

# Overview of Indian Health IHS, Tribes, and Urbans

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## Policy of this Nation:

- In fulfillment of its special responsibility and legal obligation to Indian people, to meet the national goal of providing the highest possible health status to Indians and urban Indians and to provide all resources necessary to effect that policy.

## Federal Trust Responsibility

- Based on the Federal government's trust responsibility to Indian tribes, the Federal government provides comprehensive services to Indian people through the Bureau of Indian Affairs (education, social services, law enforcement, fish and game, land management, etc) and the Indian Health Services (public health services).

## Federal Trust Responsibility

- **U.S. Constitution:**
  - Indian Commerce Clause
  - Treaty Clause
  - Supremacy Clause
- **Federal Trust responsibility is recognized in:**
  - Court decisions
  - Laws
  - Regulations
  - Presidential Executive Orders
  - Agency tribal consultation policies

## Judicial recognition of Federal Trust Responsibility

*Cherokee Nation v. Georgia* (Sup. Ct. 1831)

- Described Indian tribes as "domestic dependent nations"
- Tribe-U.S. relationship "resembles that of a ward to his guardian"

*Morton v. Mancari* (Sup. Ct. 1974)

- Recognized Indian tribes as a political rather than racial classification in lawmaking
- Laws for the benefit of Indians will not be disturbed if rationally tied to Congress's "unique obligation" to Indians

## Federally recognized Indian Tribes

- There are 563 Federally-recognized Tribes located in 34 states
- 229 of those Tribes are located in Alaska
- Tribes are recognized by Federal recognition statute or through the Bureau of Indian Affairs administrative recognition process
- Tribal jurisdiction and tribal court systems vary from state to state

## Snyder Act of 1921

- The Snyder Act was enacted in 1921 and provide authorizing legislation for Congress to appropriate funds "for the benefit, care, and assistance of the Indians throughout the United States", including "conservation and preservation of health."

## Transfer Act of 1954

- In 1955, responsibility for Indian health services was transferred from the Bureau of Indian Affairs to the Department of Health, Education and Welfare (HEW), now the Department of Health and Human Services.
- The Indian Health Service was created as a federal agency.

## Indian Health Care Improvement Act

- On October 1, 1976, the late President Gerald R. Ford signed the Indian Health Care Improvement Act (IHCIA) into law.
- Re-affirmed U.S. legal obligation for Indian health.
- Responded to deplorable state of Indian health and woeful inadequacy of Indian health facilities.
- Today, the IHCIA, along with the Snyder Act, serves as the foundation of health services and programs provided by the IHS.

## IHCIA reauthorization

- The IHCIA was reauthorized in 1988 and 1992, more than 14 years ago.
- Tribal leaders have been working since 1998 to secure reauthorization of the IHCIA and these efforts have failed in the last three Congressional sessions.
- House Natural Resources introduced HR 1328 on March 6<sup>th</sup> and a Senate bill is expected soon.

## Indian Health Programs

- The Indian health programs are operated by the IHS, by Indian Tribes, or by urban Indian organizations and are generally located on or near Indian reservations.
- The IHS operates 36 hospitals, 110 health centers and 5 residential treatment centers.
- Indian Tribes, under the Indian Self-Determination Act, operate 13 hospitals, 234 health centers, 28 residential treatment centers, and 170 Alaska village clinics.
- There are 34 urban Indian clinics that provide a variety of direct care or referral services.

## Location in rural and remote areas

- Many IHS and tribal hospitals and clinics are located in very remote areas.
- In winter months, travel out of Indian country is almost impossible (Alaska).
- Recruitment and retention of health professionals is very difficult.
- High levels of poverty and unemployment.

## Indian Self-Determination and Education Assistance Act

- The ISDEA allows Indian Tribes to contract with the Federal government for the operation of programs that the Federal government would otherwise provide.
- The ISDEA allows Tribes to redesign programs to better fit the needs of their local community and allows Tribes to excess Federal supply sources and other Federal resources.
- The Tribes essentially step into the shoes of the Federal government when operating an ISDEA program.

## Services provided by Indian health programs

- The Indian health programs provide a comprehensive health care delivery program.
- The extent of the health care services depends on local community needs and is dependent on the level of appropriations and medical priorities.
- The Indian health programs deliver a high volume of medical services with limited staff: for example 900 physicians, and 2,700 nurses for a population of approximately 1.8 million active users.

## Indian health is “pre-paid” health plan

- There is no charge to beneficiaries for services received in a direct care facility.
- Indian health is considered a “pre-paid” health plan based on treaty rights and cessation of land.
- Between 1887 and 1934, over 90 million acres of land was ceded by Tribes to the Federal government.

## Indian health services

- It is often called a “cradle to grave” health care delivery system because so many Indian people are born in IHS hospitals, receive care there all their lives, and die in IHS hospitals.
- Some maternal and child health challenges include fetal alcohol syndrome, diabetes related complications, smoking during pregnancy, and respiratory diseases in young children.
- The Indian health programs use a public health model - medical care, preventive care, health promotion, health education, and sanitation.

## Contract Health Services (CHS)

- If health services cannot be provided in a direct care facility, Indian patients are referred out to private and public sector providers.
- Authorization of services is dependent on appropriations and medical priorities.
- In most instances, CHS will not be authorized unless it is a life threatening illness or emergency.
- The IHS or Tribes pay for authorized services only after exhaustion of other alternate resources, such as Medicaid, SCHIP, or private insurance.

## After hour care

- In some communities, Indian health facilities close at 5 pm on Friday and reopen on Monday morning.
- If medical care is needed after hours, Indian people receive care at perhaps a non-Indian facility, but the IHS CHS program might not pay for the service if not a “life or limb” emergency.
- Discussion of the need to expand Indian facility hours, similar to walk-in clinics, available to the general population.

## IHS Appropriations

- The total IHS appropriations for FY 2007 was \$3.3 billion (\$3 billion for health services) and (\$3 million for facility construction).
- Compared to other federal health programs, the IHS is funded at only 60% of level of need.
- The IHS program is not an entitlement program and so funding for Indian health services can run out by the end of the fiscal year.

## Health Status of Indian people

- Wide gaps in health status between Indian people and rest of the U.S. population.
- Mortality rates from tuberculosis and alcoholism are 6 X higher than rest of the general U.S. population.
- Mortality rates from diabetes is 3X higher.
- For Indian youth, suicide is the third cause of death.

## Indian children are at risk

- At last week's Senate hearing on the IHCA, Chairman Brannan, Arapahoe Tribe, talked about young children who died as a result of lack of health care:
  - A young boy, age 5, who died of cancer that was not treated promptly because of a lack of funding.
  - A young baby who died from physical abuse: injuries inflicted by her meth-addicted parents.