Centers for Medicare & Medicaid Services: Protections for Indians Under Medicaid and CHIP

A. Funding Table

(Outlays in Millions)

Project/Activity	Program Level Estimate*	FY 2009 Estimate*	FY 2010 Estimate*	FY 2011 Estimate*	FY 2012 – FY 2019*
Protections for American Indians/Alaskan Natives under Medicaid	$150.0	$5.0	$10.0	$10	$125.0

*Cost impacts for this provision are actuarial estimates

B. Objectives

The purpose of these provisions is to offer protections to Indian populations covered under Medicaid and the Children's Health Insurance Program (CHIP). This section prohibits State Medicaid programs from imposing cost-sharing on Medicaid-eligible American Indians and Alaska Natives (AIANs) for services that are provided directly or upon referral by Indian Health programs. This prohibits the collection of premiums, co-payments, or deductibles. Also, States may not consider the value of certain property when determining the Medicaid or CHIP eligibility of AI/ANs. Finally, certain income, resources, and property must be exempted from Medicaid estate recoveries.

In Medicaid managed care programs, AIANs are guaranteed the right to choose an Indian heath care provider (as a primary care provider or outside of the managed care network). Access to sufficient numbers of Indian health care providers must be guaranteed. Special payment provisions are provided for Indian health care providers and clinics. Also, Indian Medicaid managed care programs may exclude non-Indians from enrollment with them.

The CMS Tribal Technical Advisory Group (TTAG) is officially recognized in law, to consult with CMS on policies impacting the tribes. Also, States are required to seek advice from Indian Health Programs and Urban Indian Organizations prior to submitting a Medicaid State plan amendment, waiver, or other proposal that would directly impact Indian populations.

C. Activities

CMS is working with States to incorporate these changes into their Medicaid State plans. Guidance for States was issued in the form of a State Medicaid Director letter and collaborative public/private development of regulations about the policy changes.

D. Characteristics

There are no grant awards or funds associated with this provision.

E. Delivery Schedule

The effective date of these provisions was July 1, 2009. The guidance on these provisions was issued on January 22, 2010. The prohibition of cost-sharing for Indians is being included in the final rule entitled “Medicaid Program; Premiums and Cost Sharing.” The rule was reopened for comments between March 26 and April 27, 2009. The effective date of the final rule is delayed until July 1, 2010. The delay of the effective date of this regulation does not delay the implementation of the requirements of this legislation.

F. Environmental Review Compliance

The CMS and Department of Health and Human Services are committed to sustainable operations of its activities and facilities through sound environmental stewardship including preferential procurement of environmentally preferred products and electronic stewardship of IT and data center operations.

As programs are developed, CMS will incorporate contract and/or grant language to mitigate the environmental impacts of acquisition of IT and other products and equipment and services and provide guidance to encourage the following:

- Green procurement’ based on the HHS Affirmative Procurement Plan and similar guidance from the Environmental Protection Agency (EPA) and the President’s Council on Environmental Quality (CEQ)

- Electronic Stewardship including the use of electronic products that are Energy Star® compliant and Electronic Product Environmental Assessment Tool (EPEAT) Silver registered or higher when available; the activation of Energy Star® features on all equipment, when available; environmentally sound ‘end-of-life’ management practices (including reuse, donate, sell, or recycle 100% of electronic products;) and best operation and management practices for energy efficient data centers.

G. Measures

CMS will report the number of approved SPAs implementing the requirement to solicit advice from individuals who represent the interests of AI/AN populations. The number of SPAs that are submitted by States having at least one Indian Health Program or Urban Indian Organization will be compared to the total number of such States.

Outcome / Achieve-ment	FY 09	12/31/09	3/31/10	6/30/10	9/30/10	12/31/10	3/31/11	6/30/11	9/30/11	Program End
Number	N/A*									

Outcome / Achieve-ment	FY 09	12/31/09	3/31/10	6/30/10	9/30/10	12/31/10	3/31/11	6/30/11	9/30/11	Program End
of States soliciting advice from AI/AN communi ties										

* The number of approved SPAs are tracked via the State Plan and Waiver database and will be reported quarterly. Guidance including the required State Plan page was issued January 22, 2010 which does not require States to submit a State Plan amendment until the Paperwork Reduction Act process is completed. The process is estimated to be completed during the summer of 2010 and CMS anticipates that States will submit their plans following that date. Consequently no States have completed the State plan amendment process to date.

H. Monitoring and Evaluation

The CMS programs are assessed for risk to ensure that appropriate internal controls are in place. These assessments are done consistent with the statutory requirements of the Federal Manager's Financial Integrity Act and the Improper Payments Information Act, as well as OMB's circular A-123 "Management's Responsibility for Internal Control" (including Appendices A, B & C).

CMS' risk management process fits within the overall governance structure established at HHS to address Recovery Act program risks. The HHS Risk Management and Financial Oversight Board provides executive leadership and establishes accountability for the risk assessment process related to internal controls over financial reporting, and the HHS Senior Assessment Team (SAT) ensures that risk assessment objectives are clearly communicated throughout the Department. The CMS has a risk management and Financial Oversight committee, comprised of cross-functional senior leadership, to oversee and manage program implementation, and to address risk across the agency, including risk that impacts financial management. It meets monthly to monitor and assess the effectiveness of mitigation strategies, identify emerging risks and ensure the correction of program weaknesses. The CMS SAT performs an annual assessment in accordance with HHS' guidance regarding OMB circular A-123, Appendix A, Internal Control Over Financial Reporting.

In addition, CMS will present its high level risks to the Recovery Act Implementation Team. Chaired by the Deputy Secretary and comprised of senior policy officials from throughout the Department, the Implementation Team convenes monthly to monitor progress in carrying out Recovery Act programs and address the obstacles and risks that could impact their success.

States will submit State Plan Amendments to implement the provisions of the Recovery Act. These SPA submissions will be reviewed by CMS Central Office and

Regional Office staff before approval. The number of approved SPAs will be tracked via the State Plan and Waiver database. These will be available publicly via the Electronic State Plan Amendment (eSPA) system.

I. Transparency

CMS is open and transparent in all of its contracting and grant activities involving Recovery Act funding; the Agency is in compliance with statute and OMB guidance on transparency.

The implementation of eSPA, a web-based application that will automate the current paper-based Medicaid State Plan amendment process, will make approved Medicaid State plan amendments will be available online.

Rules will be promulgated using the standard notice and comment procedures.

J. Accountability

To ensure that managers are held to high standards of accountability in achieving program goals under the Recovery Act, CMS has built upon and strengthened existing processes. Senior CMS Center for Medicaid, CHIP, and Survey & Certification officials meet regularly with senior Department officials to ensure that projects are meeting their program goals, assessing and mitigating risks, ensuring transparency, and incorporating corrective actions. The personnel performance appraisal system also incorporates Recovery Act program stewardship responsibilities for program and business function managers.

K. Barriers to Effective Implementation

No implementation barriers have been identified at this time.

L. Federal Infrastructure

Not applicable.

- Updated Section A to reflect estimated FY09 FY10, and FY11 outlays, and estimated FY12-19 outlays.

- Updated section E to reflect issuance of guidance.

- Added a chart to Section G to capture the number of States soliciting advice from AI/AN communities and added a footnote indicating when we would have the data to report. .

- Updated Sections F, H and I to reflect updated HHS policies on Environmental Review Compliance, Monitoring and Evaluation, and Transparency.