

1 A MEMORIAL

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

6
7 WHEREAS, Native American tribes exercise inherent
8 sovereign powers over their members and territory; and

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

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

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

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

1 services for disabled and elderly persons; and

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

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

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

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

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

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

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

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

23 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE
24 STATE OF NEW MEXICO that the human services department be
25 requested to publish in print and on its web site in a manner

1 easily accessible to the public, and to disseminate in
2 printed form to each of New Mexico's twenty-two tribes,
3 nations and pueblos, a quarterly report that includes the
4 following data:

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

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

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

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

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

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

25 G. the number and type of complaints and issues

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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