

March 21, 2019

Presented by the

**American Indian Health
Commission for
Washington State**

Indian Health and Medicare: Supporting Washington State Tribes





aihc
AMERICAN INDIAN HEALTH
COMMISSION FOR WASHINGTON STATE

American Indian Health Commission for Washington State (AIHC)

- **Created** in 1994- by Tribal Leaders
- **Mission:** *Improve the health of American Indians and Alaska Natives (AI/AN) through tribal-state collaboration on health policies and programs that will help decrease disparities*
- **Constituents:** The Commission works with and on behalf of the 29 federally-recognized tribes and 2 urban Indian health programs in Washington State.
- **Commission Membership:** Tribal Councils appoint delegates by Council resolution to represent their tribes on the Commission.

Objectives

A better understanding of how I.H.S., Medicare and Medicaid work together

Identifying issues that arising when conflicting rules apply

Look at ways SHIBA volunteers can support American Indians, Alaska Natives, Tribal and Urban Indian Health Programs

Agenda

- I. Federal Law and the Indian Health System**
- II. Health Services Provided Through the Indian Health Care System**
- III. Conflicts within the Federal Programs**
- IV. Working with American Indians and Alaska Natives**

I. Federal Law and the Indian Health System

U.S. Recognition of Tribal Sovereignty

Indian nations within the United States possess the inherent power to govern:

“The Indian nations had always been considered as distinct, independent, political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...”

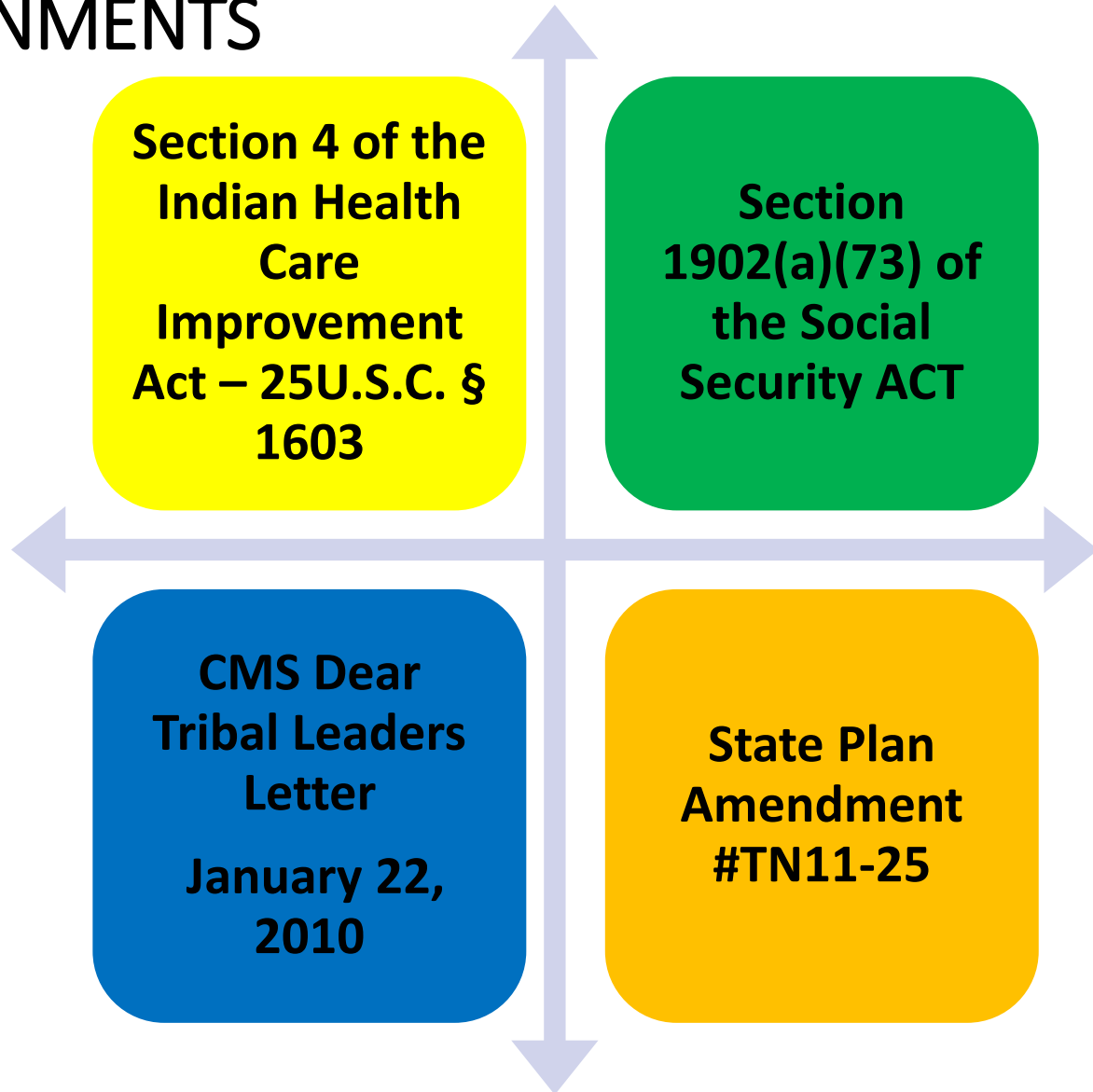
- Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 559 (1832)



Government-to-Government Relationship - FEDERAL

- Executive Order 13175
- Various agency regulations
- Similar to Federal/State relations

UIHP RELATIONSHIP TO FEDERAL AND STATE GOVERNMENTS



Government- to- Government Relationship - WA STATE

WA Centennial Accord 1989:

The government-to-government relationship “respects the sovereign status of the parties, enhances and improves communications between them, and facilitates the resolution of issues.”

RCW 43.376.020:

Provides for state agency duties in establishing a government-to-government relationship with the tribes.



Federal Trust Responsibility to Tribes

The federal government has a trust relationship with the tribes that is derived from treaties, statutes, and opinions from the Supreme Court.

The federal government has a legal obligation to protect tribal sovereignty and property.

See Worcester v. Georgia, 31 U.S. 515 (1832) and

• *Cherokee Nation v. Georgia, 30 U.S. 1(1831).*

Federal Trust Statutory Responsibility

To Provide Health Care to AI/AN:

Under the Indian Health Care Improvement Act (IHCIA), “[f]ederal health services to maintain and improve the health of the Indians are ... required by the Federal Government’s historical and unique relationship with, and resulting responsibility to, the American Indian people.”

25 U.S.C. § 1601(a)

Important Federal Indian Health Care Statutes



- Snyder Act of 1921
- Indian Self-Determination and Education Act of 1975
- Indian Health Care Improvement Act of 1976
- Patient Protection and Affordable Care Act of 2010
- Indian Health Care Improvement Act - Reauthorization and Extension Act

WA Tribal Governments

29 federally-recognized Tribes in Washington State.

The Tribal reservations are clustered in the western portion of the State, with three reservations in the eastside.

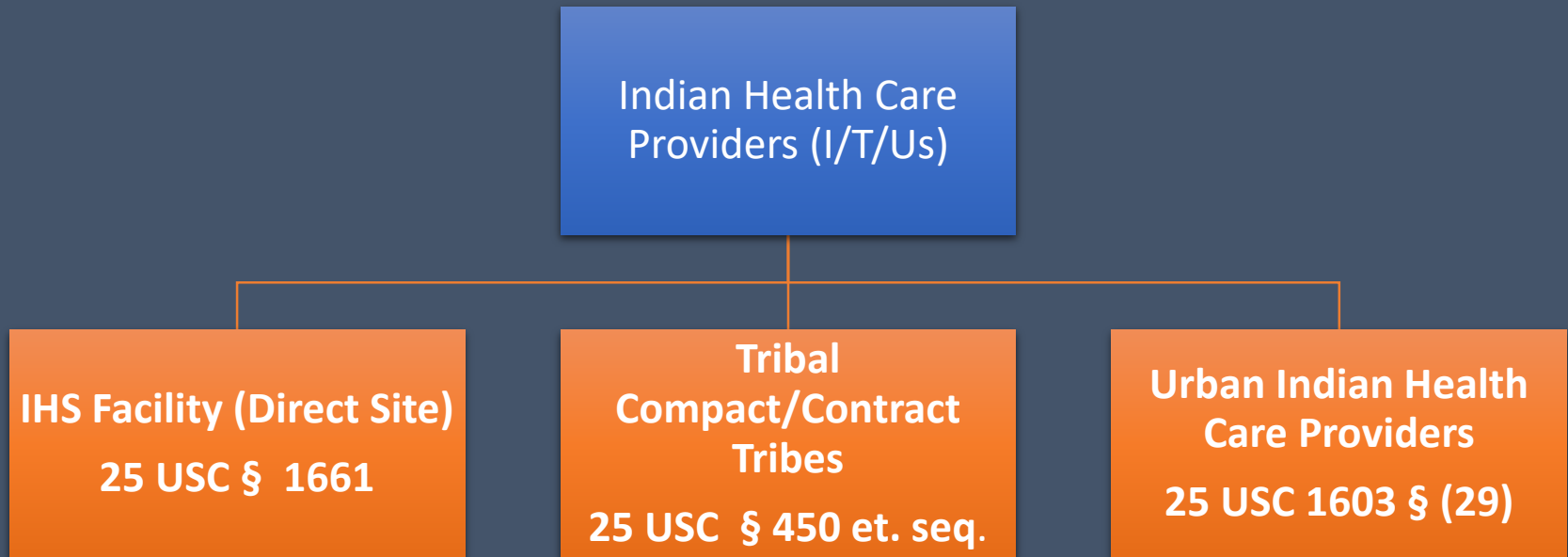
The Eastern reservations have the first, second and fourth geographically largest reservations.



Tribes in Washington State



Indian Health Care Providers



II. Health Services
Provided Through
the Indian Health
Care System

Washington State Tribes and UIHPS: American Indian and Alaska Natives Served

Washington's Tribes reported providing health care to 67,271 AI/AN people in 2017.

Urban Indian Health Programs served an additional 6,780 AI/AN people.

The Yakima Indian Nation had the largest user population (12,800) and the Hoh Tribe had the smallest (26).

The average user population across the 29 Tribes was 2,280, with four of the Tribes accounted for 50% of the total user population.

To learn more about Tribal and UIHP services provided in this state please check out the Tribal Services Profiles on the AIHC website

<https://aihc-wa.com/aihc-regional-meetings-tribal-services-profiles/>

Health Care Provided by I/T/Us

Direct Care

Provided by IHCP in facility

- Depends on Providers
- Medical
- Behavioral
- Dental
- Vision
- Alternative Care

Purchased and Referred Care

Care outside I/T/U

- Strict Eligibility
- Limited Funding
- Payor of Last Resort
- Alternate Resource Requirement



IHS Funding

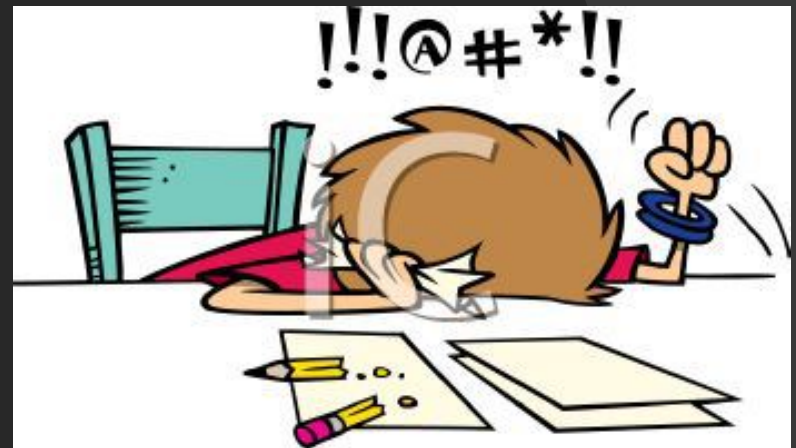
The federal government spends 50% less per capita on Native American health care than other groups for which it has this responsibility *including prisoners and Medicaid recipients.*

Less than \$1,700 per year, per person.

PRC as Payor Of Last Resort

The Indian Health Service will not be responsible for or authorize payment for contract health services to the extent that the Indian is eligible or would be for alternate resources if he or she were to apply for them.

42 CFR Subpart G 136.61 (a) and (b)



PRC and Alternate Resources

Alternate resources

include health care providers and institutions, health care programs for the payment of health services including but not limited to:

programs under titles XVIII or XIX of the Social Security Act (i.e., Medicare, Medicaid);
State or local health care programs;
and private insurance.

42 CFR Subpart G 136.61 (c)



PRC Funds to Purchase Coverage

Those referred for through PRC are required to sign up for and use Medicare and Medicaid before PRC funds can be used.

However:

Medicare cost \$\$.




III. Conflicts within the Federal Programs

Medicare Parts A & B

Originally, Indian health care providers (IHCP) billed under Medicare Part A only;

Until the final reauthorizations of the IHCA in 2010, IHS did not agree that funds could be used to pay for or reimburse premiums paid by an IHS eligible person.

MEDICARE  **HEALTH INSURANCE**

1-800-MEDICARE (1-800-633-4227)

NAME OF BENEFICIARY
JOHN DOE

MEDICARE CLAIM NUMBER **000-00-0000-A** SEX **MALE**


IS ENTITLED TO **HOSPITAL (PART A)** EFFECTIVE DATE **01-01-2007**
MEDICAL (PART B) **01-01-2007**

SIGN HERE → _____


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Medicare Part B

AI/ANs tend not to allow the Part B premium to be deducted from their Social Security Benefit.



AI/ANs who did not pay into Social Security, do not have a benefit for the Part B premium to be deducted from.



Part B coverage provides savings to PRC programs by helping pay for many services provided outside the clinic.



Part D Coverage

Prescription coverage is available through the I/T/U system.

IHS coverage is considered creditable coverage.

AI/ANs should not pay a late enrollment penalty.

There is a form I.H.S. form letter regarding creditable coverage.

Tribal Income

There are many types of Tribal income that are exempt from IRS taxation.

Per Capita payments are 1099 income.

Social security and Medicare taxes are not paid through these two types of income.





Tribal Income

Many AI/ANs eligible for Medicare by age, but have not paid forty quarters for Medicare A.

These people have income and assets that make them ineligible for Classic Medicaid.


Medicaid Spendedown

Eligible to be paid by PRC.

PRC payor of last resort,
but pays for services
during the spenddown.

This confuses providers,
and sometimes the state.





IV. Working with American Indians and Alaska Natives

Review: Big Takeaways

Complicated

Using Medicare and Medicaid coverage in the I/T/U system is more complicated than outside.

Understanding Needed

Understanding the issues can help us all better help the AI/AN population in Washington State.



The Indian Health Care System In Washington State

- It is important to understand how it works before we can understand how changes at the State and Local level can impact care for AI/AN who are also Washington State Citizens.
- Engagement and collaborations with Tribes and UIHPs is important when making any changes



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