



## United South and Eastern Tribes, Inc.

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### **USET Resolution No. 2014:028**

## **REQUEST FOR THE INDIAN HEALTH SERVICE TO RESCIND OR AMEND ITS INTERPRETATION OF SECTION 402 OF THE INDIAN HEALTH CARE IMPROVEMENT ACT**

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** the USET Board of Directors are respectively working for the best interest of their Tribal Nations, and their citizens to protect, promote, and enhance opportunities for their people; and
- WHEREAS,** the Patient Protection and Affordable Care Act, otherwise known as the Affordable Care Act (ACA), included the permanent reauthorization of the Indian Health Care Improvement Act (IHCIA); a victory for Indian Country; and
- WHEREAS,** a provision within the IHCIA, Purchasing Health Care Coverage [25 U.S.C§ 1642] (Section 402) would allow Indian Tribes, Tribal organizations, and Urban Indian organizations to use federal funding to purchase insurance benefits for their beneficiaries in any manner; and
- WHEREAS,** this provision affords Tribes, Tribal organizations, and Urban Indian organization the ability to design healthcare programs that are appropriate for their citizens or communities; and
- WHEREAS,** on October 24, 2013, the Director of the Indian Health Service (IHS) issued a "Dear Tribal Leader Letter" updating Tribes on the implementation of Section 402 which stated that for a Tribe, Tribal organization, or Urban Indian organization wishing to sponsor/purchase insurance coverage for some but not all of its citizens, "financial need is the *only* factor permitted by statute upon which to base coverage decision"; and
- WHEREAS,** IHS's narrow interpretation of Section 402 defeats the purpose behind the language as intended, and diminishes a Tribe, Tribal organization, or Urban Indian organization's right to design programs that best fit the needs of their citizens or communities; and
- WHEREAS,** subsection (b) of Section 402, simply states "The purchase of coverage under subsection (a) by an Indian Tribe, Tribal organization or Urban Indian organization *may be* based on the financial needs of such beneficiaries...", nothing in the plain language of the statute indicates that "financial need" is the *only* permissible factor in determining coverage; and
- WHEREAS,** the IHS's interpretation is causing great confusion amongst Tribes, Tribal organizations, and Urban Indian organizations that currently provide healthcare sponsorship for some, but not all of

their beneficiaries, and for those Tribes who wish to take advantage of sponsorship opportunities under the ACA; 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 Board of Directors fully supports the implementation of the Indian Health Care Improvement Act; and, be it further

**RESOLVED** the USET Board of Directors respectfully requests that the Indian Health Service rescind or amend its October 24, 2013, "Dear Tribal Leader Letter" to clarify that financial need "may be" a factor when considering sponsorship opportunities.

**CERTIFICATION**

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, on Thursday, February 6, 2014.



Brian Patterson, President  
United South and Eastern Tribes, Inc.



Brenda Lintinger, Secretary  
United South and Eastern Tribes, Inc.

*"Because there is strength in Unity"*