

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

June 8, 2011

TTAG Conference Call Action Items

Action Item	Timeline	Person Responsible	Status	Notes
Follow up internally on the TTAG conversation with Dr. Berwick and develop next steps.	ASAP	Ms. Marx and Ms. Lewis	Ongoing	
Draft a letter to Dr. Berwick outlining examples of the NPRM process that did not include tribal consultation.	ASAP	TTAG	Completed	
Send a letter following up on the discussion with Dr. Berwick to CMS.	By June 9	TTAG	Ongoing	
Develop a comparison of the draft 2008 HHS and proposed CMS tribal consultation policies.	By June 13	Ms. Munson	Ongoing	
Provide Ms. Munson with a copy of the draft 2008 CMS tribal consultation policy for use in the comparison.	ASAP	Mr. Goodacre	Ongoing	
Follow up on the fee submission process and report back to the TTAG.	ASAP	Ms. Marx	Ongoing	
Follow up on the status of the IDDA funds within IHS and report back to the TTAG.	ASAP	Mr. Manydeeds	Ongoing	
Discuss the timing of the release of the IDDA funds with Dr. Roubideaux.	ASAP	Mr. Allen and Ms. Davidson	Ongoing	
Work with IHS to facilitate the TTAG conversation with the IHS Director.	ASAP	Mr. Roberts	Ongoing	
Invite Dr. Berwick to participate in CMS Day.	ASAP	NIHB	Ongoing	
Follow up on the Maliseet licensing issue to ensure the problem is resolved in a timely manner and report back to the TTAG.	ASAP	Ms. Marx	Ongoing	
Forward suggestions for the face-to-face meeting agenda to NIHB.	ASAP	TTAG Members	Ongoing	

June 8, 2011

TTAG Conference Call Minutes

Agenda Item	Discussion	Action
Documents Received	<ul style="list-style-type: none"> Agenda (Attachment A) 	
Welcome and Call to Order	Ms. Valerie Davidson , Chair, Tribal Technical Advisory Group (TTAG) and Executive Vice President and Senior Director, Legal and Intergovernmental Affairs, Alaska Native Tribal Health Consortium (ANTHC), welcomed participants.	
Roll Call	Ms. Tyra Baer , CMS Staff Assistant, National Indian Health Board (NIHB), took the roll of the TTAG members participating in the call:	

TTAG:

Alaska – Valerie Davidson
Aberdeen – absent
Albuquerque – Carolyn Finster
Bemidji – Kathy Hughes
Billings – absent
California – James Crouch
Nashville – Dee Sabattus
Navajo – absent
Oklahoma – Rhonda Butcher
Phoenix – Richard Narcia
Portland – James Roberts
Tucson – Grace Manuel
TSGAC – W. Ron Allen
NIHB – Sally Smith
NCAI – Jason Dollarhide
IHS – absent
NCUIH – absent

Tribes and Tribal Organizations:

Mickey Peercy, TTAG Alternate, TSGAC
Carol Barbero, TTAG Technical Advisor, Nashville Area
Mim Dixon, TTAG Technical Advisor, TSGAC
Linda Frizzell, TTAG Technical Advisor, Portland Area
John Stephens, TTAG Technical Advisor, Portland Area
Myra Munson, TTAG Technical Advisor, Alaska Area
Alida Montiel
Gerald Moses
Elizabeth Neptune
Jay Steiner
Jessica Imotichey

CMS:

Maria Garza
Rodger Goodacre
Bonnie Hilsberg
Cindy Lemesh
James Lyon
Kitty Marx
Georgeline Sparks

Native American Contacts:

Cyndi Gillaspie, Lead NAC
Nancy Grano, Region I
Rosie Norris, Region IX
Stacey Shuman, Region VI

NIHB:

Tyra Baer
Jennifer Cooper
Doneg McDonough

IHS:

Lori Aguilar
Chris Manydeeds
Raho Ortiz

	<p>Other: Sam Ennis Ed Fox, KAI</p> <p>A quorum being present, Ms. Davidson called the meeting to order.</p>	
<p>Report from Chair</p>	<p>Ms. Davidson reported that the TTAG met with Dr. Donald Berwick, Administrator, Center for Medicare & Medicaid Services (CMS), concerning several items on which the TTAG wished to follow-up. Ms. Caya Lewis, Office of the Administrator, CMS; Ms. Lisa Wilson, Center for Consumer Information and Insurance Oversight (CCIIO); and Ms. Jackie Garner, Consortium Administrator, Center for Medicaid, CHIP, and Survey & Certification (CMCS), CMS, also participated in the meeting. Technical advisors who participated were Ms. Myra Munson, TTAG Technical Advisor, Sonosky, Chambers, Sachse, Miller & Munson, LLP; Mr. Doneg McDonough, Consultant, NIH; and Mr. Gerry Moses, ANTHC. Ms. Davidson stated that the meeting was very productive and that Dr. Berwick reiterated the agency's commitment to working with tribes and ensuring that individual American Indians/Alaska Natives (AI/ANs) are able to access all available programs. Discussion topics included:</p> <ul style="list-style-type: none"> • Electronic health records incentive payments and meaningful use; • TTAG's request that Indian Health Service (IHS) facilities be designated as federally qualified health centers for purposes of meeting the meaningful use requirements; • Issues related to the health insurance exchanges, especially with regard to network adequacy through the inclusion of Indian/Tribal/Urban providers; • The adoption of an Indian addendum similar to that used in Part D for exchange plans; • Partnership issues including the expedited review of the CMS tribal consultation policy and the strengthening of the CMS/tribal working relationship concerning Medicare, Patient Protection and Affordable Care Act implementation, and CCIIO; and, • The protection of individual AI/AN Medicaid beneficiaries and their providers from the effects of state cuts in Medicaid programs, especially in light of requests to forego maintenance of effort requirements. <p>Ms. Lewis and Ms. Kitty Marx, Director, Tribal Affairs Group (TAG), Office of Public Engagement (OPE), CMS, will meet to further follow up on these issues and identify next steps. Dr. Berwick indicated that he hopes to attend CMS Day during the NIH Consumer Conference in Anchorage, Alaska.</p> <p>Both Ms. Munson and Mr. McDonough agreed that the meeting was a positive one. Ms. Munson added that Dr. Berwick requested examples of instances in which there was no consultation prior to the issuance of a Notice of Proposed Rule Making (NPRM) or final rule to the detriment of the tribes. Ms. Munson indicated that a letter contrasting these examples with instances in which consultation had a positive effect is being developed. Mr. McDonough stated that NIH had just completed the draft of the letter and sent it to the TTAG for review.</p>	<p>Ms. Marx and Ms. Lewis will follow up on the conversation with Dr. Berwick and develop next steps.</p> <p>TTAG will draft a letter to Dr. Berwick outlining examples of the NPRM process that did not include tribal consultation.</p>

	<p>Ms. Davidson thanked Ms. Marx for her participation in the meeting and her valuable input.</p> <p>Ms. Marx reported that the follow-up meeting with Ms. Lewis will take place on Thursday, June 9. Ms. Davidson stated that she would review and sign the response letter so that Ms. Marx and Ms. Lewis would have it to support their discussion.</p>	<p>TTAG will send a letter following up on the discussion with Dr. Berwick to CMS.</p>
<p>Report from Secretary</p>	<p>Ms. Carolyn Finster, TTAG Secretary and Director, Pine Hill Health Center, reported that she has not completed her review of the April 13 and May 11 minutes and recommended that the TTAG defer approval of the minutes until the next meeting.</p>	
<p>Report from CMS</p>	<p><u>CMS Policy Consultation Policy</u></p> <p>Ms. Marx reported that CMS received the draft of the tribal consultation policy that was developed by the TTAG. TAG shared the document with multiple components within CMS. Earlier in the day, the first CMS Tribal Consultation Work Group meeting took place. The meeting provided an opportunity to share background information on the Executive Order that requires tribal consultation and on work done on the policy in previous years. Participating staff members represented CMCS, CCIIO, the Consortium for Medicaid and Children’s Health Operations, the Office of the General Counsel, and the Office of Strategic Operations and Regulatory Affairs, which is responsible for tracking regulations. The next work group meeting will take place on June 22. Ms. Marx reported that she had shared the TTAG’s hope that the policy would be put on the fast track.</p> <p>Ms. Marx indicated that TAG plans on working with the components that could not attend the first meeting. She stressed the necessity of getting all CMS components involved in the development of the policy in order to ensure that there is agency-wide buy-in on the policy. She also committed to working to resolve any disagreements between tribal and agency ideas about how the need for consultation is determined and which situations require consultation.</p> <p>Mr. Mickey Peercy, Choctaw Nation, Oklahoma Area, pointed out that the TTAG made the same request several years ago when Dr. Mark McClellan was CMS Administrator. He recommended that efforts to develop the policy be brought to the attention of the Office of Secretary of the Department of Health and Human Services (HHS) if the process begins to slow down at the agency level. Ms. Munson understood the reasons for Mr. Peercy’s concerns but noted that Dr. Berwick seems to be very committed to establishing the policy. She also felt that it will be easier this time to navigate the approval process for the CMS policy as it relies heavily on the recently adopted HHS policy.</p> <p>Ms. Munson indicated that the TTAG plans to provide a comparison of the HHS and proposed CMS tribal consultation policies to support the further development and approval of the CMS policy. Ms. Marx asked Ms. Munson to send the comparison to the work group as soon as possible as it would provide a starting point for the work group. Ms. Munson asked for a copy of the 2008 CMS draft tribal consultation policy for comparison with the TTAG version. Mr. Rodger Goodacre, TAG, OPE, CMS, committed to providing Ms. Munson with</p>	<p>Ms. Munson will develop a comparison of the 2008 draft HHS policy and proposed CMS tribal consultation policy to support the further development and approval of the CMS policy.</p>

	<p>the requested document. Ms. Munson promised to compare the TTAG version with those items in the 2010 HHS version that cannot change as well as the 2008 draft and provide it to TTAG by June 13. She anticipated that the comparison should help speed the approval process by highlighting the areas on which there has traditionally been agreement.</p> <p>Mr. James Roberts, Policy Analyst, Northwest Portland Area Indian Health Board, asked Ms. Marx to share any of the objections raised during the work group session concerning the draft developed by CMS. Ms. Marx indicated that the meeting was just the first meeting of the work group and served primarily as an introductory session. The main question related to how the TTAG version compares to earlier drafts of the CMS policy and to the HHS policy. Moving forward, Ms. Marx thought that the work group would likely include TTAG members in the discussion to share information on tribal concerns as well as the concerns of the various components.</p> <p><u>Follow-up: Memo to John Spiegel re Medicare, Medicaid and CHIP: Additional Screening Requirements, Application Fees, etc.</u> Ms. Marx reported that Ms. Cheryl Brown, Center for Program Integrity, CMS, who is now responsible for this policy area, was unable to attend due to a last minute schedule change and would not address the issue of the fee submission process during the call. Ms. Marx promised to follow up with Ms. Brown and report back to the TTAG within two weeks.</p>	<p>Mr. Goodacre will provide Ms. Munson with a copy of the draft 2008 CMS tribal consultation policy for use in the comparison.</p> <p>Ms. Marx will follow up on the fee submission process and report back to the TTAG.</p>
<p>Subcommittee Reports: Tribal Consultation Policy</p>	<p>There was no report from the Subcommittee as the topic was covered during the report on the CMS tribal consultation policy.</p>	
<p>Subcommittee Reports: Outreach and Education</p>	<p>Ms. Kathy Hughes, Vice Chairwoman, Sovereign Nation of Oneida, reported that the next Outreach and Education (O&E) Subcommittee conference call is scheduled for June 14.</p> <p>Ms. Davidson stated that one of the topics addressed during the meeting with Dr. Berwick was the need for tribal O&E regarding the exchange programs.</p>	
<p>Subcommittee Reports: Data</p>	<p>Mr. James Crouch, Executive Director, California Rural Indian Health Board, Inc. (CRIHB), reported that Dr. Carol Korenbrot, CRIHB, and Dr. Chi Kao anticipate having all of their tables comparing IHS active users and CMS paid claims, which are being produced under the NIHB subcontract, finished by June 30. A written report explaining the national analysis will be available by July 31. Drs. Korenbrot and Kao are willing to participate in the July TTAG face-to-face meeting and present their findings. Mr. Crouch expressed his excitement over the progress that has been made so far on this project and thanked the TTAG and CMS for their support.</p> <p>Ms. Davidson indicated that the agenda for the face-to-face meeting would include time for CRIHB's report on the analysis.</p> <p>Mr. Crouch also expressed his cynicism concerning the process for transferring CMS funds to NIHB for FY 2011 activities. To date, there has been no posting by IHS of the availability of funding through the</p>	

	<p>Intra-Departmental Delegation of Authority (IDDA), which has traditionally been the way work has been funded through NIHB. The end of the fiscal year is little more than three months away, which makes it difficult to develop and implement projects using these funds in a timely way. He acknowledged the work IHS has done to restructure its relationship with NIHB.</p> <p>Ms. Marx indicated that CMS has provided all of the funds and related information to IHS. Further action on the award and disbursement of the funds is the responsibility of IHS.</p> <p>Ms. Jennifer Cooper, Legislative Director, NIHB, reported that NIHB has not received any sort of proposal or request for a proposal from IHS eventhough NIHB leadership has been discussing this with IHS.</p> <p>Mr. Chris Manydeeds, Office of Tribal Self-Governance, IHS, agreed to follow up on the status of the funds within IHS and report back to the TTAG.</p>	<p>Mr. Manydeeds will follow up on the status of the IDDA funds within IHS and report back to the TTAG.</p>
<p>Subcommittee Reports: Across State Borders</p>	<p>Ms. Davidson stated that the Across State Borders Subcommittee is still in need of a new chairperson. She hoped that this position would be filled prior to the July face-to-face meeting.</p>	
<p>Subcommittee Reports: Behavioral Health</p>	<p>Ms. Alida Montiel, Health Systems Analyst, Inter Tribal Council of Arizona, reported that the Behavioral Health Subcommittee has not met since the last TTAG conference call. Subcommittee members have participated in discussions about the block grants being proposed for tribes by the Substance Abuse and Mental Health Services Administration.</p>	
<p>Subcommittee Reports: Long-Term Care</p>	<p>There was no report from the Subcommittee.</p>	
<p>Subcommittee Reports: Budget</p>	<p>Mr. Roberts noted that the Budget Subcommittee did not have anything new to report. He reiterated that they are waiting for the publication of the <i>Federal Register</i> notice about the availability of IDDA funds that go to NIHB and support the TTAG.</p> <p>Mr. W. Ron Allen, TTAG Vice-Chair representing the Jamestown S’Klallam Tribe, and Mr. Roberts asked for clarification about the work that will be funded through the IDDA. Ms. Marx indicated that she could not speak specifically about the work until the notice is published in the <i>Federal Register</i>. Mr. Roberts was concerned that the current funding available to NIHB for TTAG work was only anticipated to carry through the end of May. He stressed that NIHB must be able to cover its costs relative to the TTAG.</p> <p>Ms. Marx stated that CMS was able to add funding to the FY 2010 NIHB cooperative agreement for regulatory review work and research. She confirmed that this money was slated to run through May. Currently, CMS is not providing funds for the regulatory review and data research. The funds that will be provided under the IDDA are consistent with CMS funding of TTAG activities in the past, but are subject to the <i>Federal Register</i> notice. She indicated that she did not have any information on the anticipated publication date; IHS is responsible for arranging for the publication of the notice.</p>	

	<p>Mr. McDonough reported that NIHB is providing the funding for the regulatory review work through the end of June. Ms. Cooper indicated that the NIHB will also be able to support the Medicare and Medicaid Policy Committee through the end of June.</p> <p>Both Mr. Peercy and Mr. Crouch expressed concerns over the limited amount of time left before funds run out, the amount of time it will take to get contract mechanisms in place once the notice is posted, and the seeming lack of concern over timelines on the part of IHS.</p> <p>Mr. Allen asked if the TTAG felt that there should be a follow-up call on this topic. Mr. Crouch recommended that Mr. Allen and Ms. Davidson personally call the IHS Director, Dr. Yvette Roubideaux, to speak to her about this issue. He acknowledged that the issue of sole-source contracting might be what is holding up the process. Mr. Allen and Ms. Davidson agreed to contact Dr. Roubideaux.</p> <p>Mr. Roberts suggested that Ms. Stacy Bohlen, Executive Director, NIHB, also participate in the call. Mr. Crouch disagreed, noting that Ms. Bohlen's participation is complicated by the sole-source nature of the award. He felt that the call should just involve TTAG leadership only. Ms. Munson agreed with Mr. Crouch's point of view and felt that the TTAG should ask for Dr. Roubideaux's support in moving the process forward.</p> <p>Mr. Roberts offered to work with Ms. Sharon Hoffman, IHS, to facilitate the call between Ms. Davidson, Mr. Allen, and Dr. Roubideaux.</p>	<p>Ms. Davidson and Mr. Allen will discuss the timing of the release of the IDDA funds with Dr. Roubideaux.</p> <p>Mr. Roberts will work with IHS to facilitate the TTAG conversation with the IHS Director.</p>
<p>Subcommittee Reports: CMS Day</p>	<p>Ms. Davidson asked for volunteers to work on the CMS Day Subcommittee, which helps plan the CMS Day events. Mr. Crouch; Mr. Peercy; Ms. Munson; Ms. Rhonda Butcher, Citizen, Potawatomi Nation; and Dr. Mim Dixon, TTAG Technical Advisor, Mim Dixon & Associates, volunteered to serve on the Subcommittee. Ms. Baer will be responsible for coordinating the Subcommittee's calls and distributing information.</p>	
<p>Other Business</p>	<p><u>CMS Day Invitation</u> Ms. Baer reported that the letter inviting Dr. Berwick to participate in CMS Day would be sent out on June 9.</p> <p><u>Medicare Billing Issue: Out-of-State Providers</u> Ms. Carol Barbero, TTAG Technical Advisor, Hobbs, Strauss, Dean & Walker, asked whether tribes and tribal health programs have encountered difficulties within the Medicare program similar to those experienced by the Maliseets in Maine concerning the rejection of claims because the provider holds an out-of-state license. She stated that both TAG and the local Native American Contact (NAC) have been alerted about the problem and expressed her hope that it could be resolved quickly. Ms. Barbero asked that the issue be included in the agenda for the face-to-face meeting if it is not resolved beforehand.</p> <p>Ms. Cyndi Gillaspie, Lead NAC, CMS, indicated that instructions concerning out-of-state licenses would be sent to Trailblazer in the very near future if they have not already gone out. She believed that</p>	<p>NIHB will invite Dr. Berwick to participate in CMS Day.</p>

	<p>the issue has been, or is almost, completely resolved. Ms. Barbero asked whether the resolution applied only to the Maliseets or to all of Indian Country. Ms. Gillaspie indicated that the resolution, while specific to the Maliseets, would apply to all of Indian Country. Ms. Marx indicated that TAG would share this instructional guidance with NIHB for distribution. Ms. Barbero asked if there are additional fiscal intermediaries that should receive the guidance in addition to Trailblazer. Ms. Marx indicated that the guidance would be sent to all of the Medicare Administrative Contractors.</p> <p>Ms. Barbero asked how quickly CMS anticipated it would take to correct the errors and make the appropriate payments to the Maliseets. Ms. Marx promised to follow up to ensure the problem is resolved in a timely manner and report back to the TTAG. She also noted that this is the only instance of this situation of which CMS is aware.</p>	<p>Ms. Marx will follow up on the licensing issue to ensure the problem is resolved in a timely manner and report back to the TTAG.</p>
Next Meeting	<p>Ms. Davidson reminded participants that the next TTAG meeting will be the face-to-face meeting on July 27-28. She asked TTAG members to forward items for the agenda to Ms. Baer. Anticipated agenda items included follow-up on the TTAG discussion with Dr. Berwick, Accountable Care Organizations (ACOs), value-based purchasing, and CClO and CMCS issues. Ms. Marx stated that the ACO program staff is very interested in meeting with the TTAG</p> <p>There will not be a conference call in July because the face-to-face meeting will take place at the end of the month.</p>	<p>TTAG members will forward suggestions for the face-to-face meeting agenda to NIHB.</p>
Adjourn	<p>With no other business to discuss, Ms. Davidson adjourned the meeting.</p>	

Attachment A:

Agenda

Tribal Technical Advisory Group

To the Centers for Medicare & Medicaid Services

c/o National Indian Health Board 926 Pennsylvania Avenue, SE Washington, DC 20003 (202) 507-4070 (202) 507-4071 fax

TTAG AGENDA

Conference Call

Wednesday, June 8, 2011, 2:30 – 4:00 PM (Eastern)

Call In Number: 1-877-267-1577 Pass Code: 0808

- 2:30 Welcome** - Valerie Davidson, Chair
Roll Call – Tyra Baer, NIHB
- 2:35 Report from Chair:** Valerie Davidson, Chair
- 2:40 Report from Secretary** – Carolyn Finster, Secretary
- Approve meeting minutes from April 13, 2011 & May 11, 2011
- 2:45 Report from CMS TAG** – Kitty Marx
- Update on status and timing of the CMS Policy Consultation Policy
 - Status of follow up memo sent 3/25/11 to John Spiegel, Director, Medicare Program Integrity Group, CMS regarding Proposed Rule on “Medicare, Medicaid, and CHIP; Additional Screening Requirements, Application Fees, etc.”
 - Cheryl Brown, CMS/CPI will provide update on the fee submission process as well as an overview of the hardship exception process
- 3:00 Subcommittee activities/schedules**
- Tribal Consultation Policy** – Ron Allen & Jason Dollarhide
 - Outreach and Education** – Kathy Hughes
 - Data** – Jim Crouch
 - Across State Borders** (need a new chair)
 - Behavioral Health** – Dr. Linda Frizzell
 - Long Term Care** – Dr. Judy Goforth Parker
 - Budget** – Jim Roberts
- 3:40 Other Business/ Discussion** –
- CMS Day Planning Subcommittee for 2011 NIHB ACC – call for volunteers
 - Prepare for July 27-28, 2011 TTAG F2F Meeting in D.C.

4:00 Adjourn

NOTE: Future 2011 TTAG Conference Calls, 1-877-267-1577 meeting ID: 0808

August 10, 2011	December 14, 2011
September 14, 2011	
October 12, 2011	

Future 2011 TTAG Face to Face Meetings (at NMAI, Washington, D.C.)

July 27-28, 2011	November 9-10, 2011
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