

**Testimony of  
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**Before the  
Senate Committee on Indian Affairs**

**On The Reauthorization of  
The Indian Health Care Improvement Act**

**March 8, 2000**

**I. INTRODUCTION**

Honorable Chairman and Committee Members, on behalf of the National Council of Urban Indian Health and its 34 member programs, I would like to express our appreciation for this opportunity to testify before your Committee on the reauthorization of the Indian Health Care Improvement Act (IHCIA).

Founded in 1998, NCUIH is the only membership organization of urban Indian health programs. Of the 60% of Native Americans and Alaskan Natives who live off-reservation, slightly over half live in urban areas. NCUIH seeks, through education, training and advocacy, to meet the unique health care needs of this urban Indian population. NCUIH members provide a wide range of health care and referral services in 34 cities, actively serving a population of 332,000 urban Indians.

**II. NATIONAL STEERING COMMITTEE RECOMMENDATIONS**

NCUIH strongly supports the recommendations of the National Steering Committee for the Reauthorization of the Indian Health Care Improvement Act. NCUIH, on behalf of the urban Indian health care organizations, was an active participant in the activities of the National Steering Committee in developing the recommendations. This initiative brought together the Indian Health Service, the Tribes, and the urban Indians in a united effort to develop sensible and effective amendments to the IHCIA, as well as certain other Federal laws which affect the provision of health care services to Indian populations (such as the entitlement programs Medicaid and Medicare, as well as the Federal Tort Claims Act). The parties recommendations are incorporated in H.R. 3397. NCUIH fully supports these recommendations.

This testimony addresses those recommendations which directly relate to urban Indians and urban Indian organizations. NCUIH asks that the Senate Committee on Indian Affairs, fully support the entire set of recommendation made by the National Steering Committee.

**III. TITLE V - HEALTH SERVICES FOR URBAN INDIANS**

Title V of IHCA is concerned with the delivery of health care and referral services to urban Indians. NCUIH supports retaining most of the Title V provisions in the current law, with certain modifications as described below.

- ! **Accreditation and Site Visits.** NCUIH supports lifting the requirement that the IHS make annual site visits to each grantee or contractor where that grantee or contractor has been accredited by a private independent accrediting body recognized by the Secretary of Health and Human Services for Medicare purposes. Such visits are unnecessary where accreditation has been granted.
  
- ! **Lump Sum Payments.** NCUIH supports authorizing the IHS to make payments under grants or contracts on a lump-sum basis at the beginning of a funding period. This substantially enhances the ability of grantees and contractors to implement efficient financial operations.
  
- ! **Multiple urban centers under one organization.** NCUIH supports allowing an urban Indian organization to furnish health care or referral services to urban Indians through satellite clinic sites. This amendment would enable urban Indian programs, with hard-won expertise, to serve in a cost-effective more urban Indians while also providing flexibility to address the ever changing urban Indian communities

NCUIH also supports certain significant expansions to Title V:

- ! **Expansion of uses for Renovation Grants.** Currently, the IHS is authorized to make funds available to Title V grantees or contractors for minor renovations. NCUIH supports amending Title V to also permit these grant funds to be used for leasing, purchasing, constructing or expansion of facilities. This amendment would greatly expand the ability of the grantees or contractors to tailor the use of the funds to their most pressing needs, thus allowing them to better serve their patient population.
  
- ! **Establishment of an Urban Indian Health Care Revolving Loan Fund.** The proposed amendments would establish a revolving loan fund to be used for the same purposes as the renovation/construction funds described immediately above. This would be a self-sustaining funding mechanism which would better enable the urban programs to address facility needs and to do so in cost-effective manner.
  
- ! **Extended Federal Authorization Period.** The Steering Committee recommends, and NCUIH supports, that Title V programs be authorized to receive "such sums as may be necessary" for each fiscal year through 2012. This would allow Congress the maximum degree of flexibility to address the needs of a growing population of urban Indians while also assuring authorization for funding for an extended period, bringing greater funding stability to these programs.

The proposed amendments would also add a number of new provisions to Title V which NCUIH fully supports:

- ! **Increased Consultation.** The Secretary of Health and Human Services would be required to ensure that the IHS, Health Care Financing Administration (HCFA) and other divisions of the Department of Health and Human Services consult with urban Indian organizations to the greatest extent practicable prior to taking "any action" that may affect urban Indians or urban Indian health organizations. For this purpose "any action" would include HCFA approval of federal matching funds to state Medicaid programs to extent to urban Indian health programs. As has been dramatically demonstrated in other areas of Indian policy-making, close consultation with Indian organizations leads to better results, less confusion, and a higher level of cooperation and efficiency on the part of everyone involved. See related discussion at Part V, below.
  
- ! **Federal Tort Claims Act Coverage.** Urban Indian organizations receiving grants or entering into contracts with the IHS should be covered under the Federal Tort Claims Act for any medical malpractice or other personal injury claims filed on or after October 1, 1999. This would appropriately grant the urban Indian organizations coverage enjoyed by other Indian organizations which receive federal funding. Elimination of the high cost of malpractice insurance would lessen a major barrier to outreach and referral programs in their efforts to become direct medical service providers.
  
- ! **Urban Youth Treatment Centers.** The IHS would be directed to fund the construction and operation of at least two residential treatment centers in each state in which there reside urban Indian youth in need and where there is also a shortage of culturally competent residential treatment services. NCUIH believes that it is critically important to "catch them young." Indian youth face many challenges in the urban environment. They respond most effectively to programs which are culturally sensitive to Indians.
  
- ! **Use of Federal Government Facilities.** The Secretary of Health and Human Services would be (1) directed to permit urban Indian organizations receiving assistance under Title V to use facilities or equipment owned by the Federal government within the Secretary's jurisdiction; and (2) authorized to donate excess property of the IHS or the GSA to such organizations. This is consistent with rights held by other Indian entities and has the potential to greatly expand the capabilities and resources of urban Indian organizations.
  
- ! **Grants for Diabetes Prevention, Treatment, and Control.** Diabetes is at epidemic levels among the Indian population, no matter whether they are located on-reservation or in urban areas. NCUIH supports an amendment that would authorize the IHS to make grants to urban Indian organizations under Title V to provide services for the prevention, treatment, and control of diabetes among urban Indians.
  
- ! **Community Health Representatives.** CHR's have been very effective in promoting health care and health consciousness among the Indian population. NCUIH supports authorizing the IHS to contract with, or make grants to, urban Indian organizations under Title V for the use of Indians trained as Community Health Representatives in the provision of health care, health promotion, and disease prevention services to urban Indians.

- ! **Regulations.** If the IHS promulgates regulations to implement these new amendments, it would have to use negotiated rulemaking procedures, including a committee with representatives of urban Indian organizations from each IHS service area constituting a majority of the members, to develop those regulations.

#### **IV. OTHER TITLES IN THE IHCIA**

Urban Indians and urban Indian organizations are affected by provisions in other titles of the Indian Health Care Improvement Act. Set forth below are key proposed amendments, again adopted by the National Steering Committee and fully supported by NCUIH:

##### **A. Title I**

- ! **Health Professionals Serving at Urban Indian Centers.** Under the Steering Committee's amendments, urban Indian health programs would be among the practice sites where active duty service obligations could be met by recipients of Indian Health Scholarships, by health professionals participating in the IHS loan repayment program, and by nurses, nurse midwives, or nurse practitioners participating in the Indians into Nursing Program. In addition, health professionals employed by urban Indian organizations could qualify for retention bonuses. By opening up the Urban Indian organizations to these professionals, the quality and number of medical professionals available to the urban Indian organizations would increase. There also may be an increased interest by health professionals to participate in these IHS programs if they know they may have an opportunity to serve Indian people in an urban location.

##### **B. Title II**

- ! **Studies, School Programs and Treatment Models.** Under the Steering Committee's amendments, Title V urban Indian organizations would be eligible to receive funding to conduct epidemiological studies, to develop comprehensive school health education programs, and to develop treatment models for Indian women. Urban Indian needs and issues are not always the same as those for reservation Indians. Studies of this population are critical to serving its needs and, additionally, may prove valuable in providing new insights which would benefit the entire Indian population.

##### **C. Title IV.**

- ! **Establishment of Qualified Indian Health Programs.** NCUIH fully supports the establishment of Qualified Indian Health Programs. Such programs will allow urban Indian organizations to partner better with Indian Health Service facilities and tribal health programs.
- ! **Recovery and/or Reimbursements of Expenses.** Under the Steering Committee's amendments, urban Indian organizations would, among other things, have: a right of recovery against insurers or any other third parties for expenses incurred by the

organization in furnishing services to an individual covered by the insurer or other third party; such a right, common for other health care providers, would greatly expand the range of cost-effective and culturally sensitive health care services that the urban Indian organizations could provide a right of recovery against managed care plans, including those participating in Medicaid, for the expenses of delivering care to enrollees of the plans; again, as with the right of recovery against insurers and other third parties described above, such a right, common for other health care providers, would greatly expand the range of cost-effective and culturally sensitive health care services that the urban Indian organizations could provide the right to retain reimbursements that the organization receives or recovers from private or public payers for delivering services (for the same reason set forth in the two immediately preceding paragraphs); and

- ! **Employee Access to Federal Health and Life Insurance.** The urban Indian organizations would also gain the authority to use funds received from the IHS to purchase federal employee health and life insurance coverage for their own employees. This would enable the urban Indian organizations to provide more cost-effective and comprehensive health care coverage to their own employees. Extension of these benefits would assist with recruiting and retaining employees and would help bridge the gap created by the lower salaries that urban Indian health programs, as non-profits, are able to pay.

#### **D. Title VII**

- ! **Behavioral Health Treatment for Indian Women and Fetal Alcohol Disorder Programs.** Under the Steering Committee's amendments, the IHS would have to set aside for urban Indian organizations (1) 20 percent of any amounts appropriated to develop and implement behavioral health treatment programs for Indian women; and (2) 10 percent of any amounts appropriated to establish and operate fetal alcohol disorders programs. The special health needs of Indian women, as well as the serious problem of fetal alcohol disorder, are as common among the urban Indian population as the reservation population. These amendments will give the urban Indian organizations the funding they need to combat these problems.

#### **V. IMPLEMENTATION OF IHCA AMENDMENTS**

As noted above, the Steering Committee's amendments to Title V would require the IHS, HCFA, and other divisions of the Department of Health and Human Services to consult with urban Indian organizations before taking any actions that might affect urban Indians, and would also require the use of negotiated rulemaking in developing any regulations to implement Title V. Title VII of the Act contains two parallel provisions that address consultation and rulemaking issues with respect to all of the Titles in the Act:

! **Regulations.** The Secretary would be required to initiate negotiated rulemaking procedures to promulgate regulations necessary to carry out the amendments. A majority of members of the negotiated rulemaking committee would be representatives of tribes, tribal organizations, and urban Indian organizations from each service area.

! **Plan of Implementation.** The Secretary would be required to prepare, in consultation with tribes, tribal organizations, and urban Indian organizations, and to submit to Congress a plan for implementation of any amendments adopted within 240 days of enactment.

## VI. ENTITLEMENT COMMISSION

The Steering Committee has proposed an amendment to the Act that would establish a National Bipartisan Indian Health Care Entitlement Commission. The purpose of the Commission would be to make recommendations to the Congress to implement a policy that would establish a health care system for Indians based on delivery of health services as an entitlement. The Commission would be composed of 25 members, at least one of whom would have to be a nominee of an IHS-funded urban Indian Health program. The Commission's report would be due 18 months after appointment of all members.

## VII. PROVISIONS AMENDING OTHER LAWS

A number of the Steering Committee's recommendations would affect Federal laws other than the Indian Health Care Improvement Act, such as the entitlement programs Medicaid and Medicare. In some cases, the Steering Committee has proposed to incorporate these amendments into the Indian Health Care Improvement Act itself; for example, the new section 515 of Title V which would extend Federal Tort Claims Act coverage to urban Indian organizations and their employees, is in effect an amendment to the Federal Tort Claims Act, but it is drafted as a provision of Title V.

With respect to urban Indian organizations, the two most important Medicaid and CHIP amendments (both of which are drafted into the Medicaid and CHIP statutes rather than the Indian Health Care Improvement Act) are:

! **100 Percent Medicaid Matching Rate.** The Federal government would be required to match 100 percent of the payments that state Medicaid agencies make to urban Indian organizations for furnishing services to Medicaid beneficiaries; this would eliminate any state contribution for these services.

! **100 Percent CHIP Matching Rate.** From their annual block grant allotments under the State Child Health Insurance Program (CHIP), States could draw down Federal funds to

cover 100 percent of the amounts they spend to pay IHS facilities, tribally operated programs, and urban Indian organizations assisted by grants or contracts under Title V.

### **VIII. ITEMS TO BE RESOLVED**

Although NCUIH fully supports the National Steering Committee recommendations, the National Steering Committee did not come to a final consensus on whether both the Oklahoma City Clinic and Tulsa Clinic demonstration projects should be made permanent and should meet the definition of an urban Indian organization under Section 512 of IHCA. NCUIH supports such an action. NCUIH does not, at this, time have a position on changing the definition of "urban Indian" in the Act.

### **IX. CONCLUSION**

NCUIH thanks the Committee for this opportunity to provide testimony on the reauthorization of the Indian Health Care Improvement Act. This legislation will have far-reaching consequences for the health care of American Indians, including urban Indians. NCUIH urges the Committee to support the proposed amendments to IHCA developed by the National Steering Committee. They provide an essential basis for improving the health care of America's native peoples.