

**Department of Health and Human Services
Secretary's Tribal Advisory Committee Meeting**

June 5-6, 2013 – Washington, DC

Executive Summary

The Secretary's Tribal Advisory Committee (STAC) Meeting was held on June 5-6, 2013, in Washington, DC. The meeting provided an opportunity for the STAC to converse in-person; hear updates on the Department of Health and Human Services (HHS) budget, tribal consultation, human service issues, Indian Health Service (IHS), Tribal State relations, Affordable Care Act (ACA), and Intradepartmental Council on Native American Affairs (ICNAA); and learn about staff and operating divisions' work on American Indian and Alaska Native (AI/AN) issues and initiatives. The STAC also prepared for a discussion on its priorities with HHS Secretary Kathleen Sebelius; met with the Secretary; and addressed its business items. Throughout the meeting, the STAC was afforded numerous opportunities to engage with HHS leadership, program staff, and agency officials. The meeting was facilitated by the STAC's Chairman, Gary Hayes. The following members were present, comprising a quorum: Gary Hayes, Ken Lucero, Aaron Payment, Steve Cadue, Roger Trudell, Cathy Abramson, Tracy King, Larry Curley, Arlan Melendez, Cheryle Kennedy, and Chester Antone.

As the meeting transpired, the following action items were recorded:

1. Norris Cochran agreed to give his presentation to Stacey Ecoffey for distribution among the STAC.
2. Cheryle Kennedy agreed to provide Dr. Roubideaux with information on how her area's Federally Qualified Health Center (FQHC) rate compares to the patient all-inclusive rate. In return, Dr. Roubideaux agreed to surface challenges with the agreement when she meets with the U.S. Department of Veterans Affairs (VA) on the contract health service issue.
3. Per Arlan Melendez's request, Lisa Wilson agreed to work with the Navigator team to pull together data on how tribes fared in the Navigator application process.
4. Chairman Hayes asked that Lisa Wilson email Stacey Ecoffey regarding what each state is doing with tribes regarding outreach, education, and enrollment.
5. Per Ken Lucero's request, Mayra Alvarez agreed to provide a list of resources that tribes are eligible for related to the Affordable Care Act (ACA) and the Marketplaces.
6. Per Cheryle Kennedy's request, Donna Cohen Ross agreed to follow-up with Cindy Mann to get information on the "Arkansas model" and whether other states are following it.
7. Per Cheryle Kennedy's request, George Sheldon agreed to find out who is in charge at the U.S. Department of Justice (DOJ) concerning civil rights authority related to the Indian Child Welfare Act (ICWA).

8. Bryan Samuels agreed to look into IV-E plans submitted by tribes that have been rewritten without their consent, provided that Robert McGee gives him specifics.
9. Per Aaron Payment's request, Kim Romine agreed to post a version of the Grants Eligibility Matrix as a PDF online.
10. Per Cheryle Kennedy's request, Dr. Roubideaux agreed to make the Report on Self-Governance available at the Indian Health Service (IHS) Self-Governance meeting.
11. Per Commissioner Sparks' request, the STAC agreed to provide feedback on the Intradepartmental Council on Native American Affairs' (ICNAA) new data priority.
12. Per Ron Allen's request, Cynthia LaCounte agreed to provide a copy of the conference report from last year's annual National Title VI Training and Technical Assistance Forum.
13. Per Ron Allen's request, Mary Wakefield agreed to provide the exact dollars going to tribes for the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program.
14. Chairman Hayes and Ron Lucero requested a letter from the Substance Abuse and Mental Health Services Administration (SAMHSA), to be given to the National Indian Health Board (NIHB) for distribution throughout Indian Country, which can be used to garner support for the Behavioral Health - Tribal Prevention Grant.
15. Per Chester Antone's request, Lawrence Tabak agreed to provide a copy of the National Institutes of Health's proposed draft policy updating the Genome-Wide Association Data Sharing Policy.
16. Ken Lucero agreed to provide Paul Dioguardi with communiqués that require a response from the Center for Consumer Information and Insurance Oversight (CCIIO).
17. Paul Dioguardi will follow-up on the issue of Tribal Epi Centers having difficulty getting data from states, upon delivery of information on specific states from Cathy Abramson.
18. Secretary Sebelius agreed to review the recommendations on self-governance received from the Self-Governance Workgroup in order to be prepared to discuss next steps. She also agreed to take the messages about mental health and economic development forward.
19. Roger Trudell agreed to provide Commissioner Sparks with a nomination from Region 7 for the Administration for Children and Families (ACF) Assistant Secretary's Tribal Advisory Committee (ASTAC).
20. Dr. Nadine Gracia requested that Stacey Ecoffey follow-up with the Centers for Medicare & Medicaid Services (CMS) on Ken Lucero's question about if tribes and tribal organizations are being included in discussions about evaluating the effectiveness of Marketplace outreach activities.
21. STAC members interested in joining the Tribal State Workgroup and/or the ACA Workgroup agreed to email Stacey Ecoffey about their interest.
22. Lisa Wilson agreed to take Ken Lucero's concern about tribes being at a disadvantage in New Mexico because of the state's improbability of forward-funding outreach activities related to the Marketplace back to the Navigator team to see if technical assistance can be provided.
23. Per Chester Antone's request, Lisa Wilson agreed to provide information on the eligibility process for Qualified Health Plans (QHPs) in Arizona.
24. Lisa Wilson agreed to take back Larry Curley's comment/request about the Navajo Nation being considered a state for the purpose of the Navigator program.

25. Per Ron Allen's suggestion, Stacey Ecoffey agreed to consider recording issues raised during the quarterly ACA outreach calls for tracking purposes.
26. Donna Cohen Ross agreed to take back Ron Allen's question about what will be done to expand coverage for tribal members that are eligible for Medicaid expansion but live in states that are not going to expand Medicaid.
27. Per George Sheldon's direction, Commissioner Sparks agreed to provide information on the government-wide Victims Plan for Human Trafficking to the STAC.
28. Secretary Sebelius agreed to follow-up on Chester Antone's concern about who should do certification and licensure of non-638 facilities on tribal lands. [Councilman Antone requested that Arizona Health Care Cost Containment System (AHCCCS) reimbursements be continued until they can come up with something everyone can agree with.]
29. Dr. Roubideaux agreed to distribute IHS' ACA Business Plan Template to the STAC.

The tenor of the morning for the first day of the STAC meeting was somber, as the Office of Budget's Norris Cochran provided the STAC with updates on the HHS budget. Notably, for fiscal years 2013-2015, he commented that the sequester is in place; a Continuing Resolution (CR) will be in effect through the end of the year, which includes a 0.2% cut across the board for all discretionary budgets (inclusive of IHS); the President's FY 2014 has been submitted (with IHS remaining a priority with a \$5.7 billion discretionary request representing \$400 million over the final 2013 level); and although the operating divisions are coming up with budgets for FY 2015, it is unclear from what base they should be operating. Despite the budget news, tribal leaders said they remained hopeful that Congress would act to exempt IHS from the sequestration. In the event that does not happen, they questioned what HHS is prepared to do through regulations or administrative policies to fund services that are being cut by IHS.

During the *Indian Health Service Issue Discussion* session, Dr. Yvette Roubideaux, Director, IHS, also expressed her frustration regarding the sequestration. Among the highlights from her presentation included the following items: IHS received its final apportionment from the Office of Management and Budget (OMB) to get the money out to all areas and service units, but it included cuts for the sequester; increases in the FY 2014 budget for IHS are proposed for contract health services, staffing, contract support costs (CSC), and facilities; tribal budget recommendations for FY 2015 are in and the internal budget process is underway; tribes will be updated on past CSC claims and appropriations soon; and the first payment was received on the federal side for the VA reimbursement agreement. In response to questions and comments regarding her remarks, Dr. Roubideaux encouraged Tribal leaders to get the Implementation Plan for reimbursements signed so they can start billing the VA; and she clarified that most of the CSC claims that tribes are filing are under the Contracts Disputes Act, which uses Judgment Fund monies to pay settlements.

Co-presenters for the *Affordable Care Act Update* session included Mayra Alvarez, Director of Public Health Policy, Office of Health Reform; Donna Cohen Ross, Center for Medicaid and Children's Health Insurance Program (CHIP) Services; Lisa Wilson, Senior Policy Advisor, CCIIO/CMS; and Dr. Roubideaux. Ms. Alvarez began the presentation, providing an update on the implementation of the ACA; Ms. Ross updated the group on a set of outreach grants awarded in April 2010, under Children's Health Insurance Program Reauthorization Act (CHIPRA); Ms.

Wilson provided information on the Marketplaces and help for consumers; and Dr. Roubideaux wrapped up the presentation, sharing IHS' plan for assisting its facilities to prepare for ACA implementation. Milestone dates include the following:

- IHS' Annual Partnership Meeting is tentatively planned for August 2013.
- NIHB's Public Health Summit will be held June 17-19, 2013, and will include an all-day training on the ACA on June 20, 2013.
- The National Congress of American Indians (NCAI) will have a training that is focused on tribal employers on June 24, 2013.
- A Call Center for the Marketplace will be launched in late June 2013.
- An announcement for opportunities to train people to be part of the In-person Assistance Program will occur later in the summer; \$150 million will be available for Community Health Centers.
- The second round of outreach grants awarded under the Children's Health Insurance Program Reauthorization Act (CHIPRA) will be available in the fall, with \$4 million coming from the ACA to focus on school-based outreach and enrollment and building application assistance opportunities in local communities.
- Open enrollment into the Marketplaces will begin in October 2013, with coverage starting January 1, 2014.

Following the presentation, tribal leaders continued to express concern about the multiple definitions of Indian in the ACA, how the definition(s) will impact AI/ANs, and what data system will be used to identify Indian status. Other concerns centered on the need for Navigator-type opportunities for tribes in states that will have state-based Marketplaces; a desire to have tribal involvement in reviewing call scripts that will be used in the Call Center; a request for the Navajo Nation to be treated as a state for the purposes of the Navigator program; and the lack of response from CCHIO to tribes' inquires. Before moving to the next session, a vote was taken and all members were in favor of forming a workgroup to address ACA issues.

During the *Tribal State Update/Tribal Consultation* session, Lillian Sparks, Administration for Native Americans (ANA) Commissioner and ICNAA Chair, acknowledged that Tribal State issues surfaced during the HHS Regional Tribal Consultations. Among the strategies she cited for building better Tribal State relationships included: utilizing and implementing the HHS Tribal Consultation Policy; utilizing HHS Regional Offices to forge partnerships and relationships to have forums and improve relations; looking at the human service areas of child welfare and foster care; doing education and outreach at the state level; and for CMS-related issues, encouraging states to work with tribes on the Marketplaces.

Stacey Ecoffey, Principal Advisor for Tribal Affairs, Office of Intergovernmental and External Affairs (IEA), said she anticipated that the IEA workgroup would meet in August 2013, with a plan to provide deliverables and action items to the STAC at its September meeting. She also mentioned that the HHS Regional Directors are holding follow-up calls to the Regional Tribal Consultation sessions; and discussion on the HHS Tribal Consultation Policy will occur at the September STAC meeting, per Gloria O'Neill's request.

Also during this session, Dr. Judith Monroe, Director, Office for State, Tribal, Local, and Territorial Support (OSTLTS), Centers for Disease Control and Prevention (CDC), said the comment period for the CDC Tribal Consultation Policy closed on May 20, 2013, and the letters from tribes and/or national or regional organizations are under review by the Office of the General Counsel (OGC). Dr. Isabel Garcia, Acting Director of the National Institute of Dental and Craniofacial Research (NIDCR), National Institutes of Health (NIH), informed the STAC that NIH has considerable efforts going forward, having tribal point-of-contacts for each Center/Institute (with almost everyone on board). She said NIH will work to constitute its Tribal Advisory Committee (TAC); and she said she was hopeful that NIH's first Tribal Consultation session will convene in 2014. Finally, Mirtha Beadle, SAMHSA, Deputy Administrator, stated that SAMHSA is updating its Tribal Consultation Policy and will share the updates with the STAC in the future. She said the SAMHSA Tribal Technical Advisory Committee (TTAC) has been re-energized, touting new members (with only one vacancy for the Phoenix Area and one at-large position open).

Following the updates, concern about Indian child welfare and foster care issues were expressed.

Acting Assistant Secretary for ACF, George Sheldon, opened the session on *Human Service Issues*. He noted that Commissioner Bryan Samuels had worked hard since the STAC's last meeting to develop a plan to move forward on Indian child welfare issues. Without belaboring the point, he invited his team to provide updates. Commissioner Samuels discussed the plan for holding states accountable with ICWA compliance; Yvette Sanchez, Director, Office of Head Start, ACF, discussed the process for tribes identified for Designation Renewal System (DRS) competition; and Earl Johnson, Director, Office of Family Assistance, ACF, and Felicia Gaither, Director, Tribal Temporary Assistance for Needy Families, ACF, gave updates on Temporary Assistance for Needy Families (TANF) and Tribal TANF. Among the highlights from their remarks included:

- One tribe has an approved Title IV-E plan, another is expected to be approved by the end of June, and 4 more will likely have approved plans in the future.
- Letters were sent to states and tribes reminding states of their obligation to consult with tribes and comply with ICWA.
- ACF will develop a reporting template for ICWA compliance.
- Cohort 2 for the DRS competition was announced in January 2013, and included 29 AI/AN programs; reviews for Cohort 1 are expected in January 2014.
- All Head Start programs, including tribal programs, will take a 5.27% cut in their grant because of the sequester.
- The ACF Office of Head State Tribal Consultation will be in Spokane, Washington on June 11, 2013.
- Four letters of intent for new Tribal TANF entities are pending.
- A webinar series to give tribes technical assistance and guidance on TANF has begun; transcripts and presentations will be posted online. The July 31st webinar will focus on the Letter of Intent process.
- A National Tribal TANF Summit will be held on August 12-14, 2013, in Denver, Colorado. Technical assistance/guidance and peer networking opportunities will be provided.

For the *Update: Intradepartmental Council on Native American Affairs* session, Commissioner Sparks had the Grants Eligibility Matrix distributed to the group. She invited Kim Romine and Sue Clain to speak about the document. Ms. Romine indicated that the data set (containing 2010 data) was as complete as possible, saying only final tweaking of the written report that will accompany the matrix was needed. Ms. Clain said input from the STAC and ICNAA would be solicited in terms of how to use the data to meet the original goals of the project, i.e., to identify projects or priorities for additional technical assistance to tribes on grants for which they are eligible; and to consider revisions to regulations or policies that present barriers to tribes' eligibility—where the Department has some authority to make some changes. She also said they are looking at how to easily update the document and make it more portable, perhaps via the HHS website and/or use of thumb drives.

Regarding self-governance, Commissioner Sparks said the Tribal Federal Workgroup was finalizing its report on recommendations. Noting that the workgroup had completed its charge, she expressed a desire to keep communication open with tribes about what they want to see advanced. She said the workgroup's efforts yielded a lot of valuable information in terms of what it means to administer self-governance in the form of grants, and what possible models could be outside of the Indian Self-Determination and Education Assistance Act (ISDEAA).

The first day of the STAC meeting ended with the members preparing for the following day's meeting with HHS Secretary Kathleen Sebelius in a closed session.

The second day of the meeting began with STAC members meeting in a closed session. Once the meeting officially opened, the STAC was updated on staff and operating divisions' work on AI/AN issues and initiatives. Updates were provided by the following:

- **ACL** - Kathy Greenlee, Assistant Secretary, Administration for Community Living
- **HRSA** - Mary Wakefield, Administrator, Health Resources and Services Administration
- **SAMHSA** - Mirtha Beadle, Deputy Administrator, Substance Abuse and Mental Health Services Administration
- **NIH** - Lawrence Tabak, Deputy Director, National Institutes of Health; and Dr. Dina Paltoo, Health Science Policy Analyst
- **CDC** - Judith Monroe, Director, Office for State, Tribal, Local, and Territorial Support, Centers for Disease Control and Prevention
- **ANA** - Lillian Sparks, Commissioner, Administration for Native Americans
- **OMH** - Nadine Gracia, Deputy Assistant Secretary for Minority Health and Director, Office of Minority Health

Details on the HHS federal members' presentations, as well as details on other agenda sessions and associated questions and answers, are provided under separate cover.

When Secretary Sebelius joined the meeting, she too echoed the STAC's frustration on the budget, noting that the sequestration took \$15.5 billion out of the HHS budget and hit every program. To that end, she said the Administration's number one priority is to get rid of sequestration. On a more positive note, the Secretary expressed excitement about implementation of the ACA, saying that for the first time in history hundreds of thousands of

Native Americans will have access to affordable coverage. The Secretary assured the STAC that she continues to work with states to encourage them to take up Medicaid expansion; and she acknowledged the concern and problems surrounding the multiple definitions of Indian in the ACA. Regarding the latter, she said technical assistance is being given to Congress with the recommendation that the ACA align its definition with the one used by IHS. In the interim, she said HHS is determining what administrative authorities it may have regarding the issue.

After the Secretary's remarks, Chairman Hayes invited members of the STAC to present the group's priorities to her. The following STAC priorities were noted:

- Response is needed from CCIIO when presented with inquiries and requests from tribal leaders.
- Need for strong advocacy about the Marketplaces and Medicaid expansion to tribes, while educating them about different plans so they can be informed consumers.
- Tribes need equitable access to resources, e.g., Navigator and Assistor programs, for education, outreach and enrollment—regardless of whether the state is a state-based, partnership, or Federally-Facilitated Marketplace.
- The STAC has formed an ACA workgroup to address the ACA and related issues such as the hardship exemption, Medicaid expansion, the Call Center, electronic eligibility verifications, and the definition of Indian, among other items.
- Gaining continued support for the Navajo Nation to operate its own Medicaid agency, exercise true self-determination, and establish a laboratory for the development and experience of Indian Tribes across the country.
- Implementation of a waiver to prevent tax penalties that might be there for IHS beneficiaries who have yet to get health insurance.
- Garnering increased tribal support for SAMHSA's Behavioral Health - Tribal Prevention Grant that did not get funded.
- Increasing tribes' access to data sets held by state governments, as many are not recognizing Tribal Epidemiology Centers as public health authorities.
- Convening stakeholders to have a dialogue on how to get the ICWA passed as state law throughout the country.
- Allowing longer times for Head Start programs to meet standards, as funding reductions will impact programs and necessitate staff reductions.
- Finding ways to address the mental health needs of Indian Country.
- Encouraging collaborations among agencies to help supplement cuts to IHS.

Following the presentation of the STAC's priorities, members were allowed to make additional comments, recommendations, and requests. Other items identified as important by the STAC members included the following:

- Obtaining an exemption from the sequestration for IHS as the President negotiates the FY 2014 budget.
- Making resources available to Indian Country for its elders.
- Making HHS grants directly available to tribes.
- Requesting the Secretary's support on self-governance legislation.

- Making grants more accessible to tribes and encouraging the use of tribal set-asides.
- Approaching corporate America to support the ACA and articulating the need for greater economic development in Indian Country.
- Soliciting help with third party payments.
- Having technical assistance on how the federal health program works.
- Assisting tribes in the area of electronic health records, as they are caught in the digital divide.

After the STAC members' comments, Chairman Hayes thanked the Secretary for her attendance. She acknowledged that some of their issues are recurring, while progress has been made on others. The Secretary said she looked forward to being informed by her team about discussions that took place throughout the meeting; and she said she would reach out to cabinet members and the President to keep tribal items on their agenda.

Before closing the meeting, Ms. Ecoffey indicated that the next STAC meeting will be September 17-18, 2013. The meeting closed with Mr. Curley delivering the closing prayer.