



# United South and Eastern Tribes, Inc. Health Board Meeting

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# Federal and Legislative Updates

# Topics Covered

- **OIG 100 Percent FMAP Audit**
- **DOJ OLC Slip Opinion**
- **The One Big Beautiful Bill Act**
- **Rural Health Transformation Fund**
- **TTAG Administrative and Legislative Priorities**

# HHS OIG 100 Percent FMAP Audit

February 17, 2026 HHS OIG Announces it is conducting a 50 state audit of States claiming 100 percent FMAP for services provided to AI/ANs

*“We will determine whether the State agency claimed Medicaid AI/AN services that are eligible for reimbursement at the reimbursement at the enhanced 100 percent FMAP rate in accordance with Federal and State requirements.”*

**Audit has begun. Estimated to be completed in FY 2028**

# DOJ Office of Legal Counsel Slip Opinion

- On December 2, 2025, DOJ OLC Issues Slip Opinion entitled “Constitutionality of Race-Based Department of Education Programs.”
- It states a new rule that preferences to AI/ANs are only constitutional in limited circumstances:

- The preference must be based on membership, citizenship, or a similar affiliation with a federally recognized tribe or Alaska Native village; and
- Involve uniquely Indian interests such as Indian land, tribal status, self-government or culture.
- There are only “exceedingly narrow circumstances” where both are met.

# The One Big Beautiful Bill Act

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- On July 3, 2025, Congress passed H.R.1, the “One Big Beautiful Bill Act.”

In general, the bill:

- reduces taxes,
- Enacts reforms that will shrink the Medicaid and SNAP,
- raises the debt ceiling by about \$4 trillion,
- creates the Rural Hospital Transformation Program, and
- rescinds parts of the Inflation Reduction Act.

# The One Big Beautiful Bill Act - Medicaid

Section 71110 of the One Big Beautiful Bill Act contains several reforms to the Medicaid program, but AI/ANs are largely **exempt** from those changes. AI/ANs:

- do not have to meet the new work requirements;
- will not be subject to the eligibility redeterminations every six months, and thus maintain annual redetermination; and
- remain exempt from any new cost-sharing.

# The One Big Beautiful Bill Act - Medicaid

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- State Medicaid Director Letter #26-001 (March 6, 2026).
    - Provides guidance to States on how to implement the new 6 month eligibility redetermination requirements for the new adult population
    - The SMDL notes that the 6 month eligibility redetermination requirement does not apply to AI/ANs and that States must continue to make eligibility redeterminations every 12 months for AI/ANs
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- CMS required to issue an interim final rule to implement the new community engagement (i.e., work) requirements by June of 2026.
  - The TTAG has requested consultation on the regulations before they are published and that the rule clearly state that AI/ANs are exempt.

# The Rural Health Transformation Fund




- The One Big Beautiful Bill establishes the Rural Health Transformation Fund of **\$50 billion** over five years.

**\$25 billion** will be distributed evenly among states with approved applications.

**\$25 billion** will be allocated based on factors such as rurality, application initiatives, state policies, and quality.

- States are the only entities eligible to apply for the program.
- CMS has issued awards to all 50 states ranging from \$147 million to \$281 million.
- State by State abstracts are available here: <https://www.cms.gov/files/document/rht-program-state-provided-abstracts.pdf>

# The Rural Health Transformation Fund

- Some states have established **set asides for Tribal Health programs**:
  -  Oregon 11% set aside
  -  Idaho 3.5% set aside
  -  Wisconsin \$27.5 million set aside plus other opportunities
- Rhode Island included the Narragansett Indian Tribe health system as one of its RHTP initiatives
- There is still an opportunity to work with States to access funding and resources being made available through their approved programs.

# TTAG Legislative Priorities

## Medicare:

- Exempt Tribal Medicare Enrollees from Medicare Deductibles, Premiums, and Cost-Sharing
- Reimburse Indian Health Care Providers Fully for Serving Tribal Medicare Enrollees
- Reimburse Tribal Community Health Aides/Practitioners (CHA/P), Behavioral Health Aides/Practitioners (BHA/P), Dental Health Aide Therapists (DHAT), and Tribal Pharmacists
- Permanently Extend Medicare Telehealth Flexibilities for the Indian Health System

## Medicaid:

- Authorize Medicaid Reimbursements for All Mandatory, Optional, and Indian Health Care Improvement Act (IHCIA) Authorized Services
- 100% FMAP for Urban Indian Organizations
- Statutorily Fix the Four-Walls Issue
- Anti-Kickback
- Create A Safe Harbor for Indian Health Care Providers

# TTAG Legislative Priorities

- We made progress on these efforts last year, but had to pause work on these efforts to ensure Tribal protections were included in the One Big Beautiful Bill Act.
- We are working with Senator Cortez Masto (D-NV) and Senator Murray (D-WA) as Democratic leads on these bills.
- We are working to secure a Republican Senator to co-lead the bill.

# TTAG Administrative Priorities

## Medicaid

- Publish guidance that states can permanently reimburse telehealth at the encounter rate.
- Fix the four walls issue
- Grant state Section 1115 waiver protecting AI/ANs from state Medicaid reductions.

## Medicare

- Ensure that the encounter rate is available to all Indian outpatient programs.
- Require Part D to pay IHCPs fully without discounting the program if it partakes in 340B.
- Require Medicare Advantage plans to deem IHCPs in-network, reimburse at IHS OMB rates, and develop an Indian Addendum for Medicare Advantage plans.
- Develop FAQs to ensure that brokers are not using predatory practices to drive enrollment.
- Permanently cover all telehealth that it permitted during the public health emergency
- Exempt Indian durable medical equipment suppliers from the competitive bidding process.

# Questions?

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