

November 17, 2015

Andrew M. Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

By Email: TribalAffairs@cms.hhs.gov

Dear Acting Administrator Slavitt,

The Nebraska Department of Health and Human Services Division of Medicaid and Long-Term Care (MLTC) appreciates the opportunity to respond to *Medicaid Services "Received Through" an Indian Health Service/Tribal Facility: A Request for Comment*. MLTC appreciates that the Centers for Medicare and Medicaid Services (CMS) is addressing this issue and is considering providing states with some flexibility regarding the interpretation of Section 1905 (b) of the Social Security Act. While the State is generally in support of the proposals contained in the request for comment, Nebraska would like to make a few specific comments.

First of all, due to the limited time available that the State has had in responding to this request for comment, the State could not receive significant feedback from Nebraska's American Indian community. MLTC requests additional time to receive such input regarding this important change involving this critical health care service delivery system.

Second, the reinterpretation of Section 1905 (b) has the potential not only to improve health care for American Indians in Nebraska, but also might lead to significant state budget savings. However, the State feels that the interpretation can go further to allow the State more flexibility and ability for more service-based approaches to care that are less dependent upon facility-based care. By lessening the proposed administrative requirements, the proposed interpretive changes will be more manageable to implement at the state level.

Specifically, the State would like more flexibility regarding two proposals:

- While Nebraska supports extending the definition of a contractual agent, the State would like flexibility to determine with the IHS and the tribes the best delivery system for American Indians and not for this to be specified by CMS in guidance. The proposal specified in the guidance might be interpreted as overly restrictive which will limit participation by IHS and tribal contractual agents thus limiting access to services. Specifically, language in the request for comment requires a "...written contract under

which the services for the Medicaid beneficiary are arranged and overseen by the IHS/Tribal facility and the individuals served by the contractual agent are considered patients of the facility.” This process should be as administratively simple as possible so IHS, tribal, and contract providers will support this change.

- Additionally, Nebraska is concerned about the specifications concerning billing contained in the guidance. Any additional flexibility regarding billing should be aimed to providing administrative simplicity for providers and make payment more manageable for states.

Thank you again for this proposal that Nebraska feels has the possibility to improve the delivery of health care services to American Indians and to provide budget savings to states. The State looks forward to future guidance regarding this issue.

Sincerely,



Calder Lynch, Director
Division of Medicaid and Long-Term Care
Department of Health and Human Services