

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

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July 30-31, 2009

Face to Face Meeting - Action Items

Action Item	Timeline	Person Responsible	Status	Notes
Distribute TTAG briefing book electronically.	ASAP	NIHB	Completed	
Approve July 30-31 Agenda.	July 30	TTAG	Completed	
Approve February 26-27, March 11, May 6, June 10, and July 1, 2009 meeting minutes.	July 30	TTAG	Completed	
Send out draft meeting minutes to TTAG members for simultaneous review with CMS.	Upon receipt of draft minutes	CMS	Completed	
Alert TTAG members when CMS letters to state Medicaid directors are approved for distribution.	ASAP	CMS	Ongoing	
Consult with the General Counsel concerning exempting IHS from the roll back of optional benefits in California.	ASAP	CMS	Ongoing	
Identify a subject matter expert on home and community-based waivers.	July 31	CMS	Completed	
Provide models of successful tribal consultation processes to CMS.		TTAG	Ongoing	
Provide states with best practice models for tribal consultation.		CMS	Ongoing	
Set up meetings with states and TTAG members to facilitate improved relations.		CMS	Ongoing	
Include Wyoming in the list of states needing assistance with developing tribal consultation policies.	ASAP	CMS	Ongoing	
Provide CMS with copies of the Rahall amendment(s) and other related documents.	ASAP	TTAG	Completed	
Provide tribes with guidance on applying for EHR grant funding.		CMS	Ongoing	
Designate a staff member to work with the tribes on MAM issues.	ASAP	CMS	Ongoing	
Finalize guidance concerning Section 211 documentation for tribes located on international borders.	ASAP	CMS	Ongoing	
Develop a letter to AHRQ recommending the appointment of a representative the national pediatric quality measures panel.	ASAP	TTAG	Ongoing	
Follow up with GAO on the status of the alternative delivery methods study and set up a meeting for TTAG members to voice concerns.		CMS	Ongoing	

Consider nominating an individual to serve on the Section 506 commission.	Next meeting	TTAG	Ongoing	
Provide CMS with a list of areas within the Medicaid portions of the proposed reform bill where provisions for Indians could be easily added.		TTAG	Ongoing	
Send a representative to the California training session.	Upcoming	CMS	Completed	
Submit Indian health handbook for clearance.		CMS	Ongoing	
Post tribal consultation best practices on NIHB website.			Ongoing	
Send members email links to the TTAG strategic plan and other important reports.	ASAP	NIHB	Ongoing	

July 30, 2009

Face to Face Meeting - Summary

Agenda Item	Discussion	Action
Documents Received	<ul style="list-style-type: none"> • TTAG Briefing Book 	Distribute TTAG briefing book (hard copy) at start of meeting.
Welcome	<p>Ms. Valerie Davidson, Chair, Tribal Technical Advisory Group (TTAG) and Executive Vice President and Senior Director, Legal and Intergovernmental Affairs, Alaska Native Tribal Health Consortium, opened the meeting at 8:23 am (EDT).</p> <p>Mr. Ben Shelly, Vice President, Navajo Nation, shared information from his visits with Members of Congress concerning Federal Communications Commission and Federal Aviation Administration issues affecting tribes, potential legislation mandating consultation with tribes, and the need for cooperation and coordination between the Centers for Medicare & Medicaid Services (CMS) and the Indian Health Service (IHS).</p>	
Opening Blessing	Mr. Shelly provided the opening prayer.	
Roll Call	<p>Ms. Davidson welcomed new members of the TTAG, Ms. H. Sally Smith, Alaska Area Representative, National Indian Health Board (NIHB) and Chairman, Bristol Bay Area Health Corporation, and Mr. Jason Dollarhide, Chair, National Congress of American Indians (NCAI) and Second Chief, Peoria Tribe. She also welcomed Mr. Carl Harper, Director, Office of Resource Access and Partnerships, HIS, and Ms. Carmelita Skeeter, Executive Director, Indian Health Care Resources Center of Tulsa, both of whom are still awaiting their letters of appointment.</p> <p>Mr. John Johns, TTAG Technical Advisor and Federal Regulations and Policy Analyst, NIHB, took the roll of the TTAG members present. Eleven members were in attendance, meeting the requirements for a quorum. Members attending were:</p> <p>Alaska – Valerie Davidson Aberdeen – Donald Warne Albuquerque – Carolyn Finster</p>	

	<p>Bemidji – Kathy Hughes Billings – Patricia Enos-Bergie California – James Crouch Nashville – Dee Sabattus Navajo – Ben Shelly Oklahoma – Absent Phoenix – Absent Portland – Absent Tucson – Absent TSGAC – W. Ron Allen NIHB – H. Sally Smith NCAI – Cinda Hughes</p>	
Report from Chair	<p>Ms. Davidson asked for comments on the agenda. As there were no comments, Mr. W. Ron Allen, TTAG Vice-Chair representing the Jamestown S’Klallam Tribe, moved to approve the day’s agenda. Mr. Shelly seconded the motion. The membership unanimously approved the agenda.</p>	
Report from Secretary	<p>Ms. Carolyn Finster, TTAG Secretary and Director, Pine Hill Health Center, asked for a motion to approve the minutes for the TTAG meetings held on:</p> <ul style="list-style-type: none"> • February 26-27, 2009 (Face to Face Meeting), • March 11, 2009 (Conference Call), • May 6, 2009 (Conference Call), • June 10, 2009 (Conference Call), and • July 1, 2009 (Conference Call). <p>Mr. James Crouch, Executive Director, California Rural Health Board, Inc., moved that the minutes be approved, and Ms. Kathy Hughes, Vice Chairwoman, Sovereign Nation of Oneida, seconded the motion. With no comments or edits being offered, the members unanimously approved the minutes.</p> <p>After a brief discussion of the current process for reviewing meeting minutes, Ms. Davidson and Ms. Finster requested that CMS send out the minutes, marked as a draft, for TTAG review as soon as the agency receives them from the contractor. This will allow CMS and the TTAG members to review the minutes simultaneously. Members discussed the format and level of detail of the minutes that they found most useful.</p>	
CHIPRA and Recovery Act Tribal Consultation Sessions	<p>Ms. Jackie Garner, Consortium Administrator, Center for Medicaid State Operations (CMSO), CMS, reviewed activities related to the Child Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and American Recovery and Reinvestment Act (ARRA) undertaken since the initial series of weekly TTAG conference calls in the early winter and the Denver consultation meeting. CMS has worked closely with attorneys to ensure that the TTAG’s concerns and intentions were addressed in the forthcoming guidance. Currently, CMS has a draft letter to the state Medicaid directors outlining tribal issues in both pieces of legislation in the clearance process. States are asking about specific components, including those that went into effect July 1.</p> <p>Mr. Allen noted that it is important to keep in mind the “big ticket”</p>	Alert TTAG members when CMS letters to state Medicaid directors are approved for distribution.

	<p>items such as state/tribal relationships and how ARRA and CHIPRA monies are used.</p> <p>Mr. Crouch shared his appreciation for the way CMS first consulted with the TTAG to understand their thoughts on the content of the changes before getting input from broader authorities.</p> <p>Ms. Garner stated that the TTAG’s feedback was very helpful. She emphasized the importance of determining the next steps.</p>	
<p>Follow up of TTAG Priorities from February TTAG Meeting</p>	<p>Ms. Charlene Frizzera, Acting Administrator and Chief Operating Officer, CMS, emphasized CMS’ commitment to working with the TTAG to address the issues raised during previous meetings. CMS sent the group a letter on May 29 reporting on the progress of multiple issues and commitments. Ms. Frizzera indicated that she had a very productive visit to the Crow Reservation and Billings, MT.</p> <p>Ms. Teresa Niño, Director, Office of External Affairs (OEA), CMS, thanked the panel for the sacrifices they make to attend TTAG meetings and expressed her hopes for a productive relationship between CMS and the TTAG.</p> <p>Ms. Davidson reported that the members were pleased to receive CMS’ tracking matrix and see the progress to date and expressed their great satisfaction with the current level of cooperation and openness of dialogue between CMS and TTAG. She acknowledged the importance of the statutory recognition of TTAG in both CHIPRA and ARRA, of having the IHS and urban health programs represented on the TTAG by its new members, and of the value of the subcommittees’ work in moving various items forward.</p> <p>In response to Ms. Davidson’s question about next steps for the Frequently Asked Questions, Ms. Garner stated that the questions and answers submitted by the panel formed the basis for the dialogue during the weekly TTAG calls that preceded the all-state calls. The responses will be included as guidance in the state Medicaid director letters.</p> <p>Mr. Crouch described the effects the current budgetary situation in California is having on American Indian populations’ ability to access healthcare through Medicaid and asked for technical assistance and support from CMS to overcome these challenges. The state elected to roll back optional benefits to beneficiaries receiving care through the IHS and denied a request for exemption. The statewide nature of the group and comparability of services were the reasons cited for the denial. Mr. Crouch indicated that the state is motivated to be helpful. Ms. Frizzera responded that all parties agree that these programs should be exempt from the roll back, but that the General Counsel has not determined whether the exemption would be legal. She committed to consult with legal experts and report back to the TTAG. Ms. Davidson pointed out that the distinction being made is a political one, not a racial one.</p> <p>Ms. Frizzera asked about the status of finding an illustrator for the coloring book concept. Ms. Kitty Marx, Director, Tribal Affairs Group</p>	<p>CMS will consult with the Office of the General Counsel concerning the legality of exempting IHS providers in California from the roll back of optional benefits based on the statewide nature of the Indian population and issues of comparability of service.</p>

	<p>(TAG), CMS, indicated that CMS had provided the TTAG Outreach and Education Subcommittee with a draft sketch and is also working on ideas with Two Feathers Media. Ms. Hughes, the Outreach and Education Chair, stated that they were still looking for an artist.</p> <p>Ms. Davidson asked CMS to ensure that a portion of the additional funds made available to IHS for culturally appropriate outreach and enrollment, the Health and Human Services (HHS) Secretary, and the states be directed toward Indian populations.</p> <p>Ms. Davidson asked CMS for an update on the current year budget and the availability of unencumbered funds that could be captured and used for TTAG activities. Ms. Frizzera promised to look for available funds and asked TTAG for a list of spending priorities. Mr. Allen indicated that the Budget Subcommittee could develop a list of unfunded priorities based on the TTAG Strategic Plan.</p> <p>With regard to long-term care, Ms. Davidson requested that CMS provide a subject matter expert on home and community-based waivers, especially with regard to the limitation of the number of people living in one home. Of particular concern were unintended consequences related to how Indian communities define family membership compared to how other groups define families.</p> <p>Ms. Frizzera reported that she had followed up with the four states identified by TTAG as having no tribal consultations. The state representatives all expressed interest in best practices for consultations and some seemed confused over what CMS wanted. There seems to be a lack of understand about what makes a tribal consultation. She asked for TTAG for suggestions on designing a process for tribal consultation. Mr. Allen identified historical animosities and tensions, distrust, and lack of confidence concerning states’ sincerity as complicating factors to be overcome. He suggested that CMS connect states with poor tribal relationships to those with successful ones for guidance. Members should send best practices to Ms. Marx. CMS will use best practices to help individual states develop tribal consultation policies and to support the development of guidance for state Medicaid directors.</p> <p>Ms. Patricia Enos-Bergie, Eastern Shoshone Tribal Council, related difficulties working with the state government in Wyoming.</p> <p>Dr. Donald Warne, Executive Director, Aberdeen Area Tribal Chairmen’s Health Board, pointed out that best practices would also be useful in helping state Medicaid directors access and make use of behavioral health care dollars.</p> <p>Mr. Shelly suggested that TTAG develop a model for working with states that smaller tribes can use to facilitate their relationships with their respective states. Ms. Hughes will work with the Navajo to develop such a model.</p> <p>Ms. Smith said that national organizations represented at TTAG could help disseminate information to all tribes.</p> <p>Mr. Crouch cautioned CMS and states to avoid a one-size-fits-all approach when dealing with tribes as the tribes are all very different</p>	<p>TAG will provide a ranked list of unfunded priorities for possible funding with “sweep” monies.</p> <p>CMS will identify a subject matter expert on home and community-based waivers.</p> <p>TTAG will provide models of successful tribal consultation processes to CMS.</p> <p>CMS will provide states with best practice models for tribal consultation and set up meetings with states and TTAG members to facilitate improved relations.</p> <p>CMS will add Wyoming to the list of states it will work with to improve consultation.</p>
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	<p>and have different approaches to individual issues and preferences for consultation. Ms. Frizzera suggested that demonstration projects might be one way for individual tribes to try new approaches to specific issues of interest to them.</p> <p>Mr. Allen indicated that the White House will have a national tribal leaders meeting in the fall and will roll out a new executive order on tribal consultation. HHS will have to develop a policy as a result and CMS' policy will need to be consistent with this. He suggested that the TTAG put a temporary hold on activity in this area until the executive order is issued. In the meantime, the HHS Secretary should start a review of existing policies and CMS should work to point out areas that have caused difficulties in the past.</p> <p>Ms. Davidson expressed the TTAG's concerns over the potential implications and unintended consequences for American Indians and Alaska Natives as consumers, providers, and employers under healthcare reform. She asked CMS to assist TTAG in its efforts to ensure that all of its previous gains in this area were not undone by the reform legislation and promised to provide copies of the amendment(s) offered by Representative Nick Rahall (D-WV) and other documents</p> <p>Mr. Shelly asked whether Indian healthcare is a separate policy or if it is just a part of a larger minority healthcare policy. Ms. Frizzera responded that Indian healthcare is a separate policy, due in large part to the tribes' status as sovereign nations. Mr. Shelly said that he believed that states often group Indians in with the larger pool of minorities, resulting in some of the problems the TTAG has been discussing.</p> <p>Mr. Allen encouraged CMS to instruct the states that they must find a way to make tribal consultation work, but allow the states to determine what works best for their individual situations.</p> <p>Ms. Davidson asked CMS to support the IHS and its need for funding for electronic health records (EHRs). While TTAG members agree the CMS EHR incentive payments are a good idea, members would like assistance from CMS in educating tribal health programs, Indian health programs, and urban Indian centers about EHRs and the incentives to ensure that they do not get left behind with regard to their adoption. Ms. Frizzera replied that CMS will provide tribes with information on how to apply for the education and outreach grant funding and review its plans for tribal outreach regarding this issue.</p> <p>Mr. Crouch pointed out that the \$85 million dollars available for health information technology (HIT) is going to update systems to make them compliant in order to receive CMS reimbursement. CMS should assist those who do not use the IHS-funded Resource and Patient Management System (RPMS) system interface with it. He also suggested that CMS establish Indian centers of excellence for both users and non-users of RPMS systems to facilitate the transition to EHRs. Ms. Niño assured members that one of OEA's two employees working on HIT will be designated to work on tribal outreach.</p> <p>Ms. Davidson reported that the TTAG had heard that CMS would be</p>	<p>TTAG will provide CMS with copies of the Rahall amendment(s) and other related documents.</p> <p>CMS will provide tribes with guidance on applying for EHR grant funding.</p>
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	<p>moving to global budgets for chronic disease management and asked for confirmation of this and for more information on the process both within CMS and as part of the overall push for health reform.</p> <p>Ms. Frizzera responded that the global budgeting drive is part of the push toward quality improvement. Currently, the discussion revolves around how to blend payment for services and quality into one standard instead of two separate payment measures. There is also a suggestion to give external providers and stakeholders the global budget and let them determine how to best use the funds for the groups they are serving.</p> <p>Ms. Davidson reported TTAG members' concerns related to the designation of IHS and tribally-operated hospitals as critical access hospitals based on their proximity to other IHS and tribal facilities.</p> <p>With regard to the Medicaid Administrative Match (MAM), Mr. Allen expressed hopes that the difficulties tribes in Washington state have experienced with getting people signed up can be resolved. He suggested that CMS appoint someone to work with the affected tribes to resolve these problems. Ms. Frizzera agreed to designate a staff member to assist the tribes with this.</p> <p>Mr. Crouch indicated that the CMS letter dated April 17 addressing ARRA issues had fostered much cooperation within Region 9 and the state of California. His organization is now working with the state to develop a workable plan on time certification. Ms Garner indicated that CMS is studying possible solutions to the 15-minute time study issue. CMS will provide more information once the study is complete.</p> <p>Ms. Tracy Jones, Director, Business Office, Chickasaw Nation Health System, asked for assistance with getting the Oklahoma MAM project pushed through. Ms. Garner indicated that CMS understands that there is a problem related to MAM and that CHIPRA outreach will be hampered by this. CMS is looking for a solution.</p> <p>Ms. Davidson thanked CMS, on behalf of the TTAG, for the funds for research into transportation issues.</p> <p>Mr. Allen asked CMS to look into issues related to extending the Section 630 provision under the Medicare Modernization Act that allow tribes' hospitals to be reimbursed.</p> <p>Ms. Frizzera asked members to continue to pay attention to health care reform. Action items identified were:</p> <ul style="list-style-type: none"> • CMS will work to determine how Indians can tap into the 100 percent MAM. • CMS will consider committing a portion of the \$10 million outreach budget to Indian outreach and encourage states to reach out to hard-to reach groups. • TTAG will provide CMS with a list of funding requests for using money identified through the sweeps process. • CMS will identify a subject matter expert for community-based waivers to advise the panel on the implications of non-traditional and extended family arrangements in Indian country. • TTAG will provide best practices for tribal consultation with states and CMS will facilitate discussions with states. • CMS will monitor the status of issues related to behavioral health 	<p>CMS will designate a staff member to work with the tribes on MAM issues.</p>
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	<p>and ensure that it continues to receive attention.</p> <ul style="list-style-type: none"> • CMS will review the Rahall amendments and consider the TTAG’s request for support for these amendments. • CMS will work with IHS to develop a center of excellence regarding the RPMS and non-RPMS systems and work to ensure that tribes get the funding necessary to meet the requirements for the adopting EHRs. • CMS will research the designation of IHS and Indian hospitals as critical access facilities is based on the distance to other IHS/Indian hospitals, not other critical access hospitals. • CMS will work on government-to-government and consultation processes with regard to MAM and will designate a person to work on MAM issues. Ms. Garner will work on negotiating the Washington State MAM. • CMS will send out information on working with the regional extension centers to access grant funds for HIT. 	
<p>Follow Up Discussion of Other CHIPRA Provisions</p>	<p>Ms. Garner reviewed the sections of the CHIPRA legislation of most concern to TTAG members, specifically:</p> <ul style="list-style-type: none"> • Section 201: Outreach and Education Grants • Section 202: Increased Outreach and Enrollment of Indians • Section 301: Additional State Option (premium assistance) • Section 401: Agency for Health Research and Quality (AHRQ) National Advisory Council Subcommittee on Child Healthcare Measures • Section 501: Dental Benefits • Section 503: Application of prospective payment systems (PPS) or services provided by federally qualified health centers (FQHCs) and rural health centers (RHCs). <p>With regard to <u>Section 201</u>, Ms. Garner reported that CHIPRA provides \$100 million for outreach and education, with \$10 million set aside for outreach grants over a period of five years. Based on conversations at the recent consultation, there was no agreement on how this should be allocated. There was great concern that smaller tribes without the writers and capacity for grant writing have access to assistance that will help them compete for funds. CMS expects awards to begin in early 2010. Additionally there is \$80 million still available in grant funds and tribes can apply for this funding. Ms. Garner directed members to their respective governors’ offices and state Medicaid directors for commitment letters needed as part of the application. CMS is aware that obtaining this letter might be difficult for tribes in states where there is little cooperation from the state government.</p> <p>CMS expects that states will work with tribes to ensure that outreach takes place close to reservations and Indian health programs as mandated by <u>Section 202</u>. Ms. Cyndi Gillaspie, CMS, indicated that CMS is working on guidance to states relating to this section. CMS needs to develop a pool of best practices and models that can be shared with states and tribes to help them develop processes for outreach and education. Ms. Marx added that CMS is working with NIHB as it develops guidance concerning this section.</p> <p>Mr. Crouch indicated that California plans to privatize the process of determining eligibility under a single contract. He foresees problems</p>	

if this is solely web-based, especially in rural Indian populations. He suggested that CMS adapt this system to facilitate Indian enrollment

With regard to Section 301, which gives states the option of providing premium assistance to cover children of families with access to insurance through employers, **Ms. Gillaspie** indicated that the decision as to whether tribal self-insured employers are subject to this provision is the Department of Labor's to make, not CMS'. **Ms. Kris Locke**, TTAG Technical Advisor, clarified that the question that concerns tribes as self-insurers is whether tribal self-insurers must bear responsibility for employees (and their families) that might be eligible for both Medicaid/CHIPRA. **Ms. Gillaspie** reiterated that the answer relates to the Department of Labor's definition of group employer health plan and whether each tribe meets that definition.

Ms. Lane Terwilliger, CMSO, CMS, addressed issues related to CHIPRA Section 211 (citizenship). Tribal documents are now accepted as Tier 1 documents for verifying citizenship or nationality. Additionally, individuals who cannot produce documentation are added to the roles as "pending verification" until documents can be submitted. Once this provision is effective, tribal documents will be effective retroactively to 2006 (CMS will work with states, providers, and individuals to make claims retroactively). In 2010, states have the option to eliminate the need for citizenship documentation when citizenship can be verified using Social Security Administration data.

She also reported that CMS has been working through issues related to tribes located on international borders and has determined that it does not need additional documentation or to further define sufficient tribal documentation. Now, CMS needs to determine whether tribal consultation is required as the tribes essentially have what they want. After a discussion concerning the appropriateness of and need for tribal consultation via an all-tribes call, the group determined this was not necessary as it had previously been discussed during an all-tribes call and during the July 8 and July 10 national tribal consultations. Mr. Crouch moved to unanimously recommend the finalization of this rule, and Ms. Sally Smith seconded the motion. With no objections voiced, the motion carried.

Ms. Garner reported on Section 401, which requires the HHS Secretary to establish pediatric quality measures. Currently there are some state standards but no national ones. AHRQ is taking the lead within HHS on this issue, and is guided by a memorandum of understanding concerning federal rules regarding the convening of work groups. The most recent consultation recommended that the TTAG have a representative on this group. Victoria Warren Mears was recommended as the TTAG representative. Hearing no objections to Dr. Mears' recommendation as a representative, **Ms. Davidson** asked **Mr. Crouch** to draft a letter of recommendation for membership on the AHRQ panel on behalf of TTAG.

CHIPRA Section 501 expands dental coverage to promote oral health, prevent disease, restore health and function, and treat emergency conditions. **Ms. Garner** stated that CMS has issued a general guidance letter and intends to issue another concerning pregnant women and children. The legislation requires that CMS, in

TTAG recommended finalization of rules concerning Section 211 documentation for tribes located on international borders.

Mr. Crouch will develop a letter to the AHRQ recommending the appointment of Victoria Warren Mears as a representative on the panel working on developing national pediatric quality measures.

	<p>cooperation with the Health Recourses and Services Administration, develop a web-based list of dentists accepting CHIPRA and Medicaid patients. However many dentists do not want to be listed. CMS is looking into an opt-out option as well as working on issues related to the need to keep the listing current.</p> <p><u>Section 503</u> establishes PPSs under CHIPRA for FQHCs and RHCs. Tribal and urban programs that are billing as FQHCs will now receive the FQHC payment rates under CHIPRA, just as for Medicaid.</p> <p>Other CHIPRA issues addressed by Ms. Garner and Ms. Gillaspie were:</p> <ul style="list-style-type: none"> • Section 5006D of the ARRA (Guidelines for Managed Care): CMS must now apply the same oversight to managed care in CHIPRA as applied to Medicaid. Also states will be responsible for paying IHS, tribal, or urban providers outside of an individual Indian’s managed care network (optional or mandatory) at the same rate as network providers under CHIPRA. • Requirements for a General Accountability Office study of alternative delivery models (including dental). • Section 506 Medicaid and CHIPRA Payment and Access Commission (MCPAC): TTAG is interested in recommending a name to the Comptroller General of the United States for consideration for appointment to the commission. The commission will address issues such as access policies and children’s access to services, health care delivery, and Medicaid and CHIPRA payment policies with an emphasis on their effects on healthcare delivery in general. • Cross (state) border payment issues: CMS is seeking input from tribes concerning a coordination of care model as well as looking at other sources of information to develop a model for implementation that will be submitted in an August 2010 report to Congress 	<p>CMS will follow up with GAO to determine the status of the study and work to set up a meeting so that TTAG members can voice their thoughts and concerns.</p> <p>At the next meeting, TTAG will consider nominating an individual to serve on the Section 506 commission.</p>
<p>Health Care Reform and Indian Health Care Improvement Act</p>	<p>Ms. Amy Hall, Director, Office of Legislation, CMS, was unavailable as she was working on mark-up of the health care reform bill on Capitol Hill. Instead, Ms. Jennifer Boulanger, Deputy Director, Office of Legislation, CMS, addressed TTAG members with assistance from Ms. Chantelle Britton, Office of Legislation, CMS.</p> <p>Ms. Boulanger indicated that healthcare reform legislation was being created even as the TTAG met and that there is much uncertainty concerning the final version of the bill. Three House committees – Ways and Means, Energy and Commerce, and Education and Labor – produced the tri-committee bill. Ways and Means and Education and Labor have completed their mark-ups; Energy and Commerce is working on mark-ups today (July 30). The Senate has not yet released any draft language. The Senate Health, Education, Labor, and Pensions Committee has drafted a bill addressing programs within the jurisdiction of the committee. The Senate Finance Committee has jurisdiction over Medicare and Medicaid as well as taxation policy. Finance has only released a discussion draft, not legislative language.</p> <p>The major reform issues being discussed relate to a public plan versus co-op options, taxation of employee health benefits, and subsidies for low-income enrollees. Technical details relating to</p>	

Medicare and Medicaid have not been released.

In response to a question from **Mr. Crouch** concerning problems and opportunities engendered by the Rahall amendments, Ms. Boulanger indicated that Senate Energy and Commerce Committee member, Mr. Frank Pallone (D-NJ), is working with Mr. Rahall.

Ms. Davidson clarified that the Rahall amendments ensure that the progress made by tribes relating to their special status as a political (not racial) group are not undone by healthcare reform. Items included in the Rahall amendments are cost-sharing (e.g., premium waivers and late enrollment penalties), the status of tribes as providers (including IHS and urban programs) and as employers. She stated that it is important that the final version of the legislation include language that gives the tribes express authority (mentioned specifically as employers and/or providers) on an issue-by-issue basis.

Ms. Davidson continued by identifying some of the healthcare reform issues of concern to TTAG addressed in the Rahall amendments:

- License Portability: Federal healthcare providers' licenses are portable across state lines. This should also apply to IHS providers as the tribes provide the same services as the federal government.
- Tax Exemptions: Based on political (not racial) distinctions, Indians should not be subject to taxation on healthcare benefits as income.
- Reauthorization of Legislation: Under Medicare amendments, the current authorization allowing ambulatory clinics operated by IHS, tribes, and tribal organizations to collect payments for Part B services expires on December 31 and must be reauthorized.
- Pharmacist Licensing: Currently, some federal providers are exempt from licensing fees. Now the Drug Enforcement Agency is moving to charge Indian providers a \$500 licensing fee. TTAG wants Indian providers to be subject to the same waivers as federal providers.
- Right of Recovery of Costs: TTAG wants to ensure that Indian healthcare providers have the right of recovery of costs from third parties in cases of accidents.
- Status of Epidemiological Centers: Epidemiological centers should be treated as public health authorities.
- Hospice, Assisted Living, Long-Term Care, and Home Health Care: Under IHS, there has traditionally been very little funding available to Indians for these services. Provisions of the amendment allow Indians to make maximum use of these benefits.
- Scholarships and Loans: The amendment provides for tax exemption for loans and scholarships for providers.
- Elevation of IHS Director: Elevation of the IHS Director will raise the profile of the agency and bring greater prominence to Native American/Alaska Native healthcare concerns and disparities.

Ms. Boulanger cautioned the TTAG that some of the provisions of the Rahall amendments may drop off the Energy and Commerce version as they do not relate to the committee's jurisdiction. Other opportunities for addressing TTAG issues will arise in the conference committee. CMS will continue to monitor the developing bills and

	<p>work to address TTAG concerns in the process.</p> <p>Mr. Allen reported on his interactions with Mr. Pallone and the White House and reiterated his concerns and those of the tribes he represents that tribes not be harmed by the developing legislation and that they have the cooperation of CMS in ensuring that tribes' concerns are addressed.</p> <p>Mr. Crouch expressed concerns over the uncertainty of IHS funding, the lack of infrastructure for the proposed systems, tensions with other groups over the level of benefits available to Indians, and the implications of the proposed legislation on tribes in their roles as employers.</p> <p>Ms. Carol Barbero, TTAG Technical Advisor, stated that the Rahall amendment removes the sunset date for Section 1880, which allows tribes to collect for Medicare Part B, and stops the subsidization of Medicare by IHS at the rate of 20 percent. She did not anticipate that problems with the former being included in the legislation, but reported that the latter would not be included.</p> <p>Ms. Davidson stated that Indian issues do not get addressed because their population is small and many outside of Indian country are unaware of issues and challenges faced by tribes and their members. TTAG hopes that CMS will be an advocate.</p> <p>Ms. Traci McClellan, NIHB, reported that the Congressional Budget Office (CBO) has been asked to score the Rahall amendment. Ms. Barbero indicated that CBO has traditionally scored the mandatory provisions (Social Security provisions) of the Indian Health Care Improvement Act. During the last Congress, the score was so low that it was difficult to find a small enough offset. She anticipates the score will be even lower this year.</p> <p>Ms. Davidson asked CMS look for opportunities relating to facilities and individual benefits where simply adding a phrase specifically including Indians and Indian facilities could benefit Native Americans and Alaska Natives. Ms. Britton asked the TTAG to provide a list of areas of the Medicaid sections of the bill where this could be done.</p>	<p>TTAG will provide CMS with a list of areas within the Medicaid portions of the proposed reform bill where provisions for Indians could be easily added.</p>
<p>CMS TTAG Major Ongoing and Future Issues</p>	<p><u>Medicaid Administrative Match</u> Mr. Allen reported no new activity.</p> <p><u>Outreach and Education Update</u> Ms. Hughes reported that the regional training sessions are taking place. Half of the sessions are complete, and six more are planned. Based on the current status of California's financial status and Ms. Frizzera's interest in helping tribes deal with the resulting issues, the TTAG asked CMS to send a representative to the session in the state.</p> <p>The subcommittee discussed the \$10 million dollars available through outreach and education grants but could not come to a consensus on recommendations concerning the grant process. The subcommittee is reviewing the Intra-Departmental Delegation of Authority (IDDA) to develop a work plan that covers the best practices discussed earlier.</p>	<p>CMS will send a representative to the California training session.</p>

Subcommittee members are developing a script for the outreach video and would appreciate comments from members on it. **Ms. Lindsey Cometa**, TAG, OEA, CMS, reviewed the goals, targeted audiences, and general content of the video. Content will focus on changes that make it easier to access services and additional services not previously available. The subcommittee expects to have at least a trailer ready for viewing in September. TTAG members should send script edits and comments to Ms. Cometa by COB on August 6.

Mr. Crouch inquired whether this cycle of training sessions was supposed to include the Medicare 101 and Medicaid 101 components. **Mr. Roger Goodacre**, TAG, OEA, CMS, indicated that these modules were developed but were delayed by the desire to incorporate ARRA and CHIPRA information. These modules have been presented at the training sessions.

At **Ms. Davidson's** request, the discussion on FY 2010 communications initiatives and training events originally scheduled for the second day of the TTAG meeting was held at this time. **Ms. Marx** indicated that the Medicare/Medicaid 101 training would be offered at each training session for those who needed it as well as additional training on topics of interest to the TTAG. **Mr. Elmer Brewster**, Health Science Administrator, IHS, suggested hosting a national conference call or web-based training on accessing patient benefits, Medicaid, CHIPRA, and a Medicare overview with a question and answer period. **Ms. Davidson** advocated using any opportunity and medium available for training, within budget limitations.

Ms. Marx reported that the manual for Indian healthcare workers previewed at the last TTAG meeting has been updated in response to TTAG comments and is preparing it for the CMS clearance process. **Ms. Hughes** made a motion, which was seconded by **Ms. Finster**, to recommend to the CMS Administrator that the Indian health handbook be moved through the clearance process. The motion carried with no objections.

Ms. Cometa asked the members to provide feedback on the Medicine Dish show, including the best format (DVD versus webcast) for the training, frequency of training (monthly versus bi-monthly), and content. **Ms. Marx** stated that CMS had also considered having all-tribes calls on specific topics, especially in cases of late breaking news, as a cost-effective means of delivering information. **Mr. Harper** suggested piggybacking training onto other meetings.

Ms. Marx noted that OEA has funds available for outreach related to the Medicare and Medicaid incentives in the ARRA and has considered holding a roundtable in conjunction with the next TTAG meeting to explain the incentives related to HIT. The round table could help tribes identify their HIT needs, discuss how the programs work, and determine what providers and tribes need to do to take advantage of the incentives.

Ms. Marx indicated that an OEA staff member has been tasked with updating the Tribal Affairs website. CMS will work with the Outreach

TTAG recommended that the Indian health handbook be moved into the CMS clearance process.

	<p>and Education Subcommittee to make this page more informative. Ms. Hughes noted that the subcommittee had discussed the value of having a place on the Tribal Affairs website for TTAG updates and information.</p> <p>With regard to the best practices for tribal consultation discussed during the session with Ms. Frizzera, Ms. Lynette Willie, Communications Director, NIHB, stated that NIHB will send out assessments to tribes focusing on best practices for working with tribes. Ms. Willie indicated that she would do these assessments with tribes in Alaska, Arizona, Oklahoma, South Dakota, and Washington to gather their feedback. Best practices for tribal consultation and outreach will be collected as part of the assessment and listed on the NIHB website organized by state and then by tribe. Ms. Roselyn Begay, Navajo National Division of Health, stated that any assessments should identify at what level (governor’s office, department of health, etc.) consultation policies exist. Ms. Locke recommended that these assessments be done through key informant interviews in order to get quality, in-depth information.</p> <p>Dr. Warne suggested that the subcommittee address issues related to Medicaid behavioral health benefits and the effects the structure of the program have on the ability of Indians to access these services. Mr. Goodacre suggested that this topic be built into the long-term work with NIHB. Ms. Enos-Bergie asked whether Medicaid payments for behavioral health include visits to traditional healers. The TTAG established a Behavioral Health subcommittee with Dr. Warne as the chair. Mr. Harper, Ms. Enos-Bergie, Ms. Carmelita Skeeter, Chief Executive Officer, Indian Health Care Resource Center of Tulsa, Inc., and Ms. Finster volunteered to serve on the committee.</p> <p><u>Across State Borders</u> Based on the provisions of CHIPRA Section 213 as well as the ARRA, Ms. Begay recommended the reactivation of the Across State Borders Subcommittee to address interstate enrollment and coverage processes. The subcommittee was reactivated to address ongoing issues. Ms. Finster volunteered to join the subcommittee.</p> <p>Ms. Finster asked that the issue of Medicaid beneficiaries crossing state lines for mental and behavioral health services be included in the committee’s activities.</p>	<p>NIHB will post tribal consultation best practices on its website.</p>
<p>Subcommittee Reports</p>	<p><u>Data Subcommittee</u> Mr. Crouch reported on the effort to compare Medicare and Medicaid data to IHS data to determine the level of participation of beneficiaries at both IHS and non-IHS sites. The contractors are working on 2004 data and expect to have access to the IHS data in the near future. Once this data is available, the contractor will start working on the matches outlined in the strategic plan and proposal, with a final report anticipated for delivery in December. The contractors are still waiting for IHS data, but anticipate that permission for use of the data will be forthcoming in 7 to 10 days, with the data in hand within 30 to 60 days.</p> <p>Mr. Crouch recommended that members of the subcommittee and others reconvene to discuss the project after several data runs are</p>	

	<p>complete.</p> <p>The subcommittee is also hoping to be able to undertake a study comparing utilization rates and health status of IHS clients and non-Indian, non- Hispanic whites in the same region.</p> <p><u>Long-Term Care Subcommittee</u> Mr. Johns reported that the subcommittee is working on work plan items, which was included in the members’ briefing materials. Additionally, the position of the assistant chair of the committee is now vacant.</p> <p>Mr. Johns committed to send out links to subcommittee reports (long-term care, frequently asked questions, communications report, etc.) and the strategic plan to TTAG members so that all members have the most recent information to which to refer.</p> <p><u>Strategic Plan and Budget Subcommittees</u> TTAG has sent the final version of its strategic plan, which forms the basis for the group’s annual CMS budget request, to CMS.</p> <p>Ms. Davidson indicated that the members would have a report on the current status of the TTAG budget and any unfunded items from the strategic plan during the July 31 session. Mr. Crouch asked for additional funds for a data analyst to support the Data Subcommittee’s activities as it had shared some of its funds with other subcommittees earlier in the year.</p> <p>After discussing ways to determine the TTAG’s priorities and funding requests for available “sweeps” funding, the members agreed to postpone the discussion until after they heard NIHB’s report on July 31. TTAG will then submit it’s requests for end of year funds to CMS for insertion into the IDDA.</p> <p><u>Tribal Consultation Policy Subcommittee</u> Mr. Dollarhide is the new chair of this subcommittee.</p> <p><u>CMS Day Subcommittee</u> CMS Day will take place on September 16 at the Hyatt Regency. The subcommittee is working on developing the agenda and is reaching out to invite potential speakers to participate. TTAG members were encouraged to contribute workshop ideas. Some ideas being considered were:</p> <ul style="list-style-type: none"> • Medicare/Medicaid 101 • Technical assistance for grant writing with an emphasis on the \$10 million available for outreach and education • CHIPRA and ARRA overviews • Tribal consultation best practices • Long-term care overview/listening session • CMS resources available to tribes • Urban programs with an emphasis on providers/provider types 	<p>Mr. Johns will send out links, via email, to the strategic plan and other important reports and documents to members via email.</p> <p>The subcommittee will provide a more detailed draft CMS Day agenda for CMS prior to the next TTAG conference call.</p>
Executive Session	During the executive session, the TTAG was off the record and no notes were taken.	

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

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July 31, 2009

Face to Face Meeting - Action Items

Action Item	Timeline	Person Responsible	Status	Notes
Provide a monthly statement of expenditures and remaining funds for strategic plan objectives.		NIHB	Ongoing	
Develop a letter to the CMS Administrator requesting sweeps funds for outreach and education, legislative analysis, and data analysis projects.	July 31	TTAG	Ongoing	

July 31, 2009

Face to Face Meeting - Summary

Agenda Item	Discussion	Action
Call to Order	Ms. Valerie Davidson opened the meeting at 9:00 am (EDT).	
NIHB Report	<p>Ms. Stacy Bohlen, Executive Director, NIHB, provided a brief overview of recent NIHB activities:</p> <ul style="list-style-type: none"> • Annual Conference: The annual consumer conference is scheduled for September in Washington, DC, and will include CMS Day. NIHB hopes to include a session on tribal/state relations during CMS Day. NIHB would like input from TTAG members on topics for discussion during the conference. • Childhood Obesity Program: This will launch at the annual conference. The program will look at best practices and serve as a clearinghouse for information and resources. • The next edition of the NIHB <i>Health Reporter</i> comes out the first week in August. <p>Ms. Davidson said that the TTAG budgetary process poses challenges, especially with the mismatch between fiscal years and project timelines and the lack of funding under the IDDA for dealing with emerging issues. The purpose of this session is for NIHB to report on the current status of the TTAG budget and estimate the funding still needed to accomplish the group's goals as outlined in the strategic plan.</p> <p>Ms. Mary Richards, Deputy Director, NIHB, explained that the 2009 fiscal year was shortened (April – December only). Funding for FY 2009 was received from CMS in mid-May. With the assistance of sub-awardees, data to support TTAG concerns is being gathered and analyzed. In the 2009 budget, the funding for CMS Day was handled as a separate budget allocation. General funding trends have been fairly stable.</p>	

	<p>In response to the TTAG’s request for a report on the current budget status and estimated funding needs for the rest of the year, Ms. Richards presented a report providing this information spread over the next five years. NIHB is in the process of comparing the budget against the scope of each objective in order to estimate the funding needed to optimally fund the objectives and expects this analysis to be complete in the next few weeks.</p> <p>Ms. Hughes indicated that the TTAG needs to know the progress and funding (expenditures and remaining funds) for each objective on a monthly basis. Ms. Bohlen agreed that NIHB could provide such reports and suggested that the reports also include priorities that do not have funding.</p> <p>Ms. Locke stressed that planning for the 2010 IDDA should start immediately and that all additional funding sources need to be taken into account as part of that process.</p> <p>Ms. Davidson stated that the TTAG needs to know how much has been spent on each priority in order to develop its request to CMS for sweeps money. Dr. Warne made a motion to go into executive session to discuss financial matters. Ms. Skeeter seconded the motion, which received unanimous consent.</p> <p>During the executive session, the TTAG was off the record and no notes were taken.</p> <p>When the TTAG returned from the executive session, Ms. Finster made a motion to send three strategic plan proposals to the CMS administrator for sweeps funding, specifically:</p> <ul style="list-style-type: none"> • Outreach and Education: \$200, 000 • Legislative Analysis: \$100,00 • Data Analysis: \$60,000 <p>Ms. Begay asked to revise the motion to prioritize the three funding areas. The current order was approved with no objections. Mr. Crouch seconded the motion. The motion was unanimously approved. Ms. Locke will incorporate these requests into a letter to the CMS Administrator later today.</p>	<p>NIHB will provide a monthly statement of expenditures and remaining funds for strategic plan objectives.</p> <p>Ms. Locke will develop a letter to the CMS administrator requesting sweeps funds for outreach and education, legislative analysis, and data analysis projects.</p>
<p>Discussion of Executive Session on July 30</p>	<p>Ms. Davidson reported on a discussion during the July 30 executive session concerning a move within HHS to standardize the membership of advisory groups. Members felt that the TTAG process is working well and that tribes, as sovereign nations, have the right to determine who represents them on the TTAG. TTAG members would like the chair and co-chair to identify related problems and meet with HHS officials to discuss the issue.</p>	
<p>Next Steps – Planning for November TTAG Meeting</p>	<p>Ms. Bohlen announced that NIHB is sponsoring a tribal healthcare reform briefing on Monday, August 3 in conjunction with a behavioral health conference and NIHB board activity. The briefing is open to all tribes.</p> <p>The next TTAG meeting will be held November 5-6. Ms. Marx suggested that TTAG hold a roundtable to discuss incentives for HIT in the same week.</p>	

	<p>The next TTAG conference call will take place on August 19.</p> <p>Ms. Finster motioned to adjourn the meeting, and Ms. Smith seconded the motion. The motion carried and the meeting was adjourned.</p>	
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