

# Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

Delivered Electronically

March 24, 2011

Dr. Donald Berwick  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8010  
Baltimore, MD 21244-08010

**Subject: Implementation of Section 405(c) of the Indian Health Care Improvement Act**

Dear Administrator Berwick:

On behalf of the Tribal Technical Advisory Group to the Centers for Medicare and Medicaid (TTAG)<sup>1</sup>, I am writing in regards to the implementation of Section 405(c) of the Indian Health Care Improvement Act (IHCIA), as added by Section 10221 of the Patient Protection and Affordable Care Act (Public Law 111-148).<sup>2</sup> As you know, TTAG advises CMS on Indian health policy issues involving Medicare, Medicaid, the Children's Health Insurance Program, and any other health care program funded (in whole or in part) by CMS.<sup>3</sup>

IHCIA Sec. 405(c) requires the Departments of Defense and Veterans Affairs to reimburse the Indian Health Service, Indian Tribes, and Tribal organizations for services provided to beneficiaries eligible for services from either the Department of Defense or the Department of Veterans Affairs.

Please find attached an analysis of implementation of IHCIA Section 405(c). TTAG supports the analysis and recommendations contained in the attached document.

Although the IHCIA does not make CMS responsible for implementing Section 405(c), there are implications to Medicare and Medicaid for the delay in implementation. Adoption of the recommendations made by the NIHB could serve to expedite implementation of the provision, minimize the potential loss of revenues to Indian health programs, and reduce administrative and health service expenditures under Medicaid.

Thank you for your consideration of these comments.

Sincerely,



Valerie Davidson  
Chair, Tribal Technical Advisory Group to CMS

Attachment: Analysis of Implementation of IHCIA Section 405(c), February 10, 2011

cc: Kitty Marx, Director, Tribal Affairs Group, CMS

<sup>1</sup> Sec. 5006(e) of the American Recovery and Reinvestment Act codifies in statute, at sections 1902(a)(73) and 2107(e)(1)(C) of the Social Security Act, the requirement for the Secretary of Health and Human Services to maintain a Tribal Technical Advisory Group within CMS and the requirement that States seek advice from Tribes on a regular and ongoing basis where one or more Indian health program or urban Indian organization furnishes health care services.

<sup>2</sup> Public Law 111-148, incorporating by reference S. 1790 as reported by the Com. on Indian Affairs of the Senate in December 2009.

<sup>3</sup> [http://www.cmsttag.org/docs/ttag\\_charter\\_final.pdf](http://www.cmsttag.org/docs/ttag_charter_final.pdf), January 28, 2011.