House Resolution 1

Tribal Consultation 10/21/2025

South Dakota Department of Social Services

Agenda

President Donald Trump signed the House of Representatives' Fiscal Year (FY) 2025 reconciliation bill titled the One Big Beautiful Bill Act, on July 4, 2025, which includes provisions impacting Medicaid and CHIP.

The Centers for Medicare & Medicaid Services (CMS) has not released federal guidance.

- **Section 71107:** Eligibility Redeterminations (Biannual Renewals)
- **Section 71109:** Noncitizen Medicaid Eligibility
- **Section 71112:** Reducing State Medicaid Costs (Retroactive Reduction)
- **Section 71119:** Community Engagement (Work) Requirements
- **Section 71120:** Cost Sharing Requirements
- **Section 71401:** Rural Health Transformation

Protections

Specific provisions outline protections for individuals “described in subsection (xx)(9)(A)(ii)(II).”

> “(II) who—
>
> > “(aa) is an Indian or an Urban Indian (as such terms are defined in paragraphs (13) and (28) of section 4 of the Indian Health Care Improvement Act);
> >
> > “(bb) is a California Indian described in section 809(a) of such Act; or
> >
> > “(cc) has otherwise been determined eligible as an Indian for the Indian Health Service under regulations promulgated by the Secretary;

Definitions

HR1 Language

“(aa) is an Indian or an Urban Indian (as such terms are defined in paragraphs (13) and (28) of section 4 of the Indian Health Care Improvement Act);

Indian Health Care Improvement Act Language

(13) INDIANS OR INDIAN.—The term ‘‘Indians’’ or ‘‘Indian’’, unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 102 and 103, such terms shall mean any individual who (A), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (B) is an Eskimo or Aleut or other Alaska Native, or (C) is considered by the Secretary of the Interior to be an Indian for any purpose, or (D) is determined to be an Indian under regulations promulgated by the Secretary.

(28) Urban Indian The term ‘‘Urban Indian’’ means any individual who resides in an urban center, as defined in subsection (g) hereof,1 and who meets one or more of the four criteria in subsection (c)(1) through (4) of this section.

(g) “Urban center” means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

Definitions Continued

HR1 Language
"(bb) is a California Indian described in section 809(a) of such Act; or

25 U.S. Code 1679 – Eligibility of California Indians

(a)In general

The following California Indians shall be eligible for health services provided by the Service:

(1) Any member of a federally recognized Indian tribe.

(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—
(A)is a member of the Indian community served by a local program of the Service; and
(B)is regarded as an Indian by the community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or reservation allotments in California.

(4) Any Indian of California who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

Definitions Continued

HR1 Language

"(cc) has otherwise been determined eligible as an Indian for the Indian Health Service under regulations promulgated by the Secretary;

Indian Health Manual Language (2-1.2 Persons Eligible for IHS Health Care Services)

A. American Indian and/or Alaska Native. American Indian and/or Alaska Native (AI/AN) descent and belongs to the Indian community served by the IHS program, as evidenced by such factors as:

1. Membership, enrolled or otherwise, in an AI/AN Federally-recognized Tribe or Group under Federal supervision.

2. Resides on tax-exempt land or owns restricted property.

3. Actively participates in tribal affairs.

4. Any other reasonable factor indicative of Indian descent.

5. In case of doubt that an individual applying for care is within the scope of the program, as established in 42 C.F.R. § 136.12(b), and the applicant's condition is such that immediate care and treatment are necessary, services shall be provided pending identification as an Indian beneficiary.

Verification

Self-attestation is verification when individuals indicate they are American Indian or Alaska Native, a member of a federally recognized tribe, or IHS-eligible on an application or renewal form.

Persons who have not completed these markers but for whom an IHS claim is received are automatically updated as IHS-eligible in the system.

Medicaid applications may be updated based on Federal rule or guidance.

Appendix B: American Indian or Alaska Native (AI/AN) Household Members

American Indian or Alaska Native Family Member (AI/AN)
Complete this appendix if you or a family member is American Indian or Alaska Native. Submit this with your Application for Health Coverage & Help Paying Costs.

Tell us about your American Indian or Alaska Native family member(s).
American Indians and Alaska Natives can get services from the Indian Health Services, tribal health programs, or urban Indian health programs. They also may not have to pay cost sharing and may get special monthly enrollment periods. Answer the following questions to make sure your family gets the most help possible.

	AI/AN PERSON 1	AI/AN PERSON 2
1. Name (First Name, Middle Name, Last Name)	First Middle Last	First Middle Last
2. Member of a federally recognized tribe?	Yes ☐ If yes, tribe name:	Yes If yes, tribe name:
3. Has this person ever gotten a service from the Indian Health Service, a tribal health program, or urban Indian health program, or through a referral from one of these programs?	☐ Yes ☐ No If No, is this person eligible to get services from the Indian Health Service, tribal health programs, or urban Indian health programs, or through a referral from one of these programs? ☐ Yes ☐ No	☐ Yes ☐ No If No, is this person eligible to get services from the Indian Health Service, tribal health programs, or urban Indian health programs, or through a referral from one of these programs? ☐ Yes ☐ No

Optional: (Fill in all that apply).	18. If Hispanic/Latino, ethnicity: ◯ Mexican ◯ Mexican American ◯ Chicano ◯ Puerto Rican ◯ Cuban ◯ Other
	19. Race: ◯ White ◯ Black or African American ◯ American Indian or Alaska Native ◯ Filipino ◯ Japanese ◯ Korean ◯ Asian Indian ◯ Chinese ◯ Vietnamese ◯ Other Asian ◯ Native Hawaiian ◯ Guamanian or Chamorro ◯ Samoan ◯ Other Pacific Islander ◯ Other

HR1: Feedback

Questions

- What concerns or worries do you have about this process?
- How might the application be improved to gather the needed information from beneficiaries?
- Would the tribe be interested in co-designing or reviewing revised application language or outreach materials?
- How might DSS encourage applicants and beneficiaries to complete those needed areas of the application?
- How might renewals be updated to request this information, in case they have not before?
- What would make tribal members more comfortable sharing their information (tribal affiliation, etc.)?
- What is the best way to ensure tribal members are correctly identified for HR1-related protections?
- How can DSS and the tribes work together to ensure HR1 doesn't disrupt coverage?

Section 71107: Biannual Renewals

What it is:
Eligibility Determinations (Biannual Renewals) for Medicaid Expansion

When does it go into effect:
January 1, 2027

What does it mean:
Section 1902(e)(14) of the Social Security Act (42 U.S.C. 1396a(e)(14)) is amended to require States to redetermine eligibility (renewal) once every six (6) months for persons enrolled in the Medicaid Expansion coverage group. CMS is required to release guidance by December 31, 2025.

Who is impacted:
Individuals enrolled in Medicaid Expansion *unless* Native American, tribal members, or IHS-eligible.

How is this different from current procedure:
Current federal rule does not allow a State to require beneficiaries to renew more than once every twelve (12) months.

Section 71109: Noncitizen Eligibility

What it is:
Noncitizen Eligibility

When does it go into effect:
October 1, 2026

What does it mean:
Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended and limits Medicaid and CHIP eligibility to:

- Citizens or nationals of the U.S.;
- Lawful Permanent Residents (LPRs);
- Cuban and Haitian Entrants (CHEs), as defined in 501(e) of the Refugee Education Assistance Act of 1980; and
- Lawfully residing Compact of Free Association (COFA) migrants.

How is this different from current procedure:
The definition of qualified noncitizen currently includes several other immigration statuses, including but not limited to refugees, asylees, battered aliens, and Native Americans born in Canada or members of a federally-recognized tribe born outside of the country.

Section 71112: Retroactive Reduction

What it is:
Reducing State Medicaid Costs / Retroactive Reduction

When does it go into effect:
January 1, 2027

What does it mean:
Section 1902(a)(34) of the Social Security Act (42 U.S.C. 1396a(a)(34)) is amended to limit retroactive coverage to one (1) month for persons only eligible under Medicaid Expansion criteria and (2) months for persons eligible under all other coverage groups.

How is this different from current procedure:
Retroactive coverage is currently up to three (3) months prior to the month of application for all applicants regardless of coverage group criteria they meet.

It is not expected that this will impact the 90-day reinstatement period at 42 CFR 435.919(d) for *ongoing beneficiaries* who are terminated for not returning requested information. These individuals are not required to submit new applications if all required information to reinstate is received within 90-days of disenrollment.

Section 71119: Community Engagement

What it is:
Community Engagement / Work Requirements for Medicaid Expansion

When does it go into effect:

- October 1, 2026 – Notification to Current Enrollees Required
- January 1, 2027 – Effective Date

What does it mean:
Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended to require Medicaid Expansion applicants and recipients to meet work or community engagement requirements as a condition of eligibility. All new applicants are subject to this requirement as of January 1, 2027, and ongoing beneficiaries will be reviewed at their next redetermination after that date.

Individuals can meet the requirements if they complete 80 hours per month through employment, participation in a work program (job training), enrollment in an educational program at least half time, community service activities, or a combination (including income over 80 hrs. x Federal Minimum Wage).

CMS must release guidance to states by June 1, 2026.

Who is impacted:
Individuals enrolled in Medicaid Expansion ***unless*** Native American, tribal members, or IHS-eligible.

Section 71119: Exemptions

In addition to Native Americans, tribal members, and those eligible for IHS:

- **Caretakers:** parent, guardian, caretaker relative, or family caregiver (as defined in section 2 of the RAISE Family Caregivers Act) of a dependent child 13 years of age and under or a disabled individual;
- **Disabled Veterans**: a veteran with a disability rated as total under section 1155 of title 38, United States Code;
- **Medical Needs**: medically frail or otherwise has special medical needs (as defined by the Secretary), including an individual who is blind or disabled (as defined in section 1614), with a substance use disorder, with a disabling mental disorder, with a physical, intellectual, or developmental disability that significantly impairs their ability to perform 1 or more activities of daily living, with a serious or complex medical condition;
- **Already Meeting Work Requirements**: in compliance with any requirements imposed by the State pursuant to section 407 (TANF) or a member of a household that receives SNAP;
- **Substance Use Disorder (SUD) Treatment**: participating in a drug addiction or alcoholic treatment and rehabilitation program (as defined in section 3(h) of the Food and Nutrition Act of 2008);
- **Incarcerated or Recently Incarcerated**: inmate of a public institution or, at any point during the 3-month period ending on the first day of such month, the individual was an inmate of a public institution (recent incarceration);
- **Pregnant and Postpartum**: pregnant or entitled to postpartum medical assistance under paragraph (5) or (16) or subjection (e).

Section 71119: Short-Term Hardships

States may provide short-term hardship exemptions for individuals with extenuating circumstances:

1. Require care in hospitals or other intensive care settings
2. Reside in a federally declared disaster area
3. Live in counties with unemployment rates higher than 8% *or* 1.5 times the national unemployment rate
4. Need to travel (for self or a dependent) for medical care for an extended time

HR1 Language

"(i) IN GENERAL.—The State plan (or waiver of such plan) may provide, in the case of an applicable individual who experiences a short-term hardship event during a month, that the State shall, under procedures established by the State (in accordance with standards specified by the Secretary), in the case of a short-term hardship event described in clause (ii)(II) and, upon the request of such individual, a short term hardship event described in subclause (I) or (III) of clause (ii), deem such individual to have demonstrated community engagement under paragraph (2) for such month.

"(ii) SHORT-TERM HARDSHIP EVENT DEFINED.—For purposes of this subparagraph, an applicable individual experiences a short-term hardship event during a month if, for part or all of such month—

> "(I) such individual receives inpatient hospital services, nursing facility services, services in an intermediate care facility for individuals with intellectual disabilities, inpatient psychiatric hospital services, or such other services of similar acuity (including outpatient care relating to other services specified in this subclause) as the Secretary determines appropriate;

Section 71119: Short-Term Hardships (cont.)

"(II) such individual resides in a county (or equivalent unit of local government) —

"(aa) in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

"(bb) that, subject to a request from the State to the Secretary, made in such form, at such time, and containing such information as the Secretary may require, has an unemployment rate that is at or above the lesser of—

"(AA) 8 percent; or
"(BB) 1.5 times the national unemployment rate; or

"(III) such individual or their dependent must travel outside of their community for an extended period of time to receive medical services necessary to treat a serious or complex medical condition (as described in paragraph (9)(A)(ii)(V)(ee)) that are not available within their community of residence

Section 71120: Cost Sharing

What it is:
Modifying Cost Sharing Requirements for Certain Medicaid Expansion Individuals

When does it go into effect:
October 1, 2028

What does it mean:
Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended to impose cost sharing of up to $35 per service on Medicaid Expansion beneficiaries with income between 100% and 138% FPL. Families cannot be charged more than 5% of their total household income per year (current Federal regulation at 42 CFR 447.56).

It exempts primary care, prenatal care, emergency room care, mental health, and substance use disorder services. It excludes services provided by federally qualified health centers, behavioral health clinics, and rural health clinics.

Who is impacted:
Individuals enrolled in Medicaid Expansion *unless* Native American, tribal members, or IHS-eligible.

HR1's language specifically preserves the cost sharing exemption for individuals in subsection (j) of 42 USC 1396o.

How is this different from current procedure:
DSS removed copays and cost sharing for services effective July 1, 2024, as the dynamic limits were deemed costly, difficult to implement, and administratively burdensome for providers.

HR1: Feedback

Questions

- What questions or concerns do you have about HR1 and how it might affect Native American families or tribal communities?
- What would make communication about HR1 more transparent and less stressful?
- What materials/formats are best to help tribal members understand these changes? Examples: print, social media, radio, etc.
- Are there outreach channels or tribal events where we should be sharing information about HR1?
- How can DSS better communicate changes like these with tribes and tribal members?
- How might medical providers help identify and support patients as changes go into effect?
- What kind of feedback loops (e.g., surveys, listening sessions, etc.) might help after HR1 is implemented?

Questions?

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