



# Tribal Assister In Person Meeting September 13, 2017

*Sponsored by:  
Washington Association  
of Community & Migrant Health Centers*



American Indian Health Commission  
for Washington State



# Training Sponsored by:



**WACMHC**  
Washington Association of  
Community & Migrant Health Centers

## Mission Statement

To strengthen and advocate for Washington's Community Health Centers as they build healthcare access, innovation and value.



# WACMHC

## Washington Association of Community & Migrant Health Centers

- Non-profit organization formed in 1985.
- Advocates on behalf of the low-income, uninsured, and underserved populations of Washington State served by community health centers (CHCs).
- CHCs serve low income, homeless, seasonal and migrant farmworkers, immigrants and refugees, tribal communities and other persons with limited access to health care.
- Provides technical assistance directly and through collaborative partnerships to support health centers in providing comprehensive, high quality primary health care.
- Provides programs and services to Washington's 28 community health centers, migrant health centers, and urban Indian health programs.
- These health centers serve nearly 1,000,000 Washington residents with preventive and primary healthcare and enabling services at over 250 clinic sites across the state.



# Presentation Objectives

- 1. Understand how federal laws for American Indian and Alaska Native impact Medicaid coverage.**
- 2. Understand how changes at to the Affordable Care Act can impact coverage for American Indians and Alaska Natives in Washington State;**
- 3. Prepare for Open Enrollment for QHP and Medicare Part D Coverage.**



# Today's Agenda:

- PART I:                    Understanding the Jay Treaty and Medicaid**
  
- PART II:                    Update on Medicaid Coverage for AI/AN- Fee for Services vs. Managed Care**
  
- PART III:                    Federal Updates- Impact of Federal Changes on Coverage In Washington State**
  
- PART IV:                    Medicare Updates**
  
- PART V:                    Applying for Classic Medicaid through Washington Connections**



# PART I

# UNDERSTANDING THE JAY TREATY AND MEDICAID



# History of the Jay Treaty

**The Treaty of Amity, Commerce, and Navigation, Between His Britannic Majesty and the United States of America**

**1795 treaty between the United States and Great Britain that averted war and resolved issues remaining about trade between the United States and Britain.**

**Known as the Jay Treaty: Negotiated By John Jay**

**The 1783 Treaty of Paris originally established the 45<sup>th</sup> parallel as the boundary between US and Canada. Because of the rugged terrain, this boundary was vague in many places, and needed to be more sharply delineated.**

**Included Indian Rights:**

**"Native Indians born in Canada are therefore entitled to enter the United States for the purpose of employment, study, retirement, investing, and/or immigration".**

# Over the years since the Jay Treaty:

**The Convention of 1818 gave “Co-Custody” of Oregon Territories and the Hudson Bay Property.**

**In 1846 the Oregon Treaty permanently established the 49<sup>th</sup> Parallel as the boundary between the two nations.**

**The United States has codified the right for Canadian born Indians to enter the US in the provisions of Section 289 of the Immigration and Nationality Act (INA) of 1952.**

**The INA limited Jay Treaty rights to American Indians born in Canada with at least 50% Aboriginal (Indian) blood**

# Eligible Canadian Born American Indians have the legal right to cross the United States/Canadian border.

To live and work in the United States

Receive federal and state public benefits you qualify for

Register as a “domestic” student for college

- Do not need a green card or work permit.
- Without fear of being deported by the US Government

# Canadian Born Indians Are Eligible for:

Social Security Retirement  
Medicare

Medicaid- health coverage  
Basic Food Benefits  
Temporary Aid to Need  
Families

Federal and  
State Benefit

Supplemental Security  
Income

Must meet standard  
eligibility requirements to  
get these benefits

# Gaining Residence Through The Jay Treaty

Canadian Citizens with  
at least 50% First Nations ancestry (by blood)  
and who become residents of the U.S.

Automatically gain lawful  
permanent resident immigration  
status under the Jay Treaty.

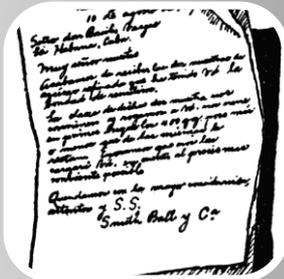
This does not  
include spouse  
or children of  
such person...

...unless they  
also have 50%  
First Nations  
Blood Quantum

Are not  
required to  
have a  
permanent  
resident card  
but may  
request one.

# Documentation Under Jay Treaty Rights

If Jay Treaty applicant does not have USCIS documentation, treaty status can be established by:



First Nations Letter that verifies 50% First Nations Ancestry similar to a CIBD



And a Canadian Birth Certificate

\*If the Canadian Indian was adopted by a non-Indian family, need to establish your Indian status, contact Canada's Department of Indian Affairs and Northern Development



## **PART II**

# **UPDATE ON MEDICAID COVERAGE**

**FOR AI/AN:**

**FEE FOR SERVICE VS.**

**MANAGED CARE**

# Why Medicaid is Important to Indian Health Care Delivery



I.H.S has been underfunded for decades

The use of Alternate Resources is necessary to fund programs

The All Inclusive Indian Health Services Encounter Rate





# How Payments to Tribes Work in the Fee for Service:

Provider sees  
Medicaid Eligible  
AI/AN

Provider bills the  
State through P1 and  
receives the  
encounter rate

The State is reimbursed  
by the federal government  
for 100% of the encounter  
rate

Encounter rate helps  
offset underfunding  
of I.H.S.



# How Payments to Tribes work in the Managed Care:

Provider sees  
Medicaid Eligible  
AI/AN

Provider bills the  
Managed Care plan  
and receives their  
contract rate

The State is not  
reimbursed by the federal  
government for 100% of  
the encounter rate

Contract rate helps  
offset underfunding  
of I.H.S.





# Pros and Cons of Fee for Service:

## Pros:

**Encounter Rate = high reimbursement;**  
**No contract- core provider agreement;**  
**No referral for specialty care;**  
**Indian Health Care Provider (IHCP) can easily be maintained as the Medical Home for their patients.**

## Cons:

**Specialty Network is not adequate;**  
**Wait times for specialty appointments are too long;**  
**Specialist are paid less than managed care plan- no incentive to enroll;**  
**Non-IHCP get very low reimbursements for services.**





# Pros and Cons of Managed Care:

## Pros:

Managed Care Plans are required to have an adequate network, Case management and nurse care coordinators;  
They can provide additional benefits such as traditional healers, eye exams, and etc.

## Cons:

IHCP do not receive the encounter rate from MCO;  
Referrals need to go through the MCO;  
Authorizations for lab and radiology services, MCOs have care management services that are similar to community health services at Tribes.





## When does FFS make sense:

- When care is received from an Indian Health Care Provider (I.H.C.P);
  - Urban Indian Health Programs might look at this differently- they receive an Federally Qualified Health Center (FQHC) encounter rate that is less than the I.H.S. AIR.
- When referral and contract requirements of MCO make receiving care a barrier to care;
- When maintenance of the IHCP as the medical home for the patient is important to care.



# When does Managed Care make sense:

- When an AI/AN is not being seen through a Tribal or I.H.S. run clinic;
- When inpatient care is needed and there are no contracted providers;
- When an AI/AN needs a lot of specialty care;
- When care needed is a services that is covered under the MCO and is not covered as a fee for services benefit- e,g,.  
Chiropractic care, acupuncture



# **PART III**

**FEDERAL UPDATES-**

**IMPACT OF FEDERAL CHANGES ON  
COVERAGE IN WASHINGTON STATE**



# Repeal and Replacement of ACA

Unlikely to happen, now

Watch for attempts to disassemble ACA through smaller actions:

Tax reform- remove tax penalty for not having Minimum Essential Coverage (MEC)

Budget -Not funding the reimbursement to QHPs for Cost Sharing Reductions yet leaving QHPs responsible for providing CSRs.



# Market Stabilization Efforts in our State

Approved 2 sets of rates for QHPs in 2018

1<sup>st</sup> set assumes CRS remain in place

2<sup>nd</sup> set assumes CRS are gone

Waiting until October 1<sup>st</sup> to certify plans and rates.

Since the non-funding of the CSRs is a budget move, it should happen by the end of September. FFY starts October 1<sup>st</sup>.

In the future, the State will look at ways to bearing the risk for high cost enrollees.

# FY 2018 IHS Budget

**President's "Skinny" FY 2018 Budget was released on May 23, 2017.**

- IHS funding significantly decreased**
- \$301 million (6%) below FY 2017 enacted level.**
- No inflation increases are included.**
- Across all line items: Decreases from 1.5% to 100% except Direct Operations (2.7% increase)**

*\*Excerpted from NPAIHB July 21, 2017 Legislative Updates presentation by Laura Platero*



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# CMS 4 Walls Limitation:

- **CMS determined that If a Tribal facility is enrolled in the state Medicaid program as a provider of clinical services under 42 CFR 440.90, the Tribal facility may not bill for services furnished by a non-Tribal provider or Tribal employee at the facility rate for services that are provided outside of the facility.**
- **Per CMS, under FQHC designation there is no requirement that the services be provided within the 4 walls.**
- **Section 1905 of the SSA recognizes outpatient Tribal clinics as FQHCs.**
- **In order to not have any revenue losses, Tribal health programs have to work with their respective Medicaid agencies to change their designation to an FQHC.**
- **CMS FAQ released January 18, 2017.**
- ***Deadlines:***
  - **January 18, 2018: Notify state of intent to change provider status**
  - **January 30, 2021: Effective date**

*\*Excerpted from NPAIHB July 21, 2017 Legislative Updates presentation by Laura Platero*



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# Other CMS Policies

- **Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers (published 9/16/16)**
  - **Compliance is required by 11/15/17 for participation in Medicare.**
  - **Applies to all 17 provider and supplier types.**
    - **In Portland Area, does not apply to IHS or Tribal clinics unless they are an FQHC registered under Medicare.**

*Excerpted from NPAIHB July 21, 2017 Legislative Updates presentation by Laura Platero*



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# Indian Legislative Bills in 115<sup>th</sup> Congress

- **Independent Outside Audit of the Indian Health Service Act of 2017 (S. 465)**
  - Introduced by Sen. Mike Rounds (R-SD) on 2/28/17 with co-sponsors Sen. James Lankford (R-OK) and John McCain (R-AZ).
  - Requires an independent outside audit of the Indian Health Services with report to Congress.
  - 2/28/17: Referred to Committee on Indian Affairs
- **Separate Note: Rep. Greg Walden (R-OR) has created 14 member Bipartisan IHS Task Force.**

*\*Excerpted from NPAIHB July 21, 2017 Legislative Updates presentation by Laura Platero*



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# **PART IV: MEDICARE UPDATES**



# Open Enrollment for Part D Coverage

Open Enrollment for change in Medicare Part D Coverage is October 15<sup>th</sup> through December 7<sup>th</sup> this year.

To ensure your Tribal members are on the best plan, you can help them go to:

<https://www.medicare.gov/find-a-plan/questions/home.aspx>

They will need to know:

1. List of current medications and dosages
2. Zip Code and county where they live
3. Their Medicare number
4. Date Medicare A and B coverage began





# Open Enrollment for Part D Coverage

## Medicare Plan Finder

You have the option to complete a general or personalized plan search. A personalized search may provide you with more accurate cost estimates and coverage information. To begin your plan search, please choose from one of these options below.

### General Search

A general plan search only requires your zip code.

ZIP Code:

By selecting this button you are agreeing to the terms and conditions of the [User Agreement](#)

Find Plans

### Personalized Search

A personalized plan search requires your zip code and complete Medicare information. This page is secured to protect your personal information. If you don't want to enter your Medicare information, you may use the general search option above.

ZIP Code:

Medicare Number:

Example: 123456789A

Where can I find my Medicare Number?



Last Name:

Effective Date for Part A:

Not Part A? [Select here.](#)

Date of Birth:

By selecting this button you are agreeing to the terms and conditions of the [User Agreement](#)

Find Plans



Vicki helping an Elder...





# Open Enrollment for Part D Coverage

## Step 1 of 4: Enter Information

All fields on the page are required unless noted as Optional.

### How do you get your Medicare coverage?

- Original Medicare
  - I also have a separate Medicare drug plan (optional)
  - I also have a Medigap Policy (optional)
- Medicare Health Plan (Such as an HMO, PPO, or Private-Fee-for-service plan)
- I don't have any Medicare coverage yet
- I don't know what coverage I have

### Do you get help from Medicare or your state to pay your Medicare prescription drug costs?

- I get help from Medicaid
- I get supplemental security income
- I belong to a Medicare Savings Program (MSP)
- I applied for and got extra help through social security
- I don't get any extra help
- I don't know

[Go Back](#)

[Continue to Plan Results](#) 



## Part D Coverage Extra Help

**Apply through Social Security at:**

**<https://secure.ssa.gov/i1020/start>**

**Applicant should:**

**Have Medicare Part A (Hospital Insurance) and/or Medicare Part B (Medical Insurance); and**

**Live in one of the 50 States or the District of Columbia; and  
Combined savings, investments, and real estate**

**Less than \$27,600, if you are married/living with spouse,  
Less than \$13,820 if not currently married/not living  
with spouse.**

**If you have more than those amounts, you may not qualify for the extra help.  
However, you can still enroll in an approved Medicare prescription drug plan  
for coverage.**



# Tribal Income: What is reportable

Per Capita income derived from treaty rights or culturally related are not reportable income.

Per capita derived from economic ventures and reported as 1099 income is reportable.

Social security and Medicare taxes are not paid through treaty/ cultural income or 1099 income.



## **PART V:**

# **APPLYING FOR CLASSIC MEDICAID THROUGH WASHINGTON CONNECTIONS**

# Washington Connections Versus Washington Healthplanfinder

	Classic Medicaid	Medicaid Expansion
Who is Eligible?	<ul style="list-style-type: none"> <li>• Aged</li> <li>• Blind</li> <li>• Disabled individuals</li> <li>• Foster Care Children</li> <li>• SSI Recipients</li> </ul>	<ul style="list-style-type: none"> <li>• Adults between the ages of 19 up to 65 with income up to 138% FPL</li> <li>• Children-up to 300% FPL</li> <li>• Pregnant Women – up to %185 FPL</li> </ul>
Resources Counted	Yes	No
Income Determinations	Different in each program. ABD currently \$735/mo for Individual \$1103/mo for Couple	Different in each program Based on income reportable to the IRS.
Benefits	Food, Cash, Child Care, Long Term Care, Medicare Savings and other Medical Assistance	Medical assistance

# Applying for coverage with Washington Connections:

Begin application at:

<https://www.washingtonconnection.org/home/>

The following information will be needed:

**Name**

**Date of Birth**

**Citizenship**

**Social Security Number**

**Income**

**Assets and Resources**

**Housing Cost**

**Utilities**

**Childcare costs**

**Other household circumstances – including same information of others family members in home**



# AI/AN Countable Income:

## WAC 388-450-0040 Native American benefits and payments.

This section applies to TANF/SFA, RCA, PWA, ABD cash, and food assistance programs.

- (1) The following types of income are not counted when a client's benefits are computed:
  - (a) Up to \$2,000 per individual per calendar year received under the Alaska Native Claims Settlement Act
  - (b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member. Income includes:
    - (i) interest; and
    - (ii) Investment income accrued while such funds are held in trust.
  - (c) Income received from Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. Income includes:
    - (i) Interest; and
    - (ii) Investment income accrued while such funds are held in trust.



# AI/AN Countable Income continued:

## **WAC 388-450-0040 Native American benefits and payments, continued.**

This section applies to TANF/SFA, RCA, PWA, ABD cash, and food assistance programs.

- (d) Up to two thousand dollars per individual per calendar year received from leases or other uses of individually owned trust or restricted lands.
- (e) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, made to a Puyallup Tribe member upon reaching twenty-one years of age; and
- (f) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.
- (2) Other Native American payments and benefits that are excluded by federal law are not counted when determining a client's benefits. Examples include but are not limited to:
  - (a) White Earth Reservation Land Settlement Act of 1985,
  - (b) Payments made from submarginal land held in trust for certain Indian tribes and
  - (c) Payments under the Seneca Nation Settlement Act,



# Estate Recovery for AI/ANs

**WAC 182-527-2746 Estate recovery—Asset-related limitations**

**Section 6 -Rules specific to American Indians and Alaska natives.**

**Certain properties belonging to AI/AN are exempt from estate recovery if at the time of death:**

- **Was an enrolled member of federal recognized tribe; and**
- **Property is near a reservation as designated and approved by BIA**
- **Is within the reservation, former reservation or CHSDA**

**Also exempt -AI/AN income and resources:**

- **derived from tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court**
- **Ownership interests in or usage rights to items that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable tribal law or custom.**



# **PART VI: NEXT STEPS**



# Questions / Next Steps



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