

HIX Native American Work Group

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January 23, 2013

Presentation of Preliminary Findings
of the
Native American Work Group
to the HIX Task Force

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Definition of Acronyms

NAWG – Native American Work Group

IHS – Indian Health Service

638 – Tribal Health Programs

I/T/U – Indian Health Service, Tribal Programs, Urban Indian Programs

AI/AN – American Indian and Alaska Native

NA – Native American

IHCIA – Indian Health Care Improvement Act

NASC – Native American Service Center

CIB - Certificate of degree of Indian blood

HIX – Health Insurance Exchange

QHP – Qualified Health Plan

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New Mexico has 219,512 Indian citizens, which compose nearly 10.5% of the state's entire population. There are 22 Indian tribes in New Mexico - nineteen Pueblos, two Apache tribes (the Jicarilla Apache Nation and the Mescalero Apache Tribe), and the Navajo Nation, and a considerable urban Indian population.

The 19 Pueblos are comprised of the Pueblos of Acoma, Taos, Santa Clara, San Ildefonso, Tesuque, San Felipe, Jemez, Zuni, Zia, Nambe, Picuris, Ohkay Owingeh, Santo Domingo, Laguna, Isleta, Santa Ana, Sandia, Cochiti, and Pojoaque.

Each Tribe is a sovereign nation with its own government, life-ways, traditions, language, and culture. Each Tribe has a unique relationship with the federal and state governments.

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New Mexico Native American Population

- New Mexico has 22 Tribes, Nations, or Pueblos, each with its own unique culture
- 19 Pueblos – each is an independent and separate community
- 2 Apache Tribes (Jicarilla and Mescalero)
- Navajo Nation
 - Very large land base spanning 3 states (New Mexico, Arizona, Utah)
 - 5 Agencies including 3 in New Mexico (Eastern, Ft. Defiance, Shiprock)
 - 110 Chapters and 59 in New Mexico

Urban Indian Communities

- Multi-tribal, not just New Mexico Tribes
 - Socially and culturally diverse
- May be highly transient
 - Dependent on services within the urban areas
- New Mexico communities with large urban populations:
 - Albuquerque
 - Farmington
 - Santa Fe

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ACA PROVISIONS RELEVANT TO AMERICAN INDIANS/ALASKA NATIVES

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THE AFFORDABLE CARE ACT INCLUDES SPECIFIC PROVISIONS RELEVANT TO AMERICAN INDIANS AND ALASKA NATIVES (AI/ANS) PURCHASING COVERAGE IN EXCHANGES, INCLUDING THE FOLLOWING:

- MEMBERS OF FEDERALLY RECOGNIZED TRIBES WITH HOUSEHOLD INCOMES BELOW 300 PERCENT OF THE FEDERAL POVERTY LEVEL ARE EXEMPT FROM COST SHARING AND CO-PAYS;
- EXCHANGES ARE TO PROVIDE SPECIAL MONTHLY ENROLLMENT PERIODS FOR AI/ANS; AND
- MEMBERS OF INDIAN TRIBES ARE NOT SUBJECT TO THE INDIVIDUAL MANDATE.

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Tribal Collaboration and Consultation

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PRIMER QUESTION

TRIBAL COLLABORATION AND CONSULTATION

STATES THAT HAVE ONE OR MORE FEDERALLY-RECOGNIZED TRIBES MUST ENGAGE IN REGULAR AND MEANINGFUL CONSULTATION AND COLLABORATION WITH TRIBES AND TRIBAL OFFICIALS ON EXCHANGE POLICIES THAT HAVE TRIBAL IMPLICATIONS. (45 CFR 155.130(F)).

HOW CAN THE STATE IMPROVE ON COLLABORATION AND CONSULTATION WITH TRIBES AND I/T/U'S?

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TRIBAL COLLABORATION AND CONSULTATION

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- “THE EXCHANGE FINAL RULE REQUIRES STATES TO REGULARLY CONSULT WITH FEDERALLY RECOGNIZED TRIBES THAT ARE LOCATED WITHIN THE GEOGRAPHIC REGION OF THE EXCHANGE ON POLICIES THAT HAVE TRIBAL IMPLICATIONS” (45 CFR 155.130(F))
- THIS REQUIREMENT DOES NOT PRECLUDE STATES FROM SEEKING INPUT FROM ALL TRIBAL ORGANIZATIONS AND URBAN INDIAN ORGANIZATIONS. IT IS RECOMMENDED THAT I/T/U’S BE INCLUDED IN COMMUNICATION, COLLABORATION AND CONSULTATION. *(THE LATTER IS A REQUIREMENT.)*
- TRIBAL INPUT PROVIDED DURING CONSULTATIONS SHOULD BE DULY CONSIDERED FOR INCLUSION DURING THE DESIGN OF PROGRAMS AND POLICIES WHICH WILL IMPACT NATIVE AMERICANS.

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TRIBAL COLLABORATION AND CONSULTATION

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NAWG RECOMMENDATIONS

THE NM HIX MUST ADOPT A TRIBAL CONSULTATION, COLLABORATION AND COMMUNICATION POLICY THAT IS CONSISTENT WITH THE STATE OF NEW MEXICO AND THE FEDERAL GOVERNMENT TRIBAL CONSULTATION RULES. THIS POLICY SHOULD INCLUDE PROVISIONS TO CONFER WITH INDIAN HEALTH SERVICES, TRIBAL HEALTH PROGRAMS AND URBAN INDIAN HEALTH PROGRAMS PRIOR TO ROLL OUT OF NEW POLICIES AND PROCEDURES WHICH MAY HAVE IMPACT ON AI/AN.

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TRIBAL COLLABORATION AND CONSULTATION

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RECOMMENDATIONS, CONT.

TRIBAL CONSULTATION SHOULD OCCUR ON THE FOLLOWING TOPICS (BUT NOT BE LIMITED TO):

- DEVELOPMENT OF A COMMUNICATION, COLLABORATION AND CONSULTATION POLICY FOR THE NM HIX.
- DEVELOPMENT OF THE NATIVE AMERICAN SERVICE CENTER (NASC)
 - DEFINING TASKS OF THE NASC
 - ESTABLISHING AN ADVISORY COUNCIL TO THE NASC
- ASSISTING TRIBAL GOVERNMENTS WITH PREMIUM PAYMENT ON BEHALF OF ENROLLEES, INCLUDING AGGREGATED PAYMENT.
- TRIBAL GOVERNMENTS SHOULD HAVE THE OPPORTUNITY TO PROVIDE INPUT ON THE DEVELOPMENT OF THE NAVIGATOR PROGRAM AND CULTURAL COMPETENCY TRAINING.
- DEVELOPMENT OF A TRIBAL ENROLLMENT VERIFICATION SYSTEM.
- DEVELOPMENT OF OUTREACH AND EDUCATION MATERIALS.

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TRIBAL COLLABORATION AND CONSULTATION

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RECOMMENDATIONS, CONT.

NATIVE AMERICAN PARTICIPATION IN HIX GOVERNANCE STRUCTURE:

- **TIMELY APPOINTMENT OF A NATIVE AMERICAN(S) TO THE HIA GOVERNING BOARD**
- **COORDINATE WITH ADMINISTRATIVE, LEGISLATIVE, AND STAKEHOLDER ENTITIES TO ENSURE SUFFICIENT INCLUSION OF NATIVE AMERICAN REPRESENTATION, STATE TRIBES AND PUEBLOS IN THE EXCHANGE GOVERNING STRUCTURE**
- **ESTABLISH A WORK GROUP TO DEFINE CRITERIA/QUALIFICATIONS FOR HIX NATIVE AMERICAN BOARD MEMBER**

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TRIBAL ENROLLMENT VERIFICATION

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PRIMER QUESTION

WHAT OBSTACLES ARE THERE REGARDING TRIBAL ENROLLMENT VERIFICATION OF AI/AN FOR PURPOSES OF QUALIFYING FOR EXEMPTIONS? HOW CAN THESE OBSTACLES BE ADDRESSED?

FINAL RULE

IF AN APPLICANT ATTESTS THAT HE OR SHE IS AN INDIAN, THE EXCHANGE MUST VERIFY INDIAN STATUS. (45 CFR § 155.350 (C))

NAWG STATEMENT

THE NAWG ACKNOWLEDGES THAT THERE ARE INCONSISTENCIES WITH ENROLLMENT PROCESSES FOR THE 22 NM TRIBES AND PUEBLOS. NAWG ADVISES ENROLLMENT VERIFICATION BE A TOPIC OF TRIBAL CONSULTATION.

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TRIBAL ENROLLMENT VERIFICATION

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FINAL RULE

FOR THE PURPOSE OF QUALIFYING FOR AI/AN EXEMPTIONS ON THE HIX A TRIBAL MEMBER MUST PROVIDE A DOCUMENT ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE EVIDENCING MEMBERSHIP OR ENROLLMENT IN THE TRIBE.

(45 CFR § 155.350 (C) AND IN SECTION 1903(X)(3)(B)(V) OF THE SOCIAL SECURITY ACT.)

NAWG RECOMMENDATIONS

DOCUMENTATION MIGHT INCLUDE:

- TRIBAL ENROLLMENT CARD; OR
- CERTIFICATE OF DEGREE OF INDIAN BLOOD (CIB); OR
- RELYING ON ANY ELECTRONIC DATA SOURCES THAT ARE AVAILABLE TO THE EXCHANGE AND WHICH HAVE BEEN APPROVED BY HHS FOR THIS PURPOSE.
- IF APPROVED DATA SOURCES ARE UNAVAILABLE, AN INDIVIDUAL IS NOT REPRESENTED IN THE SOURCE, OR THE SOURCE IS NOT REASONABLY COMPATIBLE WITH AN APPLICANT'S ATTESTATION, THE EXCHANGE MUST FOLLOW INCONSISTENCY PROCEDURES AS SET FORTH IN THE FINAL RULE.

THE EXCHANGE MUST RECOGNIZE AND CALCULATE AI/AN EXEMPTIONS.

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TRIBE MAKING PREMIUM PAYMENTS

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FINAL RULE ON § 155.240 PAYMENT OF PREMIUMS

(B) PAYMENT BY TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS. THE EXCHANGE MAY PERMIT INDIAN TRIBES, TRIBAL ORGANIZATIONS AND URBAN INDIAN ORGANIZATIONS TO PAY AGGREGATED QHP PREMIUMS ON BEHALF OF QUALIFIED INDIVIDUALS, INCLUDING AGGREGATED PAYMENT, SUBJECT TO TERMS AND CONDITIONS DETERMINED BY THE EXCHANGE. (45CFR § 155.240 (B))

NAWG RECOMMENDATIONS

THE HIX PROVIDE A MECHANISM FOR TRIBES AND URBAN PROGRAMS TO MAKE GROUP AND INDIVIDUAL PREMIUM PAYMENTS FOR TRIBAL MEMBERS TO MULTIPLE CARRIERS.

- WORK WITH TRIBAL GOVERNMENTS TO FACILITATE PAYMENT ON BEHALF OF ENROLLEES, INCLUDING AGGREGATED PAYMENT TO MULTIPLE CARRIERS.
- SYSTEM MUST RECOGNIZE AI/AN EXEMPTIONS AND CALCULATE PREMIUM TAX CREDITS.

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NETWORK ADEQUACY and ESSENTIAL COMMUNITY PROVIDERS

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PRIMER QUESTION

SHOULD THE STATE REQUIRE QHPS TO CONTRACT WITH I/T/U PROVIDERS AS A CONDITION OF CERTIFICATION? WHAT, IF ANY, STIPULATIONS SHOULD BE MADE CONCERNING NETWORK ADEQUACY?

IN THE FINAL RULE QHP ISSUERS ARE REQUIRED TO MAINTAIN NETWORKS THAT INCLUDE SUFFICIENT NUMBERS AND TYPES OF PROVIDERS TO ENSURE ACCESS TO ALL SERVICES. THE FINAL RULES SET OUT THE MINIMUM REQUIREMENTS FOR NETWORK ADEQUACY THAT A PLAN MUST:

- 1) INCLUDE ESSENTIAL COMMUNITY PROVIDERS IN ACCORDANCE WITH § 156.235;
- 2) MAINTAIN A NETWORK THAT IS SUFFICIENT IN NUMBER AND TYPES OF PROVIDERS, INCLUDING PROVIDERS THAT SPECIALIZE IN MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES, TO ASSURE THAT ALL SERVICES WILL BE ACCESSIBLE WITHOUT UNREASONABLE DELAY; AND
- 3) IS CONSISTENT WITH THE NETWORK ADEQUACY PROVISIONS OF SECTION 2702(C) OF THE PHSA.

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NETWORK ADEQUACY AND ESSENTIAL COMMUNITY PROVIDERS

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NAWG RECOMMENDATIONS

AS A CONDITION OF CERTIFICATION, QHP'S SHOULD BE REQUIRED TO OFFER:

- I/T/U'S A PROVIDER CONTRACT
- CARRIERS SHOULD OFFER I/T/U'S A CONTRACT AND A CONTRACT ADDENDUM TO ENSURE THE ACCOMMODATION OF THE UNIQUE FEATURES OF THE I/T/U SYSTEM INCLUDING:
 - NO OPEN NETWORK ACCESS - AN I/T/U MAY LIMIT WHO IS ELIGIBLE FOR SERVICES AT I/T/U'S
 - EXEMPT A LICENSED HEALTH CARE PROFESSIONAL WHO IS EMPLOYED BY TRIBALLY OPERATED HEALTH PROGRAM FROM STATE LICENSING REQUIREMENTS IF THE PROFESSIONAL IS LICENSED IN ANY STATE, AS IS THE CASE WITH IHS HEALTH CARE PROFESSIONALS. (IHCIA SECTION 221)
 - RECOGNITION OF THE APPLICABILITY OF THE FEDERAL TORT CLAIMS ACT.

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NETWORK ADEQUACY AND ESSENTIAL COMMUNITY PROVIDERS

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ESSENTIAL COMMUNITY PROVIDERS ARE PROVIDERS WHO SERVE PREDOMINATELY LOW-INCOME, MEDICALLY UNDERSERVED INDIVIDUALS, INCLUDING, BUT NOT LIMITED TO, FQHCS, URBAN INDIAN ORGANIZATIONS, AND PUBLIC OR NON-PROFIT COMMUNITY HOSPITALS.

SECTION 156.235 OF THE EXCHANGE FINAL RULE STATES A QHP ISSUER MUST HAVE A SUFFICIENT NUMBER AND GEOGRAPHIC DISTRIBUTION OF ESSENTIAL COMMUNITY PROVIDERS, WHERE AVAILABLE, TO ENSURE REASONABLE AND TIMELY ACCESS TO A BROAD RANGE OF PROVIDERS FOR LOW-INCOME, MEDICALLY UNDERSERVED INDIVIDUALS IN THE QHP'S SERVICE AREA.

NAWG RECOMMENDATIONS

QHP'S SHOULD:

- DESIGNATE I/T/U'S AS ESSENTIAL COMMUNITY PROVIDERS.
- ACCEPT REFERRALS FROM I/T/U'S AS PRIMARY CARE PROVIDERS.

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OUTREACH, EDUCATION and ENROLLMENT

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PRIMER QUESTION

WHAT OUTREACH, EDUCATION AND ENROLLMENT ACTIVITIES SHOULD BE USED TO INFORM NATIVE AMERICANS ABOUT THE MERITS OF PURCHASING INSURANCE THROUGH THE EXCHANGE, AS WELL AS THE FINER DETAILS CONCERNING ELIGIBILITY AND ENROLLMENT?

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OUTREACH, EDUCATION AND TRAINING and THE NATIVE AMERICAN SERVICE CENTER

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NAWG STATEMENT

THE HIX NATIVE AMERICAN SERVICE CENTER (NASC) AS PLANNED IN THE LEVEL 1 ESTABLISHMENT GRANT SHOULD BE TASKED WITH OUTREACH, EDUCATION, ENROLLMENT AND TRAINING TO TRIBAL LEADERSHIP, AI/AN CONSUMERS, I/T/U PROVIDERS, NA SMALL BUSINESSES AND TO BE A SUBJECT-MATTER EXPERT FOR THE HIX INCLUDING:

- WORKING EFFICIENTLY AND EFFECTIVELY WITH TRIBAL LEADERSHIP AND I/T/U'S
- BEING A CONDUIT OF COMMUNICATION, COLLABORATION AND CONSULTATION BETWEEN THE HIX AND TRIBAL LEADERSHIP AND I/T/U'S
- BEING A RESOURCE FOR NAVIGATORS AND THE CALL CENTER
- EMPLOYING NA NAVIGATORS AND IN-PERSON ASSISTERS WITH BROAD KNOWLEDGE OF NM TRIBES, NA URBAN POPULATIONS AND NA HEALTH CARE NEEDS AND SERVICES.

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THE NATIVE AMERICAN SERVICE CENTER

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NAWG RECOMMENDATIONS

SPECIFIC OUTREACH, EDUCATION AND TRAINING TASKS OF A NASC SHOULD INCLUDE:

- A RESOURCE SPECIALIST ON AI/AN APPLICATION AND ENROLLMENT PROCESS
- SPECIFIC AI/AN BENEFITS AND PROTECTIONS
- TRIBAL SPONSORSHIP OF PREMIUMS (IF AVAILABLE)
- EDUCATING I/T/U PROVIDERS ON EXCHANGE PLANS INCLUDING,
 - Benefits of the exchanges and potential for increase revenues for their clinic;
 - Benefits of becoming an “in-network” provider for each exchange plan;
 - I/T/U’s are designated as essential community providers.
- PROVIDE TRAINING FOR THOSE WORKING FOR THE EXCHANGE ON AI/AN SPECIFIC PROVISIONS, CULTURAL COMPETENCY, AND PROBLEM SOLVING.

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THE NATIVE AMERICAN SERVICE CENTER

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NAWG RECOMMENDATIONS

THE NASC SHOULD BE BOTH A TRIBAL RESOURCE AND AN HIX RESOURCE FOR NAVIGATING TRIBAL ENROLLMENT ISSUES.

- THE NASC SHOULD WORK WITH THE TRIBAL OFFICIALS AND/OR TRIBAL ENROLLMENT OFFICES TO DEVELOP A SYSTEM OF COMMUNICATION AND TRIBAL ENROLLMENT VERIFICATION THAT DOES NOT INFRINGE ON TRIBAL NATIONS' SOVEREIGN RIGHTS.

THE NASC SHOULD WORK WITH THE IT BUILD TO ASSURE THE WEB PORTAL:

- WILL IDENTIFY AI/ANS FOR APPROPRIATE EXEMPTIONS AND GIVE THEM THE INFORMATION NECESSARY TO MAKE INFORMED DECISIONS.
- PROVIDE A MECHANISM FOR INDIAN SPONSORSHIP OF PREMIUMS – THIS WILL ALLOW TRIBES TO PURCHASE INSURANCE FOR CITIZENS THROUGH THE EXCHANGE.
- PROVIDES A MECHANISM WHERE AI/AN EXEMPTIONS CAN BE ACCURATELY CALCULATED IN A FAMILY HOUSEHOLD WHERE THERE IS A MIX OF TRIBALLY ENROLLED AND NON-ENROLLED FAMILY MEMBERS.

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**THIS CONCLUDES THE NATIVE AMERICAN WORK GROUP
PRELIMINARY FINDINGS REPORT.**

**THE NATIVE AMERICAN WORK GROUP WILL PRESENT
THEIR FINAL RECOMMENDATIONS ON FEBRUARY 27, 2013.**

THANK YOU