

**AHCCCS Tribal Consultation
October 16, 2014**

Update by Monica Coury

A. Waiver Update

(1) Uncompensated Care Payments to I.H.S. and 638 facilities: Extension Request

This request was formally submitted August 29, 2014, accompanied by the evaluation. The evaluation was a survey to which I.H.S. and 638 facilities responded to demonstrate the importance of the uncompensated care payments. Survey responses showed that the payments allowed facilities to maintain a broad array of services, including services provided by podiatrists, as well as emergency dental services and others that were reduced or eliminated in 2010. Letters of support have been sent in by several organizations and tribes, including Phoenix Area I.H.S., Tucson Area I.H.S., White Mountain Apache Tribe, Hope Tribe, Pasqua Yaqui Tribe, Advisory Council on Indian Health Care, and Inter Tribal Association of Arizona; more are expected. These letters are being posted to the AHCCCS website in the pending waivers section: <http://www.azahcccs.gov/reporting/federal/waiver.aspx>.

The request is currently pending before CMS and is under review. No further status has been provided to the AHCCCS administration.

(2) Tuba City Regional Health Care Corporation Inmate Coverage Request

On August 29, 2014, AHCCCS formally submitted a request to allow the AHCCCS administration to reimburse Tuba City Regional Health Care Corporation for outpatient services provided to inmates of the Navajo Detention Center. The Navajo Detention Center was built with no appropriation for inmate health care costs.

At this time, the request is currently under CMS review. No further status has been provided to the AHCCCS administration.

B. American Indian Former Foster Care Children

Children who were formerly in foster care can be covered by Medicaid as they transition out of foster care upon turning 18. In the AHCCCS program, that eligibility category is known as the Young Adult Transitional Insurance program, more commonly referred to under its acronym YATI. Previously, YATI covered former foster care children to age 21. The Affordable Care Act (ACA) increased the coverage age for former foster youth to age 26.

Specifically, the statute (at 42 USC § 1396a(a)(10)(A)(i)(IX)(cc) requires state Medicaid programs to cover all individuals who “were in foster care *under the responsibility of the State* on the date of attaining 18 years of age...”. Federal guidance on this has stated that states must cover individuals in this category “who were both enrolled in Medicaid and in foster care under the responsibility of the state or tribe upon attaining either age 18 or such higher age as the state or tribe has elected for termination of federal foster care assistance under title IV-E.”

<http://www.medicaid.gov/Federal-Policy-Guidance/downloads/FAQ-12-27-13-FMAP-Foster-Care-CHIP.pdf> Federal regulation on this has not been finalized.

Arizona’s reading of the statute and the guidance, that references title IV-E, was that ultimately the children enrolled in a tribal foster care program would still be considered “under the responsibility of the state” or had to be enrolled in a tribal foster care program under Title IV-E. In a recent phone conference with CMS, CMS has indicated that they are taking a broad interpretation of “under the responsibility of the state” to include tribal foster care programs. The AHCCCS administration does not take the implications of this broad interpretation lightly and believes it merits discussion at tribal consultation. Considering tribal sovereignty issues, AHCCCS was not willing to take that same interpretation without seeking guidance in tribal consultation.

Regardless of CMS’ interpretation, AHCCCS can only move forward in implementation with the support of tribal leaders. If tribal leaders wish to move forward, tribal foster care programs will need to exchange data with the AHCCCS program to allow the system to verify that an applicant was a former foster care child meeting the requirements. For youth enrolled in state foster care, that data is currently exchanged with AHCCCS and eligibility automatically verified in the system. In addition, the data exchange allows AHCCCS to automatically continue enrollment for currently foster care children and transition them to YATI when the age out of foster care. Without that data, the State Medicaid program has no way of knowing that an applicant was formerly tribal foster care enrolled and, therefore, eligible as YATI. In past attempts, and understandably to protect the privacy of tribal foster youth, tribal foster care programs have not been willing to exchange that data with the State. Therefore, there is no current existing infrastructure to accommodate this requirement and ensure AHCCCS is capturing former tribal foster youth in its program.