

June 22, 2000

Health Care Financing Administration Consultation Issues

The following issues were raised to the Health Care Financing Administration in its consultation meetings with Tribes during 1999 and through other meetings and requests.

1. Application of the All-Inclusive Rate

This rate, also called the “OMB Rate,” is a computed payment rate for inpatient and outpatient hospital services provided by Indian Health Service or Tribal Health (P.L. 93-638) facilities. Tribes have asked that HCFA define the services included in application of the All-Inclusive Rate to an outpatient encounter. An encounter is defined in varying ways by the Indian Health Service, Medicare, Medicaid and other providers and payers.

2. Retroactive Payment of the All Inclusive Rate to Tribal 638 Facilities

A Memorandum of Agreement (MOA) between HCFA and the Indian Health Service provided options for Tribal health facilities to receive Medicaid payment for outpatient services based on provider status. However, the MOA was not clear on the issue of retroactive payment when a change in provider status was elected by a Tribal health facility. Inconsistent policy was issued and Tribes have asked that HCFA clarify its policy on retroactivity back to the effective date of the MOA – July 11, 1996.

3. Dual Reimbursement Rates to a Single Facility

Tribes (and States) have asked if the State Medicaid program can pay two rates for services at a facility; one for American Indians/Alaska Natives, reimbursed with 100% Federal match and another for non-Indian patients reimbursed at the State’s normal matching rate.

4. Through an Indian Health Service Facility

Tribes have asked that HCFA broaden its definition of services reimbursable at the 100% federal matching rate when such services are referred by the IHS or a 638 facility.

5. Billing for Home Health Services

Tribes have asked that home health services provided by Community Health Representatives (CHR) be included as covered services. This issue involves definition of the services rendered and State recognition of the CHR as a qualified provider.

6. Cost Sharing Imposed on American Indians/Alaska Natives

Tribes have asked that American Indian/Alaska Native beneficiaries of HCFA’s programs be exempt from all cost sharing. Currently, only the State Children’s Health Insurance Program has exempted AI/AN children.

7. Direct Billing by Tribal Health Facilities

Some Tribes have asked that they be permitted to bill Medicare, Medicaid and SCHIP directly and NOT through the Indian Health Service. Others have asked to bill the Health Care Financing Administration directly, that is not through the State, for Medicaid (and SCHIP) services.

8. Cost Report Training

Tribes have asked for training in Medicare and Medicaid cost report preparation.

9. Traditional Medicine and Healing

Tribes have asked that HCFA consider how traditional medicine and healing might be covered by Medicare, Medicaid and SCHIP.

10. Training for HCFA Staff on Tribal Sovereignty, Culture and Health System Issues and training for Tribes on HCFA programs

Tribes have suggested that HCFA staff be trained to understand the issues surrounding Tribal sovereignty, trust responsibilities, and treaty obligations as they apply to the delivery of health services in Indian country. Likewise, Tribes have asked for more training in HCFA's programs to better understand how they may serve Indian people.

11. Tribal Consultation

Tribes have provided many recommendations to improve HCFA's plan for consultation.

12. Cross State Border Issues

Tribes and the IHS operate facilities, which serve beneficiaries of HCFA programs in multiple states. Problems have arisen in obtaining reimbursement for Medicaid services furnished in one state when the AI/AN beneficiary is a resident of another.

13. Across International Border Issues

Similar issues on reimbursement for services obtained outside the United States have arisen among some tribes. This issue seems to be limited to Tribes whose lands span the U.S. and Canadian borders.

14. Certificates of Need

Tribes have asked for intervention by HCFA to obtain licensing of new nursing facilities on or near Tribal lands. Some states have stringent requirements or moratoria on the issuance of Certificates of Need.

15. Survey and Certification of Tribal Facilities

Tribes have asked for the option of having the Federal government, rather than the State government, survey their facilities for participation in Medicare, Medicaid and SCHIP.

16. Home and Community-based Long Term Care in Indian Country

Tribes have indicated their desire to operate their own long-term care programs for elders. They have asked for assistance from HCFA in pursuing home and community-based options to facility-based, nursing home care.

17. Outstationing Eligibility Workers

Many more AI/AN people appear to meet the financial and categorical eligibility requirements for Medicaid and SCHIP than are enrolled in these programs. Tribes have asked that States provide culturally competent eligibility workers on or near Tribal lands to assist AI/AN people in the enrollment process.

18. 40 Quarter Requirement

Many Indian elders do not meet the 40 quarters of Social Security covered employment requirement to receive cash benefits or Medicare. Tribes have asked that the requirement be lifted for elders who had no opportunity to work in covered employment.

19. Data

Tribes have asked that HCFA improve its collection, use and dissemination of data relating to American Indian and Alaska Native beneficiaries.

20. Tribal operation of Medicaid and a Children's Health Insurance Program

Tribes have asked to administer the Medicaid and Children's Health Insurance programs for their members. This request would have the Tribal government act in the same capacity as a State government.

21. Exempting American Indians and Alaska Natives from Mandatory Enrollment in Medicaid Managed Care.

Some Tribes have asked for an exemption from mandatory enrollment in a managed care organization to receive their Medicaid benefits.

22. Reducing impediments to participation in Managed Care

Other Tribes have asked that HCFA investigate ways to remove impediments to the participation in Medicaid (and Medicare) managed care. Tribes indicate that, currently, Indian Health Service, Tribal Health and Urban Indian Health (I/T/U) programs are precluded or discouraged from participating in the provider networks of managed care programs operated by States.

23. Out of Network Care for AI/AN beneficiaries

Tribes have asked HCFA to investigate and find solutions to reimbursement problems I/T/U providers encounter when they are not a part of managed care networks.

24. Application of the Emergency Medical Treatment and Active Labor Act (EMTALA)

Tribes have asked for clarification and education on the application of EMTALA. When necessary provider-based services can not be provided in an IHS or Tribal facility and a community hospital is closer than an IHS facility varying interpretations of EMTALA rules have surfaced. Tribes are concerned that EMTALA sanctions could be inappropriately applied .