



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIRECTOR'S OFFICE
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March 31, 2010

M E M O R A N D U M

TO: Division Administrators

FROM: Mary Liveratti, Deputy Director 

SUBJECT: Tribal Consultation Process

Enclosed is a copy of the Tribal Consultation Process between the Department of Health and Human Services and the Tribes of Nevada. This process has been adopted by DHHS and is in effect. All agencies should be following this process.

Please sign the copy enclosed and return it to the Director's Office by April 9th. If you have any questions, please call me.

cc: Executive Assistants to the Administrators

Tribal Consultation Process
Nevada Department of Health and Human Services (NDHHS)
and the
Indian Tribes in the State of Nevada

I. Purpose

The purpose of this agreement is to establish an open and meaningful consultation process between the Nevada Department of Health and Human Services (NDHHS) and the Indian Tribes in the State of Nevada to facilitate better communication and collaboration between the entities.

II. Philosophy

A unique government-to-government relationship exists between Indian Tribes and Federal and State Governments. Since the formation of the Union, the United States has recognized Indian tribes as sovereign nations. Treaties and laws, together with court decisions, have defined a relationship between Indian Tribes and the Federal Government that is unlike that between the Federal Government and any other group of Americans. The Federal Government has enacted numerous laws and regulations that establish and define a trust relationship with Indian Tribes (see Appendix A).

The mission of the Nevada Department of Health and Human Services (NDHHS) is to promote the health and well-being of Nevadans through the delivery or facilitation of essential services to ensure families are strengthened, public health is protected, and individuals achieve their highest level of self-sufficiency. NDHHS Divisions include Aging and Disability Services, Child and Family Services, Health, Health Care Financing and Policy, Mental Health and Developmental Services, and Welfare and Supportive Services.

The Indian Tribes in the State of Nevada consist of the following federally recognized tribal governments:

Battle Mountain Band Council	Reno-Sparks Indian Colony
Carson Colony Council	South Fork Band Council
Confederated Tribes of Goshute	Stewart Community Council
Dresslerville Community Council	Summit Lake Paiute Tribe
Duck Valley Sho-Pai Tribes	Te-Moak Tribal Council
Duckwater Shoshone Tribe	Timbisha Shoshone Tribe
Elko Band Council	Walker River Paiute Tribe
Ely Shoshone Council	Washoe Tribal Council
Fallon Paiute Shoshone Tribe	Wells Band Council
Fort McDermitt Pai-Sho Tribes	Winnemucca Colony Council
Las Vegas Paiute Tribe	Woodfords Community Council
Lovelock Paiute Tribe	Yerington Paiute Tribe
Moapa Business Council	Yomba Tribal Council
Pyramid Lake Paiute Tribe	

NDHHS and Indian Tribes in the State of Nevada share the common goal of decreasing health disparities, and maximizing access to critical health and human services. In order to achieve this goal, it is essential that NDHHS and Indian Tribes engage in open, continuous, and meaningful discussions. Consultation consists of ongoing information exchange and mutual understanding between all parties which leads to informed decision-making.

The involvement of the parties in the development of policy ensures that locally relevant and culturally appropriate approaches to important issues are considered. Therefore, the parties are committed to working together to improve the quality, availability, and accessibility to public health, human services and behavioral health care for tribal communities in Nevada.

I. Agreement

The guiding principle of this Agreement is to ensure that open and meaningful communication occurs in a timely manner for consultation between the parties regarding high-level policy changes that significantly impact Indian Tribes in the State of Nevada. Policy changes that significantly impact Indian Tribes refer to actions that have substantial Tribal implications with direct effects on one or more Indian Tribes, on the relationship between the State of Nevada and Indian Tribes, or on the distribution of roles and responsibilities between the State of Nevada and Indian Tribes.

II. General Conditions

In order to fully effectuate this Agreement, the parties agree:

To establish open communication prior to implementing any proposed policies affecting Indian tribes, including informal, on-going discussion and information sharing.

To treat each other in a respectful and professional manner.

To agree to meet prior to the convening of the Nevada State Legislature to discuss any proposed legislation affecting Indian Tribes.

To notify each other when changes are made to the Administrative leadership appointments of the NDHHS, its Divisions, and critical staff, such as the tribal liaisons; elected leadership of each tribe, appointed leadership of the Health Department for each tribe, including medical directors and business office managers of tribal clinics; and the members of the Indian Health Board of Nevada.

To notify each other of the physical and mailing addresses of administrative offices of the parties and tribal clinics.

To comply with current and any future federal or state laws and regulations which would affect this agreement.

III. Consultation Process

The parties agree to engage in communication about policy issues through verbal and/or written correspondence.

A. NDHHS agrees:

1. NDHHS Administration shall consider whether the policy change is likely to have a significant impact on Indian Tribes in Nevada.
2. If an issue is identified that is likely to have a significant impact on Indian Tribes in Nevada, the NDHHS Administration shall provide a Public Hearing Notice 30 days prior to the hearing to Nevada Indian Tribes (addressed to the Tribal Chair and Tribal Administrator) and the Indian Health Board soliciting feedback and recommendations regarding the issue. Such solicitations shall be directed to Tribal leaders explaining the background, describing the proposed action, and requesting a response within a given timeframe.
3. A Tribal elected or appointed official may request additional information or may provide feedback regarding an issue. The NDHHS Administration shall communicate verbally (or by written correspondence, if requested by the tribal representative) to provide a timely and substantive response.
4. Face-to-face consultation sessions may be scheduled. Such sessions may be scheduled as a single statewide meeting, or in conjunction with other statewide meetings.
5. The NDHHS Administration may also provide written notice and a solicitation for feedback to non-Tribal organizations such as the Inter-Tribal Council of Nevada, the Indian Health Service Units in Nevada and Urban Indian Health Programs. Such communications do not substitute for direct communication with the Indian Tribes in Nevada.
6. Written notice will be provided to tribal clinic staff and IHBN of system updates/corrections affecting payment of claims, recycles and adjustments.
7. Policy changes due to budget cuts may not allow 30 day notification prior to the changes being made. Tribal governments and IHBN will be notified as soon as possible, with at least one week notice prior to changes being implemented.

B. The Indian Tribes of Nevada agree:

1. To provide input in the decision making process regarding NDHHS programs when policy changes affecting Indian Tribes are being considered.
2. To be prepared to discuss at joint meetings, respective issues and provide alternative suggestions on policies, laws or regulations affecting Indian Tribes.
3. To attend and provide comments at any Public Hearing as announced and to access any attachments to Public Hearing notices. If not attending the Public Hearing, to provide written comments and alternative suggestions regarding any policies or regulations affecting Indian Tribes.
4. To notify NDHHS of any proposed changes by Indian Tribes, which would affect NDHHS programs. Notification of such changes should be directed to the NDHHS tribal liaisons explaining the background, describing the proposed action, and requesting a response within a given timeframe.
5. To monitor and survey Federal and State legislation affecting health and well being of the Indian people.

C. The IHBN agrees:

1. To be the principle facilitator of the 27 member Tribes regarding health services and programs.
2. To coordinate the scheduling of joint meetings as the parties agree.
3. To be prepared to discuss at joint meetings, respective issues and provide alternative suggestions on policies, laws or regulations affecting Indian Tribes.
4. To attend and provide comments at any Public Hearing as announced and for accessing any attachments to Public Hearing notices. If not attending the Public Hearing, to provide written comments and alternative suggestions regarding any policies or regulations affecting Indian Tribes.
5. To monitor and survey Federal and State legislation affecting health and well being of the Indian people.

6. To provide notification and agendas of meetings of IHBN and Health Directors and to include the Division of Health Care Financing and Policy staff in meetings, when Medicaid and its services will be discussed.

D. Consultation regarding Medicaid and CHIPRA

Participation in the decision-making process regarding the Medicaid and CHIPRA programs can best be achieved through an ongoing and effective consultation process that ensures the inclusion of Federally-recognized Tribal governments while preserving the right of State Medicaid agencies to make appropriate decisions based upon the needs of all Medicaid and CHIPRA beneficiaries.

1. The twenty-seven Indian Tribes in Nevada and the IHBN will be notified in writing at least 60 days before the anticipated submission date of the State's intent to submit a Medicaid state plan amendment, Medicaid waiver request, waiver renewal. Or proposals for demonstration projects to the Centers for Medicare and Medicaid Services (CMS).
2. The notification will describe the purpose of the amendment, waiver or renewal and the anticipated impact on Tribal members. The description of the impact will not be Tribal specific if the impact is similar on all Tribes.
3. The notification will also describe a method for the IHBN or other Tribal representatives to provide official written comments and questions within a time frame that allows adequate time for State analysis, consideration of any issues that are raised, and time for discussion between the State and Tribes responding to the notification.
4. The IHBN or Tribal Governments will be allowed a reasonable amount of time to respond to the notification. Thirty (30) days is considered reasonable.
5. NDHHS, if requested by the IHBN or Tribal Governments, will provide an opportunity for an in-person meeting with Tribal representatives. NDHHS may have separate meetings with each Tribe, or may conduct one or more joint meetings with Tribes to discuss issues.

IV. Effective Date

This Agreement becomes effective on the last date of signature by all parties.

V. Summary

Communication and consultation is an active process involving a joint effort between the Indian Tribes, the Indian Health Board of Nevada, the NDHHS Director, and its

Divisions. Together, the parties facilitate a mutual and consistent understanding and implementation of this Agreement to ensure it plays a meaningful role in addressing issues affecting Indian Tribes and the Indian people in the State of Nevada.

VI. Termination/Review

This Memorandum of Agreement may be revised as mutually agreed to by the parties and will continue in the future unless it is terminated by either party upon thirty (30) days written notice.

Director, NV Dept. of Health & Human Services

Administrator, Health Care Financing and Policy

Date: _____

Date: _____

Appendix A:

The special relationship between the Federal Government and Indian Tribes is affirmed in statutes and various Presidential Executive Orders including, but not limited to:

The Snyder Act, P.L. 67-85

Older Americans Act of 1965, P.L. 89-73 as amended

Indian Self-Determination and Education Assistance Act (ISDEAA), P.L. 93-638 as amended (25 U.S.C. Sec. 450h(c), Pub. L. 93-638, including Title I and Title V)

Native American Programs Act of 1974, P.L. 93-638, as amended

Indian Health Care Improvement Act, P.L. 93-644, as amended

Social Security Act, Titles IXX, XX, XXI

Unfunded Mandates Reform Act of 1995, P.L. 104-4

Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193

Presidential Executive Memorandum to the Heads of Executive Departments dated April 29, 1994

Presidential Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, May 14, 1998

Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000

Presidential Memorandum, Government-to-Government Relationship with Tribal Governments, September 23, 2004

Presidential Executive Memorandum for the Heads of Executive Departments and Agencies, dated November 5, 2009

