Federal Provisions for Tribes

FMAP, ARRA and the Tribal General Welfare Exemption: Impacts and Opportunities for Tribal Programs
Tribal FMAP

What it is and How it impacts Tribal – State partnerships
Federal Medical Assistance Percentage (FMAP)

• What is it?
  – Matching money the federal government provides to states for their Medicaid programs

• How does it affect Tribes?
  – As part of the 2010 re-authorization of the Indian Health Care Improvement Act, the FMAP for Tribal services was made 100%
How FMAP Works

• This is money coming back to the states for their spending on Medicaid
• The FMAP is based on national averages and ranges from 50% to 83%
• State’s have been able to collect the expanded Tribal FMAP since 2010
CMS Expansions of Tribal FMAP

- October 2014 White Paper
- February 2015 SHO Letter
- Services “by and through” the Tribe
Tribal – State Partnership

- By and Through the I/T/U
- CMS Requirements for 100% FMAP
- Coordinated Care Agreements
- Recoupment amounts are in the tens of MILLIONS for state Medicaid programs
Level of Effort for Tribes

• Care Coordination
  – Records management
  – Ensuring state specific “identifier”
  – Managing provider contract relationships statewide

• Tribe must be willing to participate or a state cannot claim “through the Tribe” FMAP
Potential Opportunities and Examples

• Tribal level of effort required to participate could be leveraged for share of FMAP return
• Win-Win for Tribes and states
• States who are already working with Tribal FMAP
State Level of Effort

- Tribes interested will need to get state on board
- State’s will most likely need system changes to be able to get “through the Tribe” dollars
- A one time cost will net the state continuous return reimbursement
American Recovery and Reinvestment Act (ARRA)

Section 5006 Provisions for Native Members and Tribal Providers in State Medicaid
ARRA Provisions for Tribes

American Recovery and Reinvestment Act of 2009 (Section 5006)

- CMS defined “Indian” in regards to Medicaid plans to mean the same as IHS eligibility requirements
- Gives cost-sharing, co-pay, and deductible exemptions to Native enrollees of Medicaid plans

Created payment obligation to Tribes

- When I/T/U provides Medicaid allowed services to Medicaid eligible Tribal members, the I/T/U must be paid as if they are a contracted provider type regardless of actual contract
- Outlines requirements for MCOs regarding Tribal members and Tribal providers
What Tribes Need to Know

• ARRA Sect. 5006 passed in 2009
• Most States are unaware of provisions
• Most MCOs are unaware of how ARRA impacts their operations with Tribes
• CMS issued guidance letter
Tribal General Welfare Exclusion Act of 2014

IRS Section 139E and General Welfare Exclusions from MAGI
Tribal General Welfare Exemption Act and Medicaid General Welfare Doctrine

**IRS Sect. 139E – Welfare Exemption**
- Does not count as taxable income
- Can be created with gaming revenues*

**MAGI and Medicaid Welfare Doctrine**
- Government payments for health and well being cannot be counted as gross income
- Payments made on behalf of member by Tribe reducing Medicaid Adjusted Gross Income
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