



STATE OF WASHINGTON

June 14, 2021

Nickolaus D. Lewis, Chair
Vicki Lowe, Executive Director
American Indian Health Commission for Washington State
808 N. 5th Avenue
Sequim, WA 98382-3045

Steve Kutz, Chairman
Laura Platero, Executive Director
Northwest Portland Area Indian Health Board
2121 SW Broadway Suite 300
Portland, OR 97201

Dear Mr. Lewis, Mr. Kutz, Ms. Platero, and Ms. Lowe:

Thank you for copying the Washington State Health Care Authority (HCA) on your letter to the Center for Medicaid and CHIP Services (CMCS), dated April 30 (Indian Health Care Providers (IHCPs) letter). We appreciate the explanations the Tribes and IHCPs provided for their concerns with the state's Medicaid Transformation Project 1115 Waiver (1115 Waiver), for which HCA requested a one-year extension on January 8, 2021. HCA submitted the state's request for the amendments described below on January 15, 2021.

First, we are writing to provide assurance that we look forward to collaborating and consulting with the Tribes and IHCPs, along with the Northwest Portland Area Indian Health Board (NPAIHB) and the American Indian Health Commission for Washington State (AIHC), as we develop our renewal application for the 1115 Waiver. We have recently begun to develop a plan for the renewal application, and we will share the draft plan as soon as it is complete enough to share. We also welcome proposals from the Tribes and IHCPs at any time. We plan to submit the renewal application on or before December 31, 2021.

As we discussed during the Tribal Consultation on December 9, 2020, the state asked for a one-year extension of the 1115 Waiver due to the impacts of the state's COVID-19 response on the 1115 Waiver activities. The state also requested the following amendments to the 1115 Waiver:

- For the Delivery System Reform Incentive Payment (DSRIP) program (Initiative 1), reduction of the value-based purchasing (VBP) attainment target for 2021 from 90% to 85% due to the impacts of the state's COVID-19 response.
- For the additional benefits for aging adults to stay in their homes provided by the 1115 Waiver (Initiative 2):
 - Modification of the definition of "Transportation" to expand access to community engagement activities.
 - Addition of a new Presumptive Eligibility process for clients being discharged from acute care hospitals or diverted from community psychiatric hospitals to their homes with long-term services and supports.

Nickolaus Lewis, Chair
Steve Kutz, Chairman
Vicki Lowe, Executive Director
Laura Platero, Executive Director
June 14, 2021
Page 2

The state minimized our amendment requests because of the extraordinary nature of our request for a one-year extension, anticipating that we would revisit program design and terms and conditions in the 1115 Waiver to prepare for the 1115 Waiver renewal application during 2021.

IHCP Request #1: Continue Direct Funding to Indian Health Care Providers (Initiative 1)

The state of Washington remains committed during the one-year extension to direct funding to the IHCPs under the 1115 Waiver Initiative 1. The Tribes and IHCPs have invested the funds they have received to date in tailored, innovative ways, such as elder care coordination, accessible childcare, the Community Health Aide Program, and integrated health care infrastructure. The state will continue to support these tribal and IHCPs initiatives, as part of our government-to-government partnerships with tribal governments and our respect for the role of the non-tribal IHCPs in meeting the federal government special trust responsibility.

IHCP Request #2: Mitigate Unintended Consequences of VBP, Preserve Fee-for-Service (Initiative 1)

We appreciate the list of in-depth concerns and recommendations in the IHCP letter, and we look forward to discussions with the Tribes, IHCPs, and both your tribal organizations about the delivery of health care services through the Medicaid program and the development of the 1115 Waiver renewal application.

HCA submitted the one-year extension because the scheduled activities of our 1115 Waiver partners were set back as they responded to the pandemic and the needs of their communities. HCA chose to request an extension of current activities. It was our hope that CMS would look favorably upon an extension that was not complicated with revisions. CMS is reviewing the application of the one-year extension and HCA has begun planning to submit another application for a 5-year renewal of the 1115 Waiver. The process of developing the renewal will provide better opportunities to discuss and consider adjustments and revisions to the 1115 Waiver. This is an ideal time to consider the recommendations in your letter and policies that could be developed and proposed to CMS in the state's renewal application.

We noted that some of the concerns expressed in your letter regarding managed care and the fee-for-service program could be addressed under other Medicaid authorities. For example, your rent-a-network recommendation may not require 1115 Waiver authority and, instead, may be possible within other current Medicaid authorities (with or without modifications). We look forward to exploring these options with you and with CMS.

HCA is currently researching and developing a plan to collect, analyze, and use data on social determinants of health, to enable the Medicaid program to address the unmet needs of populations experiencing health inequities, including treatment and support for individuals whose communities have experienced historical and intergenerational trauma. We are also exploring ways that the data might be used to establish appropriate risk-adjustment methodologies within value-based purchasing, to mitigate or avoid unintended consequences that might arise from value-based purchasing. We understand that value-based purchasing needs to recognize the expertise of providers and reward their investments in treatment of higher-risk patients in order to achieve improved outcomes for these patients in the longer term. We look forward to sharing this plan with you when it is ready and working with the Tribes, IHCPs, and you to improve this plan for the benefit of everyone in the state.

IHCP Request #3: Honor Tribes' Request to Become Direct Providers (Initiatives 2 and 3)

We also appreciate the list of recommendations for the additional benefits under the 1115 Waiver for aging adults to stay in their homes (both the Medicaid Alternative Care (MAC) program and the Tailored Supports for Older Adults (TSOA) program) (Initiative 2) and for the community support services (CSS) program for supportive housing and supported employment (Initiative 3).

Initiative 2: Medicaid Alternative Care (MAC) and Tailored Supports for Older Adults (TSOA)

Currently the MAC and TSOA services are only provided through licensed home care agencies. We recognize this can be a barrier for Tribes and IHCPs to provide MAC and TSOA services. We are in discussion with the Consumer Directed Employer (CDE), Consumer Direct of Washington, to design a pilot, testing the use of Individual Providers (IPs) for MAC and TSOA services. Due to the pandemic, CDE implementation was delayed. We will share more information about this pilot with Tribes and IHCPs and seek your feedback.

Over the past four years, we have been working under the Money Follows the Person – Tribal Initiative to support Tribes in establishing and operating their own health homes, home care agencies, nurse delegation, adult day centers and other new contracts. We continue to work with Tribal governments through attestation to meet the very real challenges of staff shortages, particularly in the area of nursing licensure. Unfortunately, the pandemic delayed the progress of these efforts to develop and implement Tribally led, long-term services and supports. As vaccinations become more widespread, we will resume this collaboration with Tribes to help them expand their ability to offer long-term services and supports, including MAC and TSOA.

Tribes are able to contract to provide many MAC and TSOA services. Details for Tribal contracting can be found at <https://www.dshs.wa.gov/altsa/home-and-community-services/information-potential-medicaid-contractors>. Tribes can contract to provide various long-term services and supports under MAC and TSOA, including:

- Adult day care
- Adult day health
- Caregiver client supports
- Client training
- Housework & errands
- Yardwork & snow removal
- Environmental modifications
- Home care agency
- Home-delivered meals
- Personal emergency response system
- Professional supports
- Transportation
- Wellness programs and activities

We also appreciate the interest by Tribal governments to determine presumptive eligibility for MAC and TSOA applicants. The current Special Terms and Conditions (STCs) include language that permits Tribal entities to be state-designated entities to “provide limited eligibility functions and other administrative

Nickolaus Lewis, Chair
Steve Kutz, Chairman
Vicki Lowe, Executive Director
Laura Platero, Executive Director
June 14, 2021
Page 4

functions as delegated in contract.” We look forward to working with Tribes and IHCPs on how we can partner for the purpose of Tribal and IHCP determination of presumptive eligibility for the MAC and TSOA programs.

Pre-pandemic, three Tribes were operating licensed home care agencies. Two of these home care agencies stopped providing services during the pandemic and are in the process of reopening. In order to rebuild in-home aide services, we plan to provide home care aide and adult family home trainings in partnership with Tribes in both eastern and western Washington. We are also planning to offer two Savvy Caregiving in Indian Country trainings. We recognize the need for training and retraining of Tribal trainers as we emerge from the pandemic.

In preparation for Tribes reopening their operations and building increased capacity to directly provide long-term services and supports, we also contracted with the AIHC (the Commission) for Washington State to research and assess the relationships between Tribes and Area Agencies on Aging and how to expand access to culturally appropriate long-term services and supports. The Commission’s final report will help us identify barriers and potential strategies to improve Tribal and IHCP service delivery and accessibility.

Initiative 3: Foundational Community Supports

Under the 1115 Waiver, the Foundational Community Supports (FCS) program or CSS is administered by a third-party administrator (Amerigroup), who contracts with FCS providers. The FCS program is subject to available funds, and although demand for these services has exceeded the original forecast for estimated enrollments, the program is under budget and has room for continued growth.

Since the FCS benefit became available, the state and Amerigroup have encouraged Tribes and IHCPs to contract with Amerigroup to make FCS client eligibility determinations and to provide FCS services in accordance with chapter 182-559 of the Washington Administrative Code (WAC). One (1) Tribe has entered an FCS contract with Amerigroup. To HCA’s knowledge, no Tribe or IHCP has been denied participation in the FCS program due to professional or facility licensure concerns under chapter 182-559 WAC.

We recently learned, however, that Amerigroup did not develop an addendum for their FCS contracts with Tribes and IHCPs. We will work with Amerigroup and the Tribes and other IHCPs to develop an addendum, similar to CMS’s Medicaid addendum for IHCPs, that is appropriate for the Tribal and IHCP participation in the FCS program.

We also learned that Amerigroup did not provide information about Tribal and IHCP supported employment and supported housing programs to their contracted FCS providers. In connection with the effort to develop appropriate FCS contracts for Tribes and IHCPs, HCA will also work with Amerigroup and the Tribes and IHCPs to ensure that all contracted FCS providers receive sufficient training, information, and direction to work with Tribes and IHCPs to provide warm hand-off of cases.

In conclusion, we believe that this is an opportune time for the state to collaborate with the Tribes and IHCPs, including your organizations, to develop the state’s 1115 Waiver renewal application that the state plans to submit to CMS at the end of 2021 or beginning of 2022.

Nickolaus Lewis, Chair
Steve Kutz, Chairman
Vicki Lowe, Executive Director
Laura Platero, Executive Director
June 14, 2021
Page 5


Comments and Questions

HCA and Department of Social and Health Services (DSHS) would appreciate any input or concern that Tribal, Tribal organization, and IHCP representatives wish to share regarding the state of Washington's plans for the 1115 Waiver renewal application process. Please contact Jessie Dean, Office of Tribal Affairs Administrator, via email at jessie.dean@hca.wa.gov, or Tim Collins, DSHS Senior Director of the Office of Indian Policy, via email at tim.collins@dshs.wa.gov.

Sincerely,



Susan E. Birch, MBA, BSN, RN
Director
Health Care Authority



Donald Clintsman
Acting Secretary
Department of Social and Health Services

cc: Anne Marie Costello, Acting Deputy Administrator and Director, CMCS, CMS
Teresa DeCaro, Acting Director of the State Demonstrations Group, CMCS, CMS
Kitty Marx, Director, DTA, CMS
Lane Terwilliger, Attorney, DTA, CMS
Justyna Redlinski, Region 10 Native American Contact, CMS
Bill Moss, Assistant Secretary, AL TSA, DSHS
Tim Collins, Senior Director, OIP, DSHS
MaryAnne Lindeblad, Medicaid Director, MSA, HCA
Mich'l Needham, Chief Policy Officer, PD, HCA
Jessie Dean, Tribal Affairs Administrator, OTA, HCA