



USET

SOVEREIGNTY PROTECTION FUND

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USET SPF Resolution No. 2018 SPF:006

OPPOSITION TO MAINECARE'S 1115 RESEARCH AND DEMONSTRATION WAIVER

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 has a unique trust responsibility to provide health care to American Indians and Alaska Natives (AI/AN), founded in treaties and other historical relations with Tribal Nations, and reflected in numerous statutes. This trust relationship has been solidified in law and policy, and has become the cornerstone of federal Indian policy, which the Centers for Medicare and Medicaid Services (CMS) currently reflects in its own Tribal Consultation Policy adopted in December of 2015; and

WHEREAS, Congress amended the Social Security Act in 1976 to authorize Medicare and Medicaid reimbursement for services provided in Indian Health Service (IHS) and Tribally-operated health care facilities; and

WHEREAS, changes or improvements to the Medicaid program should move forward in a manner that respects Tribal sovereignty and upholds federal treaty and trust responsibilities; and

WHEREAS, since Medicaid was designed to be jointly managed by the federal government and the states, state Medicaid programs play a critical role in assisting the federal government in meeting its trust responsibilities to Tribal Nations; and

WHEREAS, in accordance with 42 CFR 431.408(b), states must consult with Tribal Nations prior to the submission of any waiver requests, such as the MaineCare 1115 Research and Demonstration Waiver submitted by the state of Maine on August 1, 2017; and

WHEREAS, the state of Maine did not consult with the Maine Tribal Nations prior to advancing its 1115 Waiver proposal to CMS; and

WHEREAS, the current proposal would violate the federal trust responsibility to provide health care to AI/AN by imposing the following barriers to accessing Medicaid without exemptions for AI/AN:

1. Community Engagement and Work Requirements
2. Cost Sharing Requirements
3. Asset Limitations
4. Elimination of Retroactive Eligibility and Presumptive Eligibility Determinations by Qualified Hospitals

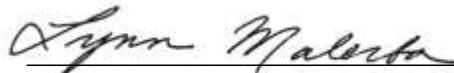
- WHEREAS,** these reforms may be appropriate for Maine to consider in modernizing and reforming Medicaid for other state citizens, but they run counter to the federal trust responsibility and will not work for AI/AN; and
- WHEREAS,** rather than incentivizing work or personal responsibility, these reforms will discourage AI/AN individuals from enrolling in Medicaid at all, causing them to fall back on the chronically-underfunded Indian Health Service (IHS) for care, as well as limiting critical third-party collections for the Indian Health System; and
- WHEREAS,** the requirements contained in the MaineCare Waiver duplicate benefits and programs already being administered by the Maine Tribal Nations to eligible Tribal citizens; 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 stands opposed to the State of Maine's 1115 Research and Demonstration Waiver that was submitted on August 1, 2017; and, be it further
- RESOLVED** the USET SPF Board of Directors strongly encourages the Centers for Medicare and Medicaid Services to work collectively through the Tribal Consultation process with the Maine Tribal Nations and the state Medicaid program to address Tribal concerns before the waiver is allowed to proceed.

CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 12, 2017.



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

Because there is Strength in Unity