



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2017 SPF:010

REQUEST FOR THE ADMINISTRATION AND CONGRESS TO INCLUDE TRIBAL NATIONS IN THE ADVANCEMENT OF ANY HEALTH REFORM AND/OR AFFORDABLE CARE ACT REPEAL AND REPLACE EFFORTS AND TO PROTECT THE INDIAN HEALTH CARE DELIVERY SYSTEM

WHEREAS, United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-six (26) 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, a unique government-to-government relationship exists between Tribal Nations and the federal government, which is grounded in the U.S. Constitution, numerous treaties, statutes, federal case law, regulations and executive orders that establish and define trust responsibilities; and

WHEREAS, among the obligations of the federal government within this trust relationship is the obligation to provide health care to American Indians/Alaska Natives (AI/AN), as expressly recognized in federal law and policy; and

WHEREAS, in addition, this unique relationship requires that the Administration and Congress consult with Tribal Nations on any legislative or regulatory matters that may impact Tribal communities, including health care reform; and

WHEREAS, in 2010, the Indian Health Care Improvement Act (IHCIA), the cornerstone and legal authority for the federal government to uphold its trust responsibility to provide health care to Tribal Nations, was permanently reauthorized within the Patient Protection and Affordable Care Act (ACA); and

WHEREAS, the ACA also contains the following Indian-specific provisions:

- Section 2901(b): Payor of Last Resort.
- Section 2902: Elimination of Sunset for Reimbursement for all Medicare Part B Services Furnished by Certain Indian Hospitals and Clinics
- Section 9021: Exclusion of Health Benefits Provided by Indian Tribal Governments as Taxable Income

WHEREAS, these Indian-specific provisions provide vital advancements for the Indian healthcare delivery system, while protecting Tribal citizens from being taxed on the health care benefits provided to them through the Indian Health Service or Tribal Nations; and

WHEREAS, Congress amended the Social Security Act over 40 years ago in 1976 to authorize Medicare and Medicaid reimbursement for services provided in IHS and Tribally-operated health care facilities; and

- WHEREAS** at the same time, Congress acted to ensure that states would be reimbursed at a 100 percent federal medical assistance percentage (FMAP) for Medicaid services to AI/AN that are received through the Indian health system, consistent with the United States' obligation to pay for health services to Indians as Indian Health Service beneficiaries; and
- WHEREAS,** Congress and the Trump Administration intend to repeal the ACA, in whole or in part, and replace the law with a different statute aimed at national health care reform, which could include reform to the Medicaid program; and
- WHEREAS,** although the IHCA was permanently reauthorized as part of the ACA in 2010, the IHCA predates the ACA, and along with the ACA Indian-specific provisions, should be treated separately and is severable; and
- WHEREAS,** in order to avoid unintended consequences to the Indian Health system, it is imperative that Indian Country be involved in the development of any ACA repeal and replace legislation, as well as health care reform legislation, and have a seat at the table in the advancement of these efforts; and
- WHEREAS,** it is vital that the Administration and the Congress assure that all health care reform and/or ACA repeal and replace proposals acknowledge and reflect the federal government's trust responsibility to provide health care to AI/AN; and
- WHEREAS,** as Congress approaches Medicaid reform, it should ensure that any reform proposal honors the federal responsibility for Indian health care, rather than passing that obligation on to the states through per capita allocations, block grants, or other mechanisms that may be under consideration; 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 calls upon the Administration and Congress to assure that the Nation's first people are at the table and consulted in any health care reform and/or repeal and replace efforts; and, be it further
- RESOLVED** the USET SPF Board of Directors requests that the Indian Health Care Improvement Act and Indian-specific provisions within the Patient Protection and Affordable Care Act be protected from any repeal and replace efforts.

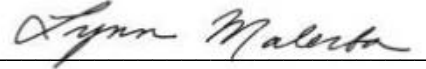
Because there is Strength in Unity

CERTIFICATION

This resolution was duly passed at the USET SPF Impact Week Meeting, at which a quorum was present, in Arlington, VA, February 9, 2017.



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



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

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