National Indian Health Board

WRITTEN TESTIMONY OF THE HONORABLE JANET ALKIRE

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GREAT PLAINS AREA REPRESENTATIVE, NATIONAL INDIAN HEALTH BOARD

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS

"LEGISLATIVE HEARING ON H.R. 7516"

April 30, 2024

Chairwoman Hageman, Ranking Member Leger Fernández, and distinguished members of the Subcommittee, on behalf of the National Indian Health Board (NIHB) and the 574 sovereign federally recognized American Indian and Alaska Native Tribal nations we serve, thank you for this opportunity to provide testimony on H.R. 7516, the Purchased and Referred Care Improvement Act of 2024. My name is Janet Alkire. I serve as the Tribal Council Chairwoman for the Standing Rock Sioux Tribe and the Great Plains Area Representative for the National Indian Health Board (NIHB).

The Purchased and Referred Care (PRC) Program is an important part of how healthcare is delivered for American Indian and Alaska Native (AI/AN) Tribal citizens across Indian Country. Unfortunately, the Indian Health Service's (IHS) administration of the program has had significant challenges in staffing, management, and payment which have impacted individual Tribal citizens and whole Tribal communities. H.R. 7516, the PRC Improvement Act, seeks to clarify existing statute to ensure Tribal citizens do not bear the burden of these administrative issues and to make Tribal citizens whole who have paid approved PRC claims out-of-pocket to protect their credit from debts which belong to the federal government as part of its trust responsibility to Indian tribes and their citizens for healthcare.

IHS Purchased and Referred Care Program

The PRC Program is a critical piece of the IHS's care delivery model. When the IHS does not have a specialist working on site or a higher level of care is needed, Tribal citizens are referred to outside providers for the care they need which IHS cannot directly provide. The PRC program is supposed to fill gaps in the service delivery model. When there is a lack of providers at facilities, this can become even more acute. Reliance on the PRC program varies region to region but is particularly important for Direct Service Tribes which receive their care directly from the IHS. This is also true

of IHS Areas not served by a dedicated IHS hospital or where the Area hospital is understaffed. The PRC Program exists in a vicious cycle. Insufficient facilities or large provider shortages in an IHS Service Unit or Area can drive the need for PRC referrals because there are no doctors to treat patients; conversely, a lack of providers can also delay or completely bar access to adequate PRC referrals for necessary specialist care.

PRC care is rationed based on the IHS Medical Priority Levels.[1] To access the PRC program, a Tribal citizen is required to have approval before utilizing a referral to outside care. This is designed to ensure that care meets the necessary priority level requirements for their Area health facility. The process is already incredibly cumbersome and difficult to navigate for Tribal citizens who are trying to seek care that was referred by a provider. This already arduous process can become even more difficult when IHS facilities or Area offices are understaffed, leading to significant delays in the review of applications and communication of approval of referred care.

Extended delays of care for acute conditions such as cardiac or renal disease can make conditions significantly worse for Tribal citizens living with those diagnoses. When acute chronic conditions do not receive the appropriate levels of care, they can decrease the standard and quality of life for the patient and can worsen other comorbidities that patients have or may develop. In some cases, these delays for acute chronic conditions can lead to death if not treated timely.

Understaffing and administrative difficulties also impact Tribal citizens who have successfully navigated the PRC approval process. Once a Tribal citizen has gotten their approval and gone to an outside provider, the bill is sent to the IHS facility for processing of the claim for payment. But the process currently at many IHS facilities amounts to an administrative black hole for outside providers and Tribal citizens. Once bills are submitted to be paid, Tribal citizens do not know if the IHS is completing its part of the process and will not know until a bill arrives.

Outside Provider Administrative Failures

The PRC program also struggles from misunderstanding and poor education in the provider community who is used to provide services through PRC referrals. NIHB has heard reports that certain providers and their billing contractors often lack even a basic education in the Indian health system which leads to a series of issues for Tribal citizens and the IHS. Under current statute, it is illegal for providers to bill Tribal citizens who have an approved PRC referral for care. This, however, does not deter these providers from sending bills to Tribal citizens for care they received under their PRC referral. In fact, we have heard reports of instances where both the IHS and a Tribal citizen receive bills from the provider for the same services.

Some PRC vendors also frequently lump all services for a patient together, whether they have an approved PRC referral or not, and submit those for payment to IHS. When providers do this, it contributes to administrative burden for Indian health providers to work through claims in a timely manner. They also do not appropriately bill Tribal citizens' third party health care coverages, frequently pushing all claims to PRC payment first. IHS is the payor of last resort, and sorting through those claims and needing to coordinate for initial billing to other health care coverages

[1] Indian Health Service, "Purchased/Referred Care Requirements: Priorities of Care", accessed on: April 25, 2024 at https://www.ihs.gov/prc/eligibility/requirements-priorities-of-care/.

slows down the process and places undue administrative burden on IHS, when the agency already struggles to have enough staff to process PRC claims. This is also true when balance billing happens. When the remainder of the claim needs to be billed to the PRC program, those bills can come months and months late or again be sent directly to the Tribal citizen instead of to PRC offices.

The lack of education and understanding on the part of PRC vendors can really make the management of PRC difficult. In some instances, PRC offices never receive the claims from the outside provider, and bills go directly to the Tribal citizen. This can cause significant distress for Tribal citizens requiring them to contact IHS to provide the bill, which does not always happen. In some cases, Tribal citizens pay those bills in error.

Section 222 of Indian Healthcare Improvement Act (25 U.S.C. § 1601 et seq.) (IHCIA) does not provide recourse for the IHS against these provider practices nor penalty for PRC vendors engaging in these practices. These practices cause distress to Tribal citizens as well as administrative delays and confusion for operating the PRC program efficiently and effectively.

Impacts of A Poorly Administer PRC Program

We know that our communities already suffer from the impacts of disparities. American Indians and Alaska Natives have from the lowest life expectancy in the nation, declining to 65 years—10.9 years less than the national average and equivalent to the nationwide average in 1944.[2,3] Our People suffer from significant disparities for a majority of diseases which lead to mortality,[4] and the impacts of social determinants of health, especially economic outcomes, have a statistically significant impact on diagnosis of chronic disease in American Indians and Alaska Natives.[5] These can be exacerbated when the programs meant to provide care, such as the PRC program, do not operate as intended.

When PRC claims go unpaid, Tribal citizens suffer immensely. Unfortunately, Tribal citizens often receive bills from providers and debt collection agencies for unpaid PRC claims, sometimes because of mistakes or lack of knowledge on the providers' part, and sometimes because of delays by IHS in paying the providers for the services. Tribal citizens who receive these bills are frequently faced with intimidating and threatening language regarding bills. Some Tribal citizens who have the means will pay the claims out-of-pocket to avoid adverse impacts to their credit scores. Others are not so lucky, often lacking the resources to respond to the providers' demands. In these cases, those bills are then turned over to collections. Once a bill goes to collections, it damages the Tribal citizen's personal credit, and they are chased by creditors and debt collectors

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[2] U.S. Department of Health and Human Services, *Centers for Disease Prevention and Control, Provisional Life Expectancy Estimates for 2021*, Report No. 23, August 2022, accessed on: March 20, 2023 at: https://www.cdc.gov/nchs/data/vsrr/vsrr023.pdf, (total for All races and origins minus non-Hispanic American Indian or Alaska Native).

[3] *Id.*

[4] Indian Health Service, "Indian Health Disparities", October 2019, accessed on April 26, 2024 at: https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/factsheets/Disparities.pdf.

[5] Adamsen C, Schroeder S, LeMire S, Carter P. Education, Income, and Employment and Prevalence of Chronic Disease Among American Indian/Alaska Native Elders. Prev Chronic Dis. 2018 Mar 22;15:E37. doi: 10.5888/pcd15.170387. PMID: 29565785; PMCID: PMC5871354.

for bills which should have rightfully been paid by the IHS. Because American Indians and Alaska Natives use the Indian health system for their healthcare, many are not familiar with health care billing and third party health care coverage. When a Tribal citizen gets a bill or a threatening notice from a debt collector, this can cause significant distress. Some Tribal citizens suffer so greatly from the stress caused be billing errors related to PRC care that it discourages them from returning to seek follow up care entirely.

PRC is part of the federal government's trust responsibility to Indian tribes and their citizens to provide for healthcare. When the IHS fails to adequately and timely respond to and pay PRC approved claims, it not only fails to uphold the trust responsibility, but it also personally damages the lives of Tribal citizens caught in the middle between outside providers and the IHS. For Tribal citizens living in Service Units and Areas where PRC is a lifeline to access care, but those claims go unpaid, Tribal citizens can see repeated credit damage through no fault of their own. Lower credit scores can prevent Tribal citizens from accessing lines of credit and loans that allow them to build stability and improve their and their family's quality of life. Rates to finance for vehicles, homes, and credit cards can become unaffordable or completely inaccessible.

When whole communities are impacted by a PRC program which does not adequately and timely pay claims, they carry the burdens of those disparities. Financially, communities can experience economic stagnation due to poor credit, limiting access to the tools and resources to build vibrant and healthy communities. In health, PRC vendors stop taking referrals from Tribal citizens due to systemically unpaid claims. In highly rural areas where there is already a limited number of providers to access, this can prevent access to care for whole communities, increase driving distances to access care still available, and in dire cases can force remaining providers to leave communities entirely in search of more stable economic opportunities. When Tribal citizens cannot get appropriate treatment for preventive or newly diagnosed conditions, instances of chronic disease increase in those communities and for those living with chronic conditions, it can lead to increased comorbidities and in the worst scenarios untimely death. Without early access to these critical and life-saving services, it costs IHS more to pay for the higher levels of care Tribal citizens need when they must present for emergent and urgent care.

Ensuring that the PRC program works effectively and efficiently to provide the necessary care outside IHS facilities for Direct Service Tribes is critical to maintaining the health of our People and communities. The PRC Improvement Act of 2024 would do this by clarifying existing statute on liability for PRC claims.

PRC Improvement Act Provisions for Improved Outcomes

The PRC Improvement Act of 2024 (H.R. 7516) would amend section 222 of the Indian Healthcare Improvement Act (25 U.S.C. § 1601 et seq.) to clarify that Tribal citizens with approved PRC referrals are not liable for such claims, provide technical edits to update references to the program, and add an additional section to support Tribal citizens who have paid for approved PRC claims out of pocket.

Current statute provides that no Tribal citizen with an approved PRC referral should be liable for payment of those claims, but the statute does not currently clearly supersede the rights of providers

to pursue those claims. The legislation adds to subsection (a) "[n]otwithstanding any other provision of law", which is important to ensure that other provisions of law, such as provider consent forms, cannot be used to assign the federal government's debts to individual Tribal citizens. This language preserves the federal government's trust responsibility to provide for healthcare to Tribal citizens.

Further, the legislation makes additions under subsections (b) and (c) that the individual is not liable to any "provider, debt collector, or any other person" identifying the individuals who can claim and clearly limiting the liability of individual Tribal citizens to those claimants.

The PRC Improvement Act also introduces a new subsection (d) which would require the IHS to develop and implement a procedure for reimbursing Tribal citizens who paid out of pocket for approved PRC claims. The IHS's new reimbursement procedure would allow impacted Tribal citizens to submit electronic or hard copy proof of payment documentation to receive appropriate reimbursement for their out-of-pocket expenses which IHS should have rightfully paid to providers. The inclusion of this provision demonstrates the government's commitment to continue to recognize and honor its trust responsibility to Tribal citizens for their healthcare.

To appropriately implement this legislation's purpose, Congress should also provide the IHS funding to make Tribal citizens whole under the reimbursement program. This legislation can be successful, and I urge Congress to take the steps necessary to ensure that success. Congress should consider how to address provider violations of the PRC terms when they send bills to Tribal citizens. The IHS could provide additional training or a manual for PRC vendors, but this work would require development and roll out of such a product as well as education for PRC vendors.

Conclusion

The PRC Improvement Act of 2024 is one small step to repairing the damage done to individual Tribal citizens and Tribal communities for the mismanagement of the PRC program. The federal government made promises in its Tribal treaties to provide for, among other things, the healthcare of Tribal citizens. This legislation will help repair this one portion of the broken promises of the federal government and will support a step towards healthier Tribal communities.