

***“Access to Health Care for On-Reservation and
Off-Reservation Tribal Members”***

**PRESENTED BY THE
NATIONAL INDIAN YOUTH COUNCIL, Inc.**

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The National Indian Youth Council (NIYC) has been actively involved in advocating for improved health care services for tribal members living on and off the reservation since its inception in 1961. By focusing on health care access, financing, and quality, the NIYC provides a voice for Native American Indian people living off the reservation at the local, state, and federal levels.

Indian Health Care Services Background

Since the 18th century, American Indians have ceded more the 500,000,000 acres of land to the federal government in exchange for certain promises, protections and services. These agreements establish a legal obligation which “requires the United States...to provide economic and social programs necessary to raise the standard of living and social well-being of the Indian people to a level comparable to non-Indian Society.”¹ This obligation requires the federal government to provide medical treatment to all American Indians living in the United States. In effect, it can be described as the nation’s first pre-paid health insurance policy.²

Despite the federal government’s legal obligation to provide health care services to all Native American Indians and Alaska Natives, it has consistently failed to fulfill its responsibility. In FY10, the Indian Health Service received just over \$4 billion to provide catastrophic and primary health to a little over 1.0 Million Native American Indians living on the reservations and funding for the ***3.1 million*** Native American Indians living off the reservation with only 1% of the total IHS budget (less than \$16 per capita) for primary health care service only , if IHS Health Care Service is available in the areas in which they live.

¹ American Indian Policy Review Commission. Final Report, U.S. Senate Select Commission on Indian Affairs, 95th Congress, Meetings of the American Policy Review Commission. Washington, DC: US Government Printing Office; 1978.

² Oversight hearing on the president’s proposed Indian Health Service budget for fiscal year 1997 (statement of Daniel K. Inouye)

Decades of chronic under funding and rising health care costs have led to nearly catastrophic impacts to Native American Indian people dependent on the Indian Health Service System for care. In comparison to the nearly \$4000 that is spent per capita for federal prisoners, the Indian Health Service spends just \$2150 per capita each year on tribal members who live within their Health Care service areas.

Funding for Native American Indians living off the reservation makes up just over 1% of the total budget for the Indian Health Service or \$43Million. This funding supports 34 independent non-profit agencies in 19 states with a potential user base of 1 million off-reservation Native American Indians living in the urban/rural areas.³ The inequity of this funding allocation becomes obvious when considering the 75.1% of the nation's 4.1 million Native American Indians live off the reservation, resulting in a per capita expenditure of less than \$16 per year.⁴

Locally, the Albuquerque Service Unit has been systematically defunded and dismantled, resulting in the closure of inpatient units at the Albuquerque Indian Health Center in 2003 and the suspension of urgent care services in 2005. With one of the largest Native American populations in the country, the lack of access to healthcare has become dire for tribal members living off the reservation in Bernalillo County. At present, the Albuquerque Indian Health Center provides only outpatient services. Native American Indians that need inpatient, emergency, or specialized outpatient diagnostic and treatment service must go beyond the IHS to receive these services and in order for services to be paid for by the federal government, they must be eligible for Contract Health Services. The Contract Health Service (CHS) program is woefully underfunded resulting in the routine denial of request for services. For many patients, necessary diagnostic test and services are received only after a condition has become a matter of life or death, in some cases arriving too late to be effective. CHS services are denied to approximately 67% of eligible Urban Native American Indians who apply.⁵

There is a single medical services clinic in Albuquerque that receives approximately \$660,000 in federal funding through the Title V Urban Indian Health Program. A second facility receives approximately \$500,000 in federal funding under Title V to provide dental care to American Indian children served by the Albuquerque Area. The medical service clinic, First Nations Community Healthsource, does not have the capacity to adequately meet the healthcare needs of the tens of thousands of Native Americans Indians living in Albuquerque and only provides primary care.

The University of New Mexico Hospital (UNMH) is bound by a 1952 contract to provide healthcare to Native American Indians free of charge. The same contract binds the federal government to reimburse UNMH for its costs. Since the Albuquerque Indian Health Center closed its urgent care services, the healthcare promised by the 1952 contract has become critically important. Yet to date, the federal government is not reimbursing UNMH for its costs and the Hospital is not providing full service treatment to Native American Indians free of charge.

³ Urban Indian Health Institute, Seattle Indian Health Board: www.uihi.org.

⁴ Urban Indian Health Institute, Urban Indian Health Report, Henry J. Kaiser Family Foundation, November 2001

⁵ This translates to 280,00 "active users," meaning those who reside within the Contract Health Service Delivery Area of their own home service Unit, who are denied CHS services.

While it is unclear how the contract can or will be enforced, one thing is clear, the federal government is in breach of its contractual obligation to provide comprehensive healthcare to all Native American Indians and those living off-reservation are bearing the brunt of the failure. Holding the federal government accountable to its obligations or developing solutions in its absence is the challenge faced by off-reservation tribal members living in Bernalillo County.

HEALTH ISSUES, ACCOMPLISHMENTS AND CONTINUING RESOLUTIONS 1998-2011

Accomplishments to date:

2000-2001 – Due to the reopening of the PL 93-638, the 22 tribes and pueblos in New Mexico chose to service their own dental programs, withdrawing their funding from IHS. NIYC and several supporting Indian groups voiced their dismay over the imminent closure of the Southwest Indian Polytechnic Institute dental program because of the “638” funding withdrawal. This action by the tribes would erode the dental health program for urban Native American Indians to an almost invisible level. This dental program supported over 41,000 urban Native American Indians in Albuquerque Metro Area. NIYC and its “sister” organization, the Albuquerque Metro Native American Coalition (AMNAC), began their quest to save the dental program. In 2001 congress awarded \$1 million recurring dollars a year for urban dental care in the Albuquerque area.

2005 – Plaintiff in language access lawsuit against the University of New Mexico Hospital resulted in the creation of a Native American Service Center specifically charged to ensure that Indian people are able to navigate the UNM hospital system and access financial assistance. Since 2005, the hospital has increased Native enrollment in UNM Care (its primary financial assistance program) significantly- largely due to the advocacy of the National Indian Youth Council. In addition, the hospital agreed to acknowledge its contractual obligation to provide priority services to tribal members in its brochures and website. They also began using billboards in neighborhoods with large numbers of Indian people to inform them of the services and benefits available at the hospital.

2008 – The Nation Indian Youth Council coordinated a multi-stakeholder effort to create a voice for tribal members living off the reservation at the state level. Long overlooked by policymakers, tribal members living off the reservation rarely were offered the opportunity to participate in the policy decisions impacting their access to health care. New Mexico HB 236 was enacted by the New Mexico legislature in 2008 and created the Bernalillo County Off-Reservation Native American Health Commission to develop a comprehensive strategic health plan to ensure adequate resources exist for tribal members living in the County. Since its enactment, the Commission has played an active role in developing health policy designed to increase access and maximize public financing of health care services, accomplishments include:

- \$330,000 in federal funding to implement a home visiting program
- \$500,000 in federal funding to build a Native American school-based health center

2011 – Currently, the National Indian Youth Council is developing the Southwest Urban Indian Institute in an effort to create a regional and national “think tank” that will perform policy analysis and development to ensure that the needs of off-reservation tribal members are met, specifically in the area of health, education, economic development, and civil rights. Long considered a credible and trusted partner, the Council is in a unique position to advocate for policy change that will improve the quality of life for Indian people – regardless of where they live.

Health Care Issues:

- 1% Health Care Funding (less than \$16 per capita) for Urban/Rural Native American Indians/ Alaskan Natives (NAI/AN)
- None or very little Contract Health Care (CHC) monies for Urban/Rural NAI/AN who live in areas that have IHS Health care services available
- No CHC available to Urban/Rural NAI/AN who live in areas where there is no IHS Service Facilities i.e., San Antonio, TX, Houston, TX, Baltimore, MA, New York, NY.
- Funding for IHS to service all NAI/AN with CHC and primary care would be around \$17 billion dollars
- IHS health care services not adequate for rural areas
- IHS does not advocate for the Urban/Rural NAI/AN (ref 1952 federal contract with UNMH)
- IHS monies not adequately divided between tribes (Blood Quantum vs. Lineage)
- No IHS representatives for grass root Urban/Rural NAI/AN organizations that service or advocate for Urban/Rural NAI/AN

CONTINUING RESOLUTIONS

Trust Responsibility

NIYC feels that the federal government’s trust responsibility to tribes and their off reservation members is one of immense moral and legal force, the result of treaties, solemn agreements executive orders, and statutes and constitutes one of the most important doctrines of Indian law. When vast tracts of land under the care of sovereign tribes were taken, by exchange or force, the United States gave its solemn promise to protect the rights of tribes and their members to govern themselves on their remaining land and under the 1921 Snyder Act they were to provide for health, education, and well-being of ***Indians*** throughout the United States. This commitment is not a hand-out but a contract. NIYC also asks that the Governors and the State legislators help defend the honor and integrity of this nation and seek justice in the United States treaty and trust responsibilities to tribes and its members who live off the reservations.

1952 Federal Contract

What we now know as the UNM Hospital began in 1949, when Congress authorized the Secretary of the Department of Interior to transfer 5.33 acres of BIA-controlled federal land to Bernalillo County for the construction and operation of a hospital by the county. The intention was to build a hospital for the approximately 18,000 Pueblo Indians living on surrounding reservations. At the time, however, William W. Zimmerman, Acting Commissioner of the Bureau of Indian Affairs testified that “the hospital would be open to Indians from many parts of the Southwest, and for that matter, to Indians from any part of the United States, and would not be limited under this bill to Pueblo Indians. The costs of care and treatment of all eligible Indians would be reimbursed by the federal government, pursuant to predetermined formulas.⁶

Though the contract and lease agreement have been amended several times, the gist of the original 1952 federal contract remains the same: the hospital is obligated to provide high quality healthcare services to Indian people and the federal government is obligated to pay for them. It is important to keep in mind that, prior to the closing of the IHS urgent care facility in Albuquerque in 2005, most Native Americans were unaware of the federal contract and their right to seek treatment at UNMH because, given the existence of a local IHS direct care facility, they had little need or inclination to go to UNMH for medical care.

The UNMH has not adhered to the 1952 federal contract since 1978. NIYC does recommend that a law suit be filed if enough resources can be attained through contributions.

⁶ A Report on Off-Reservation Native American Access to Healthcare in Albuquerque, July 2007