

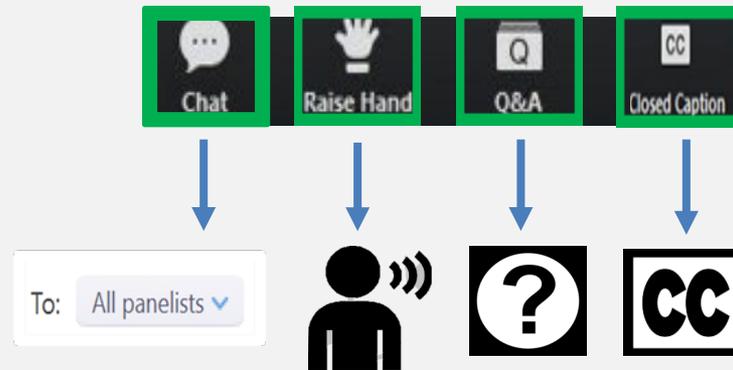


Tribal Protections in Medicaid and CHIP Managed Care Oversight Toolkit

- **Wednesday, December 6, 2023**
 - **3–4 p.m. Eastern Time**

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CMS Center for Medicaid and CHIP Services



Tribal Protections in Medicaid and CHIP Managed Care Oversight Toolkit

All Tribes Webinar
December 6, 2023



Implementing the Tribal Protections in Medicaid and CHIP Managed Care

In 2016, the Centers for Medicare & Medicaid (CMS) published Medicaid managed care regulations at 42 C.F.R. Part 438.

- The regulations codify the Indian managed care protections enacted by the American Recovery and Reinvestment Act (ARRA) and are found at Section 1932 (a)(2)(C) and 1932(h) of the Social Security Act.
- The Indian managed care regulations begin at 42 C.F.R. § 438.14 and are cross-referenced to the Children's Health Insurance Program (CHIP) at 42 C.F.R. § 457.1209.
- The Indian managed care regulations apply to all contracts between State Medicaid agencies and managed care organizations (MCO), prepaid inpatient health plans (PIHP), prepaid ambulatory health plans (PAHP), primary care case management programs (PCCM), and primary care case management entities (PCCMe).



Indian Managed Care Regulations

The Tribal protections do two things:

- Allows American Indians and Alaska Natives (AI/AN) enrolled in Medicaid and the Children's Health Insurance Health Program (CHIP) managed care entities to continue to receive services from an Indian health care provider (IHCP), even if the IHCP does not participate in the managed care plan's network.
- Ensures that IHCPs are appropriately paid by the state and/or managed care plans for services provided to AI/ANs.



Indian Managed Care Regulations

The regulations also addresses other Tribal issues, such as network sufficiency and payment requirements for managed care plans that serve AI/ANs; network provider agreements with IHCPs; and referrals to network providers by IHCPs.

The final rule is available at:

[https://www.federalregister.gov/articles/2016/05/06/2016-09581/medicaid-and-childrens-health-insurance-program-chip-programs-medicaid-managedcare-chip-delivered.](https://www.federalregister.gov/articles/2016/05/06/2016-09581/medicaid-and-childrens-health-insurance-program-chip-programs-medicaid-managedcare-chip-delivered)



CMCS Informational Bulletin

On December 14, 2016, CMS issued a CMCS Informational Bulletin summarizing all the Indian managed care protections into a single piece of guidance: “Indian Provisions in the Final Medicaid and Children’s Health Insurance Program Managed Care Regulations.”

The Informational Bulletin is located at:

<https://www.medicaid.gov/federal-policy-guidance/downloads/cib121416.pdf>.



Provider Choice

AI/ANs enrolled in a Medicaid and CHIP managed care plan can continue to receive services from their IHCP of choice even if the IHCP does not participate in the managed care plan's network.

- Any AI/AN who is enrolled in a managed care plan and eligible to receive services from a network IHCP, can choose that IHCP as his or her primary care provider.
- A “network IHCP” is an IHS, Tribal or Urban Indian Health Organization that has entered into contract with a managed care plan.



Network Sufficiency Standards

Every managed care plan must demonstrate that there are sufficient IHCPs participating in the plan's network to ensure that AI/ANs have timely access to services. In the event that timely access to IHCPs cannot be guaranteed due to few or no participating IHCPs, AI/AN enrollees have the following options:

- They can access services from out-of-state IHCPs; *or*
- They may disenroll from the managed care plan for “good cause” and switch to the state’s fee-for-service (FFS) program.



Payment

- When an IHCP *is* enrolled in Medicaid or CHIP as a Federally Qualified Health Center (FQHC) ***but is not in the managed care network***, the IHCP must be paid the FQHC payment rate under the state plan, including any supplemental payment due from the state.
- When an IHCP *is not* enrolled as a FQHC, the IHCP must receive the Indian Health Service (IHS) All Inclusive Rate (AIR) published annually in the Federal Register or the amount it would receive if the services were provided under the Medicaid State plan's fee-for-service (FFS) rate ***whether or not the IHCP participates in the managed care plan's network***.



Supplemental/Wrap Payments

Supplemental Payment:

- When the amount an IHCP receives from a managed care entity is ***less*** than the AIR, the state ***must*** make a supplemental payment to the IHCP to make up the difference between the amount the managed care plan pays and the AIR.

Payment of the AIR Directly to the IHCP:

- States may contract with a managed care plan to allow the managed care plan to pay the AIR directly to the IHCP. This payment arrangement allows the IHCP to be paid the entire AIR and eliminates the need for the IHCP to bill the state separately for the supplement (wrap) payment.



Avoiding Duplicate Visits for Referrals

- Managed care plans must permit an out-of-network IHCP to directly refer an AI/AN managed care enrollee to a network provider following the plan's utilization management process.
- This provision is intended to avoid delays in treatment by eliminating duplicate visits to a managed care primary care provider for a network referral.



Mandatory Enrollment into Managed Care

- A state must obtain approval from CMS either through a Medicaid state plan amendment Section 1932(a) (SPA), a Section 1915(b) or (c) waiver, or a Section 1115(a) demonstration, to mandatorily enroll AI/ANs into Medicaid and CHIP managed care.
- States implementing Medicaid and CHIP managed care through a SPA, waiver or demonstration application are **required** to engage in -consultation with federally recognized Tribes and/or IHCPs located in their state prior to submission of a SPA or waiver to CMS.



Indian Managed Care Entity

Section 1932(h) 4)(B) of the Social Security Act authorizes states to establish an Indian Managed Care Entity (IMCE).

- An IMCE can be a managed care organizations (MCO), Prepaid Inpatient Health Plan (PIHP), Prepaid Ambulatory Health Plan (PAHP), Primary Care Case Management program (PCCM), or PCCM entity (PCCMe).
- An IMCE is defined as a managed care entity that is controlled by the IHS, a Tribe or Tribal organization, or Urban Indian Organization (UIO), or a consortium of any of these entities.
- IMCEs may restrict its enrollment to AI/ANs in the same manner as IHCPs may restrict the delivery of services to AI/ANs.



CMS' Efforts to Implement the Indian Managed Care Protections

CMS has been working with states and IHCPs to identify and resolve implementation and compliance issues on a state-by-state basis.

To address the issues from a national perspective, CMS collaborated with the National Indian Health Board (NIHB) in 2021 to convene a ***Managed Care Listening Session*** and a ***Virtual Roundtable Event***. The Roundtable was attended by Tribal health directors and Medicaid staff to identify strategies and practices that states, and managed care plans could use to successfully implement the Medicaid and CHIP managed care protections for Indians.

NIHB produced a [Roundtable](https://www.nihb.org/docs/phrc-uploads/08152022/medicaid-managed-care-report_final_08102022.pdf) Report that describes the recommended practices and strategies. The report is available at, https://www.nihb.org/docs/phrc-uploads/08152022/medicaid-managed-care-report_final_08102022.pdf.



Medicaid and CHIP Managed Care Oversight Toolkits

- CMS committed to developing a series of technical assistance toolkits to assist states in complying with managed care regulations and to help improve state monitoring and oversight of their managed care programs.
- On October 30th CMS announced the release of the Tribal Protections in Medicaid and CHIP Managed Care Oversight Toolkit. The Toolkit provides resources for states, managed care plans, and IHCPs to use to maximize the benefits of Medicaid and CHIP managed care for AI/AN enrollees and the IHCPs.
- This is part of CMS efforts to advance health equity, expand coverage, and improve health outcomes for individuals who rely on Medicaid and CHIP.



Medicaid and CHIP Managed Care Oversight Toolkits

On November 7, 2023, CMS released a CIB also announcing the Tribal Protections Toolkit and other oversight toolkits. The November 7, 2023, CIB can be found at:

<https://www.medicaid.gov/sites/default/files/2023-11/cib11072023.pdf>

The Tribal Protections in Medicaid and CHIP Managed Care Oversight Toolkit can be found on the Medicaid.gov website at:

<https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-monitoring-and-oversight-initiative/index.html>; **and**

The Tribal Affairs Guidance and Resources page at:

<https://www.medicaid.gov/medicaid/indian-health-medicaid/tribal-affairs-guidance-resources/index.html>





Questions?





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