

# Traditional Health Care Practices (§ 199A)

- “Although the Secretary may promote traditional health care practices, consistent with the Service standards for the provision of health care, health promotion, and disease prevention under this Act, the United States is not liable for any provision of traditional health care practices pursuant to this Act that results in damage, injury, or death to a patient.”