

July 15 -- USET SPF Alert: MONDAY Conference Call on ACA Repeal & Replace Legislation

Dear USET SPF Board of Directors and DC Tribal Reps,

On Thursday, July 13 2017, Senate Republicans released the second draft of the [Better Care Reconciliation Act of 2017 \(BCRA\)](#) [linked]. The Senate is expected to vote on the legislation next week. This is the Senate's second version of legislation that would repeal and replace the Patient Protection and Affordable Care Act (ACA). Previously, Senate Majority Leader Mitch McConnell had anticipated a vote on BCRA before the July 4th recess but was forced to delay because he couldn't garner the 50 votes needed for passage in the Senate.

Attached please find a [detailed memo](#) [linked] on the latest draft of BCRA as prepared by Hobbs, Straus, Dean & Walker. **In addition, please join USET SPF for a call to action teleconference on Monday, July 17 at 2:00pm EST/1:00 pm CST, to discuss the most recent draft of BCRA and the impacts to Indian Country. To access the call, dial (515) 604-9000, enter the passcode: 984173#**

When it comes to impacts the legislation would have on the Indian Healthcare System, **the new version of BCRA contains a new provision that would amend an Indian-specific Medicaid provision that has been in place for over 40 years.** Currently, the Medicaid law contains a provision that reimburses states at 100 percent of the costs of care provided to American Indians and Alaska Natives (AI/AN) that is "received through" Indian Health Service (IHS) and Tribal health facilities. Section 138 of BCRA would eliminate the "received through" language, which would increase reimbursements to states with no guarantee of additional funding going to IHS or Tribal providers or for care to individual AI/ANS. This provision is of great concern, as it would change over 40 years of Indian Medicaid policy without Tribal consultation and potentially impact the coordination of care for AI/AN patients that IHS and Tribal health facilities provide. In addition, USET SPF had previously provided the below list of concerns regarding the preceding draft of BCRA. These provisions appear to largely unchanged in the current draft of BCRA. Among these concerns are:

1. **Eliminating Medicaid Expansion:** While the Senate bill takes longer to phase out Medicaid Expansion than the version introduced in the House (2024 vs. 2020), it also phases out enhanced federal funding for the expansion, likely leading to states phasing out the program and/or reducing services in future years.
2. **Cutting and Capping Medicaid:** BCRA imposes a per capita allotment (per person spending) upon the Medicaid program, rather than the traditional entitlement model (fee-for-service) that is currently used. If enacted, BCRA would also cut Medicaid by tying the annual increase to the consumer price index, which is lower than the medical consumer price index used by the House bill. While the cap does not apply to services received through the IHS or Tribal health systems, it would nonetheless result in reduced eligibility and/or services at the state level. AI/AN are still subject to State income and eligibility determinations for Medicaid, and therefore could see cuts in eligibility levels and services, even though the federal funding for those services does not count against the caps.
3. **State Option to Impose Work Requirements:** Section 131 of BCRA allows states the option to impose work requirements on Medicaid recipients. There is currently no exemption from this provision for AI/AN. Medicaid is program that plays a critical part in meeting the federal government's trust responsibility to provide health care to AI/AN. Conditioning eligibility for Medicaid on seeking work would diminish this trust responsibility. Further, it will not work in Indian Country, as AI/AN have access to IHS and little access to work opportunities.
4. **Elimination of Cost-Sharing Protections for AI/AN on Marketplace Plans:** After December 31, 2019, BCRA would eliminate all cost sharing protections in Section 1402 of the ACA. This would include the special cost-sharing protections for AI/ANs in Section 1402(d) of the ACA. These cost-sharing protections are key to making marketplace enrollment accessible to AI/AN, and have allowed Tribal Nations to develop premium sponsorship plans to provide new coverage options for their citizens.

We hope that you will consider joining USET SPF and Tribal Nations and organizations across the United States in opposing the BCRA. As always, I am happy to answer any questions you may have.

Thank you,

Liz Malerba ~ Mohegan Tribe

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