



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

USET SPF Resolution No. 2019 SPF:012

SUPPORT FOR ENACTING LEGISLATION ENSURING MEDICAID FULFILLS THE FEDERAL TRUST RESPONSIBILITY TO AMERICAN INDIANS AND ALASKA NATIVES

- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-seven (27) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** the United States government has a unique trust responsibility to provide healthcare to American Indians and Alaska Natives (AI/ANs), which has been founded in treaties and other historical relations with Tribal Nations, and sustained in law and policy; and
- WHEREAS,** in 24 U.S.C. § 1602(a)(1) Congress declared that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians...to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy;" and
- WHEREAS,** the Indian Health Service (IHS) was created in 1955 by Congress as a component in fulfilling the federal trust responsibility to provide health care to Tribal Nations; and
- WHEREAS,** the Social Security Act was amended in 1976 by Congress to authorize Medicare and Medicaid reimbursement for services provided in IHS and Tribally-operated healthcare facilities; and
- WHEREAS,** in 1976, Congress noted that Medicaid payments were a "needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian" (H.R. Rep. No. 94-1026-Part III); and
- WHEREAS,** in 1976, Congress established the authority for the IHS, Tribal Nations, and Tribal health organizations to seek reimbursement under the federal Medicaid program in order to help fulfill its trust responsibility for health care to Tribal Nations; and
- WHEREAS,** in Fiscal Year (FY) 2017, congressional appropriations for IHS were only \$3,026 per person, as compared to average per capita spending nationally for personal health care services of \$9,207; and
- WHEREAS,** according to the *Fiscal Year 2017 Indian Health Service Level of Need Funded (LNF) Calculation*, IHS continues to be funded at less than half of LNF leading to rationed, inadequate care and, as a result, worse health outcomes for AI/ANs; and

- WHEREAS,** Medicaid plays a critical role in ensuring the federal government meets its trust responsibility as it has become a critical source of funding and reimbursement for the chronically underfunded Indian Health System, and
- WHEREAS,** there are significant gaps in access to quality health care services under Medicaid for AI/ANs, including substantially different eligibility and access to services based on state of residence; and
- WHEREAS,** state governments are not reimbursed for the costs of care provided by urban Indian health care providers to AI/ANs to the same degree that state governments are reimbursed for care to AI/ANs provided by IHS and Tribal health care providers; and
- WHEREAS,** the federal Medicaid program provides insufficient flexibility to Tribal Nations to design and implement health service delivery approaches that meet the often times unique circumstances in Indian country; and
- WHEREAS,** a legislative proposal has been developed by Tribal Nations to address these gaps in access to quality health care services. Provisions within the proposal would:
1. Create authority for states to extend Medicaid eligibility to all AI/ANs with household income up to 138% of the federal poverty level;
 2. Authorize Indian Health Care Providers in all states to receive Medicaid reimbursement for health care services authorized under the Indian Health Care Improvement Act and delivered to AI/ANs;
 3. Extend full federal funding (through 100% FMAP) to states for Medicaid services furnished by urban Indian providers to AI/ANs, in addition to services furnished by IHS/Tribal providers to AI/ANs;
 4. Clarify that state Medicaid programs are authorized to implement Indian-specific policies and are not permitted to override Indian-specific Medicaid provisions in federal law through state waivers;
 5. Remove the limitation on billing by Indian health care providers for services provided outside the four walls of a clinic facility; and
- WHEREAS,** these provisions, if enacted, will improve access to quality health care services for AI/ANs across all states, and thereby advance the federal government's trust responsibility to AI/ANs and Tribal governments; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET SPF Board of Directors fully supports the enactment of legislation that would ensure Medicaid advances the Federal government's trust responsibility to Tribal Nations.

Because there is Strength in Unity

CERTIFICATION

This resolution was duly passed by the USET SPF Board of Directors on December 10, 2018.



Chief Kirk E. Francis, Sr., President
United South and Eastern Tribes
Sovereignty Protection Fund



Chief Lynn Malerba, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund