



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MOH-17-013

TITLE: Funding for Correctional Health Care in Tribal and BIA Facilities

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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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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 Bureau of Indian Affairs (BIA) has oversight of all corrections facilities in Indian Country and the inmates that are incarcerated in them, whether they are operated directly by the BIA or by the tribe pursuant to a 638 contract or self-governance compact; and

WHEREAS, the BIA has no correctional health care budget, and as a result generally does not provide health care personnel or services in its detention facilities; and

WHEREAS, the absence of medical staff in tribal jails compromises the health and safety of inmates and detention personnel because inmates often are not given a medical evaluation when they are taken into custody, which in one instance, resulted in a serious tuberculosis outbreak in a newly constructed tribal jail that effected over 40 inmates and staff; and

WHEREAS, correctional officers must transfer inmates to their local Indian Health Service (IHS) or tribal 638 healthcare provider for all medical services (i.e. emergency, primary, dental, mental and behavioral health); and

WHEREAS, tribes are using significant portions of their BIA corrections allocations to transport and supervise inmates receiving health care – a single inmate with diabetes may need to be transported three times a week for dialysis and be supervised at the health facility for 3 hours each visit; and

WHEREAS, the federal government provides health care in Bureau of Prisons (BOP) and Immigration and Customs Enforcement (ICE) detention facilities through the use of Public Health Service Commissioned Corps Officers, but none of these personnel are working in BIA jails; and

WHEREAS, the Indian Health Service is chronically underfunded and tribal health facilities increasingly rely on Medicaid reimbursements to partially make up the severe shortfall in Indian health care appropriations; and

WHEREAS, Medicaid has an exclusion for outpatient health services for inmates based on the rationale that Congress already directly appropriates funds to pay for the healthcare costs of federal prisoners and that state and local jurisdictions do the same; and

WHEREAS, the Indian Health Service has no correctional health care budget; and

WHEREAS, Medicaid's "inmate exclusion" combined with the lack of funding for correctional health care at either BIA or IHS jeopardizes the financial sustainability of tribal healthcare facilities, forcing IHS and 638 tribal healthcare facilities to absorb, on average, \$1.5 million in annual uncompensated cost when a new tribal jail opens in their service area; and

WHEREAS, there is uncertainty about the extent to which a non-Indian inmate sentenced in tribal court pursuant to VAWA 2013 would be able to receive health care at a local IHS facility; and

WHEREAS, a number of tribes report that they need clear guidance from the IHS and BIA about how health care will be provided to non-Indian inmates and how the costs of that care will be covered before they implement Special Domestic Violence Criminal Jurisdiction over non-Indians; and

WHEREAS, the federal government's failure to budget and pay for tribal correctional healthcare places additional strain on inadequate tribal corrections and health care budgets, exacerbates the already challenging problem of health disparities for American Indians, undermines successful inmate re-entry, and contributes to recidivism.

NOW THEREFORE BE IT RESOLVED, that BIA should partner with the U.S. Public Health Service through a Memorandum of Agreement to get Commission Corps Officers assigned to tribal jails just as they are already assigned to FBOP and ICE detention facilities; and

BE IT FURTHER RESOLVED, that BIA should include a correctional healthcare line item in its annual budget to fund Commission Corps Officers in tribal jails; and Congress should appropriate funds for Commission Corps Officers to be assigned to tribal jails; and

BE IT FURTHER RESOLVED, that Congress should amend Medicaid to allow reimbursement for outpatient services that are provided to individuals who are incarcerated in Indian Country detention facilities; and

BE IT FURTHER RESOLVED, that Congress should create a catastrophic inmate health care fund that can be used if an inmate sentenced in tribal court needs major medical care; and

BE IT FURTHER RESOLVED, that the Bureau of Prisons (BOP) pilot program that allowed certain inmates to serve their sentence in BOP rather than BIA facilities be reauthorized; 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 2017 Midyear Session of the National Congress of American Indians, held at the Mohegan Sun Convention Center, June 12 to June 15, 2017, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary