



# Department of Public Health and Human Services

Director's Office ♦ PO Box 4210 ♦ Helena, MT 59620 ♦ (406) 444-5622 ♦ Fax: (406) 444-1970 ♦ [www.dphhs.mt.gov](http://www.dphhs.mt.gov)

**Steve Bullock, Governor**

**Richard H. Opper, Director**

December 18, 2014

Mr. Richard C. Allen  
Associate Regional Administrator  
Centers for Medicare and Medicaid Services  
Division of Medicaid and Children's Health  
1600 Broadway  
Suite 700  
Denver, CO 80202

Dear Mr. Allen:

The State of Montana, Department of Public Health and Human Services, is respectfully submitting a Title XIX State Plan, Transmittal Number 14-0046, pertaining to Tribal Consultation effective December 1, 2014.

Montana held one in-person consultation meeting and one consultation teleconference, and invited Tribal Chairs, Tribal Presidents, Urban Indian Center Directors, and Indian Health Service. We presented and discussed options for this proposed amendment. This Medicaid State Plan Amendment represents Montana's CHIP and Medicaid Tribal consultation policy. There is no federal fiscal impact.

Should you have questions, please feel free to contact Mary Eve Kulawik, [mkulawik@mt.gov](mailto:mkulawik@mt.gov) at (406) 444-2584.

Sincerely,

Mary E. Dalton  
State Medicaid Director  
Montana Department of Public Health and Human Services

c: Jason Smith, Director of Indian Affairs, Governor's Office  
Lesia Evers, Tribal Relations Manager, DPHHS

**Attachments:**

Citation 1.4

HCFA Form 179

ARRA

November 6, 2014 Tribal Consultation meeting invitation letter and list of attendees

December 9, 2014 Tribal Consultation teleconference invitation letter and list of attendees

Tribal Consultation Information Sheet



## SPA 14-0046 Tribal Consultation SPA

### CMS ARRA Questions

Please indicate whether, in relation to the coverage and reimbursement pages that include sections related to this State Plan Amendment, the State is in compliance with the terms of the American Recovery and Reinvestment Act (ARRA) concerning: Is this submittal likely to have a direct impact on Indians or Indian health programs (Indian Health Services, Tribal 638 Health Programs, and Urban Indian Organizations)?

1. If this change is not likely to have a direct impact on Indians or Indian health programs, please explain why not.

N/A

2. If these changes is likely to have a direct impact on Indians or Indian health programs please respond to the following questions:

a. How did the State consult with the federally-recognized tribes and Indian health programs prior to submission of this SPA or waiver request?

**A tribal consultation meeting was held on November 6, 2014, and a finalization teleconference was held on December 9, 2014.**

b. If the tribes and Indian health programs were notified in writing, please provide a copy of the notification, the date it was sent and a list of the entities notified. In addition, please provide information about any concerns expressed by the tribes and/or Indian health providers and the outcome.

N/A

c. If the consultation with the tribes and Indians health providers occurred in a meeting, please provide a list of invitees, a list of attendees, the date the meeting took place and information about any concerns expressed by the tribes and/or Indian health providers and the outcome.

**Please see two attached tribal consultation meeting invitation letters and lists of attendees. Tribes did not express concerns.**

## STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Montana

Citation ~~1.4 State Medical Care Advisory Committee (42 CFR 431.12(b))~~  
~~There is an advisory committee to the Medicaid agency director on health and~~  
~~medical care services established in accordance with and meeting all the~~  
~~requirements of 42 CFR 431.12. A3, State Plan Administration Assurances, supersedes Citation 1.4,~~  
~~effective 10/01/13 (MT-13-0048-MM)~~

Tribal Consultation Requirements

*Section 1902(a)(73) of the Social Security Act (the Act) requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular, ongoing basis from designees of Indian health programs, whether operated by the Indian Health Service (IHS), Tribes or Tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), or Urban Indian Organizations under the Indian Health Care Improvement Act (IHCA). Section 2107(e)(1) of the Act was also amended to apply these requirements to the Children's Health Insurance Program (CHIP). Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian Health Programs and Urban Indian organizations.*

*Please describe the process the State uses to seek advice on a regular, ongoing basis from Federally-recognized Tribes, Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments, waiver proposals, waiver extensions, waiver amendments, waiver renewals and proposals for demonstration projects prior to submission to CMS. Please include information about the frequency, inclusiveness and process for seeking such advice.*

The Department of Public Health and Human Services (DPHHS), as a state agency, shall establish and promote a relationship of cooperation, coordination, open communication and good will. DPHHS will work in good faith to amicably and fairly resolve issues and differences. DPHHS Medicaid and CHIP staff will interact with Tribal governments, and the parties noted above, on a government-to-government basis to provide services to Montana's American Indians.

Each of the parties respects the roles and responsibilities of the other party. In executing this policy, no party waives any rights, including treaty rights; immunities, including sovereign immunities; or jurisdiction. This policy does not diminish any rights or protections afforded other Indian persons or entities under State or Federal law. Through this policy, the parties strengthen their collective ability to successfully resolve issues of mutual concern. While the relationship described by this policy provides increased ability to solve problems, it may not result in resolution of all issues. Therefore, inherent in their relationship is the right of each of the parties to elevate an issue of importance to any decision-making authority of another party, including, where appropriate, that party's executive office.

*Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment, when it occurred and who was involved.*

The "I/T/Us" referenced below mean Tribal Chairs and Tribal Presidents from federally recognized Tribes, Urban Indian Center Directors, and Indian Health Service.

Montana

~~A letter was sent on January 19, 2011, inviting the 7 Federally recognized Tribes, Tribal Health Departments, and Social Service Directors to a meeting on February 3, 2011 to discuss consultation.~~

~~On January 27, 2011, Tribal consultation letters regarding this State Plan Amendment were sent to the 7 Federally recognized Tribes in Montana, Tribal Health Departments, Social Service Directors and Urban Center Directors. These letters included an options attachment as a basis for discussion of how consultation would take place and a reminder of the February 3, 2011 meeting. For Medicaid and CHIP State Plan Amendments and Medicaid Waivers, options included:~~

- ~~• how much information I/T/Us wanted to receive, all or only those with a “direct effect” as determined by the Department,~~
- ~~• how I/T/Us wanted to receive the information,~~
- ~~• how much in advance of CMS submission I/T/Us wanted to receive the information and how many days of response time for I/T/Us, and~~
- ~~• who I/T/Us wanted DPHHS to contact.~~

~~On February 3, 2011, a meeting was held at the State Capitol to discuss the consultation options described above. Representatives of I/T/Us and others included:~~

- ~~• Blackfoot Tribe: Tribal Business Council Chairman, Vice Chairman, 2 Councilmen, Montana Representative, honored guest and 3 attendees.~~
- ~~• Confederated Salish & Kootenai Tribes: Tribal Health Department Head, Deputy Director of Department of Agriculture, and 2 attendees.~~
- ~~• Northern Cheyenne Tribe: Councilman and Director of Community Health.~~
- ~~• Chippewa Cree Tribe: Vice Chairman and Montana Representative.~~
- ~~• Crow Tribe: Montana Senator, Montana Representative, and 4 attendees.~~
- ~~• Fort Belknap Tribe: 1 attendee.~~
- ~~• Fort Peck Tribe: Montana Representative.~~
- ~~• Indian Health Service: IHS Area Representative.~~

~~On February 22, 2011, a meeting was held at DPHHS to discuss the consultation options described above. Representatives of I/T/Us and others included:~~

- ~~• Billings Indian Health Board: 2 attendees.~~
- ~~• Missoula Indian Center.~~
- ~~• North American Indian Alliance.~~
- ~~• Helena Indian Alliance: 2 attendees.~~

A letter was sent on October 24, 2014, inviting representatives from Montana’s Tribal Governments, Tribal Health Programs, Urban Indian Centers, and the Indian Health Service, to a meeting on November 6, 2014, to discuss consultation.

On November 6, 2014, a consultation was held at DPHHS to discuss revision of consultation guidelines.

- Blackfoot Tribe: Tribal Health Administrator, and 2 Personal Care Assistance program staff.
- Chippewa Cree Tribe: Acting Executive Director, Clinical Director, Health Resource Division Chief, Health Center Medicaid Supervisor, and Business Committee member.
- Confederated Salish & Kootenai Tribes: Tribal Health Director of Operations, Planning and Policy.

- Crow Tribe: Tribal Senator, Health and Human Service Director, and Staff Attorney.
- Fort Peck Tribe: Tribal Executive Board member, Medical Director, 2 Health Promotion/Disease Prevention Program staff, and 3 consultants.
- Northern Cheyenne Tribe: Director and Tribal Health Administrator.
- Indian Health Service: CEO of IHS Crow Service Unit.
- Great Falls Indian Family Health Clinic: Biller/coder.
- Indian Health Board of Billings: Health Site Manager.
- North American Indian Alliance-Butte: 1 attendee.
- Missoula Urban Indian Health: Executive Director.

On December 9, 2014, a teleconference was held at DPHHS to finalize revision of consultation guidelines.

- Blackfeet Tribe: Tribal Business Council member, and Staff Attorney.
- Crow Tribe: Tribal Senator, Vice-Secretary, Health and Human Service Director, Human Resources Cabinet Head, and Staff Attorney.

~~As a result of~~ **After** consultation, the following ~~is the preferred option~~ **guidelines are adopted for consultation:** Consultation with I/T/Us has occurred for Medicaid or CHIP State Plan Amendments or Medicaid Waivers when the following process has been met. For all waivers or amendments, DPHHS will consult with I/T/Us by standard mail or email ~~45~~**28** days in advance of amendment or waiver submission to CMS. This timeframe includes ~~30~~**21** days for I/T/Us to send responses to DPHHS for consideration before submission. At the Department's discretion or by request from I/T/Us, DPHHS may elect to host meetings with I/T/Us to discuss any amendment or waiver.

~~"I/T/Us" mean Tribal Presidents or Tribal Chairmen from Federally recognized Tribes, the Director of the Billings Area Indian Health Service, Urban Indian Organizations and Tribal Health Departments.~~

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is **0938-1098**. The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

CMS-10293 (07/2013)

TN ~~11-00914-0046~~  
Supersedes TN ~~75-111-009~~

Approval Date ~~4/5/11~~

Effective Date ~~4/1/11~~ **12/1/14**

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State: Montana

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