

Affordable Insurance Exchanges and Indian Country

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This week, HHS published a final rule on the establishment of Affordable Insurance Exchanges, which are new State-based competitive marketplaces created under the Affordable Care Act to provide all Americans access to affordable health insurance. Establishing these Exchanges is an extension of the Federal government's responsibility to American Indians and Alaska Natives and will offer new opportunities to improve the health of Indian Country.

The final rule includes details on provisions included in the Affordable Care Act that will improve health care in Indian Country and makes clear IHS, Tribal, and Urban Indian Health providers will be paid for services they provide to AI/AN individuals with insurance.

The final rule builds on over two years of consultations with States, tribes, small businesses, consumers, and health insurance plans.

I would like to point out three important issues for Indian Country:

1. The law ensures AI/AN are able to take advantage of the new health insurance coverage opportunities. The final rule implements section 1311(c)(6)(D) of the Affordable Care Act that directs an Exchange to provide for special monthly enrollment periods for Indians and eliminates cost-sharing in private insurance coverage purchased through an Exchange for eligible Indians under 300 percent of the federal poverty level. The law ensures that anyone in the Indian Health Service can access services at IHS facilities without spending a penny out of their own pocket.
2. Consultation indicated that there was a preference that all IHS, Tribal, and urban Indian health (I/T/U) facilities be explicitly designated as Essential Community Providers (ECP). The final rule reiterates the statutory language regarding designation of ECP. The law and this rule specify that providers eligible for the HRSA 340B program including outpatient, tribally operated, and Urban Indian health programs are designated as ECP. Exchanges have discretion to designate additional providers as Essential Community Providers. Two of the primary reasons that Tribes indicated that it was important to be included in the ECP designation was to encourage insurers in the Exchanges to include I/T/U providers in their networks and to ensure that full payment is made to I/T/U providers.
3. The Indian Health Care Improvement Act, reauthorized under the Affordable Care Act, includes section 206 that provides that all Indian providers have the right to recover from insurers up to the reasonable charges billed for providing health services, or, if higher, the highest amount an insurer would pay to other providers to the extent that the patient or another provider would be eligible for such recoveries. Insurers offering coverage on an Exchange could benefit from contracting with Indian health providers to coordinate care more effectively. For these reasons, I/T/U facilities are likely to be a part of the network and the recipients of competitive payment rates from the insurers. Section 206 will be addressed in future rule making.

There are many more benefits and opportunities for improving the health and well-being of Indian Country made possible by the Affordable Care Act. We look forward to continuing dialogue and consultation as we move forward with implementation.

HHS will discuss Affordable Insurance Exchanges in upcoming regional consultation sessions during which Tribes can learn more about this and other Affordable Care Act activities important to the health of Indian Country.

The DHHS Region IX Tribal Consultation for California, Arizona, and Nevada tribal governments will be held on Wednesday, March 21, 2012 at the Sheraton Crescent Hotel in Phoenix.

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