



10 Key Rules for Health Insurance Issuers On the Protections for American Indian/Alaska Natives and Indian Health Care Providers*

Rule #1: Contracts Not Required

All Issuers. Indian health care providers (IHCPs) are not required to contract with health insurance issuers (issuers) to be reimbursed or for an American Indian/Alaska Natives (AI/AN) to have access to an IHCP. [25 U.S.C. § 1621e\(c\)](#); [WAC 284-170-200\(9\)](#).

Rule #2: Access

- A. All issuers.** Issuers must ensure that AI/AN enrollees have access IHCPs for medical and behavioral health services. [WAC 284-170-200\(9\)](#).
- B. Qualified Health Plans(QHPS).** QHPs must include essential community providers (ECP), including IHCPs, in their networks for QHPs and qualified stand-alone dental plans. The issuer's QHP provider network must include access to 100% of IHCPs in its service area. [WAC 284-170-310\(1\) and 3\(b\)](#); [45 C.F.R. § 156.235\(a\)](#); and [WAC 284-170-200\(9\)](#).

Rule #3: Cost of Services

- A. All Issuers.** All issuers must ensure that all AI/AN enrollees can obtain medical and behavioral health services from an IHCP “at no greater cost to the enrollee than if the service were obtained from network providers and facilities.” [WAC 284-170-200\(9\)](#).
- B. Qualified Health Plans.** The issuer of a zero or limited cost sharing plan shall eliminate any cost-sharing under the plan for an AI/AN enrollee for items or services provided directly by the IHCP or through referral under purchase and referred care. [42 U.S.C. § 18071\(d\)\(2\)](#).

Rule #4: IHCP Reimbursement

- A. Right of Recovery Rule.** All issuers must reimburse IHCPs for services they provide the “reasonable charges billed” or, if greater, the “highest amount” the issuer would pay for care and services furnished by nongovernmental providers. [25 U.S.C. § 1621e\(a\)](#).
- B. QHP-No Reduction in Payment.** QHPs shall not reduce the payment to an IHCP by the amount of any cost-sharing that would be due from the AI/AN but for requirement under [42 U.S.C. § 18071\(d\)\(2\)](#) that no cost sharing under the plan shall be imposed under the plan for such item or service. [ACA § 1402\(d\)\(2\)\(B\)](#) (codified at [42 U.S.C. § 18071\(d\)\(2\)](#)).

* For a more in depth review of this topic, see [Federal and State Legal Protections for American Indian/Alaska Native Enrollees and Indian Health Care Providers-Requirements for Health Insurance Issuers](#) developed by the American Indian Health Commission and the Washington Office of the Insurance Commissioner.

Rule #5: Licensure and Credentialing

- A. Licensure of IHCP Professionals.** IHCP's employed health professionals are exempt from Washington State licensure requirements if the professionals are licensed in another state and are performing the services described in the contract or compact of the Indian health program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). [25 U.S.C. § 1621t](#).
- B. Credentialing.** Issuers are not responsible for credentialing providers and facilities that are part of the Indian health system. [WAC 284-170-200\(9\)](#).

Rule 6: Payer of Last Resort

IHCPs shall be the payer of last resort for services provided to eligible individuals. All alternate resources (Medicare, Medicaid, SCHIP, private insurance, etc.) that are available and accessible must be used before an IHCP's funds can be expended. [25 U.S.C. § 1623\(b\)](#).

Rule 7: Discrimination Exemption

Issuers cannot require an IHCP to serve individuals who are ineligible for services from an IHCP. IHCPs are established under federal law to serve their AI/AN community and/or other populations (including non-Indians). An individual shall not be deemed as subjected to discrimination by reason of their exclusion from benefits limited by federal law to individuals eligible for services from an IHCP. [45 C.F.R. § 80.3\(d\)](#).

Rule 8: Insurance and Indemnification

- A. Liability Insurance.** IHCPs shall not be required to obtain or maintain professional liability insurance to the extent the IHCP is covered by the Federal Tort Claims Act. [Model Medicaid and Children's Health Insurance Program \(CHIP\) Managed Care Addendum for Indian Health Care Providers \(IHCPs\)](#); [28 U.S.C. §§ 2671-2680](#)
- B. Indemnification/Liability.** IHCPs shall not be required to provide indemnification or guarantee that the health issuer will be held harmless from liability. [Model Washington State Indian Health Care Provider Addendum](#); [28 U.S.C. §§ 2671-2680](#).

Rule 9: IHCP Records Confidentiality

All medical quality assurance records created by or for an IHCP as part of a medical quality assurance program are confidential and privileged and may not be disclosed to any person or entity except under certain statutory exceptions. To the extent an issuer imposes any medical quality assurance requirements on an IHCP, any such requirements applicable to the IHCP shall be subject to this law. [25 U.S.C. § 1675\(b\)](#).

Rule 10: QHP AI/AN Enrollment Periods

QHP issuers must allow an AI/AN to enroll or change plans in Washington Healthplanfinder at any point during the year but not more than once a month. [45 C.F.R. § 155.420\(d\)\(8\)](#).