



# *The Indian Health System and Medicaid: Raising Awareness of Barriers in Care*

*In Washington State*

*Presented by:  
Vicki Lowe, Executive Director  
American Indian Health Commission  
for Washington State*





# American Indian Health Commission for Washington State (AIHC)

**Created** in 1994- by Tribal Leaders

**Mission:** *Improve the health of American Indians and Alaska Natives (AI/AN) through tribal-state collaboration on health policies and programs that will help decrease disparities*

**Constituents:** The Commission works with and on behalf of the 29 federally-recognized tribes and 2 urban Indian health programs in Washington State.

**Commission Membership:** Tribal Councils appoint delegates by Council resolution to represent their tribes on the Commission.





# Agenda

- I. History: Tribal Sovereignty and Treaties**
- II. Government to Government Relations**
- III. Indian Health Care Delivery System**
- IV. Medicaid Regulations for American Indian and Alaska Natives**
- V. Medicaid Payments to Indian Health Care Providers**
- VI. State level decisions impacting Delivery of Care to AI/AN**



# I. HISTORY: TRIBAL SOVEREIGNTY AND TREATIES

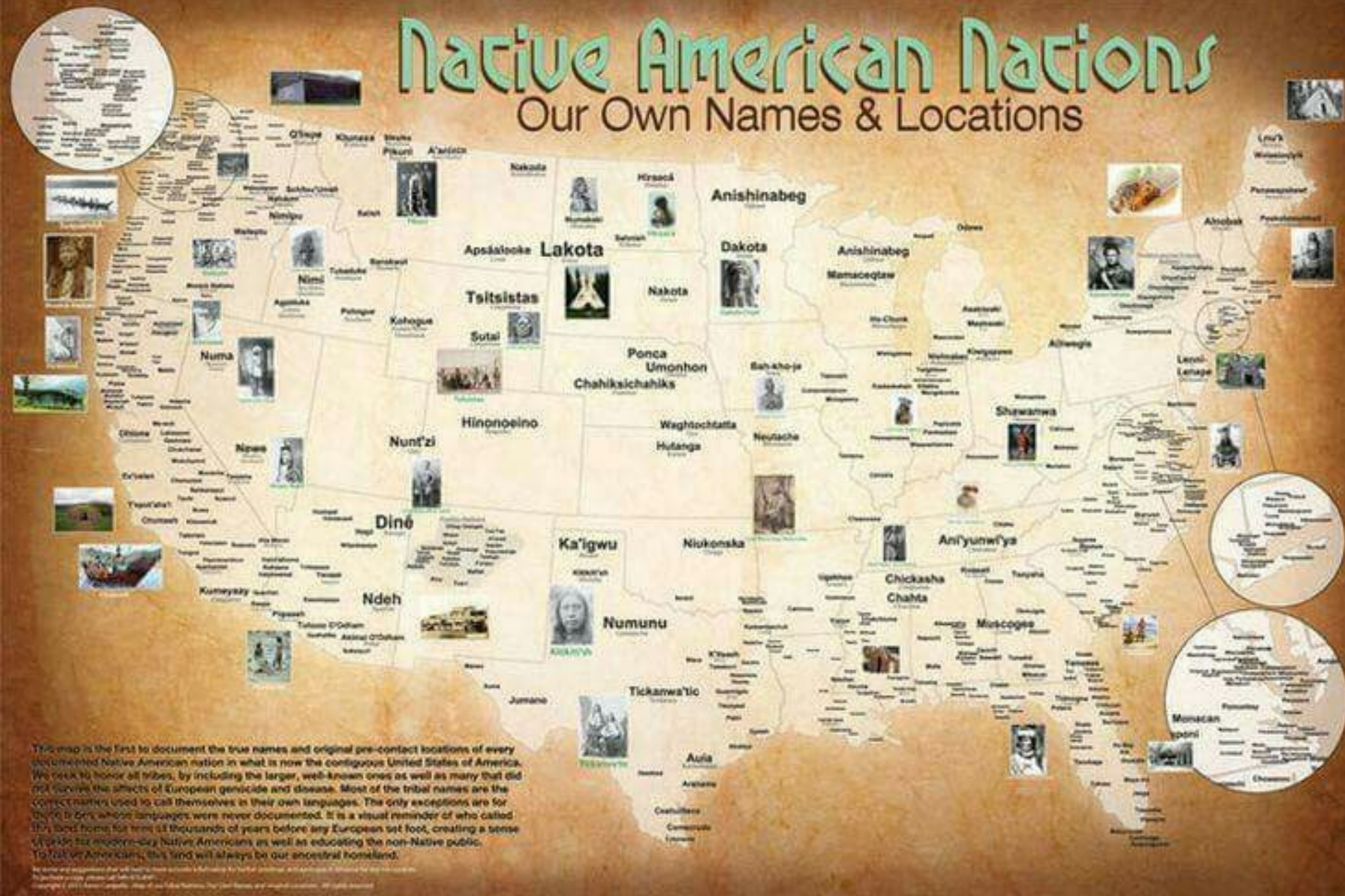


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# Native American Nations

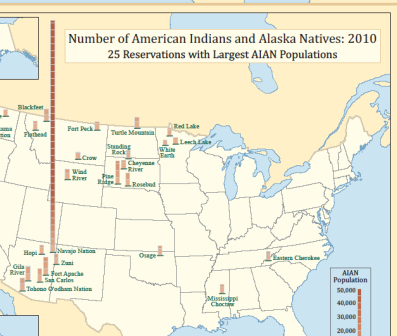
## Our Own Names & Locations



# American Indians and Alaska Natives in the United States

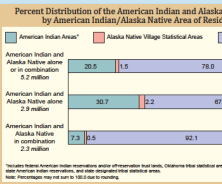


Number of American Indians and Alaska Natives: 2010  
25 Reservations with Largest AIAN Populations



Ten Largest Tribal Grouping Populations: 2010

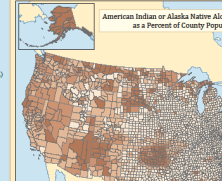
Tribal Grouping	2010 Census	2000 Census	% Change
Cherokee	286,291	243,000	17.7%
Navajo	179,271	146,744	22.2%
Chickasaw	133,392	102,000	30.8%
Muscogean American Indian	111,291	92,000	21.0%
Chippewa	110,197	92,000	20.0%
Southern	110,119	92,000	20.0%
Apache	83,838	68,000	23.2%
Blackfoot	75,000	60,000	25.0%
Crow	34,000	28,000	21.4%



Legend

- American Indian Reservation and/or Off-Reservation Trust Land (Federal)
- Oklahoma Tribal Statistical Area
- American Indian Reservation (State)
- State Designated Statistical Area
- Alaska Native Regional Corporation
- International Boundary
- State Boundary

For more information about the U.S. Census Bureau, please visit [www.census.gov](http://www.census.gov) and [www.IndianCountry.gov](http://www.IndianCountry.gov). For information on AIAN tribal groups, see Appendix B to the 2010 Census Summary File 1. Technical documentation at [www.census.gov/pd/data/soc/2010/sf1](http://www.census.gov/pd/data/soc/2010/sf1). Source: U.S. Census Bureau, 2010 Census. Data by State (see 2010 Census Summary File 1).





# TRIBAL SOVEREIGNTY

Tribal Sovereignty predates the formation of the United States government. Prior to contact, Tribal governments had complete sovereignty.



They had highly developed ways of life, well-established governments, and engaged in unique Tribal health practices.



# U.S. RECOGNITION OF TRIBAL SOVEREIGNTY

## The U.S. Constitution mentions Indian Tribes:

Article 1, section 8 , clause 3, Congress is the branch of government authorized to regulate commerce with *“foreign nations, among the several states, and with Indian Tribes.”*

Article 2, Section 2, Clause 2 of the U.S. Constitution empowered the President to make treaties, including Indian Treaties.

Article 4, states that all treaties entered by the United States “shall be the supreme Law of the Land.”





# THE MARSHAL TRILOGY

## Chief Justice Marshall: Early Supreme Court Decisions

- Johnson v. McIntosh (1823) ruling used the Discovery Doctrine to establish the nature of Indian title. Upon “discovery” the Indians had lost “their rights to complete sovereignty, as independent nations,” only retaining a “right of occupancy” in their lands.
- Cherokee Nation v. Georgia (1831) held that the tribe was not a foreign nation, rather a “domestic dependent nation” subject to the sovereignty of the United States federal government.
- Worcester v. Georgia (1832) ruled that tribal sovereign powers were not relinquished when Indian tribes exchanged land for peace and protection.

*“The Indian nations had always been considered as distinct, independent, political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...”*

— Worcester v. Georgia, 31 U.S. 515, 559 (1832)



# TRIBAL SOVEREIGNTY

- Tribal sovereignty is the right of tribes, as "domestic dependent nations," to exercise self-determination and the right to self-government, unless these powers have been modified by treaty or by an act of Congress.
- Sovereignty ensures control over the future of the tribes and encourages preservation of tribal culture, religions, and traditional practices.
- Tribes have the authority to, among other things, govern their people and their land; define their own tribal membership criteria; create tribal legislation, law enforcement and court systems; and to impose taxes in certain situations.



# TRUST RESPONSIBILITY

**Trust responsibility is a legally enforceable obligation of the United States to protect tribal self-determination, tribal lands, assets, resources, and treaty rights, as well as carry out the directions of federal statutes and court cases.**

**Building Bridges for the New Millennium  
Government-to-Government Implementation Guidelines  
State-Tribal Workgroup  
May 18, 2000**





# TREATY MAKING

Treaty making was a method used to take Indian Land.  
370 Indian Treaties were made with the U.S. Government and Indian Tribes from 1789 to 1871.

**Treaty of Medicine Creek, 1854 , Article 10. The United States further agree to establish at the general agency for the district of Puget's Sound, within one year from the ratification hereof, and to support, for a period of twenty years, an agricultural and industrial school, to be free to children of the said tribes and bands, in common with those of the other tribes of said district, and to provide the said school with a suitable instructor or instructors, and furnish them with the necessary tools, and employ a blacksmith, carpenter, and farmer, for the term of twenty years, to instruct the Indians in their respective occupations.**

**And the United States further agree to employ a physician to reside at the said central agency, who shall furnish medicine and advice to their sick, and shall vaccinate them; the expenses of the said school, shops, employees, and medical attendance, to be defrayed by the United States, and not deducted from the annuities.**



# 1854-56: Treaties with Tribes in Washington Territory

Eight treaties were “negotiated” during these two years

**Treaty of Medicine Creek (1854)**     Nisqually, Puyallup, Squaxin Island, *Steilacoom, S'Homamish, Stehchass, others*  
Reservation, fishing, hunting, pasturing (stallions for breeding only), [health care](#)

**Treaty of Point Elliott (1855)**     Lummi, Suquamish, Tulalip (*Snohomish, Skykomish, others*), Swinomish, Snoqualmie, Skagit, Duwamish, others  
Reservations, fishing, hunting, [health care](#)

**Treaty of Point No Point (1855)**     Jamestown S'Klallam, Port Gamble S'Klallam, Lower Elwha Klallam, Skokomish, others  
Reservation, fishing, hunting, [health care](#)

**Treaty of Neah Bay (1855)**     Makah  
Reservation, fishing, whaling, sealing, hunting, [health care](#)

**Treaty with the Yakama (1855)**     Yakama, Palouse, Piquouse, Wenatshapam, Klikatat, Klinkit, Kow-was-say-ee, others  
Reservation with schools and fishery, fishing, hunting, pasturing, [health care](#)

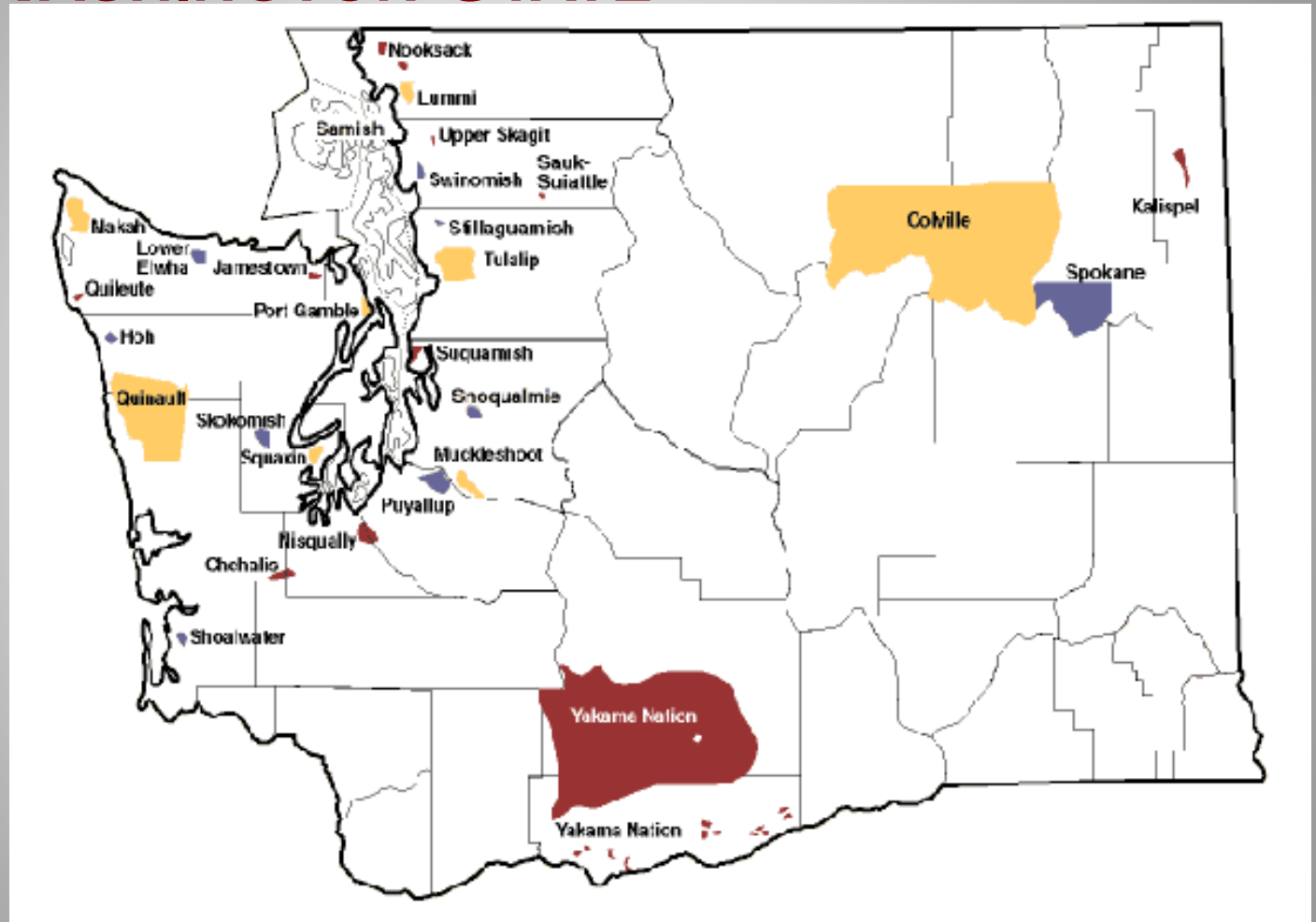
**Treaty of Walla Walla (1855)**     Umatilla, Walla Walla, Cayuses  
Reservation, fishing, hunting, pasturing, [health care](#)

**Treaty with the Nez Perce (1856)**     Nez Perce  
Reservation with schools, fishing, hunting, pasturing, [health care](#)

**Quinault Treaty (1856)**     Quinault, Quileute  
Reservation, fishing, hunting, pasturing horses (stallions for breeding), [health care](#)



# TRIBAL RESERVATION LAND IN WASHINGTON STATE





# STATUTE APPLIES FEDERAL TRUST RESPONSIBILITY TO PROVIDE CARE TO AI/ANS AND URBAN INDIANS

Section 3 of P.L. 94-437:

The Indian Health Care  
Improvement Act:



*“...it is the policy of the Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to ensure the highest possible health status for Indians and urban Indians.”*



# INDIAN HEALTH CARE PROVIDER (IHCP)

**IHCP means a health care program operated by the Indian Health Services (IHS), Tribal Organization or Urban Indian Health Program (otherwise know as the ITU)...**

***the term “Indian Health Care Provider” (IHCP):  
Section 4 of the Indian Health Care Improvement  
Act – 25U.S.C. § 1603 and as  
as defined by 42. CFR 438.14(a)***





# URBAN INDIAN HEALTH PROGRAM

UIHPs are private, non-profit, corporations that serve AI/AN people in select cities with a range of health and social services, from outreach and referral to full ambulatory care.

- Network of 33 not-for-profit community health centers providing culturally appropriate health care, outreach and referral services to urban AI/AN communities
- Established and partially funded through Subtitle IV of the Indian Health Care Improvement Act
- Receive limited grants and contracts from the federal Indian Health Service (IHS)







# URBAN INDIAN HEALTH PROGRAM

## Funding and Services:

- **located in 19 states**
- **serving individuals in approximately 100 U.S. counties, in which over 1.2 million AI/ANs reside\***
- **UIHPs receive only 1% of the IHS budget but serve approximately 150,000 clients each year**
- **UIHPs services range from comprehensive primary medical to outreach and referral**
- **provide traditional health care services, cultural activities and a culturally appropriate place for urban AI/ANs to receive health care.**



# COMPARISON OF U.S. AND TRIBAL GOVERNMENTS

	U.S. Government	Tribal Government
Elections	Requires <b>citizenship</b> to vote	Requires Tribal <b>membership</b> to vote <ul style="list-style-type: none"><li>• E.g., Suquamish General Council</li></ul>
Structure	<b>Federalist</b> <ul style="list-style-type: none"><li>• <b>Federal</b><ul style="list-style-type: none"><li>○ Limited jurisdiction</li></ul></li><li>• <b>State</b><ul style="list-style-type: none"><li>○ General jurisdiction</li></ul></li></ul>	<b>Unitary</b> <ul style="list-style-type: none"><li>• Single government for all matters</li></ul>
Constitution and Laws (Codes)	<b>Federal and State Constitutions and Laws (Codes)</b>	<b>Tribal Constitution and Laws (Codes)</b> <ul style="list-style-type: none"><li>• Many Tribal constitutions are based on Indian Reorganization Act constitution models from the 1930s</li></ul>

# COMPARISON OF U.S. AND TRIBAL GOVERNMENTS

	U.S. Government	Tribal Government
<b>Legislative Branch</b>	<b>Federal: Congress</b> <ul style="list-style-type: none"><li>• Bicameral (elected)</li></ul> <b>State: Legislature</b> <ul style="list-style-type: none"><li>• Unicameral or bicameral (elected)</li></ul>	<b>Tribal Council</b> <ul style="list-style-type: none"><li>• Unicameral (elected)</li><li>• E.g., Colville Business Council</li></ul>
<b>Executive Branch</b>	<b>Federal: President</b> <ul style="list-style-type: none"><li>• Elected</li></ul> <b>State: Governor</b> <ul style="list-style-type: none"><li>• Elected</li></ul>	<b>General Manager</b> <ul style="list-style-type: none"><li>• Appointed by Tribal Council</li></ul>
<b>Judicial Branch</b>	<b>Federal: Judge or Justice</b> <ul style="list-style-type: none"><li>• Appointed</li></ul> <b>State: Judge or Justice</b> <ul style="list-style-type: none"><li>• Appointed or elected</li></ul>	<b>Judge or Justice</b> <ul style="list-style-type: none"><li>• Appointed by Tribal Council</li><li>• General subject matter jurisdiction, limited legal jurisdiction</li></ul>



# COMPARISON OF U.S. AND TRIBAL GOVERNMENTS

	U.S. Government	Tribal Government
<b>Revenue Sources</b>	<b>Taxes</b> <ul style="list-style-type: none"><li>• Federal, state, city or county</li></ul> <b>Fees</b> <ul style="list-style-type: none"><li>• Federal, state, city or county</li></ul> <b>Tariffs and Customs Duties</b> <ul style="list-style-type: none"><li>• Federal only</li></ul> <b>Federal appropriations, entitlements, and grants</b> <ul style="list-style-type: none"><li>• State, city, or county</li></ul> <b>State appropriations, entitlements, and grants</b> <ul style="list-style-type: none"><li>• City or county</li></ul>	<b>Business operations</b> <ul style="list-style-type: none"><li>• Casinos, hotels, stores, gas stations</li></ul> <b>Federal appropriations, entitlements, and grants</b>  <b>Taxes</b> <ul style="list-style-type: none"><li>• Typically on real property</li></ul>



## II. GOVERNMENT TO GOVERNMENT RELATIONS



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## SIMILAR RELATIONS: FEDERAL-STATE & FEDERAL-TRIBAL

### Federalism – Governmental Relations between States and U.S.

*“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”*

– U.S. Constitution, Tenth Amendment

### Federal-Tribal Governmental Relations

*“...the treaty was not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted.”*

– U.S. v. Winans, 198 U.S. 371 (1905)





# GOVERNMENT-TO-GOVERNMENT RELATIONS: FEDERAL-TRIBAL

- ❑ Executive Order 13175
- ❑ Various agency regulations



President Brock Obama and Brian Cladoosby,  
Chairman of the Swinomish Indian Tribal Community  
and President of the National Congress of American  
Indians



# GOVERNMENT-TO-GOVERNMENT RELATIONS: STATE-TRIBAL



**Centennial Accord of 1989:** Agreement between the State of Washington and the Tribes where each party “respects the sovereign status of the parties, enhances and improves communications between them, and facilitates the resolution of issues.”

**Chapter 43.376 RCW:** Law requires state agencies to “make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes...”

It also requires state agencies to “develop a consultation process that is used by the agency for issues involving specific tribes”.



# UIHP RELATIONSHIP TO FEDERAL AND STATE GOVERNMENTS

**Section 4 of  
the Indian  
Health Care  
Improvement  
Act – 25U.S.C.  
§ 1603**

**Section  
1902(a)(73) of  
the Social  
Security ACT**

**CMS Dear  
Tribal Leaders  
Letter  
January 22,  
2010**

**State Plan  
Amendment  
#TN11-25**





# III. INDIAN HEALTHCARE DELIVERY SYSTEM



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# INDIAN HEALTH SERVICE (IHS)



- ❑ **History:** Agency founded in 1955, but health care services provided through various federal agencies since the 1800s
- ❑ **Today:** Now in the Department of Health and Human Services, IHS is a sister agency to CMS
- ❑ **Function:** Coordinates the Congressional appropriations for health care to be provided to AI/ANs through three broad types of programs, with facilities located on or near Indian reservations or in certain urban areas
- ❑ **Eligibility:** Approximately 2.2 million of the 3.7 million AI/ANs are eligible for care nationwide within the Indian health care delivery system, **but there are many variables that determine eligibility**





# INDIAN HEALTH SERVICE (IHS)



## IHS Health Care Programs

### IHS Direct Service

3 Service Units on the Colville, Spokane, and Yakama reservations

### Tribal Health Programs

27 Tribes administer IHS funds to provide health care services

### Urban Indian Health Programs

2 UIHPs: Seattle Indian Health Board and NATIVE Project of Spokane

Direct Care Services

Contract Health Services



# INDIAN HEALTH SERVICE (IHS)



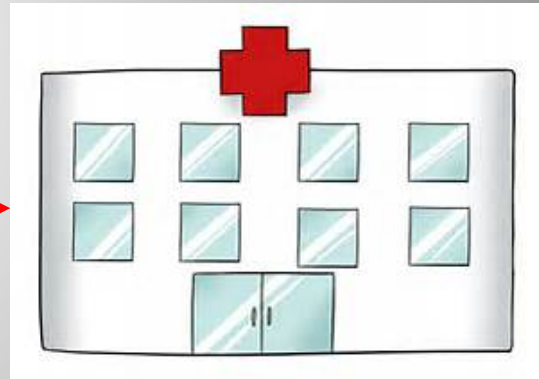
## Indian Health Care Provider



- Health Care
- Mental Health
- Substance Use
- Dental

*Referral &  
Coordination*

## Non-Indian Health Care Provider



- Specialty Care
- Inpatient Care

# AMERICAN INDIAN AND ALASKA NATIVE IN WASHINGTON STATE

Every Tribe has its own culture, infrastructure, traditions, governance, financing, and health priorities that shape how health care is provided in each community. To understand the Tribal healthcare system in Washington, one must have a broad understanding of the factors that play into the uniqueness of each Tribal community and the holistic approach most Tribes have for addressing health priorities.

Between June 2016 and December 2017, Washington State Tribes and UIHP shared information about their programs and services.

These Tribal Services Profiles are located at:

<http://www.aihc-wa.com/about-us/tribal-services-profiles/>



# 29 WASHINGTON FEDERALLY RECOGNIZED TRIBES



- Chehalis Confederated Tribes
- Confederated Tribes of the Colville Reservation
- Cowlitz Indian Tribe
- Hoh Tribe
- Jamestown S’Klallam Tribe
- Kalispel Tribe
- Lower Elwha Klallam Tribe
- Lummi Nation
- Makah Tribe
- Muckleshoot Tribe
- Nisqually Tribe
- Nooksack Tribe
- Port Gamble S’Klallam Tribe
- Puyallup Tribe
- Quileute Tribe
- Quinault Nation
- Samish Indian Nation
- Sauk-Suiattle Tribe
- Shoalwater Bay Tribe
- Skokomish Tribe
- Snoqualmie Tribe
- Spokane Tribe
- Squaxin Island Tribe
- Suquamish Tribe
- Stillaguamish Tribe
- Swinomish Tribe
- Tulalip Tribes
- Upper Skagit Tribe
- Yakama Nation





# WASHINGTON STATE UIHPs

## ➤ The NATIVE Project in Spokane

- Service over 5,300 Patients
- Provides medical, dental, behavioral health, pharmacy, patient care coordination, wellness, and prevention services
- provides medical, dental, behavioral health, pharmacy, patient care coordination, wellness, and prevention services

## ➤ Seattle Indian Health Board In Seattle

- Serve over 5,000 patients
- Provides –Primary Care, Obstetrics, Dental Care, Behavioral Health Outpatient Service, Residential Inpatient Service
- Traditional Medicine Integrated Care with Primary Care
- Community Health Services`



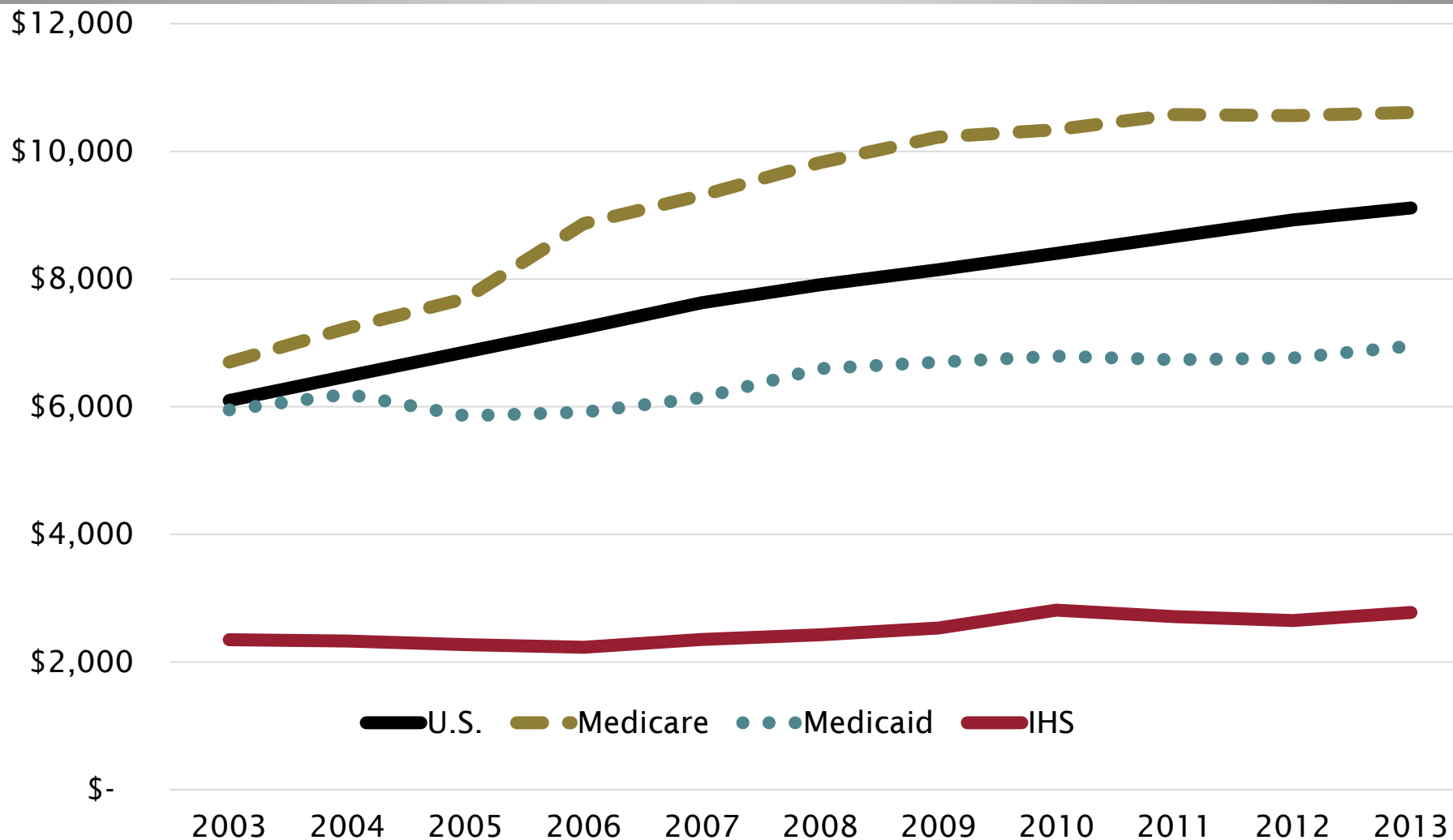


# IHS CHSDAs BY COUNTY AND RSA

	Clallam	Jefferson	Kitsap	Whatcom	Island	San Juan	Skagit	Snohomish	King	Pierce	Mason	Thurston	Grays Harbor	Pacific	Lewis	Wahkiakum	Cowlitz	Clark	Skamania	Chelan	Douglas	Grant	Okanogan	Ferry	Lincoln	Pend Oreille	Spokane	Stevens	Kittitas	Klickitat	Yakima	
	Peninsula RSA			North Sound RSA					RSA	RSA	M-T RSA		Timberlands RSA					SW RSA	North Central RSA				Spokane RSA					Gr. Columbia RSA				
Chehalis												x	x		x																	
Colville																				x	x	x	x	x	x			x				
Cowlitz									x	x		x			x	x	x	x	x											x		
Hoh		x																	x													
Jamestown S'Klallam	x	x																														
Kalispel																											x	x				
Lower Elwha	x																															
Lummi				x																												
Makah	x																															
Muckleshoot									x	x																						
Nisqually										x		x																				
Nooksack				x																												
Port Gamble S'Klallam			x																													
Puyallup									x	x		x																				
Quileute	x	x																														
Quinault		x											x																			
Samish	x	x	x	x	x	x	x	x	x	x																						
Sauk-Suiattle							x	x																								
Shoalwater Bay														x																		
Skokomish											x																					
Snoqualmie					x			x	x	x	x																					
Spokane																								x	x			x				
Squaxin Island											x																					
Stillaguamish								x																								
Suquamish			x																													
Swinomish							x																									
Tulalip								x																								
Upper Skagit							x																									
Yakama	x = Tribal facility located in county/IHS service delivery area															x			x												x	x



# NATIONAL HEALTH CARE SPENDING PER CAPITA



Source: Jessie Dean – Analysis of Centers for Medicare and Medicaid Services (CMS) National Health Expenditure Accounts (NHEA) and the Department of Health and Human Services (DHHS) Budgets in Brief.



# WASHINGTON HEALTH ALLIANCE: DISPARITIES IN CARE REPORT 2014:

“American Indian/Alaska Native populations are disproportionately affected by diseases, such as cancer, heart disease, and diabetes. Furthermore, when looking at deaths in Washington state, American Indian/Alaska

Native experience the highest age-adjusted death rates when compared to other racial and ethnic groups. ***This makes the quality of care that they receive that much more important.*** (emphasis added)



# CHALLENGES IN THE INDIAN HEALTH SYSTEM

## Funding Needed to Address:

- Historical intergeneration trauma, ongoing discrimination, and ACEs
- Prevention and public health work
- Disparities in maternal and infant health
- Disparities in morbidity and mortality rates
- Disparities in social determinates of health
- Affects of climate change on access to traditional ways of life (foods, land, sea level, housing, whole villages, etc.)
- Culturally appropriate research to establish evidence-based strategies in Indian country





# CHALLENGES IN THE INDIAN HEALTH SYSTEM

- Indian Health funding is at about 32% of need and most of that is directed to clinic care due to our disproportionate rates of chronic disease.
- Tribal health structures vary depending on whether they are direct service, contracted or compacted; the size of the tribe; successful tribal enterprises; location; and agreements with IHS.
- There is limited funding for health promotion resources provided by IHS, and is not available to all Tribes. Due to the chronic underfunding of IHS, Tribe/UIHOs cannot rely on this funding for prevention and public health services.



# **SUPPORTING TRIBAL CLINICS THROUGH THIRD PARTY REVENUE**

- **One of the largest sources of third-party reimbursement has been the state federal Medicaid program**
- **These revenues have become as much a part of an Indian health clinic's base budget as federally appropriated funds.**
- **The stability of this revenue-generating source is vital to clinic operations.**
- **Any reduction in this source of funding would result in cuts to basic Tribal health services; planning an innovation happen as a response to lack of funds.**





# IV. MEDICAID AND AMERICAN INDIANS & ALASKA NATIVES



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# REQUIREMENT TO APPLY FOR MEDICAID

- **Federal Regulation\* requires AI/AN to sign up for and use alternate resources, including Medicaid, Medicare and Private Insurance before PRC funds can be used;**
- **Under Federal Regulation, I.H.S./PRC is payor of last resort when an AI/AN has any other coverage- Medicaid, Medicare, Private Insurance.**

\*42 CFR 136.61- I.H.S. Payor of last resort





# AI/AN FEDERAL RIGHTS AND MEDICAID MANAGED CARE

- **AI/ANs have the right to exempt themselves from an MCO or PCCM program, if they choose, unless the MCO or PCCM is an I/T/U\***
- **AI/ANs enrolled in an MCO have the right to select an in-network I/T/U for primary care\*\***

\*42 C.F.R. 438.50(d)(2)

\*\*42 U.S.C. 1396u-2(h)(1))



# AI/AN EXEMPTIONS FROM COST-SHARING

**Under Federal regulations AI/ANs  
are exempt from:**

- **Medicaid premiums and cost-sharing\***
- **CHIP premiums and cost-sharing \*\***

\*42 C.F.R. 447.56(a)(1)(x)

\*\*42 C.F.R. 457.125(b)







# V. MEDICAID AND INDIAN HEALTH CARE PROVIDERS



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# **I.H.S. ALL-INCLUSIVE ENCOUNTER RATE**

- **Indian Health Services All-Inclusive Rate (AIR or “The Encounter Rate”) was a payment established by CMS to Direct Care facilities and Tribal 638 facilities that choose to be IHS facilities for Medicaid-covered services provided to Medicaid enrollees.**
- **This rate is reviewed annual and has regularly increased since implementation.**
- **The AIR helps offset the underfunding of I.H.S. by the Federal Government.**
- **Tribal Leaders continue to work at the federal level to get full funding for I.H.S., but until that happens, the AIR is critical to clinic operations for our Tribes in Washington State**



# 100% FMAP PAYMENT

**For Medicaid-covered services provided by IHS Direct facilities or Tribal 638 facilities to AI/AN Medicaid enrollees in fee-for-service, the Federal Medical Assistance Percentage (FMAP) is 100%**

- **For comparison:**
  - **Medicaid Expansion FMAP: 100% until 2017, then declines to 90%**
  - **Presumptive SSI FMAP: 80% currently**
  - **Classic Medicaid/Other MAGI-Based Medicaid FMAP: 50% currently**

*42 U.S.C. 1396d(b)*





# **100% FMAP PAYMENT RECEIVED THROUGH AND I.H.S. FACILITY**

- In 2016, CMS established that the 100% FMAP can be extended through an I.H.S. facility to contracted provider.
- Through this process, 100% FMAP can be extended to specialty care claims when referred through an I.H.S. or Tribal clinic.
- The Tribal clinic can be paid the AIR and pay the contracted provider a negotiated rate.





# PROVIDER ENROLLMENT: LICENSING EXEMPTION

Health care professionals employed by a Tribal health program are exempt from the licensing requirements of the state in which the services are performed, provided the health care professional is licensed in any state. (25 U.S. Code § 1621t)

- Similar to Veteran's Administration licensing requirements under 38 U.S. Code 7402





# PROVIDER ENROLLMENT: INSURANCE & FTCA

Tribal health providers are covered by the Federal Tort Claims Act (FTCA)(25 C.F.R. Part 900)

- The federal government becomes responsible for the negligent or wrongful acts of Tribal health providers unless the claim is for:
  - On-the-job injuries which are covered by worker's compensation;
  - Breach of contract rather than a tort claim; or
  - Acts performed by employee outside the scope of employment.
- WACs 182-502-0006, -0010, -0012, -0016 reflect this.
- Tribal health providers are not required to obtain professional liability insurance or other insurance coverage for tort claims to the extent covered by FTCA.





# VI. STATE LEVEL DECISIONS IMPACTING DELIVERY OF CARE TO AI/AN



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# CHANGES AT THE STATE LEVEL

Healthier  
Washington

Integration of ~~Medical~~ &  
Behavioral Health Services

State Law  
SB 6312

1115 Global  
Waiver-  
Medicaid  
Transformation

1915(b)  
Waiver

Creation of  
Behavioral  
Health  
Organizations

Medicaid  
Transition from  
Fee-For-Service  
to Value-Based  
Purchasing

Creation of Accountable  
Communities of Health





# FINAL THOUGHT ON WHY WE NEED TO COLLABORATE



*“There are always Tribal implications unless it turns out there are not.”*

*-- Stephen Kutz, Cowlitz Tribe*

...and Tribes are the best source for whether a program, policy, or agreement will have Tribal implications.



# Thank you!



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