

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
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## **CENTER FOR BENEFICIARY CHOICES**

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**April 12, 2006**

**Memorandum To:** All Part D Sponsors

**Subject:** Coordinating Benefits with Tribes

**From:** Cynthia Tudor, Ph.D., Acting Director, Medicare Drug Benefit Group

This memorandum serves as a reminder that Part D plans must coordinate benefits with other providers of prescription drug coverage in accordance with sections 1860D-23 and 1860D-24 of the Social Security Act (the Act) and Subpart J of the Federal regulations implementing Part D.

The Indian health care system, consisting of tribal, urban, and federally operated Indian Health Service (IHS) programs, delivers a spectrum of clinical and preventive health services to its beneficiaries, via a network of hospitals, clinics, and other entities. Section 42 CFR 423.464(f) implementing the Part D coordination of benefit (COB) requirements requires plans to coordinate benefits with the IHS and providers of other prescription drug coverage. We made clear in our COB guidelines published on July 1, 2005 that tribal health coverage is recognized by CMS as a provider of other prescription drug coverage.

If a tribal member was initially unable to receive Part D benefits through the Part D Plan, the tribe may have stepped in to pay for the AI/AN Medicare eligible's Part D prescription drugs, utilizing a non-federal source of funds, in lieu of Part D plan's primary coverage. In such cases, tribes are entitled to seek compensation from the Part D plan once enrollment is confirmed. Tribes that have provided coverage for their members when they could not access their Part D plan benefits will be submitting claims information to bill Part D plans over the next few months. Consistent with the coordination of benefit (COB) requirements implemented under the regulation at 42 CFR 423.464(b), plans will be required to reimburse tribes when the tribe has paid primary, just like any other provider of prescription drug coverage.

The IHS, Tribes and Urban pharmacies (I/T/Us), are non-TrOOP eligible payers when federal funds are utilized. However, tribes themselves may use non-federal subsidized funding to pay Part D coverage on behalf of American Indian and Alaska Native (AI/AN) Medicare beneficiaries when receiving services through I/T/Us and other Part D providers. This funding should be treated differently and is considered TrOOP eligible. Therefore, Part D Plans need to ensure a process is in place to distinguish the source of funds, either federal or non-federal (tribal), when updating TrOOP balances for AI/AN beneficiaries.

Thank you for your continued assistance with the implementation of the Part D benefit.