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Indian Health Service
Rockville MD 20852

Dear Tribal Leader:

I am writing to update you on implementation of Section 402 of the Indian Health Care Improvement Act. In 2010, President Obama signed the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 935, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029, collectively known as the Affordable Care Act (ACA). Section 10221 of the Affordable Care Act incorporated and enacted S. 1790, the Indian Health Care Improvement Reauthorization and Extension Act of 2009 (IHCIREA), resulting in the addition of section 402 to the Indian Health Care Improvement Act (IHCIA). Section 402, now codified at 25 U.S.C. §1642, authorizes Tribes or Tribal Organizations carrying out programs under the Indian Self-Determination and Education Assistance Act (ISDEAA), or Urban Indian organizations carrying out a program under Title V of the IHCIA, to purchase health benefits coverage for Indian Health Service (IHS) beneficiaries.

In general, Tribes, Tribal Organizations, and Urban Indian organizations may use amounts made available under law for health benefits for IHS beneficiaries, to purchase health benefits coverage (including coverage for a service that would otherwise be provided as a contract health service) for such beneficiaries in any manner, including through:

- (1) a tribally owned and operated health care plan;
- (2) a State or locally authorized or licensed health care plan;
- (3) a health insurance provider or managed care organization;
- (4) a self-insured plan; or
- (5) a high deductible or health savings account plan.

In summary, a Tribe, Tribal Organization, or Urban Indian organization (T/TO/U) may use funds awarded under the ISDEAA or Title V of the IHCIA to buy health benefits coverage for IHS beneficiaries. To the extent that a T/TO/U seeks to purchase health benefits coverage for IHS beneficiaries, its contract or compact should reflect that activity.

In implementing health benefits coverage, a T/TO/U that wishes to limit the number of beneficiaries covered should be aware that financial need is the only factor permitted by statute upon which to base coverage decisions.

For ongoing updates about these activities and the many other activities that the IHS is working on as we continue to implement the IHCIA and ACA, please visit my Director's Blog at www.ihs.gov.

I continue to invite and encourage your input on implementing the IHCIA and ACA. You may provide input by e-mail to consultation@ihs.gov.

Sincerely,

/Yvette Roubideaux/

Yvette Roubideaux, M.D., M.P.H.
Acting Director