



USET

SOVEREIGNTY PROTECTION FUND

1730 Rhode Island Avenue, NW
Suite 210
Washington, DC 20036
P: (615) 872-7900
F: (615) 872-7417
www.usetinc.org

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September 18, 2023

The Honorable Roselyn Tso
Director
Indian Health Service
5600 Fishers Lane
Rockville, MD 20857

Dear Director Tso,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments to the Indian Health Service (IHS) regarding the proposed rule on the Catastrophic Health Emergency Fund (CHEF). USET SPF is generally supportive of the updated proposed rule and is pleased to see the changes that IHS made to the rule in response to recommendations received through Tribal consultation.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico¹. USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

The CHEF is a valuable resource for IHS and Tribal health facilities. CHEF helps IHS service units and Tribal Purchased/Referred Care (PRC) programs cover the extraordinary medical costs associated with the treatment of PRC-eligible patients who are victims of accidents, natural disasters, and catastrophic illnesses. Because the CHEF reimburses certain IHS and Tribal PRC costs related to accidents, disasters or adverse events, CHEF plays a critical role in ensuring that IHS service units and Tribal programs are able to maximize their often-limited PRC funds.

USET SPF supports and is appreciative of several provisions that were updated in the new proposed rule. We support the IHS's decision to lower the threshold cost for accessing the CHEF from \$25,000 to

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

\$19,000, with an annual adjustment for medical inflation. Lowering the threshold will make the CHEF more accessible and will free up resources in PRC programs with limited funding. In addition, USET SPF supports provisions in the proposed rule that will allow Area PRC programs to correct errors or missing information in their CHEF requests prior to sending them to the Division of Contact Care. We also strongly support the provision creating a clearly defined appeal process for programs who are denied CHEF reimbursement. We hope that these provisions will further improve the CHEF's accessibility for Tribal Nations.

In particular, USET SPF is pleased that IHS listened to Tribal Leaders and organizations in the last round of Tribal consultation and does not list Tribal sources, such as Tribal self-insurance, as Alternative Resources that must be considered before a program qualifies for the CHEF. However, we would urge IHS to take the additional step of stating explicitly that Tribal self-insurance is not an Alternative Resource to CHEF. Explicit exclusion of these resources in the rule will ensure that Tribal self-insurance is not improperly entangled in CHEF reimbursement processes and will confirm the IHS's responsibility to protect and preserve Tribal resources.

USET SPF appreciates the efforts IHS undertook to update and improve the proposed CHEF rule. We hope to see these improvements maintained in the final rule. Should you have any questions or require additional information, please do not hesitate to contact Ms. Liz Malerba, USET Director of Policy and Legislative Affairs, at (202) 624-3550 or by e-mail at lmalerba@usetinc.org.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director