

## The Affordable Care Act and American Indians

### Important context:

- American Indians have a unique relationship with the United States government
  - Citizens of sovereign nations
- Federal trust obligation
  - In exchange for millions of acres, U.S. government is obligated to provide array of social services to American Indians to raise social well-being comparable to non-Indians – includes health care
- Primary provider of health care is the Indian Health Service
  - Not an entitlement program like Medicare. Discretionary and funded at just 54% of the actual need
  - Not insurance coverage – certain services are not provided and individuals must meet residency criteria and medical priority

### American Indian Specific Provisions:

- American Indians are exempt from tax penalty for failure to maintain minimum essential coverage - Sec. 1501(e)(3)
- American Indians<sup>1</sup> will be eligible for special monthly enrollment periods - Sec. 1311(c)(6)(d)
- American Indians under 300% of the federal poverty level (In 2012, \$69,150 for a family of four), enrolled in any Exchange plan, are exempt from cost sharing (co-payments and deductibles) - Sec. 1402(d) and 2901(a)
- Regardless of income there is no cost sharing for services provided by Indian Health Service, Tribal 638 and Urban Indian Health Programs (I/T/U) and no deduction in payments to the I/T/U - - Sec. 1402(d) and 2901(a)
- Effective January 1, 2011, prescription drug costs paid by the IHS, an Indian tribe or tribal organization, or an urban Indian organization will count towards the Medicare “donut hole” out-of-pocket threshold (\$4,700)<sup>2</sup>

### Medicaid Expansion

- On June 28, 2012, the U.S. Supreme Court upheld nearly all of the provisions of the Affordable Care Act, but ruled that the federal government could not compel states to expand Medicaid.
- It is estimated that an additional 25,309 American Indians in New Mexico will be eligible for Medicaid in 2014 – largest numbers of potentially eligible individuals are in McKinley (9,852) and San Juan (6,078) Counties (15,930 total).

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<sup>1</sup> American Indian is defined as a member of an Indian tribe

<sup>2</sup> The Medicare “donut hole” is a gap in coverage that exists once you and your Medicare plan have paid \$2,930. Once you have spent \$4,700 out of pocket for the year, the coverage gap or “donut hole” closes.

- Medicaid is financed differently for services provided by the Indian Health Service and Tribal 638 programs. Funds are matched 100% by the Federal government and are billed at a higher, all-inclusive rate set by the Office of Management and Budget.

### **Permanently reauthorizes the Indian Health care Improvement Act**

- Had not been authorized since 2000-2001
- Modernizes the Indian Health Service and authorizes various services and activities
  - Sec. 402 - Purchasing Health Care Coverage - IHS funds made available to an I/T/U (including ISDEAA funds) may be used to purchase health benefits coverage for beneficiaries
  - Sec. 194 – Health services for ineligible persons – authorizes tribes operating facilities under ISDEAA contracts to determine whether to provide services to ineligible persons. IHS cannot do this without approval from tribes in the service unit.
  - Sec. 205 – Authorizes hospice, assisted living, long term care, and home and community based services
  - Sec. 411 - Navajo Nation Medicaid feasibility study

Health care reform could expand access to health coverage for thousands of American Indians and strengthen the Indian health system

- The Indian Health Service (IHS) is not health insurance. It is a discretionary program that is chronically under-funded at just 54% of the actual need.
- The IHS Contract Health Services (CHS) program provides access to a limited range of specialty care and often does not cover American Indians living away from the reservation. Nearly two-thirds of claims made through the CHS program are denied.
- Indian Health Service, Tribal 638 and Urban Indian Health Programs (I/T/Us) are “payers of last resort” - before they pay for services, a person must first apply for Medicaid and other financial assistance programs. - Sec. 2901(b)
- When more American Indians have health coverage it **strengthens the Indian Health System** – I/T/Us will be able to bill Medicaid and other health coverage plans for services provided. This revenue can be invested into workforce and infrastructure.

For more information, contact:

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