
**Centers for Medicare & Medicaid Services (CMS)
Tribal Technical Advisory Group (TTAG)
Meeting Minutes**

Thursday, February 21st – Friday, February 22nd 2008
Washington, DC

TTAG Members Present:

Valerie Davidson, TTAG Chair,
Alaska Area
Robert Moore, TTAG Representative,
Aberdeen Area
Carolyn Finster, TTAG Representative,
Albuquerque Area
Kathy Hughes, TTAG Representative,
Bemidji Area
Jim Crouch, TTAG Representative,
California Area
Dee Sabattus, TTAG Alternate,
Nashville Area
Ben Shelly, TTAG Representative,
Navajo Area
Jim Roberts, TTAG Alternate,
Portland Area
Ron Allen, TTAG Representative, Tribal
Self Governance Advisory Committee
Mickey Peercy, National Indian Health
Board
Anslem Roanhorse, Jr., TTAG Alternate,
Navajo Area
Jim Lamb, TTAG Alternate,
Alaska Area

CMS Staff:

Herb Kuhn, Deputy Administrator, CMS
Dorothy Dupree, Director, Tribal
Advisory Group, CMS
Rodger Goodacre, Tribal Advisory
Group, CMS

Michael Lyman, Tribal Advisory Group,
CMS

Robin King, Director, Office of External
Affairs

Sharon Brown, CMS

Judy Wallace, CMS

Jean Close, CMSO

Camille Blake, CMS OGC

NIHB Staff:

Kitty Marx, Legislative Director, NIHB

Colette Keith, Policy Associate, NIHB

Others:

Jim Lamb, Alaska Area Alternate

Shari Roanhorse, New Mexico Medicaid
Tribal Liaison

Elmer Brewster, IHS/ORAP

Christopher Many Deeds, IHS/OTSG

Elizabeth Neptune, USET

Donald Warne, AIHMP

Kris Locke, TSG Technical Advisor

Mim Dixon, Consultant

Deborah Broken Rope, Aberdeen Area
Technical Advisor

Carol Barbero, USET Technical Advisor

Myra Munson, Alaska Area Technical
Advisor

Melissa Roberts, HHS Emerging Leader

Michelle Rosenberg, GAO

Carl Harper, IHS/ORAP

Marjorie Johnson

Rhonda Butcher

Actions Items

Action list				
Item no.	Action	By	Deadline	Status
	Progress Report on MAM Plans	Herb Kuhn or Kerry Weems	If he or Kerry attend next meeting, Mr. Kuhn said they would deliver progress reports	Unrealized
	Ben Shelly, Kathy Hughes, Robert Moore volunteered to give TTAG testimony on CMS at the HHS National Budget Consultation	Ben Shelly, Kathy Hughes, Robert Moore	3-12-08	Realized
	Call a CMS DAY Subcommittee Meeting to discuss plan of action for CMS DAY	Colette Keith, Kitty Marx	ASAP	Unrealized
	Invite State Liaisons To CMS DAY during NIHB Annual Consumers Conference to address innovative State Tribal partnerships (see workgroup below)	TTAG	ASAP	Unrealized
	Form workgroup with following volunteers to discuss state and tribal relations: Valerie Davidson, Jim Crouch, Robert Moore, Reno Franklin, Dorothy Dupree, Shari Roanhorse, Carolyn Finster, Cecile Greenway, Cindy Gillaspie		ASAP	Unrealized
	Reconvene Across State Borders Subcommittee to work on Nashville Area issue	ASB Subcommittee	ASAP	Unrealized
	Add Action Items List at top of TTAG Meeting Minutes	Colette Keith	ASAP	Realized
	Send out List of TTAG Assignments made at November Retreat	Colette Keith	ASAP	Realized
	Term Expiration Announcement/Memo to CMS	Colette Keith	4/9/08	Realized

1. ANNOUNCEMENTS and DOCUMENTS RECEIVED:

Announcements:

- **Jim Crouch** moved to suspend the agenda on morning of Day One to accommodate Deputy CMS Administrator **Herb Kuhn**. Motion Seconded by **Ben Shelly**. Motion carried unanimously.

Documents received:

- CMS TTAG February 2008 Briefing Materials Book

2. APPROVAL OF MEETING MINUTES: CMS TTAG Secretary Mickey Peercy asked for Motion to Approve Meeting Minutes of: August 2007; September 2007; October 2007; December 2007; January 2008;

Ron Allen made motion to approve the minutes with the correction of deleting the words, “Conference Call Minutes” from the August 1-2, 2007 meeting minutes. Motion seconded by Robert Moore. Motion Carried unanimously.

4. NEW BUSINESS:

RESOLUTIONS:

Resolution #1 Title: Centers for Medicare & Medicaid (CMS) Tribal Technical Advisory Group (TTAG) Request to the Administration to reconsider the President’s FY 2009 Budget proposal to repeal SEC 1932 (a)(2) and consult with the CMS TTAG on its impact if not repealed

Motion made by Mickey Peercy. Motion Seconded by Jim Crouch. Motion Carried unanimously.

Resolution #2 Title: Centers for Medicare & Medicaid Services (CMS) to withdraw the Medicaid Case Management Services Interim Final Rule, CMS -2237-IFC

Motion Made by Jim Crouch. Motion Seconded by Ben Shelly. Motion Carried unanimously.

Meeting Notes from Day 1: February 21, 2008

Agenda Item	Discussion	Action
Welcome	Chair Valerie Davidson opened the meeting at 8:00 am (ET) and Robert Moore , Aberdeen TTAG Representative, gave the blessing.	
Roll Call	Roll call taken by Colette Keith , National Indian Health Board, a quorum was present.	
Motion to Suspend Agenda	Jim Crouch made a motion to suspend the agenda on morning of Day One to accommodate Deputy CMS Administrator Herb Kuhn. Motion was seconded by Ben Shelly . Motion Carried unanimously.	
Presentation by Herb Kuhn, CMS Deputy Administrator	<p>Herb Kuhn, Deputy Administrator at the Centers for Medicare & Medicaid Services joined the TTAG meeting to discuss current issues.</p> <p>Introductions were made.</p> <p>Chair Valerie Davidson opened the discussion by identifying four issues that are of special concern to the TTAG:</p> <ul style="list-style-type: none"> - Montana State Plan Amendment exempting AI/ANs from Medicaid cost-sharing requirements - Targeted Case Management proposed regulations - Provisions in the President's FY 2009 Budget that would eliminate Section 1932A2 of SSA exempting AI/ANs from automatic assignment in Medicaid managed care plans. - Unresolved Medicaid Administrative Match (MAM) Agreements <p>Herb Kuhn, responded to the MAM issue.</p> <ul style="list-style-type: none"> - Dennis Smith, Director, Centers for Medicaid and State Operations (CMSO) is working on resolving outstanding issues with State of Washington. - Mr. Kuhn agreed that 858 days is too long to be spending on this issue. - Mr. Kuhn did admit that this is new ground for them; however this is not an excuse, but they want to get it right the first time. - Kerry Weems and Herb Kuhn want to move the MAM agreements forward. <p>Chair Valerie Davidson, explained that they are not waiting for perfection but would like an idea of a timeline.</p> <p>Herb Kuhn explained that they are not waiting for perfection either and he is not sure of a timeline. If he or Kerry Weems is at the next meeting they will have a progress report.</p> <p>Dorothy Dupree explained that each plan is being treated independently by staff and they are not sure which state plan will get through first.</p> <p>Ron Allen raised concerns that some tribes have been waiting four years for these proposals. Ron encouraged Herb and Kerry to help us make serious inroads as this Administration is concluding and wants a track record of achievement.</p>	

Herb Kuhn asked what the TTAG sees as the role of tribes in Medicaid managed care.

Jim Crouch referenced the IHCI and how it fosters tribal participation in Medicaid managed care so that tribal programs can participate and not lose money.

Carolyn Finster explained that New Mexico has a ten – twelve year history of managed care where people were assigned to plans. Some clients had to drive 65 miles to 225 miles to doctors in the managed care plan because they were assigned doctors outside the IHS or tribal system. Members were very discouraged and frustrated. After numerous meetings with the state, automatic assignments for Indian people was repealed and they could choose fee for service or a managed care plan. To this day, 95% are still fee for service patients.

Anslem Roanhorse explained that when New Mexico first came out with managed care, patients were impacted because they had to travel many miles and reimbursements at IHS facilities were affected. The Navajo Nation opposed New Mexico Salud because the bottom line is there was no tribal consultation. .

Myra Munson explained that New Mexico serves as one example but it is a universal problem. Patients are mandatorily assigned into plans and then have to get out of them. There are reasons for special protections for America Indians and Alaska Natives in Medicaid managed care.

Val Davidson asked Herb Kuhn to discuss the Montana State Plan amendment and case management regulations.

Herb Kuhn explained that the case management regulations were drafted to respond to address issues identified by the GAO. He asked if there were specific issues.

Val Davidson explained that the regulations will affect behavioral health services for children. The time keeping requirements are burdensome and the regulations are more overreaching than necessary. The tribal organizations have submitted comments to the proposed rules outlined in more detail. There are particular concerns regarding foster care activities and institutionalized care for beneficiaries.

Herb Kuhn noted that CMSO staff were on the agenda to discuss the proposed regulations. He moved the agenda along and asked for more information regarding the Montana SPA.

Dorothy Dupree said this gets to the political vs. racial issues that have been discussed with the Office of Civil Rights and General Counsel.

Robert Moore explained that U.S. Supreme Court decisions have

	<p>upheld the legal status of Indians as a political classification, not a racial classification, and that should be the position CMS should take.</p> <p>Dorothy Dupree recommended that the CMS revisit the political vs. racial paper and meet again with the Office of Civil Rights.</p> <p>Ron Allen explained that this is another example of the way the Administration addresses Indians in this society. CMS is a big agency and a challenging level of unique responsibility to deal with Indian issues. 95% of the agency lawyers do not have a knowledge of Indian law yet your response is to take this issue back into the agency for further review. He urged Herb Kuhn to come back and talk to the TTAG, and tribal advisors, and keep the TTAG in the loop.</p> <p>Vice-President Ben Shelly said with respect to the Navajo Nation, through the 1868 Treaty, the federal government promised to provide health care to the tribal members. States have no obligation to live up to these treaty rights. Treaty must be abided by. To conclude, maybe we want to participate together instead of holding out our hands. We can sit down and build something on the reservations so we don't have to go through states.</p> <p>Valerie Davidson thanked Herb Kuhn for meeting with the TTAG.</p>	
Report from Chair	Chair Valerie Davidson asked for introductions and thanked everyone for attending the meeting.	
Report from Secretary	<p>Secretary Mickey Percy asked for the approval of the August 07, September 07, December 07, and January 08 minutes.</p> <p>Ron Allen made a motion to approve the minutes with the deletion of "Conference Call Minutes" from the August 1-2, 2007 meeting minutes.</p> <p>Robert Moore seconded the motion and the motion carried unanimously.</p>	
CMS Report	<p>Dorothy Dupree gave the report from CMS. She distributed a hard copy of her report.</p> <p>Dorothy reported that the Medicine Dish broadcast is getting positive results. TTAG members asked if the Medicine Dish was available in another format and Dorothy responded that CMS has produced a limited number of DVDs. Dorothy reported that the broadcasts are marketed on the NIHB, IHS, and CMS websites. CMS has a schedule for the upcoming year. Dorothy indicated that they have an agreement with NIH for webcast of the broadcasts for those communities that do not have satellite dish.</p> <p>Dorothy reported on the status of IHS hospitals in meeting compliance standards. Dorothy reported that IHS has 43 hospitals because 4 of them have changed status from inpatient to ambulatory care. Overall, hospitals are changing because they are finding it difficult to meet</p>	

standards and have been found in violation. For example, EMTALA violations for turning someone away at the emergency room, violations for not keeping track of medications, and violations for length of stay. She has been working with those hospitals one on one. If hospitals lose Medicare status, they also can not bill Medicaid. Dorothy is concerned that regional offices could move forward on termination track. The CMS survey and certification staff are prohibited from providing technical assistance, but CMS TAG can. Issue is mushrooming and technical assistance and training is needed. One thing that might be helpful is to expand CMS training opportunities at the Executive Leadership training to explain to emerging managers: what is EMTALA, what is survey and cert process? JACHO..FQHC's standards. Medicare and Medicaid 101. is more than just payment issues. Also, Medicine Dish broadcasts have been following TTAG direction and might need a broadcast on EMTALA.

Rhonda Butcher asked if this training can be provided elsewhere outside of the Executive Leadership Training.

Dorothy Dupree offers training to emerging managers so that they can become certified trainer which is attractive for their resumes.

Myra Munson said while the CMS focus on has been on training, it is important to recognize that because of limited authorities/facilities, tribes trying to provide long term care are restricted by the number of days per stay.

Val Davidson pointed out that Tribes are caught in a catch 22 – limited capacity to provide long term care with limited access to other alternatives and then Tribes are dinged for it.

Myra Munson explained that training will help to some extent but focusing on problems areas are needed. It would be for IHS and CMS to identify what the underlying issues are and bring those to the TTAG who might be able to assist.

Dorothy Dupree explained that we have to look at this issue from a system perspective. If there is systemic issue, then CMS can develop rule for IHS facilities so that we would have survey and certification data. Tribes have more flexibility than IHS. Part of the problem is that CMS treats IHS as private sector hospitals. The other problem is that when we find that there is a violation, they step in and take away deeming status, if Joint Commission and put under purview of CMS until they go back to Joint Commission. But the problem is the Joint Commission does not do the quality of review that CMS sees as necessary.

Myra Munson responded that many violations arise due to swing beds that could be solved by a better long term care strategy. The other issue is recruitment. If you can help TTAG get that information, larger efforts

	<p>could be made to change models of delivery and develop new strategies to address recruitment problems.</p> <p>Carl Harper indicated that this is a serious issue and a tribal advisory group led by Bob McSwain has been established to meet those issues. But IHS wants to work with CMS to close any gaps and to support looking at this issue from a global perspective.</p> <p>Dorothy Dupree discussed other activities that the TAG is working on:</p> <ul style="list-style-type: none"> • Tribal budget consultation meeting in March. • 2010 budget request needs input from TTAG. • Tribal consultation policy clearance has been like molasses. • Position freeze • TAG has 7 FTE's on book, but only 4 on staff • IHS – CMS Retreat • CMS Training Sessions, have attached calendar <p>Mike Lyman explained that the state of Wisconsin has asked that pharmacists be authorized providers for CMS. Regional office in Chicago is involved and exploring the following issues:</p> <ul style="list-style-type: none"> • Could they bill directly to IHS • Request is currently in review • Current thinking is that it would have to apply state wide • Involved IHS headquarters to make model for all of states. • Each state has a state plan amendment. <p>Jim Lamb asked if CMS could benefit from technical assistance from TTAG?</p> <p>Mike Lyman responded that one model might be the community health program in Alaska, and especially the dental health aide therapists.</p> <p>Carol Barbero asked, presumably they want to limit to tribal facility through type of provider and under limited authority, but are they fearful that there are number of pharmacists in Wisconsin.</p> <p>Mike Lyman responded that yes, other pharmacists will move to that.</p> <p>Myra Munson commented that there could be a category for Indian health clinic pharmacists such as a new provider type that is “Indian Health Pharmacy”. That rate allowable would be based on provider type not based on service.</p> <p>Val Davidson indicated that there is much follow up.</p>	
<p>Indian Health Care Improvement Act</p>	<p>Kitty Marx, Legislative Director, NIHB, gave an update on the IHCIA and recommendations on IHCIA implementation and response to Kerry Weems letter to Senate Finance. She thanked the TTAG and MMPC for supporting the bill by making the calls. Tribes working for ten years</p>	

	<p>now and it looks like the bill will pass the Senate on February 25th and 26th.</p> <p>Ron Allen complimented the NIHB on its website and calls to actions. He asked if the legislation has a time limit.</p> <p>Kitty Marx explained that it is reauthorized until 2017 so that tribes could revisit the issues ten years from now.</p> <p>Val Davidson indicated one of the reasons for the time limitation is so tribes would not be stuck with certain provisions. She also explained that when the bill passes, we will discuss what we will do to implement.</p> <p>Ron Allen suggested that we need a game plan as to how the provisions will apply to IHS and CMS activities and suggested that implementation could be part of the Strategic Plan.</p>	
<p>Strategic Plan Update</p>	<p>Ron Allen gave the Strategic Plan Update:</p> <ul style="list-style-type: none"> • Agreed that NIHB and TTAG will reach out to tribes within next month (March – mid April) • April – review old strategic plan with new/revised objectives • Kitty Marx provide analysis on what CMS items are on IHCIA. • May- subcommittee will meet in face to face meeting • Late May, presentation on revised plan at Public Health Conf • June - align budget with strategic plan objectives • July- Aug – will identify dates for updating plan with MMPC and TTAG • September – present draft plan at NIHB ACC • October - get final commenets • November – present final draft to TTAG 	
<p>TTAG Budget Update</p>	<p>Rodger Goodacre provided a budget update. He indicated that the IDDA with IHS had been signed on January 25, 2008 in an amount of \$487,000.</p> <p>Jim Roberts explained that in FY 2008, the TTAG had requested \$2.2 million but yet the TTAG received \$507,000. Jim Roberts asked whether we could schedule a meeting in Baltimore to discuss the budget request especially since we received less than 50% of what was requested and we need the budget information for purposes of the strategic plan.</p> <p>Val Davidson indicated that when we are discussing the budget, we are talking about three fiscal years:</p> <ol style="list-style-type: none"> 1) current year 2) next year 3) two years out <p>Jim Roberts asked Rodger Goodacre whether in terms of the matrix</p>	

	<p>and trying to reconcile the budget request, is it possible to put the project numbers in the crosswalk?</p> <p>Rodger Goodacre responded that that reconciliation might not be as helpful as one might imagine.</p> <p>Jim Roberts responded that it would have utility for the Strategic Plan subcommittee.</p> <p>Val Davidson indicated that the TTAG will have an opportunity on Wednesday, March 12 at the HHS Budget Consultation session. Dorothy Dupree and Wes Perich from CMS will be there, along with Jim Crouch. Unfortunately, Val Davidson is unable to attend and asked for volunteers to present testimony. Vice President Ben Shelly and Vice Chairwoman Kathy Hughes volunteered.</p> <p>Kitty Marx volunteered to prepare testimony based on strategic plan goals and objectives.</p> <p>Jim Roberts will work with Rodger Goodacre to schedule a meeting with Wes Perich.</p>	
<p>Tribal Consultation Policy</p>	<p>Val Davidson moved the meeting along by moving onto discussion of the Tribal Consultation Policy.</p> <p>Kathy Hughes asked if we could elevate clearance of the tribal consultation policy to the HHS level. She thought approval of the policy would be a no brainer.</p> <p>Dorothy Dupree said that elevation to the HHS level is premature.</p> <p>Ron Allen asked Dorothy Dupree to convey that we need to get the policy off the desk and Mickey Peercy concurred that we need to move the policy forward.</p> <p>Ron Allen asked Dorothy Dupree how much time she needs to get CMS moving on the policy and submitting it to the Administrator.</p> <p>Dorothy Dupree responded that she could get the policy to the Administrator by the end of March.</p> <p>Val Davidson indicated that the next TTAG conference call is March 19 and asked Dorothy Dupree to report back on status by then.</p>	
<p>Introductions and Remarks</p>	<p>Robin King, Director, Office of External Affairs (OEA), indicated he was delighted to attend the TTAG meeting and wants to learn more about Indian health. He made the following remarks:</p> <p>TTAG is one of 8 groups in external affairs. He has asked Dorothy Dupree how the OEA can help the TTAG. The OEA tries to respect Dorothy's team's independence but still work with other stakeholders and within the context of the agency's focus areas, such as quality</p>	

control, reduce healthcare costs, and maintain individual choice.

Robin King outlined the Administrator's three main focus areas:

- 1) Quality and Transparency
- 2) Medicare Trust Fund Solvency
- 3) Electronic Health Record Demonstration Project

Robin King indicated that this upcoming year is the first year Medicare will be in a deficit. If reach 45% of deficit spending for two consecutive years, Congress will need to be notified. Medicare could go broke in 9 years.

Robin King also indicated that within the communications arena, the OEA is responsible for national rollout of the Electronic Health Record Demonstration Project. Other activities of the OEA includes:

- Competitive Bidding for durable Medicare equipment (paying for quality)
- Serving and preparing future beneficiaries (how we pray for them: Medicine Dish)
- Caregiver Initiative (wil reach out to new audience)
- Nursing Home Quality (35 homes in Indian Country)
- Compare Websites going online (data brought together in public websites for ...hospital pricing)
- Oversight and Compliance

Kathy Hughes asked about the hiring freeze and how does that impact the 7 FTE slots in the TAG.

Robin King responded that due to Congressional budget, the CMS is under a hiring freeze and must lose vacancies through attrition through January 2009.

Robert Moore explained to **Robin King** that in some areas of Indian Country, the relationship between States and Tribes are tenuous at best. In August 2007, the CMS held a training in the Aberdeen Area and approximately 200 people attended. All the State Medicaid Directors in the Aberdeen Area, except for South Dakota, had a plan to work with tribes. The OEA has to work with tribal nations and get States to be active participants, pro active partners. Homeland Security has a legislative mandate for States to partner with Tribes. Tribes are not just another "interesting group." States might not think they have a responsibility to partner with Tribes but CMS does have that responsibility.

Robin King responded that he appreciates that and asked **Dorothy Dupree** if there is anything that intergovernmental affairs could do.

Dorothy Dupree indicated that OEA works closely with CMSO and

	<p>through the regulations process.</p> <p>Valerie Davidson explained that the TTAG has met with Administrator Mark McClellan, then Leslie Norwalk, and then with Kerry Weems. One of the things that the TTAG has made clear is that promise of health care is pre-paid for the cessation of land and peace. It was not a promise with one federal agency. We expect that promise to be kept and honored by the federal government. Val Davidson explained that tribes are “like we are children of divorced parents, and worse than that parents of arranged marriage.” Our people are the poorest in this nation and we struggle with some of the most limited funding in very remote locations to try to provide health services to most underserved people in the country.</p> <p>Robin King thanked Val Davidson for her remarks.</p> <p>Anslem Roanhorse thanked Robin King for attending the meeting and expressed concerns regarding the Medicaid citizenship documentation issue.</p> <p>Val Davidson indicated that she is sure CMS did not intend for people of first nations to be so affected by the citizenship documentation requirements. Val Davidson expressed appreciation for Dorothy Dupree and her staff in support of TTAG issues and thanked Robin King for attending the meeting.</p>	
<p>Targeted Case Management and Interim Final Rule</p>	<p>Jean Close, CMSO, attended the meeting to discuss the Targeted Case Management and Interim Final Rule and to answer TTAG members’ questions.</p> <p>Myra Munson explained that the case management regulations be put on hold or be rewritten because the regulations will undermine case management of mental health care, especially for children’s mental health services.</p> <p>Jean Close, provided an overview of the regulations and how the comments will be addressed. She explained that the rule was published in December and that CMSO will analyze and respond to comments received in the final rules. She indicated that it was important for her to sit in on the TTAG meeting and hear the tribal comments. CMSO is keen on small communities and small providers feedback. Although CMSO’s primary partner in Medicaid program are the States but wants to continue the dialogue with the TTAG. CMSO is getting ready for implementation and have met with States in recent weeks. She invited TTAG members to communicate with States regarding the rule as it is necessary to understand what is in the rule.</p> <p>Jim Crouch asked if she is familiar with the IHS/HCFA Memorandum of Agreement?</p>	

Jean Close said she was familiar with the MOA but not her area of expertise. She provided an overview of the interim rule and indicated that if there are some areas where additional guidance is necessary, she will take that back to the group.

Myra Munson asked what % of increased cost was associated with fraud or with variance in encounter rate? Why would you make new regulations that would impact the tribes use of the encounter rate?

Jean Close responded they are trying to be proactive.

Carol Barbero asked if there was an event that forced publication of the rules, especially as interim final rules.

Jean Close responded ultimately CMS is looking for what is claimable and what is not. The question to ask is whether the service is covered under another program?

Jim Roberts commented that it is burdensome and an intellectual challenge of bundling and unbundling services.

Jean Close responded that services are comprehensive, each one building on another and all must be pieces of those services and assessments.

Jim Roberts asked how the Medicaid Administrative Match (MAM) activities are impacted by the regulations.

Jean Close said it sounds as if those are programs associated with administrative activities.

Kris Locke said it is her understanding that those type of MAM linkage activities will not be covered if rule is passed. In Washington, tribes have certain codes because of definition in the existing case management rules which currently represents about half of the MAM expenditures.

Jean Close directed the TTAG to look what is in the regulations, especially the part about the administration plan. What she is hearing is it sounds like the MAM activities are outreach and eligibility activities that are still claimable.

Kris Locke explained that the rules eliminated the code for coordination of activities and this was an unintended impact on tribes.

Myra Munson suggested that perhaps the case management rules could be discussed more at the upcoming USET meeting. There does not appear to be an emergency that justifies publishing these regulations as an interim rule. Tribes have asked that the rules be put on hold. There were actually drops in one area or another. Submitting comments is

very poor cold comfort when your program has been disrupted. She urged CMSO to think the regulations through, make sure clarification is there so that confusion doesn't result.

Ron Allen explained that this rule has serious consequences for 562 Indian communities.

Jean Close responded that the important thing is that tribal comments were submitted and those comments will be seriously considered. She wants to hear opinions today so that she can explain more of what is in the rule.

Val Davidson stated that she thinks part of the skepticism and cynicism from the group is that the rule was published with an effective date of March 3rd. Until CMS has time to consider the comments, the rules will become effective and it is hard to undo the regulations after they have come into effect. She encouraged CMS to take under advisement as to how much opportunity will there to change the regulations.

Ron Allen explained that before the CMS promulgates regulations, that there is a federal treaty obligation to talk with tribes. It is disheartening and disrespectful and tribes have a lot of passion, but CMS needs to work on this. Our intention is not to disrupt implementation of regulations and impede quality of services, we just want to be heard.

Jean Close responded that she appreciates that and sharing concerns with her. Her quest is to provide clarification of the impact on how the services would or would not change. This is not business as usual and Medicaid eligibles would not receive case management services, but CMSO is interested in knowing the tribal impacts as States submit state plan amendments.

Kris Locke provided one example on how the rules will impact tribal communities. In case management, trust of other tribal members is important. If the number of case managers and time restrictions are imposed, it will be more difficult for tribes to ensure appropriate and culturally appropriate case management. There are a number of things in the rules that impact Indian Country that are outlined in detail in the tribal comment letters submitted.

Jean Close responded that there are situations where there are 4 or 5 case managers and the intent is that with one case manager, beneficiaries can get the services they need.

Robert Moore indicated that the TTAG passed a resolution that asks CMS not to implement the regulations. Tribal communities face many adversities and at Rosebud, we have the distinction of having highest rate of suicide. We have real needs and we hope that through this conversation and as the comments are reviewed and analyzed, that the CMSO can be respectful of the tribal comments and respond

	<p>appropriately.</p> <p>Val Davidson said three separate tribal comment letters were submitted and represent the interests of 231 recognized tribes.</p> <p>Jean Close said again it is important to hear from group and thanked the TTAG for the opportunity to hear how the regulations could have an impact on the local level.</p>	
<p>Status of MAM proposed plans</p>	<p>Sharon Brown and Judy Wallace provided an update on pending State Plan amendments to implement a Medicaid Administrative Match (MAM) programs in the states of Washington, California, Oklahoma and Montana.</p> <p>Val Davidson asked what was CMS’ time line for reviewing state plans and getting them approved.</p> <p>Sharon Brown responded that it is hard to tell. On a Seattle trip, tribes and CMS came up with a compromise and calls have been scheduled to follow up. We want to move forward on all of these.</p> <p>Jim Roberts asked about letters submitted by tribes in Washington and questions regarding codes.</p> <p>Sharon Brown responded that she understands suspicion about level of scrutiny but federal funds are passed down through intermediaries and need to know how Medicaid monies are being spent.</p> <p>Jim Crouch reminded CMS staff that tribal money is involved as well and by a lack of decisions on the state plans, tribes spend money of their own to collect.</p> <p>Sharon Brown stated that States retain responsibility for tracking of data and collating them on a quarterly basis.</p> <p>Jim Roberts asked where does that put the Washington plan.</p> <p>Judy Wallace indicated all States will need to document activities outside of the clinic setting. CMS heard that Tribal members are not being reached. We want staff to be able to go to the home but we heard from tribal members that they were not being reached. Both the State and tribes need to record where the activities are being conducted.</p> <p>Dennis Smith came to the meeting in Seattle to hear from individuals about the home and community based services. CMS asked for tribes to tell CMS the two settings and tribes can decidewhat those two are. CMS collapsed from three to two.</p> <p>Jim Roberts thanked Judy Wallace for the response and from the stand</p>	

	<p>point of tribes, we want no different standards. So when CMS brings all of entities together, we are happy to comply.</p> <p>Sharon Brown said that she recognizes the need to delineate standards. We will and are imposing these standards on all plans. Washington is the test case and unfortunately, the perception is that these standards are only being imposed on tribes.</p> <p>Kris Locke indicated that she was surprised that CMS doesn't know how widespread MAM claiming is. Issue with Washington State is the cost for 23 tribes to enter into MAM contracts for a total amount of reimbursement to tribes of \$100,000. This amount is very small to hold up MAM claiming plan. It was great to see Dennis Smith at meeting to discuss Washington MAM. She encouraged CMS to approve the Washington plan as is; it just seems like wrong place to impose this issue.</p> <p>Sharon Brown responded that she would take these concerns back to Dennis Smith.</p> <p>Judy Wallace indicated that she and Sharon Brown review ALL plans that come in from every State. The Washington plan is the first state that explicitly identified these activities.</p> <p>Sharon Brown indicated we are surveying regions and verifying whether there is monitoring of it or not.</p> <p>James Crouch, asked if they would be available for teleconference Friday next week to discuss the California plan.</p> <p>Carol Barbero asked about back claiming and whether if the activity has not been coded, will they be denied?</p> <p>Judy Wallace indicated that the claims would not be denied. CMS would take four quarters of data from March 1, 2008 and reel back two years of filing.</p> <p>Mickey Peercy asked how can claims be swept into an account? Where does that money come from to pay prior year?</p> <p>Sharon Brown responded that there is always prior year adjustments. She indicated that she will take this concern and the other concerns back to Dennis Smith and other decision makers at CMS.</p>	
<p>Data Initiative Presentation</p>	<p>Jim Crouch provided Data subcommittee update:</p> <ul style="list-style-type: none"> • have developed a data map on Indians (that document is in the board book) • most recent report looks at problem of data that is available on CMS system with the definition of who is an Indian. The CMS definitions are different than what is needed for our purposes. • Data that exists for Alaska and Oklahoma area is spread across 	

	<p>three HHS regional offices. It makes it difficult to ascertain data for IHS Area offices purposes.</p> <ul style="list-style-type: none"> • We are just getting into same set of data by provider and community of residence. <p>Mike Lyman explained the need for data sharing agreements. The CMS data offices have identified 6 files limited to 35 states where tribal facilities are located. there are tribal facilities. In a few weeks until CMS can release the data files to CRIHB. There are some confidentiality issues but progress has been very positive.</p> <p>Jim Crouch noted appreciation for the support of Mike Lyman in working to access the data files. Even with the \$200,000 that was allowed, CRIHB needs a server to download the data that can manipulate the data. CRIHB is looking into buying a server and needs to know when the sub-contract money from NIHB will be available because he has had staff doing work without sub-contract in place.</p> <p>Deb Broken Rope, asked about the statement to close data gap with State program data and different problems with different fixes. She also asked about his statement that it would not affect significant change. Is there a timeline? What other support do you need?</p> <p>Jim Crouch said that one of slides indicated that work that could be done is shaped by data. What Dr. Korenbrot wants is very expensive and time consuming, but the first thing is to get the data. The ultimate goal is to have publicly accessed state level data for AI/ANs by provider sites.</p> <p>Deb Broken Rope indicated that she can get support from tribal leaders if there is a specific outcome achieved in closing that data gap.</p> <p>Jim Crouch welcomed her support and closing the data gap is possible, certainly with state level data.</p>	
Adjourn	Valerie Davidson adjourned the meeting for the day and announced that the group will reconvene Friday, February 22nd.	

Meeting Notes from Day 2: February 22, 2008

Agenda Item	Discussion	Action
Call to Order	Chair Val Davidson welcomed everyone and opened up the meeting.	
Citizenship Documentation	<p>Anslem Roanhorse, Chair of the Citizenship Documentation Subcommittee presented Citizenship Documentation Subcommittee report.</p> <p>Vice-President Ben Shelly said that he has been talking with many tribal leaders regarding citizenship. He has his own personal experience of having to clarify his own citizenship.</p> <p>Kathy Hughes said that the Oneida enrollment card has everything and that what seems to be missing is only a swipe through on the back. BIA is going to swipe card for lease income process. The tribal cards need to be standardized.</p> <p>Kris Locke said that one of the fundamental issues we discussed was whether States could allow Tribes to designate citizenship. Can tribes make that decision?</p> <p>Carol Barbero responded that it is asking too much of tribes to make determination of citizenship. Compromise language in Senate IHCIA bill:</p> <ul style="list-style-type: none"> • Recognizes tribal documentation as proof of citizenship • For tribes who admit non U.S. citizens as members, Secretary would be required to publish regulations within 4 months • Pending regulations, tribal documentation would suffice if accompanied by attestation and certificate from appropriate tribal official that person was born in the U.S. <p>Carol Barbero clarified that the tribe is certifying information from tribal enrollment files.</p> <p>Vice-President Ben Shelly showed his identification card that recognizes him as a member of the Navajo nation. Talking with lots of tribal leaders about developing a card with standard information, with the name of tribe where you are enrolled. The card could be used on any reservation or IHS facility.</p> <p>Anslem Roanhorse explained that he has had discussion with CMS related to what is required for Department of Homeland Security.</p> <p>Carol Barbero indicated that NCAI has been involved in discussions with DHS. DHS has agreed to accept tribal documents for crossing borders but card must have photo. She asked Dorothy Dupree whether Kerry Weems could identify tribal documents that fit in existing categories in existing regulations or would regulations have to be revised for Kerry Weems' consideration.</p>	

	<p>Dorothy Dupree responded that in order for tribal documentation to be acceptable, CMS will have to go through regulations process. Kerry is committed to publishing regulations, but the cards must have basic information name, census number, (SS #), photo, etc. We would need to have regulation in place to move tribal document up from Tier 4 document.</p> <p>Val Davidson asked subcommittee to work on it and Anslem Roanhorse agreed to plan another subcommittee call.</p>	
<p>Outreach and Education Subcommittee Report</p>	<p>Kathy Hughes, Chair of the Outreach and Education Subcommittee, gave the Outreach and Education Subcommittee Report.</p> <p>Kathy Hughes explained that NIHB is working on communications network project.</p> <p>Robert Moore commented that on the last subcommittee call, it was recommended to get States involved in communication process.</p> <p>Jim Crouch, said he would second that.</p> <p>Anslem Roanhorse indicated that at the December training, questions were asked how to translate enrollment video into Navajo.</p> <p>Dorothy Dupree indicated that CMS worked on another translation project at Shiprock.</p> <p>Dee Sabbatus asked if there will be area training funds.</p> <p>Dorothy Dupree responded that there could be serious problems about funding for next year. She is getting a sense that even one or two day training sessions are not enough time to get information. Because training is so expensive, maybe trainings should be held every other year. Travel money is very limited. Everyone is looking at where they can get funding. The regional offices have very little travel money. She explained that in FY 2008, CMS received \$509,000, with \$487,000 going to NIHB and \$23,000 allocated for outreach & education. That is clearly not enough support to do another round of training.</p> <p>Kris Locke said that it was a positive step that budget gets discussed with TTAG and the group at the retreat decided how to allocate the funding.</p> <p>Mim Dixon said that with regard to meeting every other year, could consolidate trainings each year, and hold a national training.</p> <p>Ron Allen said that everyone needs the training -- can't wait another year.</p>	

	<p>Robert Moore suggested that the trainings could look at some focused areas.</p> <p>Shari Roanhorse, said there are other tribal liaisons at state levels who meet on a regular basis. States are strapped with budgets as well. New Mexico’s Native American population is 20% -- so New Mexico does a lot of outreach & education. The State has good state tribal relationships.</p> <p>Robert Moore, said we need association with tribal liaisons.</p> <p>Anslem Roanhorse said Arizona, New Mexico, and Utah have good state tribal relationships – takes a lot of time but is worth the investment. Utah has done a good job for the past two years when they signed tribal consultation policy.</p> <p>Val Davidson said that those folks who have good relationships with states need to meet with NASMD on a routine basis. Last meeting was not so well attended.</p> <p>Robert Moore said that the last time the group met with NASMD is when he first showed up at a TTAG meeting. He went to that meeting and South Dakota was not there. This is a serious issue, we are citizens in the States where we live – we are still in the 1960’s.</p> <p>Myra Munson suggested people should invite NASMD, but if you are going to invite them, need to have a specific issue and they won’t get permission to come unless there is specific topic. As Anslem Roanhorse said, relationships can be good sometimes depending on the Governor. That is why TTAG is so important. You can’t count on good relationships.</p> <p>Ron Allen said we need to turn back to challenge. We are aware we have hurdles. He continues to advocate for positioning ourselves. Using example like South Dakota, it tries hard but they do a terrible job on advancing government to government policy.</p>	
<p>Long Term Care Subcommittee Report</p>	<p>Robert Moore, Chair of the Long Term Care Subcommittee, gave the Long Term Care Subcommittee report.</p> <p>Robert Moore explained that the subcommittee met on Wednesday morning and discussed the following:</p> <ul style="list-style-type: none"> • Would like to engage Nancy Weller and Dave Baldrige to assist with work • Will ask Nancy Weller to look at long term care State plans and waivers • There will be a conference call scheduled in next couple of weeks 	
<p>CMS Day Subcommittee</p>	<p>Kitty Marx, NIHB, gave a CMS Day Subcommittee update.</p>	

	<p>Kitty Marx explained that for this year, we want to solicit workshop proposals from across the country to hear from non-Indian organizations and tribal organizations that we normally do not hear from. We will plan on inviting Kerry Weems to be a keynote speaker.</p> <p>Kris Locke thought it was a great idea to call for proposals, but in terms of the agenda, we don't want to lose focus on CMS. She asked if the group could talk about waiving the registration fee for those interested in attending only CMS Day.</p> <p>Jim Crouch responded that the call for proposal was a great idea, but needs to be focused on CMS issues. He volunteered Dr. Korenbrot and her crew to do presentation.</p> <p>Anslem Roanhorse suggested a workshop on how tribes work closely with States and suggested involvement by the CMS regional offices.</p> <p>Dee Sabattus agreed that having states at the conference is a good idea but the response is usually the budget and doesn't think it will happen.</p> <p>Robert Moore indicated he has hope and believes that we will get the State people there.</p> <p>Val Davidson thought inviting the States was a good idea even if only the local states come to the conference year to year. She also suggested the theme "Tribal and State Innovations."</p> <p>Myra Munson said that for CMS Day we might not get any States to attend, not on their list of things to do. We need to encourage States to talk about consultation practices and establish communication patterns where States can help each other with ideas.</p> <p>Ron Allen said that some States have an attitude about working with tribes because of rigidity and arrogance. Tribes are working on different techniques to get traction and motivate people to attend.</p> <p>Robert Moore said we want to be constructive and whomever is guiding the conversation needs to be focused.</p> <p>Mickey Percy asked for volunteers from the TTAG to help out with CMS Day. The following persons volunteered: Val Davidson, Jim Crouch, Robert Moore, Reno Franklin, Dorothy Dupree, Carolyn Finster, Cecile Greenway, and Cindy Gillaspie.</p>	
<p>Across State Borders</p>	<p>Valerie Davidson asked Dee Sabattus to talk about the Across Border issue.</p> <p>Dee Sabattus explained that the substance abuse treatment center in</p>	

	<p>New York and the youth treatment center in North Carolina are very frustrated that they cannot get Medicaid reimbursements.</p> <p>Mickey Percy asked whether she was talking about kids living in residential treatment centers?</p> <p>Dee Sabattus responded that yes, the Partridge House in New York and the Unity Treatment Center in North Carolina were both residential treatment centers.</p> <p>Mickey Percy said that in Oklahoma every child in a residential treatment becomes Medicaid eligible.</p> <p>Dorothy Dupree said she will take ownership for falling down on the job with this. We came close to having a model agreement approved. We developed a model and took the model agreement to both CMS regions as well as NASMD, but there hasn't been time to follow up. She would recommend that that we pull a subcommittee together, review model agreement and provide guidance.</p> <p>Liz Neptune, USET, explained that this issue has been ongoing for 8 or 9 years. Last year, the health directors in Nashville asked for a commitment from CMS to resolve this issue and Mr. McSwain promised to resolve the issue this year. Part of the challenge in Nashville Area is because there are two tribal treatment centers in two different States. She suggested that a way to resolve the issue might be the all-inclusive rate; there must be a way to make sure the States understand that they will receive 100% FMAP. Is there a way to get States to waive prior authorization for tribally specific treatment programs? If the tribal treatment centers have the beds and Indian youth want to come to our programs, we should be able to be reimbursed for the services. In talking with the Office of Minority Health, we discussed culturally and linguistic appropriate services and perhaps we could use that as a basis for authorizing States to reimburse tribal residential treatment programs at?</p> <p>Mickey Percy is hearing that there is concern that by setting a precedent for youth, a precedent will be set for adults.</p> <p>Vice-President Ben Shelly said again, it is about funding. In Navajo, we are trying to work things out with the State. One of the things he stresses is the citizenship documentation and somewhere Tribes must connect with State and Tribes, and one way is through voting. Best thing to do is to sit down with State on a face to face level and argue it out.</p> <p>Val Davidson requested that the Across State Borders subcommittee reconvene and request the CMS address the Nashville Area issues.</p>	
Overview of Retreat	Val Davidson then opened up discussion and review of TTAG retreat and the themes that came out of the retreat. The following are the	

	<p>themes identified at the retreat and the TTAG discussion:</p> <ul style="list-style-type: none"> • Organize TTAG Around Policy <ul style="list-style-type: none"> ○ Better process to identify and develop policies ○ Need for talking points to be developed on policy issues • CMS Budget Support for TTAG & MMPC <ul style="list-style-type: none"> ○ Mickey pointed out that IHS has provided funding of MMPC ○ MAM claiming opportunity • All TTAG Seats Filled <ul style="list-style-type: none"> ○ Robert volunteered to help fill vacant seats ○ Develop orientation packet for new members ○ TTAG report – Val suggested a template to circulate to members • How to Motivate IHS Regarding M/M/SCHIP <ul style="list-style-type: none"> ○ Dorothy said CMS met with IHS/ORAP • Turning Data into Information <ul style="list-style-type: none"> ○ Jim indicated data subcommittee will have a report at the July meeting • Outreach & Education Communications Network <ul style="list-style-type: none"> ○ Kris asked how we can get information out about CMS ○ Suggestion to include CMS information in NIHB Washington Report • Formalizing Partnerships and Messaging <p>Ron Allen suggested that development of the Strategic Plan will be very important for incoming Administration next year</p>	
<p>Dates and Locations for next TTAG face to face</p>	<p>The TTAG discussed dates and locations for the next TTAG face to face. The following dates were decided upon:</p> <p>July Face to Face – Washington, DC</p> <p>Tuesday, July 29th – MMPC Wednesday, July 30th - TTAG Thursday, July 31st - TTAG (Half Day)</p> <p>November Face to Face – Washington, D.C.</p> <p>Wednesday, November 12th - MMPC Thursday, November 13th – TTAG Friday, November 14th – TTAG (Half Day)</p> <p>Next TTAG conference call: Wednesday, April 9th</p> <p>Next MMPC conference call: Wednesday, March 19th</p>	
<p>Adjourn</p>	<p>Valerie Davidson adjourned the meeting at 12:00 pm</p>	