

A MEMORIAL

REQUESTING THAT THE HUMAN SERVICES DEPARTMENT RESPOND TO QUESTIONS AND REPORT ON MATTERS RELATING TO THE PROVISION OF MEDICAID COVERAGE TO RECIPIENTS WHO IDENTIFY AS NATIVE AMERICAN.

WHEREAS, Native American tribes exercise inherent sovereign powers over their members and territory; and

WHEREAS, rooted in federal treaties, laws and court decisions, Native Americans have a unique relationship to the health care system, which affords them special rights and protections; and

WHEREAS, the federal Patient Protection and Affordable Care Act contains rights and protections specific to Native Americans, reaffirming the unique relationship of Native Americans to the health care system; and

WHEREAS, passage of the federal Patient Protection and Affordable Care Act contained the reauthorization of the Indian Health Care Improvement Act, which not only confirms but expands tribal authority to plan and design tribal health care systems; and

WHEREAS, the federal Indian Health Care Improvement Act provides tribes the authority to provide services not otherwise offered in the past, such as long-term care, hospice, assisted living and home- and community-based

services for disabled and elderly persons; and

WHEREAS, federal law allows Native American recipients of medicaid to choose between receiving their medicaid services under managed care or the traditional fee-for-service payment system; and

WHEREAS, the New Mexico human services department has implemented a medicaid managed-care system, centennial care, and insists that all medicaid beneficiaries, including Native Americans, enroll in one of four medicaid managed-care organizations; and

WHEREAS, New Mexico tribes, nations and pueblos have a substantiated history of having received inadequate and unsatisfactory services under managed-care systems, due to the managed-care organizations' seeming ignorance of tribes', nations' and pueblos' unique and varying health care traditions and health care delivery systems as well as their experience of inadequate service to geographically dispersed areas of tribal lands; and

WHEREAS, Section 5006(e) of the federal American Recovery and Reinvestment Act of 2009 mandates that state plans for medicaid involve extensive and regular consultation with tribal health programs and urban organizations and must include solicitation of advice prior to submission of any plan, amendments, waiver requests and proposals for demonstration projects likely to have a direct effect on

Indians, Indian health programs or off-reservation Indian organizations; and

WHEREAS, in 2009, the legislature of the state of New Mexico enacted the State-Tribal Collaboration Act, which mandates that the state and New Mexico Indian tribes, nations and pueblos collaborate on a government-to-government basis regarding policies affecting tribal affairs, yet the human services department's collaboration with tribes, nations and pueblos has been ineffective and inadequate; and

WHEREAS, in order for consultation and advisement between the human services department and New Mexico tribes, nations and pueblos to be valuable and productive, the consultation and advisement must be based upon verifiable performance and service data that compare the medicaid managed-care and fee-for-service payment systems as they relate to the quality of health care, expenditures for health care items and services, complaints and issues relating to the medicaid program; and

WHEREAS, the human services department and the medicaid managed-care organizations are in a unique position to collect and provide these verifiable medicaid performance and service data;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the human services department be requested to publish in print and on

its web site in a manner easily accessible to the public, and to disseminate in printed form to each of New Mexico's twenty-two tribes, nations and pueblos, a quarterly report that includes the following data:

A. the number of medicaid recipients who identify as Native American who are enrolled in the centennial care managed-care system;

B. the number of medicaid recipients who identify as Native American who receive medicaid services through the fee-for-service payment system;

C. the total of medicaid expenditures on behalf of medicaid recipients who identify as Native American who receive medicaid services through the fee-for-service payment system;

D. the total of medicaid expenditures made on behalf of medicaid recipients who identify as Native American who receive services from Indian health care providers;

E. the range amounts, lowest to highest, for the per-member, per-month capitated rate paid to managed-care organizations on behalf of medicaid recipients who identify as Native American;

F. the number and type of complaints and issues reported by medicaid managed-care recipients who identify as Native American;

G. the number and type of complaints and issues

reported by tribal health units, tribal benefits coordinators or tribal employees, officials or representatives;

H. a description of the procedures for receipt and handling of complaints and issues by medicaid managed-care recipients who identify as Native American; and

I. the timeliness of reimbursement by the medicaid managed-care organizations to providers of health care services and items on behalf of medicaid recipients who identify as Native American; and

BE IT FURTHER RESOLVED that the human services department be requested to report in writing and, through its representative, in person to the legislative health and human services committee by September 1, 2014 the department's responses to the following questions:

A. "What hardship, if any, does maintaining the fee-for-service payment system pose for Native American medicaid recipients?";

B. "What hardship, if any, does maintaining the fee-for-service payment system for Native American medicaid recipients pose for the human services department?";

C. "Describe the financial risk borne by the medicaid managed-care organizations in providing services to Native American medicaid recipients.";

D. "Describe how, if at all, any risk borne by the medicaid managed-care organizations in providing services to

Native American medicaid recipients is any greater than the risk borne by Indian health care providers under the medicaid fee-for-service payment system.";

E. "What benefits are available under a medicaid managed-care system that cannot be provided through the medicaid fee-for-service payment system?"; and

F. "What are the administrative costs to the human services department for the provision of health care services to medicaid recipients who identify as Native American and who are enrolled in medicaid managed care, in comparison to those costs for medicaid recipients who identify as Native American and who receive services through the fee-for-service payment system?"; and

BE IT FURTHER RESOLVED that, in order to meaningfully implement the State-Tribal Collaboration Act, the human services department be requested to meet on a quarterly basis with the secretary of Indian affairs, legislative leadership, leadership of New Mexico Indian nations, tribes and pueblos, representatives of off-reservation Native Americans and the New Mexico center on law and poverty to discuss the information requested pursuant to this memorial and topics related to the provision of medicaid items and services to Native Americans; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the secretary of human services,

the secretary of Indian affairs, the legislative finance committee and the legislative health and human services committee and to the president of the Navajo Nation, the president of the Jicarilla Apache Nation, the president of the Mescalero Apache Tribe and the governors of the Pueblos of Acoma, Cochiti, Isleta, Jemez, Kewa, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, Sandia, Santa Ana, Santa Clara, San Felipe, San Ildefonso, Taos, Tesuque, Zia and Zuni.