

TRIBAL SOVEREIGNTY AND MEDICAID WORK REQUIREMENTS FOR AMERICAN INDIANS AND ALASKA NATIVES

1. SIHB Opposes Medicaid Work Requirements

The Seattle Indian Health Board (SIHB) strongly objects to the Centers for Medicare and Medicaid Services' (CMS) recent attempts to impose work requirements and other restrictive conditions on Medicaid eligibility for American Indians and Alaska Natives (AI/AN) and the general population through the 1115 waiver process. The health disparities faced by AI/AN people are persistent and well-documented:

- 28% of AI/AN in Urban Indian Health service areas experience poverty compared to 9.5% of non-Hispanic Whites.¹
- Among AI/AN children, the rate rises to 35.3% living in poverty compared to 10.2% of non-Hispanic Whites.¹
- SNAP usage among AI/AN is 25.5% compared to 6.8% for non-Hispanic Whites.²

CMS's efforts to facilitate state-led attempts to use the 1115 waiver process to impose work requirements for Medicaid coverage are unprecedented in the history of the program. These efforts exceed CMS's statutory authority under Section 1115 and run directly counter to Congressional intent in establishing the Medicaid program. Forcing the most vulnerable of our communities to jump through administrative burdens to access care will result in many utilizing the emergency room for care, resulting in poorer health outcomes and higher costs throughout the system.

2. Uphold Tribal Sovereignty

- The Supreme Court in *Morton v. Mancari* held that the federal government could lawfully treat Indians differently from other groups without running afoul of United States Constitution's equal protection clause.
- The Court explained that such treatment is not directed at a suspect racial classification but rather at a unique and non-suspect class that is based on a political relationship with tribal entities recognized as separate sovereigns in the Constitution.
- The Court noted that "there is no other group of people favored in this manner."³
- CMS has both the authority, and the obligation, to exempt AI/AN from Medicaid work requirements.

References

1. Urban Indian Health Institute, Percent of Population Living with Income Below the Federal Poverty Level in Past Year, All UIH Service Areas, 2010-2014, American Community Survey
2. Urban Indian Health Institute, SNAP Usage, All UIH Service Areas, 2010-2014, All UIH Service Areas, 2010-2014, American Community Survey
3. 417 U.S. 535 (1974)
4. 25 U.S.C § 1602



Seattle Indian Health Board
For the Love of Native People

Seattle Indian Health Board is a UIHP and a 330 Federally Qualified Health Center. SIHB provides medical, dental, mental health, substance abuse, nutrition, pharmacy, and traditional health services to more than 4,000 AI/AN people annually, from more than 250 tribes.



Urban Indian Health Institute
A Division of the Seattle Indian Health Board

Urban Indian Health Institute is a division of the Seattle Indian Health Board and supports the health and well-being of urban Indian communities through information, scientific inquiry, and technology.

3. Protect Federal Trust Responsibility

- The trust responsibility to provide health care to AI/AN includes those living in urban areas, whether or not they are enrolled members of federally-recognized tribes.
- The Indian Health Care Improvement Act (IHCA) declares that it is the policy of the United States "to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy."⁴
- Congress amended Section 1911 of the Social Security Act, which authorized IHS and tribally operated programs to bill Medicaid. Section 1911 was enacted to provide supplemental federal funding to the IHS and was designed to ensure that Medicaid funds would "flow into IHS institutions."
- Medicaid work requirements for AI/AN run counter to Congress's intent to reduce Native health disparities, and would starve the IHS of the vital funding needed to provide health care to the most vulnerable.