

Oneida Nation

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BC Resolution # 01-23-19-B

Support of Enacting Legislation to Ensure Medicaid Fulfills the Federal Trust Responsibility of American Indians/Alaska Natives

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Oneida Nation serves all Federally-recognized American Indians and Alaskan Natives (AI/AN) who receive health care services from the Oneida Nation by advocating for the provision of quality health care to AI/ANs, as well as upholding the federal government's trust responsibility to provide health care to all AI/AN tribal governments; and
- WHEREAS,** tribal nations have a unique government-to-government relationship with the federal government, and it is required that the federal government consult with tribal governments on any policy or action that will significantly impact tribal governments; and
- WHEREAS,** tribal nations are political, sovereign entities whose status stems from the inherent sovereignty they possess as self-governing people predating the founding of the United States, and since its founding, the United States has recognized tribal nations as such and entered treaties with them on that basis; and
- WHEREAS,** Executive Order 13175 sets forth clear definitions and frameworks for consultation, policymaking, and accountability to ensure that consultation with tribal nations is meaningful; and
- WHEREAS,** in 24 U.S.C. § 1602(a)(1), Congress declared that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians...to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy"; and
- WHEREAS,** in 1955, Congress created the Indian Health Service (IHS) to help fulfill its trust responsibility for health care to tribes; and
- WHEREAS,** the unmet health needs of AI/ANs are severe and the health status of AI/ANs is far below that of the general population of the United States, resulting in an average life expectancy for AI/ANs 4.5 years less than the rest of the U.S. population; and

- WHEREAS,** in 1976, Congress noted that Medicaid payments were a “needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian” (H.R. Rep. No. 94-1026-Part III); and
- WHEREAS,** in 1976, Congress established the authority for the IHS, tribal nations, and tribal health organizations, to seek reimbursement under the federal Medicaid program to help fulfill its trust responsibility for health care to the tribes; and
- WHEREAS,** in FY 2017, the congressional appropriations for IHS was only \$3,026 per person¹, as compared to average per capita spending nationally for personal health care services of \$9,207²; and
- WHEREAS,** the IHS continues to be funded by Congress at less than half of expected need—even when considering available government health insurance resources—leading to rationed care and worse health outcomes for AI/ANs³; and
- WHEREAS,** the federal Medicaid program generates significant resources that are critical to the ability of tribal nations to meet the health care needs of tribal citizens, but there are significant gaps in access to quality health care services under the federal Medicaid program for low and moderate-income AI/ANs, depending upon state of residence; and
- WHEREAS,** AI/ANs across the United States have substantially different eligibility and access to services under the federal Medicaid program based on their state of residence; and
- WHEREAS,** state governments are not reimbursed for the costs of care provided by urban Indian health care providers to AI/ANs to the same degree that state governments are reimbursed for care to AI/ANs provided by IHS and tribal health care providers; and
- WHEREAS,** the federal Medicaid program provides insufficient flexibility to tribes to design and implement health service delivery approaches that meet the unique circumstances in Indian country; and
- WHEREAS,** tribal nations have developed a legislative proposal to address these gaps in access to quality health care services; and
- WHEREAS,** these provisions, if enacted, will improve access to quality health care services for AI/ANs across all states, and thereby advance the federal government’s trust responsibility to AI/ANs and tribal governments.

¹ The figure on congressional appropriations for IHS includes funding for health care delivery as well as sanitation, facilities and environmental health. Per capita IHS appropriation was calculated from \$4,957,856,000 in total appropriations divided by 1,638,687 Active Users. Source: *2017 IHS Expenditures Per Capita and Other Federal Health Care Expenditures Per Capita*, February 26, 2018, available at: https://www.ihs.gov/ihcif/includes/themes/responsive2017/display_objects/documents/2018/2017_IHS_Expenditures.pdf, last accessed 10/15/2018.

² NHE Projections 2016-2025 –Tables, Table 5 Personal Health Care Expenditures; Aggregate and per Capita Amounts, Percent Distribution and Annual Percent Change by Source of Funds: Calendar Years 2016-2025; Per Capita Amount; Projected; available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html>.

³ “FY2017 Indian Health Service Level of Need Funded (LNF) Calculation” (shown at [https://www.ihs.gov/ihcif/includes/themes/responsive2017/display_objects/documents/2018/FY_2017_LevelofNeedFunded_\(LNF\)_Table.pdf](https://www.ihs.gov/ihcif/includes/themes/responsive2017/display_objects/documents/2018/FY_2017_LevelofNeedFunded_(LNF)_Table.pdf)) indicates an LNF funding percentage of 46.6%. A preliminary LNF figure for FY 2018 of 48.6% was calculated by IHS, which includes consideration of third-party coverage made available through the Affordable Care Act.

NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee supports the enactment of legislation to ensure Medicaid advances the federal government's trust responsibility to AI/AN tribal governments.

NOW THEREFORE BE IT FINALLY RESOLVED, that the Oneida Business Committee supports the legislative proposal that will improve access to quality health care services by:

- 1) Allowing states to extend Medicaid eligibility to all AI/ANs with households up to 138% of the federal poverty level.
- 2) Allowing Indian health care providers nationwide to receive Medicaid reimbursement for health care services provided to AI/ANs as authorized under the Indian Health Care Improvement Act.
- 3) Extending full federal funding (through 100% FMAP) to states for Medicaid services furnished by urban Indian providers to AI/ANs
- 4) clarifying that state Medicaid programs are authorized to implement Indian-specific policies and are not permitted to override Indian-specific Medicaid provisions in federal law through state waivers.
- 5) Removing the limitation on billing by Indian health care providers for services provided outside the four walls of a clinic facility.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 23rd day of January, 2019; that the forgoing resolution was duly adopted at such meeting by a vote of 8 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."