NORTHWEST PORTLAND AREA INDIAN HEALTH BOARD

Burns-Paiute Tribe
Chehalis Tribe
Coeur d'Alene Tribe
Colville Tribe
Coos, Siuslaw, & Lower Umpqua Tribe
Coquille Tribe
Cow Creek Tribe
Cowlitz Tribe
Grand Ronde Tribe
Hoh Tribe
Jamestown S'Klallam Tribe
Kalispell Tribe
Klamath Tribe
Kootenai Tribe
Lower Elwha Tribe
Lummi Tribe
Makah Tribe
Muckleshoot Tribe
Nez Perce Tribe
Nisqually Tribe
Nooksack Tribe
NW Band of Shoshoni Tribe
Port Gamble S'Klallam Tribe
Puyallup Tribe
Quileute Tribe
Quinault Tribe
Samish Indian Nation
Sauk-Suiattle Tribe
Shoalwater Bay Tribe
Shoshone-Bannock Tribe
Siletz Tribe
Skokomish Tribe
Snoqualmie Tribe
Spokane Tribe
Squaxin Island Tribe
Stillaguamish Tribe
Suquamish Tribe
Swinomish Tribe
Tulalip Tribe
Umatilla Tribe
Upper Skagit Tribe
Warm Springs Tribe
Yakama Nation

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RESOLUTION # 20-03-05

OPPOSITION TO EXPANSION OF 100% FMAP TO NON-IHS/TRIBAL MEDICAID PROVIDERS WITHOUT A CARE COORDINATION AGREEMENT OR TRIBAL FQHC CONTRACT

WHEREAS, the Northwest Portland Area Indian Health Board (hereinafter "NPAIHB" or the "Board") was established in 1972 to assist tribal governments to improve the health status and quality of life of American Indian/Alaska Native (AI/AN) people; and

WHEREAS, the NPAIHB is a tribal organization as defined by the Indian Self-Determination and Education Assistance Act, P.L. 93-638 seq. et al., (ISDEAA) that represents forty-three federally recognized tribes in the states of Idaho, Oregon, and Washington; and

WHEREAS, in accordance with the definitions of the ISDEAA at 25 USCS § 450b, a tribal organization is recognized as a governing body of any Indian Tribe and includes any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; and

WHEREAS, the NPAIHB is dedicated to assisting and promoting the health needs and concerns of AI/AN people; and

WHEREAS, tribes have a unique government-to-government relationship with the federal government, and it is required that the federal government consult with tribes on any policy or action that will significantly impact tribal governments; and

WHEREAS, tribal nations are political, sovereign entities whose status stems from the inherent sovereignty they possess as self-governing people predating the founding of the United States, and since its founding the United States has recognized them as such and entered into treaties with them on that basis; and

WHEREAS, the federal government's trust responsibility includes ensuring access to federal health programs like Medicaid; and

WHEREAS, 42 U.S.C. § 1396d(b) provides that the federal government will pay 100% Federal Medical Assistance Percentage (FMAP) for services "received through" an IHS or tribal facility; and

WHEREAS, the Centers for Medicare & Medicaid Services (CMS) State Health Official Letter (dated February 26, 2016) (SHO #16-002) and Frequently Asked Questions (FAQ) (dated January 18, 2017) expanded the 100% FMAP policy to allow for IHS and tribal facilities to enter into written care coordination agreements or Tribal Federal Qualified Health Center (FQHC) contracts with non-IHS/Tribal providers to furnish certain services for

their patients who are AI/AN Medicaid beneficiaries and the amounts paid by the state for services requested by the facility under such agreements would be eligible for 100% FMAP under section 1905(b) of the Social Security Act; and

WHEREAS, the 100% FMAP for services "received through" an IHS or tribal facility is intended to benefit the IHS or tribal facility and the Indian Health System; and

WHEREAS, there has been a legislative proposal that would expand 100% FMAP to all Medicaid providers who provide services to AI/AN without a care coordination agreement or Tribal FQHC contract thereby increasing significant Medicaid reimbursement funding to states and non-Indian providers with no guarantee that additional funding will support the Indian Health System or provide better care to individual AI/AN; and

WHEREAS, the legislative proposal would change over 40 years of established Indian Medicaid policy without tribal consultation and potentially impact the coordination of care for AI/AN patients that IHS and tribal healthcare facilities provide; and

WHEREAS, changes to Medicaid and 100% FMAP for services "received through" an IHS or tribal facility must move forward in a manner that respects tribal sovereignty and upholds federal treaty and trust responsibilities.

NOW THEREFORE BE IT RESOLVED, that the Northwest Portland Area Indian Health Board opposes efforts to expand the one hundred percent Federal Medical Assistance Percentage (100% FMAP) to a non-IHS/Tribal Medicaid provider without a care coordination agreement or Tribal Federally Qualified Health Center (FQHC) contract as described in the CMS State Official Health dated February 26, 2016 (SHO #16-002) or CMS Frequently Asked Questions (FAQ) on Federal Funding for Services "Received Through" an IHS/Tribal Facility and Furnished to Medicaid Eligible American Indians and Alaska Natives dated January 18, 2017 as it would drastically decrease a vital funding resource to a chronically underfunded Indian Health System, resulting in decreased health services to American Indians and Alaska Natives.

CERTIFICATION
NO. 20-03-05

The foregoing resolution was duly adopted at the regular session of the Northwest Portland Area Indian Health Board. A quorum being established; ____5___ for, ___0____ against, ____0____ abstain on __May 22, 2020.

Chairman

May 22, 2020
Date

Secretary

Ratified on June 5, 2020 at NPAIHB Virtual Quarterly Board meeting