

May 4: USET SPF Alert: House Congressional Sign-on Letter re: CMS Work Requirements

Dear USET SPF Board of Directors, DC Tribal Reps, and USET Health Directors,

As you are likely already aware, this January, the Centers for Medicare and Medicaid Services (CMS) issued a policy decision via "[Dear Tribal Leader](#)" letter [linked] that it cannot exempt AI/AN from state-imposed work requirements upon Medicaid beneficiaries in spite of the federal trust responsibility. CMS says approving the exemption would raise constitutional and civil rights concerns, but it is not willing to provide any legal analysis or rationale for its position. Tribal leaders met with CMS and the Department of Health and Human Services (HHS) Office of Civil Rights recently, and both federal agencies remained steadfast in this conclusion. The bottom line is that CMS is wrong. It has authority to provide accommodations to Indians to make sure they receive health care without violating the Constitution's equal protection clause or, by extension, statutes prohibiting discrimination based on race.

Among other Congressional responses to this fundamentally flawed conclusion, Representatives Tom Cole and Betty McCollum, the co-Chairs of the House Native American Caucus are circulating a [sign-on letter](#) [linked] to be sent to the Secretary of HHS and the CMS Administrator urging the following:

- (a) retract the previous January 11, 2018 guidance that proposes to subordinate sovereign Tribal governments to Medicaid work requirements imposed by States;
- (b) affirm that exemptions granted to Tribal citizens are based in their status as a political class, not a racial classification; and
- (c) commit to honoring the government-to-government federal trust relationship by conducting Tribal consultations at the federal level, not delegating that responsibility to the states.

USET SPF encourages you to reach out to your representative(s) and urge them to sign onto the Cole-McCollum letter. The deadline for Members of Congress to sign-on is Tuesday, May 8th.

Interested Congressional offices can contact Joshua Jackson on Rep. Cole's staff at: joshua.jackson@mail.house.gov

For further reading on this issue, we direct you to the following links:

[USET SPF Constitutionality Resolution](#)

[USET SPF Medicaid Work Requirements Resolution](#)

[USET SPF Letter to CMS re: State Medicaid Guidance](#)

[USET SPF Letter to CMS re: MaineCare Waiver](#)

[Hobbs Straus CMS Briefing Memo](#)

[Hobbs Straus Longer Memo on Constitutionality of Exempting AI/AN](#)

Thank you,

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