

<b>Subject</b>	<b>Native American Work Group</b>	<b>Date</b>	<b>12/18/2012</b>
<b>Facilitator</b>	Joyce Naseyowma Chalan	<b>Time</b>	1:30 p.m. MT
<b>Location</b>	IHS/Conference Call	<b>Scribe</b>	Cicero Group

**Agenda Item**
 **Discussion Item**
 **Conclusion**
 **Action Item**

Attendees			
	Name		Name
	Joyce Naseyowma Chalan, <i>Group Lead</i>		Scott Atole
	Priscilla Caverly, <i>Tribal Liaison, HSD</i>		Lisa C. Maves
	Milton Sanchez, <i>Dir., Office of Healthcare Reform</i>		Roxane Bly
	Mike Nuñez, <i>Exec. Dir., Health Insurance Alliance</i>		Heidi McDonald
	Jonni Pool, <i>Office of Healthcare Reform</i>		Linda Son-Stone
	Sandra Winfrey		Kathryn Toone, Leavitt Partners
	Floyd Thompson		Stephanie Wright, Cicero Group

### Agenda Item 1: Introduction

**Name: Joyce Naseyowma Chalan**

DISCUSSION ITEM 1	Welcome and Approval of Prior Meeting Minutes
<p>Ms. Chalan welcomed the group, introduced the agenda, and conducted a roll call.</p> <p>The minutes from the October meeting and the November 30 meeting were reviewed, and motions made to approve. The motions were seconded and voting was unanimous for approval of both sets of minutes. It was explained that Mr. Lujan will be providing the Work Group with some additional documentation clarifying comments made in the October meeting.</p> <p>Ms. Chalan introduced the agenda for today’s topics as tribal consultation, premium payments, and network adequacy.</p>	
DISCUSSION ITEM 2	Exchange Status Update
<p>Mr. Sanchez was introduced and invited to present an update of the Exchange transition status. He indicated the Exchange Blueprint had been submitted to the federal Health and Human Services (HHS) Department. He stated that, per a recent discussion with representatives from the Center for Consumer Information and Insurance Oversight (CCIIO), the New Mexico Exchange Blueprint appears to be federally compliant and on track to receive conditional approval by the January 1 deadline.</p> <p>Mr. Sanchez also announced that the Requests for Proposals (RFPs) for a project manager and systems integrator/IT, have been released, and the Health Insurance Alliance (HIA) was close to selecting a project manager. He said contracts should be completed for both RFPs and parties on board with the HIA by the 18<sup>th</sup> of January.</p>	

**Agenda Item 2: Items for Discussion**

**Name: Joyce Naseyowma Chalan**

DISCUSSION ITEM 1	Native American Verification and Enrollment
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Ms. Chalan advised the group to review the minutes of the 11/30 meeting. Ms. Caverly described a subsequent discussion with a representative from the CCIIO, in which it was clarified that to receive benefits exclusive to Native Americans under the PPACA, the enrollee must be a member of a federally recognized tribe, and this enrollment status must be approved by the tribe.

She noted that in the November 30<sup>th</sup> meeting, there was discussion of the verification policy that conflicts with the CCIIO requirements. In this discussion, the Work Group had recommended a more lenient policy allowing a number of different methods for tribal identification. She explained that this motion is not compliant with the more strict CCIIO requirements, which allow only two forms of acceptable verification of tribal status: the CIB card or a letter certifying membership status from the tribe.

The group discussed rescinding the prior, conflicting motion. Ms. Bly did not believe the minutes needed to be changed concerning the non-CCIIO compliant recommendation mentioned above, and Ms. Caverly clarified that the motion could be appropriately amended in future minutes. It was explained that the purpose of the prior recommendation was not to complicate enrollment procedures, but to facilitate coverage to all Native Americans. Ms. Bly pointed out the possibility of legislative intervention, should the existing policy not meet the coverage needs of Native Americans. Mr. Thompson mentioned the advantage of coordinating outreach and coverage efforts in New Mexico with those in other states.

DISCUSSION ITEM 2	Native American Service Center
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Ms. Chalan felt that at the prior meeting, extensive discussion regarding tribal enrollment had precluded sufficient discussion of the outreach and education role of the Native American Service Center (NASC). She encouraged members to assist in assembling preliminary recommendations for the role of the NASC to present to the Task Force on January 28<sup>th</sup>. She stressed that there is only one additional meeting scheduled in which to develop these recommendations.

DISCUSSION ITEM 3	Native American Consultation and Tribal Representation on Exchange Board
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The Work Group discussed the necessity of prompt appointment of a tribal representative to the Health Insurance Alliance (HIA) board. Mr. Sanchez explained that recommendations submitted to the governor for appointments to the board's four vacancies include both a tribal representative and a consumer representative. He assured the group that tribal representation was a priority. The group discussed the requirements for application of the Native American consultation policies within the Exchange, and the obligation for state compliance and accountability. Ms. Caverly advised the group to form a timely recommendation for the Task Force.

The Work Group examined the various implications of compliance required by federal and state laws. They discussed the impact of SB 196 (State-Tribal Collaboration Act), mentioning compliance in the drafting of the Memorandum of Understanding (MOU) and in the context of the I/T/U. A participant

mentioned the possibility of splitting the issue into separate recommendations, as the complexity of the issue seemed to cover at least one recommendation regarding Native American representation on the HIA board, and one recommendation for the desired format of Native American consultation.

Ms. Bly pointed out that Exchange board representatives must be not only be competent but also available to fully participate in the time-consuming process of representation and consultation. Mr. Ezekiel described the rigors of service on the board, and that one of its major challenges was finding qualified participants with sufficient time to devote to service. A member felt that leaving advocacy for Native American individuals to the tribal leaders has sometimes proven to be a challenge in the past, particularly for Urban Indians, who the member felt tended to be overlooked in policy decisions. The group discussed the various qualifications for competent service in this capacity, and the importance of full disclosure of responsibilities to those solicited for service. Following this, they resolved to make a future recommendation that included a listing of criteria for Native American Exchange board representative(s).

Mr. Nuñez described current statutory requirements for composition of the HIA board: five representatives elected by insurance carriers, and nine governor appointees. Governor appointees include one nonprofit representative and eight representatives from small businesses of 2-50 employees: four employer representatives, and four employee representatives. He said that the Superintendent of Insurance will serve as Chair of the Board. Mr. Nuñez said that plans for composition include possible enhancements to appointments involving consumer representation. He clarified that the Native American appointee(s) would likely represent either small business owners or employees. Members discussed the possibility of changing the small business affiliation requirement to allow the addition of a Native American representative that may be neither an employer nor owner of a small business.

Mr. Sanchez advised participants of an upcoming bill concerning the Exchange board, currently in the pre-filing stage, which HHS has indicated it would endorse. The bill does not seek to change board composition, but does address conflict of interest. He also explained that the Attorney General's office is examining the issue of whether the legal steps taken for the establishment of the HIA comprise sufficient legal grounds for the establishment of the Exchange.

A member described the issue of board representation as central to Native American interests, and members then received a summary of the requirements of consultation outlined by SB 196.

Legislation includes:

- 1) the Governor shall hold an annual consultation with tribal leadership;
- 2) tribal liaisons hired in all state departments;
- 3) conduct cultural competency training for government personnel involved in tribal interaction;  
and
- 4) require every state department to develop a consultation policy in cooperation with each tribe.

The member said that under these provisions, New Mexico is obligated to hold consultations with tribal representatives in developing Exchange policy. Ms. Maves wondered if a separate group should be assembled to examine the issue in detail, to assure sufficient representation, perhaps beyond the scope of SB 196 if necessary. Another participant suggested that perhaps an RFP might be released by the HIX for a third party entity to oversee the legal and practical aspects of sufficient collaboration, communication and consultation with tribal leadership and I/T/U's.

A member asked what obstacles might exist to sufficient representation under current policy, which might not be addressed without legislative intervention and statutory amendment. Mr. Nuñez explained that the most common problem with filling board vacancies was the time and effort involved in serving on the board, and the discouraging effect this sometimes has on representatives' willingness to accept appointments or fully comply with the demands of participation. He assured participants that outreach and discussion were being conducted to overcome this, and the Governor is vested in filling all vacancies.

Ms. Maves suggested a recommendation that clearly specifies the criteria for service on the Exchange board to be formed. After some discussion, the group formed the following recommendations:

- It was motioned that the Work Group recommend to the Task Force that timely appointment of a Native American(s) be made to the HIA governing board. The motion was seconded and unanimously carried.
- It was motioned that efforts be coordinated with administrative, legislative, and stakeholder entities to ensure inclusion of sufficient Native American representation of state tribes and Pueblos in the Exchange governing structure. The motion was seconded and unanimously carried.
- It was motioned that a tribal consultation policy for the Exchange be developed. The motion was seconded and unanimously carried.

DISCUSSION ITEM 4

Premium Payment

Regarding premium payments, a member felt that the Exchange must establish a mechanism for tribes to pay premiums on behalf of members, particularly those in urban environments. Mr. Nuñez agreed, describing the goals of the HIA in establishing a system for collective premium payments for tribal members, in which Native American tribes may pay premiums as a group.

A member reminded participants of the Native American exemption under PPACA rules that allows those consumers to change plans up to once per month. The group discussed the additional market modification that will result from this exemption. It was felt that these consumers should not be encouraged toward frequent change, but it may still be a reality under the Exchange. It was generally agreed that education and outreach in this regard will be an important tool in assisting carriers

through Exchange transition and ensuring continual consumer coverage while remaining compliant with the exemption.

The Work Group discussed aspects of tribes accessing benefits through the Exchange vs. existing health care coverage options, and how and/or through which entities the newly insured would receive coverage. They examined the advantages of tribes paying premiums on behalf of the currently uninsured. They discussed tribal members eligible for Contract Health Services (CHS) and P.L. 93-638 (638) funding, and the potential savings to CHS funds when a tribal member has health coverage. It was mentioned that currently a single case of cancer might require an entire 638 budget.

Mr. Nuñez reminded members of the desirability of attracting the healthy into the risk pool, as prevention against high rates. One member advocated against unfavorable labeling of Native American populations among health care entities, and hoped that there would be no institutionalized categorizing of health issues, such as obesity or alcoholism. Mr. Nuñez felt this would not occur, responding that age, geography, gender, and tobacco usage will be the main determinants of risk assessment used by carriers.

Mr. Ezekiel informed members that there is no current number suggested for anticipated changes in rates under the Exchange, but that the most recent rate increase requested by carriers was 9.9%, down from an initial 20% increase request. Upon consideration, the DOI had responded with a 6% increase, as this was determined to be the cost of medical inflation.

The group discussed the complexity of the issue. A member stressed the importance of allowing tribes to make appropriate decisions for their members, including negotiating their own rates directly with providers. Mr. Thompson felt that a future functionality allowing tribes to make payments on behalf of individuals, as well as groups, might also be considered. Participants discussed the possibility of tribes pooling their members, and alternative ways pools might be created, to favorably impact rates. They recognized the importance of an IT infrastructure compatible with a broad variety of such demands.

DISCUSSION ITEM 5

Provider Choice and Network Adequacy

The Work Group examined the likelihood of restrictions in choice, depending on the avenue of coverage. Mr. Ezekiel advocated for constructing the Exchange to maximize choice.

Mr. Nuñez explained the reality of the issue of risk, saying that maximum choice equals maximum risk and results in increased rates. While limiting choices may seem undesirable, it has the advantage of a decrease in risk and a corresponding drop in rates. He described the concept of slice, in which carriers choose to compete only in the markets in which they do not experience adverse selection. He said that typically in the small business insurance market, which will be the Exchange's initial target, there is a limited number of choices presented to employees covered in a company plan. He reminded members of the difficulty of Exchange transition and its resulting stress on carriers.

Mr. Thompson asked whether premium payments will be made directly to the Exchange or to the participating carrier. Mr. Nuñez answered that these payment details are still to be decided, and offered to look into the feasibility of payments being made directly to the carriers.

Some participants expressed a concern for the restriction that tribes may place on Exchange plan selection, and the question of how tribes might maximize usage of eligible benefits through CHS was discussed. A member suggested forming a recommendation for maximizing carrier choice under the Exchange. Mr. Sanchez stated that while this Work Group was familiar with concepts such as CHS benefits, the HIA may not be. Mr. Thompson felt that the matter of tribal choice should be left to the individual tribes. Another participant hoped for recommendations advocating compliance with Native American exemptions and simplicity of premium payment on behalf of tribes, and the corresponding IT infrastructure.

#### CONCLUSION

The meeting was brought to a close with a reminder that the next meeting will be devoted to the formulation of preliminary recommendations. The date of the meeting is January 8<sup>th</sup> from 10:00 a.m. until 2:00 p.m., with an extra 2 hours scheduled to use as needed.

Members were advised to expect an email on the topic of network adequacy, and to come prepared to discuss the issues. The goal for submission of final recommendations is February 12. Members were solicited to submit questions via email to Ms. Pool, Ms. Caverly, or Ms. Chalan. The members were thanked and the meeting adjourned.

After the close of the meeting, Ms. Chalan mentioned for inclusion in the minutes the New Mexico tribes and Pueblos currently using Progeny software: Santa Ana, Santa Clara, Isleta, Acoma and Jemez.