



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

HOUSE BILL 1407
HOUSE HUMAN SERVICES COMMITTEE
JANUARY 27, 2021

TESTIMONY OF CYNTHIA C. MONTEAU
MANDAN, HIDATSA AND ARIKARA NATION (MHA NATION)

Mr. Chairman and members of the Committee, my name is Cynthia Monteau, I am here today on behalf of the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara Nation (MHA Nation). I come before you today as an Opponent of House Bill 1407, a bill that interferes with the MHA Nation's ability to pay healthcare specialists the full amount of our contracts for medical assistance to tribal members.

In 2005, the MHA Nation contracted the federal government's responsibility to provide health care services to tribal members and eligible patients under Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975. The MHA Nation is one of two tribes not served by the IHS. The definition on Page 1, Line 14 of the bill includes the MHA Nation as a tribal entity providing health care under Public Law 93-638.

The Centers for Medicare and Medicaid Services (CMS) pays a percentage to states of their total Medicaid expenses, since the states administer Medicaid which is a federal program. The percentage is called the Federal Medicaid Assistance Percentage or FMAP. CMS reimburses North Dakota at 53.39% FMAP.

CMS will reimburse at 100% FMAP, for services administered to Medicaid-eligible American Indians and Alaska Natives at Indian Health Service Clinics (IHS) or tribal facilities (Pub. L. 93-638). CMS's reimbursement at 100% FMAP for services at tribal clinics costs the state nothing.

The 100% FMAP reimbursement only applies to a non-IHS/Tribal provider. In other words, only Pub. L. 93-638 tribes can enter into tribal care coordination agreements. The MHA Nation and Spirit Lake Nation are the only two tribes that fall under this eligibility requirement. There is no role for the state to facilitate the agreements or to keep a percentage of our agreements. CMS sought to permit Pub. L. 93-638 Tribes it contracts with the higher reimbursement amount it would not otherwise receive. If we cannot pass the 100% FMAP along to our contract providers, they are not going to want to take our Medicaid patients.

Page 1, Lines 17-21 of the bill, allows the state to retain any federal funding received in excess of its regular share of 53.39% FMAP. Of that excess, the state shall deposit ninety percent in the tribal health care coordination fund and ten percent in the general fund. Why is the State keeping the Tribes reimbursement when there is zero cost to the State? These are federal funds allocated to the tribal nations for care coordination agreement requests for services and the State is simply a "pass through" for the federal funds to be distributed to the tribes. The state is not a party to the care coordination agreements, the State is not offering any services under the agreements, and Pub. L. 93-638 clinics are reimbursed at 100% of our expenditures - but yet this bill allows the State to retain 10% of these pass-through dollars. What are these funds being used for when the State has absolutely no cost to begin with?

Finally, Line 13 on Page 3 specifically names the Three Affiliated Tribes of the Fort Berthold Reservation. We do not want to be included in this bill as it interferes with our contracts to provide services to tribal members.

It is for these reasons that the MHA Nation cannot support this bill. Unless there is an opt out provision for Public Law 93-638 Tribes or the MHA Nation is excluded, the MHA Nation will continue to stand in opposition of HB1407.

Thank you, Mr. Chairman.