



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ANC-14-053

### **TITLE: Reimbursing Tribal Health Facilities for Eligible Services Provided to Veterans under the Affordable Care Act**

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the Indian Health Care Improvement Act, as reauthorized and made permanent through Title X of the Patient Protection and Affordable Care Act of 2010, included a provision appearing at 25 U.S.C. Section 1645(c) that mandates the Veterans Administration (VA) to reimburse the Indian Health Service, tribes and tribal organizations for services provided to veterans. The new statute specifically provides that an "Indian tribe, or tribal organization shall be reimbursed" by the VA; and

**WHEREAS**, the VA has now construed the mandatory reimbursement statute as applying only to tribes that agree to enter into a model reimbursement agreement that VA has developed; and

**WHEREAS**, the model agreement does not allow for reimbursement of purchased/referred care provided through tribal health programs to veterans, limiting reimbursement to only direct service care. It also does not allow for reimbursement of services provided to non-native veterans, such as a non-native woman pregnant with a native child, who routinely receive services through Indian Health Service and tribal health programs. This is also a problem for families or persons living on tribal lands who may be non-Native and not close to a VA facility or where a tribal facility is more accessible to the veteran; and

**WHEREAS**, providing efficient and adequate health services for veterans is the main goal and purpose of the law. Thus, the VA's implementation of the provision of law should be done in a manner that is streamlined and focuses on providing the quickest and best care to veterans.

**NOW THEREFORE BE IT RESOLVED**, that NCAI believes that the statutory language “shall be reimbursed” mandates reimbursement to tribes and tribal organizations, and does not permit VA to limit reimbursements only to tribes that agree to limitations that do not appear in the Indian Health Care Improvement Act; and

**BE IT FURTHER RESOLVED**, that NCAI believes that tribal reimbursement rights are retroactive to the adoption of the Affordable Care Act, and thus urges the VA to set up a process that allows reimbursement for eligible services provided since the law was enacted; and

**BE IT FURTHER RESOLVED**, that NCAI believes that each tribal government has a unique government-to-government relationship with the United States, and thus urges the VA to regard and respect the uniqueness and sovereignty of each tribal government; and

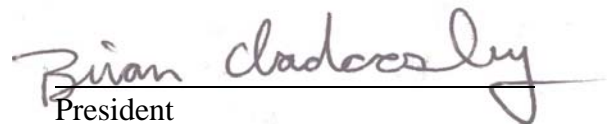
**BE IT FURTHER RESOLVED**, that NCAI believes that Native Veterans should be free to choose their care based on where they can secure the highest quality health services, and that tribal health care programs should be reimbursed for both direct service and purchased/referred care when Veterans find tribal health programs more accessible or more accommodating to their needs; and

**BE IT FURTHER RESOLVED**, that the VA should recognize the language of the law and reimburse tribes and tribal health care programs for all direct and referral care services provided to veterans, regardless of their race, in a manner that will increase access to health care for Native Veterans, increase their freedom to choose health care based on quality and service, and minimize the burden on tribal resources caused by unreimbursed care; and

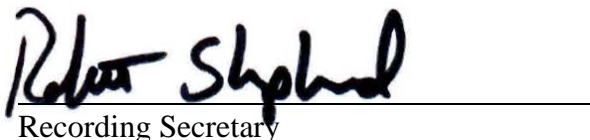
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2014 Mid-Year Session of the National Congress of American Indians, held at the Dena'ina Civic & Convention Center, June 8-11, 2014 in Anchorage, Alaska, with a quorum present.

  
President

ATTEST:

  
Recording Secretary