

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
ARMED SERVICES
ENERGY AND NATURAL RESOURCES
INTELLIGENCE
JOINT ECONOMIC

June 5, 2018

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

Dear Secretary Azar,

I write in strong opposition to the Department's recent announcement that it will leave the decision to exempt American Indians and Alaskan Natives from work requirements up to the states. States have no fiduciary responsibility to tribes. Such a policy would abrogate the federal trust responsibility, and exceed the Department's authority. I urge you to reconsider this position, recognize the trust responsibility the federal government has to provide healthcare to American Indians and Alaskan Natives, and guarantee that funds granted to states for Medicaid continue to provide essential healthcare services to Indian country. Further, the Administration should immediately engage in government-to-government consultation with Tribal Nations so you can better understand the role and responsibility of the federal government to the American Indians and Alaskan Natives you serve.

American Indians and Alaskan Natives are a political community, not a racial group. Their sovereignty existed before the United States, and is enshrined within the Constitution. It is the reason why the Constitution empowers the Congress to regulate commerce with the Indian Tribes, and the reason why the federal government entered into treaties with the Indian Nations. The Constitution recognized, and the Supreme Court has repeatedly reaffirmed, the sovereignty that existed since time immemorial. Congress has also reaffirmed this political relationship by statute.

Indian country relies on Medicaid as a critical source of healthcare. The Indian Health Service (IHS), which provides health care and prevention services to over 2 million American Indians and Alaskan Natives, is chronically underfunded. Reimbursements from the Medicaid program are essential in partially closing this funding gap and provides nearly 40 percent of the funding for IHS patients. In New Mexico, the IHS serves approximately 200,000 patients in areas where Native American unemployment exceeds 16 percent. Implementing work requirements for a population which experiences persistently high unemployment rates could be potentially catastrophic. Further, these detrimental changes will strip the IHS and other facilities of an important funding source. Implementing work requirements for Indian country could result in the loss of millions of dollars to communities facing chronic health care access challenges.

Native American populations are some of the most vulnerable populations within Medicaid. They are often in economically disadvantaged areas that lack proper access to needed services. Enacting work requirements would do nothing to improve health outcomes in Indian Country and would mark another betrayal by violating the sacred commitment we strive to fulfill as representatives of the federal government

Tribal sovereignty is clearly a federal responsibility and not an issue to be delegated to the states. This misguided proposal will go directly against the federal government's responsibility to provide health care for our Native population and to honor the government-to-government relationship that is embedded in the Constitution, ratified by numerous treaties, reaffirmed by the Supreme Court, and codified by federal law.

I urge you to reconsider any proposal that targets one of the nation's most underrepresented communities. Furthermore, we ask that any attempt to make changes that would affect health care for Native Americans involve meaningful consultation with Tribal leaders, and that their feedback be adequately taken into account for any future policy proposals.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Martin Heinrich', with a horizontal line underneath it.

Martin Heinrich
United States Senator