

National Council of Urban Indian Health

924 Pennsylvania Ave, Washington DC 20003

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www.ncuih.org



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Patient Protection and Affordable Care Act (PPACA) and Indian Health Care Improvement Act (IHCIA) Preliminary Analysis

I. Non-IHCIA Indian Provisions in H.R. 3590 (Senate Bill)

The Senate bill is the most comprehensive in terms of what Indian Country was able to get in health reform. The tri-organizations (NCAI, NIHB, NCUIH) were successful in their advocacy for the key provisions Indian Country identified as major priorities. The chart below highlights only the *major Indian specific provisions* of the Senate HCR bill. These are provisions directly impacting urban Indian patients or urban Indian organizations. Highlighted sections are those provisions that were identified as priorities by Urban Indian Organizations. This chart does not include those provisions which have obvious impact on I/T/U providers (regulation of health insurance, closing the donut hole, etc) but only those provisions that directly reference Indian patients or Indian health providers.

Section	Title	Impact
1311(c)(6)(d)	Affordable Choices of Health Benefit Plans – Enrollment Periods	This section allows the Secretary of HHS to require the Exchange to provide for special monthly enrollment periods for Indians—thus giving Indians more time to enroll in insurance plans offered through the Exchange
1402(d)(1)	Reduced Cost-Sharing for Individuals Enrolling in Qualified Health Plans: Special Rules for Indians	Any individual Indian enrolled in any qualified health plan through the exchange whose household income is less than 300% of the federal poverty line (FPL) shall be treated as an eligible insured. No cost-sharing for Indians under 300% of the federal poverty level for any insurance plan or package offered through the Exchange.
1402(d)(2)	Special Rules for Indians, items or services furnished through Indian Health Providers	If an Indian beneficiary enrolled in an Exchange health insurance plan is furnished an item or a service directly by IHS, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services, no cost-sharing under the plan shall be imposed under the plan for such item or service provider, and the issuer of the plan may not reduce the payment to any such entity for service or items. (Only for Indians at or below 300% of FPL.)

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1402(d)(3)	Special rules for Indians-(3)Payment	HHS will make up the difference to a plan the amount necessary to reflect the increase in actuarial value of the plan actually required to fulfill the needs of Indian people, i.e. no capitation of services for Indians.
1411(b)(5)(A)	Procedures for Determining Eligibility for Exchange Participation, Premium Tax Credits and Reduced Cost-Sharing, and Individual Responsibility Exemptions	The penalty tax for failure to comply with the Individual Mandate cannot be assessed against Indians who receive services through the I/T/U system.
9021	Exclusion of Health Benefits Provided by Indian Tribal Governments	If an individual Tribe buys health insurance to its members or sets up an HMO those benefits cannot be deemed income by the IHS for tax purposes or for eligibility into any SSA program.
1501 adds Section 5000A(e)(3)	Requirement to Maintain Minimum Essential Coverage	No penalty for failure to maintain minimum coverage can be assessed any member of an Indian tribe.
2901(b)	No-Cost Sharing for Indians With Income At or Below 300% of FPL Enrolled in Coverage Through a State Exchange	For provisions prohibiting cost sharing for Indians enrolled in <i>any</i> qualified health plan in the individual market through an exchange.
2901(c)	Payer of Last Resort	I/T/U providers are the payers of last resort for services provided to Indians. This includes the VA and DOD.
2901(c)	Facilitating Enrollment of Indians under the Express Lane Option	I/T/Us are considered Express Lane Entities, essentially creating <i>presumptive eligibility</i> under Medicaid, Medicare, CHIP for Indians seeking services from Indian providers. Also allows I/T/U to essentially ‘roll’ eligibility for one welfare program into another. For instance if a patient is eligible for food stamps and then has a baby, you can start the paper work to roll them into WIC.
2902	Elimination of Sunset for Reimbursement for all Medicare Part B Services Furnished by Certain Indian Hospitals and Clinics	When Medicare part D passed Indian advocates were able to fix an issue with creditable services definitions that left Indian hospitals unable to bill for Medicare part B provisions. However this was only a five year provision. This section eliminates that sunset date.
2951	Maternal, Infant, and Childhood Home Visiting	Requires the Secretary to create an I/T/U specific program for early childhood home visitation

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	Programs	program with grant and set asides of 3% of funding for I/T/Us, tribal entities preferred.
2953	Personal Responsibility Education	Creates grant programs to educate adolescents on both abstinence and contraception. Set aside 5% for Indian Tribes, Tribal Organizations, or a UIHO partnered with a tribe.
3015	Collection and Analysis of Data For Quality and Resource Use Measures	Authorizes the Secretary to award grants or contracts to eligible entities to support efforts to collect and aggregate quality and resource measures. Certain UIHOs may be eligible.
3314	Including Costs Incurred by AIDS Drug Assistance Programs and IHS in Providing Prescription Drugs Towards the Annual Out-of-Pocket Threshold under Part D.	This allows patients to count their AIDS drug costs, even if covered by IHS or the Ryan White Program, towards their Medicare Part D out of pocket threshold.
3501	Quality Improvement and Technical Assistance and Implementation	Lets HHS developed and provide technical assistance awards to eligible entities including I/T/U providers to adapt and implement model and practices identified by the Center for Quality Improvement and Patient Safety. Specific language around cultural competence.
3502	Establishing Community Health Teams to Support Patient-Centered Medical Home	I/T/Us are eligible entities for a grant program to establish community-based interdisciplinary, interprofessional teams to support primary care practices, including OB-GYN, within hospital service areas.
3505	Trauma Care Centers and Services Availability	Authorizes three program awards to available qualified IHS,tribal, and urban Indian trauma centers to assist in defraying substantial uncompensated care costs and to further the core missions of such trauma centers.
4001	National Prevention, Health Promotion and Public Health Council	Assistance Secretary for Indian Affairs will be part of the council and the council will establish a process for continual public input from I/T/Us.
4003	Community Preventative Services Task Force	Review evidence and to develop recommendations for individuals and organizations delivery population-based prevention intervention services. UIOs eligible for participation.
4004	Education and Outreach Campaign Regarding	Includes Indian health programs as providers to disseminate information for a prevention and health

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	Preventative Benefits	promotion outreach and education campaign. Sort of like SDPI but across illnesses.
4102	Oral Healthcare Prevention activities	Four parts. Part 1) requires the Secretary to ensure that AI/AN are targeted in activities for oral health care prevention education campaign. Part 2) makes I/T/Us eligible for grants for dental programs. Part 3) requires grants be award to I/T/U providers—but does not set the number of grantees. Part 4) gives urbans a seat at the table with CDC to discuss oral health.
4302 adds section 3101	Understanding Health Disparities: Data Collection, Analysis, and Quality	Makes data collected through the section available to IHS and epidemiology centers funded under the IHCIA.
5204	Public Health Workforce Loan Repayment Program	New loan repayment program to assure adequate supply of PH professionals to eliminate critical public health workforce shortages. Tribes eligible as well as UIOs in HPSA areas
5205	Allied Health Workforce Recruitment and Retention Programs	Same as above except for allied health workers
5205	Training for Mid-Career public Health Professionals	Same as above except for mid-career folks
5304 adds Sec 340G	Alternative Dental Health Care Providers Demonstration Project	Awards grants to 15 eligible entities to establish demo program to establish training program to train and employ alternative dental health care providers. Eligible entities include IHS facility or health facility operated by a Tribe, Tribal organization, or urban Indian organization.
5405 adds Section 399W	Primary Care Extension Program	Created to provide assistance to primary care providers to educate providers about preventive medicine, health promotion, chronic disease management, mental and behavioral health services (including substance abuse prevention and treatment services), and evidence-based and evidence-informed techniques, to enable providers to incorporate such matters into their practice and to improve community health by working with community-based health connectors. The Secretary is required to consult with federal agencies including IHS.
5508	Increased Teaching Capacity—Teaching Health	Grant Program to teaching health centers for the purpose of establishing new accredited or expanded

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	Centers Development Grants	primary care residency programs. Entities eligible includes health centers operated by an I/T/U provider.
5601	Spending for FQHCs	This language is open enough that it potentially allows Federally Qualified Health Programs (which included 23 UIHPs) to be eligible for the increase in funding on USC 42 sec 254 (the Community Health Center Program).
6301	Patient Center Outcomes	Patient centered outcomes research trust fund is created under these provisions. UIHOs may be eligible for funding depending upon the implementing regulations.
6402	Enhanced Medicare and Medicaid Program Integrity Provisions	Requires that the Integrated Data Repository of the CMS shall include, at minimum, claims and payments data from certain programs including IHS and the Contract Health Services Program. Also requires the Secretary to enter into agreements with certain individuals of agencies, including IHS Director, to share and match data in the record system of the respective agencies with data in the HHS system for the purposes of identifying potential fraud, waste, and abuse.
10306	Improvements Under the Center for Medicare and Medicaid Innovation	Address the use of telehealth services in particular entities located in medically underserved areas and facilities of the IHS (I/T/U) in treating behavioral health issues and stroke. And to improve the capacity of non-medical providers and non-specialized medical providers in providing health services for patients with chronic complex conditions.

II. Title V IHCIA provisions

The below chart contains all of the urban Indian provisions in S.1790. SCIA drafted IHCIA as what is called a ‘cut & bite’ or a trimmed down version of the bill. As a cut & bite S.1790 does not restate current law sections to which there have been no change, instead those provisions are included through the general reauthorization language included at the beginning of the bill. Provisions included in Title V of S. 1790 are new or modified provisions only. SCIA is supportive of the urban provisions and NCUIH ensured that all of the major new expansions for

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urban Indian programs were included via amendment during mark up held 12/3/09 thanks to Senator John Tester. Provisions highlighted in red are the new provisions.

Section Number	Description of the Section	Current vs new Language
501 Purpose	Describes what the UIHPs and what it is intended to do. This is current law and there are no changes in either bill	Current law
502 Contracts w/ UIOs	Describes how the contracts work with UIOs and what may be contracted. The Senate has new language on conditions clarifying existing law. House is just current law	Minor changes
503 Contracts and Grants for the Provision of Health Care Referral Services	This is the authorizing language for referral programs.	Current law
504 Contracts and Grants for the Determination of unmet Health Needs	This provision requires all UIOs regardless of service level to monitor and determine the unmet need within their community.	Current law
505 Evaluations; renewals	This provision governs how OUIH may conduct evaluations and the basis for denying renewal of contract/grant	Current law
506 Other contract and Grant Requirements	This provision lays out additional grant or contract provisions that may be added to a UIO grant/contract.	Current law
507 Reports and Records	Current law GIPRA measures	Current law
508 Limitation on Contract Authority	Sets limitations on what IHS may contract out to UIOs. This is current law and hasn't changed since the original 1976 bill.	Current law
509 Facilities	This allows for IHS to provide grants to UIOs for facilities construction, renovation, or expansion of facilities if such activities are undertaken in order to obtain accreditation (JACHO/AAAHC).	Expansion
510 Division of Urban Indian Health	Ensures that IHS maintains a department dedicated to urban Indian health	Current law
511 Grants for Alcohol and Substance Abuse Related Services	Provides separate grants through the office of urban Indian health for alcohol and substance abuse treatment/prevention.	Current law
512 Treatment of Certain Demonstration	Maintains the two Oklahoma programs as Title V programs not liable to section 638 of ISDEA. This is a	Codification of appropriations law

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Projects	codification of an appropriations ride first enacted in the FY1999 Interior appropriations bill.	
513 Urban NIAAA Transferred Programs	Transfers the NIAAA programs to OUIH and maintains their appropriations.	Current law
514 Conferring with Urban Indian Organizations	Requires IHS/HHS to talk to UIOs before they make decisions impacting UIOs.	Expansion
515 Expanded program authority for UIOs	Includes expanded program authorities for UIOs into other sections of IHCIA (sections 218, 702, and 708g) . Gives UIOs access to grant programs for behavioral health and infectious diseases treatment and prevention. But the funding would have to come through Title V and not Title II	Expansion
516 Community Health Representatives	Allows UIOs to use community health representatives and include them in part of the contracts/grants with IHS.	Expansion
517 Use of Federal Government Facilities and Sources of Supply	This allows UIOs to access the Fed supply list and request the use of federal facilities. There is priority for Tribes, but only if the Tribes request the same facility or item prior to the facility or item being dispersed to the requesting UIO.	Expansion
518 Health Information Technology	Allows IHS to make grants and contracts with UIOs to develop HIT systems and provide technical assistance for the same.	Expansion
519 Authorization of Appropriations	Authorizes appropriations under the discretionary budget.	Current law

III. IHCIA Provisions outside of Title V impacting or referencing UIOs:

These are provisions in IHCIA titles outside of Title V that include language specifically referencing urban Indians or Urban Indian Organizations. All of the provisions listed below are either **new** authorities, or provisions that have been modified by S.1790.

Section	Title	Description
3	National Declaration of Indian Health Policy	Sets out Congressional intent for IHCIA.
124	Exemption from Certain Fees	Exemption from licensing, registration and any other fees imposed by a federal agency to the same extent as commissioned corps of the Public

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		Health Service.
206	Reimbursement from Certain Third Parties the Costs of Health Services	Ability to sue third party insurers if they don't reimburse for services provided
207	Crediting of Reimbursements	IHS may not offset or limit any amount obligated to any entity because of receipt of reimbursement
209	Behavioral Health Training and Community Education Programs	UIOs have authority to develop & implement a program of community education on mental illness and receive technical support from IHS for such programs.
214	Epidemiology Centers	Modification to existing epidemiology provision language.
217	American Indians into Psychology Program	UIOs are still deemed eligible sites for loan pay back. Develops a program advisory board that shall be comprised of tribal & Indian community representatives.
218	Communicable Diseases	Develops grants and contracts for the prevention and education around targeted communicable diseases. Urban programs are eligible for such grants, but the funding must come through Title V, not Title II. IHS required to monitor the rate of communicable disease burden for urban Indian communities.
401	Treatment of Payments under Social Security Act Health Benefits Programs	CMS reimbursements cannot be counted against appropriations for IHS. Furthermore, HHS may not include CMS reimbursements received by Tribes, Tribal Organizations, and Urban Indian Organizations as part of IHS base funding.
402	Purchasing Health Care Coverage	UIOs can buy health benefits for beneficiaries, including patients.
404	Grants/Contracts with HIS/Tribes/Urbans for outreach, enrollment, and coverage of Indians on SSA health benefits	Like the SCHIP program, grants from CMS to facilitate enrollment in Medicaid & Medicare, including programs to provide outreach and enrollment through electronic methods or telecommunication networks.
408	Nondiscrimination under federal health care programs in qualification for reimbursement for services	CMS must reimburse for Medicaid/Medicare/CHIP patients on the same basis as any other provider. Provides portability of licensure for medical professions, though only for the qualification of reimbursement.
409	Access to Federal Insurance	UIOs may purchase health benefits for employees through the Federal Employees Health Benefits Program (FEHBP).

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702	Behavioral Health Prevention and Treatment Services	UIOs are eligible for grants and contracts identical to the programs developed under this section. However funding must come through Title V rather than Title II. Technical Assistance, however, comes through Title II rather than through Title V.
707	Women's Treatment Programs	Comprehensive behavioral health program for specific behavioral health needs of Indian women. UIOs are eligible for grants under this program and the funding comes through Title II.
708	Indian Youth Program	UIOs are eligible for grants to prevent and treat multiple abuse forms. Funding must come through Title V.
712	Fetal Alcohol Spectrum Disorders Programs	10% set aside for UIOs.
715	Behavioral Health Research	Research must be done in urban areas—no clear statement of who does the research
725	Use of Predoctoral Psychology and Psychiatry Interns	IHS is directed to encourage I/T/U providers to develop programs or otherwise obtain services of predoctoral students to up recruitment and retention.
805	Confidentiality of Medical Quality Assurance Records; Qualified Immunity for Participants	Research done by IHS/Epi centers is protected and medical quality assurance record collected for best practices research are deemed confidential
825	Prescription Drug Monitory	IHS will develop a prescription drug monitoring program across the I/T/U delivery system.
831	Traditional Health Care Practices	IHS will promote traditional health care practices across the I/T/U system.
832	Director of HIV/AIDS Prevention and Treatment	Creates a permanent office dedicated to HIV/AIDS prevention & treatment. UIOs may request technical assistance from this office.
Title II section 201	Medicare Amendments	Payments made to I/T/U providers may not be reduced by any cost-sharing amount now that Indian patients are exempt from cost sharing under Medicare and Medicaid.