



Northwest Portland Area
Indian Health Board
Indian Leadership for Indian Health

Legislative & Policy Update

Virtual Quarterly Board Meeting

June 5, 2020



Report Overview

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3. COVID-19 Legislation
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General News

- **Rear Admiral (RADM) Michael D. Weahkee Confirmation as IHS Director**

–4/21/20: RADM Weahkee was confirmed as the Director of the IHS for a four-year term. Director Weahkee has served as the interim head of the agency for the past 3 years.

- **Re-establishment of the White House Council on Native American Affairs**

–4/28/20: White House and Department of the Interior announced the re-establishment of the White House Council on Native American Affairs, which was originally established by President Obama in 2013. The Council will continue to lead the Administration's coVID-19 inter-agency response coordination with Indian country, as well as lead other Administration policy priorities.



Appropriations & Budget Formulation

- **FY 2021 Appropriations:**
 - No markup hearings have been scheduled yet.
 - NPAIHB submitted IHS and HHS House and Senate testimony.
- **FY 2022 Budget Requests:**
 - NPAIHB submitted HHS/IHS testimony on 5/1/20.
 - National Tribal Budget Formulation Workgroup submitted testimony for IHS Funding on 5/1/20

https://www.nihb.org/legislative/budget_formulation.php
- FY 2022 IHS Budget Formulation Evaluation/FY 2023 Planning Meeting
 - Virtual meeting being scheduled.



COVID-19 Response Legislative Packages

- **Stimulus #1: H.R. 6074 (Public Law No. 116-123) Coronavirus Preparedness and Response Supplemental Appropriations Act 2020**
 - Signed into law on March 6. Provided \$8.3B in emergency response funding with a focus on vaccine research, medical supplies procurement, and support for public health agencies and small businesses.
 - IHS: Provided \$30M to IHS Federal health programs and \$40M to purchase PPE and medical supplies through IHS National Supply Service Center and for all IHS programs.
 - CDC: Provided no less than \$40M in CDC funding for Indian Country, CDC increased it to \$80M.
- **Stimulus #2: H.R. 6201 (Public Law No. 116-127) – Families First Coronavirus Response Act**
 - Signed into law on March 18. Provided \$3.5B in funding.
 - IHS: \$61M to IHS and Tribal health programs for program increases in Hospitals & Health Centers sub-account



COVID-19 Response Legislative Packages Cont'd

- **Stimulus #3: H.R. 748 (Public Law No. 116-136) – Coronavirus Aid, Relief, and Economic Security Act (CARES Act)**
 - Signed into law on March 27. Provided \$2.2 trillion in overall funding.
 - IHS: \$1.032B including mandatory set asides: at least \$450M to tribes, EHR stabilization and support (\$65M) and facility needs (\$125M). There was a short term reauthorization of SDPI at the current level of \$150M per year through 11/2020.
 - CDC: \$125M for grants or cooperative agreements with tribes and urban Indian organizations to carry out preparedness and response activities.
 - SAMHSA: \$15M for SAMHSA mental and behavioral health services for tribes.
 - HRSA: \$15M for health surveillance and other needs under the HRSA Rural Health program.
- **Stimulus #3.5: H.R. 266 (Public Law No. 116-139)– Paycheck Protection Program and Health Care Enhancement Act**
 - Signed into law on April 21. Provided \$75B for eligible health care providers, \$25B for coronavirus testing (\$750M dedicated to Indian Country).



COVID-19 Relief Package #4: HEROES Act (H.R. 6800)

- **IHS:** \$2.1 billion to address health care needs
 - \$1 billion to account for lost third party revenue
 - \$64 million to assist urban Indian organizations
 - \$10 million to assist with sanitation, hydration and hygiene needs
 - \$500 million to provide health care, including telehealth services and to purchase medical supplies and PPE
 - \$140 million to expand broadband infrastructure and IT for telehealth and EHR system purposes.
 - \$20 million to provide health care, housing and isolation units for domestic violence victims and homeless Native Americans
 - No less than \$366 million to provide isolation or quarantine space
- **SAMHSA:** no less than \$150 million for tribes, tribal organizations urban Indian organizations, or health service providers to tribes across a variety of programs.
- **CMS:** extends 100% FMAP to urban Indian programs from July 1, 2020 to June 30, 2021 and allows services with a referral from an IHCP outside of the "four walls" of a clinic from July 1, 2020 to June 30, 2021.
- **VA:** clarification for the VA and DOD to reimburse IHS and Tribes for PRC services, regardless of where services are obtained.
- Guarantees IHS and Tribal health organizations direct access to the Strategic National Stockpile, just like all 50 other states.



HEROES Act Tribal-specific Provisions

- Eliminate the sunset provisions under Section 30106 of the HEROES Act so that removal of the “four walls” Medicaid billing restriction and extension of 100% FMAP to urban Indian organizations are made permanent.
- Authorize IHCPs to receive Medicaid reimbursement for all medical services authorized under the Indian Health Care Improvement Act when delivered to Medicaid-eligible AI/ANs.
- Permanently extend waivers under Medicare for use of telehealth.
- Include Pharmacists, Licensed Marriage and Family Therapists, Licensed Professional Counselors, and other providers as eligible under Medicare for reimbursement to IHCPs.
- Ensure parity in Medicare reimbursement for IHCPs.
- Permanently reauthorize the Special Diabetes Program for Indians (SDPI)



CMS COVID-19 1135 Waivers and CMCS Informational Bulletin

- **CMS Section 1135 Waiver Authorities:**

- CMS has waived certain conditions of participation and provider-based requirements to allow temporary expansion of hospitals, waived certain requirements for clinics to screen patients off-site, and have added over 80 additional services that can be reimbursed.

- **4/2/20 CMCS Informational Bulletin on Medicaid Telehealth Flexibilities:**

- Medicare program specifically addresses telehealth delivery methods and criteria for implementing those methods, but States have a lot more latitude to design telehealth delivery methods for Medicaid.
- MAT can be delivered via telehealth delivery methods due to the high rates of SUD and behavioral health conditions in AI/AN populations.
- States can elect to cover SUD treatment services via telehealth provided by School Based Health Centers (i.e. assessments, counseling, MAT, and medication management).



CMS Interim Final Rule: Medicare & Medicaid Policy and Regulatory Changes in Response COVID-19

- Issued 11/18/19; **Comments Submitted 6/1/20**
- Waived limitations on the types of practitioners that can furnish Medicare telehealth services.
- Expanded telehealth modalities to allow reimbursement for audio-only telehealth visits and to use smart phones and platforms like FaceTime/Skype.
- Extended telephone assessment and management services which extended virtual check-ins and e-visits that do not usually involve face-to-face visits.
- Allow direct physician supervision of non-physician providers to be furnished via interactive telecommunications technology during the pandemic.
- Allow use of two-way telephonic devices to provide opioid treatment services that are furnished via audio-only telephone calls.
- **Portland Area Recommendations:**
 - CMS must work with the Indian health system to authorize continued use of telehealth capabilities in delivery of health care services during and after the public health emergency.
 - Reimbursement rates for IHCPs are drastically different for onsite physician services and distant site telehealth services. NPAIHB requested permanent implementation of the OMB all-inclusive rate (AIR) for Medicare services for the in-person visit and the virtual or telephone visit.



IHS COVID-19 Recent DTLLS

- **5/19/20:** Announces distribution decisions for the \$750 million in new resources appropriated to HHS to support testing and testing related activities in AI/AN communities.
- **4/23/20:** Announce final allocation decisions of the remaining resources authorized by the CARES Act.
- **3/27/20:** Announce availability of an distribution decisions for \$134 million in new resources (\$64 million for testing and \$70 million for COVID-19 response activities).



IHS Recent DTLLS

- **5/22/20:** Request for assistance in identifying priority health professions for inclusion into categories eligible for the 2021-2022 IHS Scholarship Program and the FY 2021 IHS Loan Repayment Program **(Comments Due 6/15)**
- **5/20/20:** Updates on the Special Diabetes Program for Indians (SDPI) authorizing all current SDPI grants to their full annual grant amounts and ability to switch to a continuation application process for FY 2021.
- **4/3/20:** Announces the creation of a new IHS Opioid Grant Pilot Program (OGPP)
- **3/4/20:** Update on IHS SDPI for the current fiscal year and provide decisions regarding the next SDPI grant cycle.



Litigation: U.S. v. Texas Update

- 3/2/20: U.S. Supreme Court announced that it will hear consolidated cases addressing the validity of the Affordable Care Act's (ACA) individual mandate provision (granting petition for certiorari).
- **Amicus Brief Argument:** District Court's finding that the entirety of the ACA, including the IHClA, was unconstitutional was flawed with respect to the IHClA and other Indian-specific health provisions of the ACA. The IHClA has an entirely separate genesis and purpose, and therefore, should remain in effect even if the individual mandate is unconstitutional.
- NPAIHB joined the national coalition of tribes and tribal organization amicus brief, which will be filed with the Supreme Court in *California v. Texas*.
- Likely that the Court's review will come during its next term that begins October 2020.



Dental Therapy Legislative Update Oregon

- A statewide dental therapy bill was introduced and had one hearing in Senate Health Care and did not move forward. In a short 35-day session (that resulted in virtually no bills passing because of legislators walking out early) we knew going in this would likely be the year we introduced bill for further work next legislative session.
- Senator Monnes Anderson (retiring Senate Health Care committee chair) convened an interim work group that is currently meeting to attempt to resolve questions that came up. Miranda Davis, NPAIHB; Kelle Little, Coquille; and Vicki Faciane, CTCLUSI are seated on the workgroup, as well as other members of the Oregon Dental Access Campaign, the coalition working to authorize dental therapy in Oregon.
- Representative Tawna Sanchez (Shoshone-Bannock, Ute, and Carrizo) and Director of Family Services at NAYA will be sponsoring the bill in the 2021 session.



Dental Therapy Legislative Update Washington

- The statewide licensing bill did not move out of the House again this session, so we will start over in Washington as well. NPAIBH and Washington Tribes continue to play a leadership role in the Washington Dental Access Campaign and will be helping to reshape the effort after exploring coalition strengths and weakness and how best to move resources into those strategic campaign areas that need it.
- Questions? Please contact Pam Johnson, Native Dental Therapy Initiative Project Manager, pjohnson@npaihb.org.



Discussion and Questions

