



December 31, 2014

Thomas J. Betlach, Director
AHCCCS
801 E. Jefferson Street, MD 4100
Phoenix, Arizona 85034

Re: Extension of Medicaid Coverage for Former Tribal Foster Youth

Dear Mr. Betlach:

The Inter Tribal Council of Arizona, Inc. (ITCA) supports the mission of AHCCCS in, “*reaching across Arizona to provide comprehensive, quality health care to those in need.*” As part of its mission, ITCA facilitates a Tribal Social Services Workgroup and holds numerous meetings with Tribal Health Directors to provide technical assistance and training that enhance the delivery of services to American Indian children and families in tribal communities throughout Arizona. As you may well know, some of these services are provided directly by the state to tribal children and families.

Recently, there have been questions and concerns regarding the implementation of the Affordable Care Act (ACA) provision regarding the continuation of Medicaid services to tribal youth who were under tribal jurisdiction that “aged out” of foster care. Understandably, part of the confusion relates to the language as written in the ACA and the interpretation taken by the Centers for Medicare & Medicaid Services (CMS). I believe you would agree that as citizens of Arizona, tribal youth in foster care should be allowed the same considerations as other foster youth in terms of access to medical resources.

ITCA staff can assist in the formation and facilitation of a workgroup comprised of representatives from Tribal Social Services, Tribal Health Services, and AHCCCS to discuss the ACA provision and outline the steps that may be implemented to ensure that tribal foster youth receive the benefits of health coverage under the Medicaid program up until 26 years of age.

ITCA looks forward to working closely with AHCCCS to ensure a cross-collaboration in building and enhancing service delivery systems that will address the needs of American Indian children and families. Any questions regarding this matter may be addressed to my attention at maria.dadgar@itcaonline.com or to the following staff: Gwenda Gorman, Health & Human Services Director, at gwenda.gorman@itcaonline.com and Verna Johnson, Health Program Manager, at verna.johnson@itcaonline.com.

Sincerely,

Maria Dadgar, MBA
Executive Director
Inter Tribal Council of Arizona, Inc.

CC: File
Enclosure

Ak-Chin Indian
Community
Cocopah Tribe
Colorado River
Indian Tribes
Fort McDowell
Yavapai Nation
Fort Mojave Tribe
Gila River Indian
Community
Havasupai Tribe
Hopi Tribe
Hualapai Tribe
Kaibab-Paiute Tribe
Pascua Yaqui Tribe
Pueblo of Zuni
Quechan Tribe
Salt River Pima-
Maricopa Indian
Community
San Carlos
Apache Tribe
San Juan Southern
Paiute Tribe
Tohono O'odham
Nation
Tonto Apache Tribe
White Mountain
Apache Tribe
Yavapai-Apache
Nation
Yavapai-Prescott
Indian Tribe

American Indian Former Foster Care Children Medicaid Eligibility

Briefing Paper

Inter Tribal Council of Arizona

Issue

Youth who transition out of foster care upon turning 18 years old can be covered by Medicaid up to the age of 26 according to a new provision in the Patient Protection and Affordable Care Act (ACA). In the state of Arizona this program is known as the Young Adult Transitional Insurance Program (YATI). Prior to the passage of the ACA, Arizona Health Care Cost Containment System (AHCCCS) extended this coverage to former foster care youth to the age of 21. The ACA increased the coverage up to age 26 and stipulates that these individuals are not subject to income eligibility limits. AHCCCS instituted the new ACA requirement on January 1, 2014, but has not yet included American Indian youth who transition out of tribal foster care systems in this new eligibility group.

Recommendation

There should be no further delay allowing tribal youth who were enrolled in Medicaid and transition out of tribal foster care when they turn 18, to participate in this program. Tribal governments have been afforded the rights and responsibilities of caring for these youth under federal law that includes the Indian Child Welfare Act and the Indian Self-Determination and Education Assistance Act. While some American Indian youth are under the state foster care, Tribal foster care systems serve American Indian youth that reside on and off tribal lands. ITCA requested that AHCCCS consult with the Tribes on this issue. At the consultation on October 16, 2014, it was agreed that a work group would be established to address the concerns surrounding implementation that AHCCCS and tribal representatives identified.

Background

The federal statute (42 USC§ 1396a(a)(10)(A)(i)(IX)(cc)) requiring state Medicaid programs to cover individuals who were in foster care *“under the responsibility of the state on the date of attaining 18 years of age...”* does not include the word *“Tribes.”* A proposed rule was issued and the comment period concluded. The regulation has not been finalized, however, the Centers for Medicare and Medicaid Services (CMS), provided detailed guidance to the states to implement the provision in December 2013. It stipulates that the new mandatory group will include individuals that were *“both enrolled in Medicaid and foster care under the responsibility of the state or Tribe upon attaining the age of 18 or such higher age as the state or Tribe has elected for termination of federal foster care assistance under Title IV-E.”* In addition, it permits states to cover individuals who were in foster care and receiving Medicaid in other states upon turning 18 or *“aging out”* of foster care in the other state.

AHCCCS included this topic on the agenda at its quarterly tribal consultation meeting on October 16, 2014. They reported a difference of opinion with CMS regarding the interpretation of the statute because it references that children enrolled in a tribal foster care program would be *“under the responsibility of the state.”* Further if Tribes wish to move forward, tribal foster care

programs would have to exchange data with the state to verify that an applicant meets the requirement. The staff was concerned that in the past tribal programs have not been willing to share data with the state and therefore there is not an infrastructure to accommodate the implementation of the statute.

Tribal caseworkers complete the Medicaid applications on a regular basis for tribal youth under their jurisdiction. Most, if not all, information AHCCCS would need to continue coverage to age 26 has already been provided in the initial application process. Currently, Medicaid coverage for youth in foster care under tribal jurisdiction does not require the Tribe to relinquish responsibility to the State.

Tribal representatives and ITCA staff indicated that despite the differences of opinion that AHCCCS has with CMS interpreting the statute, it is an extremely important program that will benefit American Indian young adults who should have equal access to the Medicaid coverage afforded to other youth that transition out of state foster care systems. Support for its implementation, as quickly as possible, was expressed.

At the request of the Tribes, AHCCCS indicated it's willing to establish a workgroup to examine implementation issues. AHCCCS would like to address tribal concerns regarding being classified as *"under the responsibility of the state."* Tribal representatives stated that the statute should have included the word "Tribes," but they understood the rationale for CMS' broader interpretation that the program includes American Indian youth in tribal foster care systems. Unfortunately the regulation that could potentially answer some of the questions has not been finalized by CMS as of this writing. The workgroup would examine the following issues;

- The types of data that Tribes would be required to transmit to the state and internal tribal procedures and approvals to allow data to be transferred.
- A review of the state YATI program requirements and the data interface that currently exists between the Arizona Department of Economic Security (ADES) and AHCCCS.
- Development of a process that employs a continuation of Medicaid eligibility for American Indian children enrolled prior to the age of 18 or 21 once they age out of tribal foster care
- Development of a process to identify and inform young people up to the age of 26 that were previously enrolled in Medicaid that aged out of tribal foster care programs and were dropped.

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