DEPARTMENT OF HEALTH & HUMAN SERVICES **Public Health Service**

Indian Health Service
Rockville MD 20857

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Dear Tribal Leader:

As we begin the next century, I believe it is important to reaffirm the Federal Government's commitment to providing health services to American Indian and Alaska Native AI/AN people. Proof of this commitment is the dedication of the Indian Health Service (IHS) to its mission of ensuring that health care services are available and accessible to all eligible AI/AN people. The IHS and tribes share a unique partnership in carrying out this mission, whether the local program is operated directly by the IHS or by tribal governments through the Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law (P.L.) 93-638, as amended.

Together, we are responsible for providing the best health care possible to Indian people. This becomes more difficult as the Indian population continues to grow and the cost of health care continues to rise, while appropriations do not keep pace with either. Yet, we must manage to find a way to meet the health needs of all eligible patients who come to us for assistance.

Over the years, tribal leaders and the IHS have worked together to address the dilemma of the decreased value of the dollar and the increased size of the service population. After consulting with tribes, the IHS published regulations at 42 CFR, subparts A-D, in 1987 that would have limited eligibility to tribal members. However, Congress placed a moratorium on these regulations by inserting the following provision in each of the annual appropriations bills:

> *"None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services: of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law:"*

The Congress required the IHS to use the 1986 regulations for determining eligibility for services. These regulations do not place any limitation on Indian descent.

The proposed changes to the Indian Health Care Improvement Act, recently introduced as H.R. 3397, contain a provision amending the eligibility moratorium to permit new eligibility criteria to be developed. The new criteria will be developed in consultation with the tribes and according to the Negotiated Rulemaking provisions. I look forward to the passage of this bill, which will provide all of us another opportunity to work together on the eligibility determination for health care services.

In addition, during the 1999 Tribal Self-Governance Department of the Interior and IHS Joint Fall Conference, the tribal leaders proposed the establishment of a national workgroup that would be composed of IHS, tribal, and urban (I/T/U) representatives. I support this recommendation and I am soliciting tribal leader involvement to participate in such a workgroup. This will provide an opportunity to address congressional concerns and to complete the groundwork for the eventual negotiated rulemaking process that will be undertaken following the reauthorization of the Indian Health Care Improvement Act.

In the interim, the IHS is required to maintain services to Indian people based on the guidelines found in the current eligibility criteria at 42 Code of Federal Regulations (CFR), subarts A-G (1986). This regulation requires the IHS to serve all persons of Indian descent, regardless of tribal affiliation, who belong to the local Indian community. Therefore, we provide services to any persons of Indian descent who seek treatment at an IHS facility. We do not require a finding that they "belong to" the local Indian community. The eligibility regulation does not require a particular degree of Indian ancestry and does not define the term "Indian community. " Therefore, the regulation has been construed liberally to include anyone who can reasonably be regarded as an Indian regardless of degree of Indian ancestry or tribal affiliation. When resources are insufficient to handle the volume of services required, priorities must be established based on relative medical need and access to resources other than IHS-funded resources. Under section 105(g) of the ISDEAA, tribes operating IHS health care programs through a P.L. 93-638 contract/compact must:

- Adhere to departmental regulations the same as the IHS would if it were operating the same health care program or facility;
- Serve the same population the Secretary of Health and Human Services would have served;
- Provide services to any eligible AI/AN who presents himself/herself at the tribal facility; and
- State in its compact or contract if services are limited to a specific segment of the population.

On October 28, 1999, the eligibility regulations were republished in the Federal Register. (A copy is enclosed.) The 1986 eligibility regulations are effective during the moratorium and will be codified in the CFR in regular type along with the regulations under moratorium in small type.

The IHS will continue its commitment to ensuring that health care services are available and accessible to all eligible AI/AN people. I recognize that the financial constraints we are faced with make it difficult to serve all of the eligible patients who arrive at our health care facilities for assistance. However, we must continue to manage to do "more with less."

Through the direct involvement of tribal leaders in the budget formulation process, we have been able to increase the annual IHS budget in the past two fiscal years. It is our collective responsibility to continue to work with the Department, the Administration, and the Congress to provide the level of increases needed to fully address the health needs of AI/ANs.

As tribal nations and the IHS look at the accomplishments made in Indian health, I hope that we will see a time when no one is turned away because of where they may live or to whose community they may belong. We are all one people.

Sincerely yours,

Michael H. Trujillo, M.D., M.P.H., M.S.
Assistant Surgeon General
Director

Enclosure