

# State Health Reform Assistance Network

## Charting the Road to Coverage

ISSUE BRIEF  
March 2014

## Consumer Assistance Resource Guide: American Indians and Alaska Natives

Prepared by the *Center for Health Care Strategies*

Early evidence from across the nation suggests that consumer assisters are playing a vital role in helping people enroll in the new coverage options made possible by the Affordable Care Act (ACA). The State Health Reform Assistance Network has engaged with a number of states to develop easy to understand materials to educate consumer assisters about various issues that may confuse consumers and the assisters trying to help them during the eligibility determination and enrollment process. The following [resource guide](#), developed by the Center for Health Care Strategies, was created to help consumer assisters answer some of the most common eligibility and enrollment questions related to coverage for American Indians and Alaska Natives (AI/AN).

### American Indians and Alaska Natives

Through the Affordable Care Act and the reauthorization of the Indian Health Care Improvement Act, American Indians and Alaska Natives are entitled to a number of health coverage options, including the ability to access coverage through the marketplaces, public programs, and Indian Health Services. Additionally, AI/ANs are entitled to a number of protections under the ACA such as the cost-sharing obligation and individual mandate exemptions. This guide describes the applicability of ACA provisions to AI/ANs, the various protections available to AI/ANs, and the eligibility/verification criteria for AI/ANs.

#### ABOUT STATE NETWORK

State Health Reform Assistance Network, a program of the Robert Wood Johnson Foundation, provides in-depth technical support to states to maximize coverage gains as they implement key provisions of the Affordable Care Act. The program is managed by the Woodrow Wilson School of Public and International Affairs at Princeton University. For more information, visit [www.statenetwork.org](http://www.statenetwork.org).

#### ABOUT THE CENTER FOR HEALTH CARE STRATEGIES

The Center for Health Care Strategies (CHCS) is a nonprofit health policy resource center dedicated to improving health care access and quality for low-income Americans. CHCS works with state and federal agencies, health plans, providers, and consumer groups to develop innovative programs that better serve people with complex and high-cost health care needs. For more information, please visit: [www.CHCS.org](http://www.CHCS.org).

#### ABOUT THE ROBERT WOOD JOHNSON FOUNDATION

For more than 40 years the Robert Wood Johnson Foundation has worked to improve the health and health care of all Americans. We are striving to build a national culture of health that will enable all Americans to live longer, healthier lives now and for generations to come. For more information, visit [www.rwjf.org](http://www.rwjf.org). Follow the Foundation on Twitter at [www.rwjf.org/twitter](http://www.rwjf.org/twitter) or on Facebook at [www.rwjf.org/facebook](http://www.rwjf.org/facebook).

For more information, please contact Christian Heiss at [CHeiss@chcs.org](mailto:CHeiss@chcs.org) or 609-528-8400.



# American Indians and the ACA

American Indians and Alaska Natives (AI/ANs) have greater unmet health needs and greater levels of health disparities than other segments of the U.S. population.

The Affordable Care Act (ACA) endeavors to address these needs by providing AI/ANs with access to federally funded health coverage and services to improve their health status and reduce the prevalence and incidence of preventable illnesses and premature deaths.

Specifically, the ACA allows eligible AI/ANs to: (1) continue to use the Indian Health Service (IHS); (2) purchase insurance through marketplaces; and (3) enroll in public programs including Medicare, Medicaid, and the Children's Health Insurance Program (CHIP).

In addition to these coverage expansions, the ACA permanently reauthorizes the Indian Health Care Improvement Act (IHCA), which increases funding and enables the IHS to modernize its delivery system and expand its workforce.

# Verifying Tribal Membership for Medicaid and the Marketplace

## Why is verification needed?

To obtain cost-sharing and tribal exemptions to the individual mandate offered by the ACA, AI/ANs will need to verify their tribal membership or affiliation. States can work with tribes to identify documents, in addition to those outlined below, that can be used to establish tribal membership.

## Tribal Documents Accepted as Proof of Citizenship:

1) Tribal Enrollment Card;

2) Certificate of degree of AI/AN blood;

3) A tribal census document;

4) Documents on tribal letterhead, issued under the signature of the appropriate tribal official indicating an individual's affiliation to the tribe; and/or

5) Other documents proving membership, enrollment, and affiliation as determined in consultation with tribes.

## Coverage for Non-Citizen Tribal Members

- **Medicaid:** Individuals who are not citizens but are members of a tribe located in a state with an international border are eligible for Medicaid if they meet all other eligibility criteria without being subject to the five-year waiting period (Personal Responsibility and Work Opportunity Reconciliation Act, section 402).
- **Other State Health Coverage Programs:** Eligibility for these programs should be outlined by the pertinent state agency.
- **Marketplace:** An AI/AN born in Canada or Mexico may be eligible for enrollment in a Qualified Health Plan (QHP) offered through the marketplace and may be eligible for premium tax credits or cost-sharing reductions (CSRs) if he/she is a lawful permanent resident or a non-citizen who is lawfully present for the entire period for which enrollment is sought. AI/ANs born in Canada that have maintained residence in the United States since entry can be considered to be lawfully admitted for permanent residence.

# Applying the Income Rules to AI/ANs

## What types of income are counted?

All income regularly counted in the Modified Adjusted Gross Income (MAGI)-based methodology applies to AI/AN applicants.



## What types of income are non-countable?

- 1) Distributions from Alaska Native Corporations and Settlement Trusts.
- 2) Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior.
- 3) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:
  - a) Rights of ownership or possession in properties held in trust under the supervision of the Secretary of the Interior; or
  - b) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.
- 4) Distributions resulting from real property ownership interests related to natural resources and improvements:
  - a) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or
  - b) Resulting from the exercise of federally protected rights relating to such real property ownership interests.
- 5) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance, or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom.
- 6) Student financial assistance provided under the Bureau of Indian Affairs education programs.

Citation: 42 CFR 435.603 - Application of Modified Adjusted Gross Income

# Exemptions to the ACA Individual Mandate Requirements are Available for AI/ANs

Individuals who are members of a federally recognized tribe or a shareholder in an AN Regional, or Village Corporation may qualify for an exemption from the individual mandate requirement to purchase insurance and will not have to pay a tax penalty (know as an Indian hardship exemption). An IHS beneficiary, or a person eligible to receive IHS services, can also qualify for a hardship exemption.

To qualify, an AI/AN will need to verify his/her membership in a tribe or eligibility for services from the Indian Health Service, a tribal health care provider, or an urban Indian health care provider (I/T/U).

The Centers for Medicare & Medicaid Services (CMS) provides instructions on applying for an exemption based on AI/AN status, available at:

<http://marketplace.cms.gov/getofficialresources/publications-and-articles/tribal-exemption.pdf>

## Qualifying for an Exemption Based on Hardship

Hardship exemptions, beyond the Indian hardship exemption, may also be provided to individuals who:

- Were homeless, evicted in the past six months, or faced eviction/foreclosure
- Received a shut-off notice from a utility company
- Experienced domestic violence recently
- Experienced the death of a close family member recently
- Experienced a fire, flood, or other disaster that caused substantial property damage
- Filed bankruptcy in the last six months
- Had a cancellation in their individual insurance plan and believe other marketplace plans are unaffordable
- Had medical expenses they could not pay in the last 24 months
- Were determined ineligible for Medicaid because the state did not expand eligibility
- Experienced unexpected increases in necessary expenses due to caring for an ill, disabled, or aging family member

The marketplace will use an application to collect the information necessary to determine eligibility and grant a certificate of exemption for an applicant. Applications can be found at: <http://marketplace.cms.gov/getofficialresources/publications-and-articles/affordability-sbm-exemption.pdf> (State Based Marketplace) and <http://marketplace.cms.gov/getofficialresources/publications-and-articles/affordability-ffm-exemption.pdf> (Federally Facilitated Marketplace).

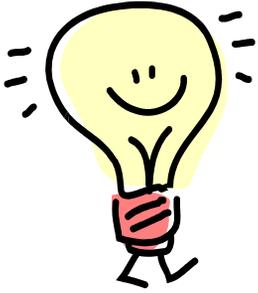
# Individual Mandate Exemptions for AI/ANs

The following chart details the path that certain individuals within the AI/AN population must take to be exempt from the individual mandate:

CATEGORY OF AI/AN	TYPE OF EXEMPTION
<p>Enrolled member of a federally recognized tribe or shareholder in an Alaska Native Village or Regional Corporation.</p>	<p>Indian Exemption – Individual applies once for a permanent exemption. Individual must notify the Internal Revenue Service (IRS) when they become ineligible.</p>
<p>AI/AN who may not be (1) enrolled in a tribe or (2) a shareholder in an Alaska Native Claims Settlement Act Corporation, including:</p> <ul style="list-style-type: none"> <li>• Members of federally recognized tribes;</li> <li>• Urban Indians who are members of state recognized tribes or descendants in first or second degree; and</li> <li>• Those considered by the Department of the Interior to be Indian and those considered by Health and Human Service (HHS) to be Indian for IHS eligibility.</li> </ul>	<p>Hardship Exemption – Individual applies once for a permanent exemption. Individual must notify the IRS when they become ineligible.</p>
<p>Household members who are eligible for IHS, including:</p> <ul style="list-style-type: none"> <li>• Descendants who are under 19 years old;</li> <li>• Adopted children, step children, foster children of an Indian (may never be considered AI/AN);</li> <li>• Children who will never qualify as AI/AN;</li> <li>• Children who are considered incompetent (who may not qualify as AI/AN);</li> <li>• Spouses who are not AI/AN, or not eligible for IHS, if there is a resolution from the tribe covering spouses; and</li> <li>• Non-AI/AN women who are pregnant with an Indian child.</li> </ul>	<p>Hardship Exemption – Individual applies once for a permanent exemption. Individual must notify the IRS when they become ineligible.</p>
<p>AI/AN who are not eligible for the Indian exemption or the Indian hardship exemption.</p>	<p>Individual may be eligible for exemptions based on other conditions, including:</p> <ul style="list-style-type: none"> <li>• Living in a non-Medicaid expansion state and income is below 100 percent FPL;</li> <li>• Eligibility for and access to Minimum Essential Coverage;</li> <li>• Affordability exemption; and</li> <li>• Hardship exemption as determined by acceptable circumstances.</li> </ul>

# Cost-Sharing Obligation Exemption

## Cost-Sharing Protections:



- AI/ANs with incomes below 300 percent FPL are exempt from out-of-pocket costs, e.g., co-insurance, co-pays, and deductibles. They are not required to enroll in a specific metal-level plan on the marketplace in order to qualify for a cost-sharing reduction.
- Those with incomes above 300 percent FPL will have limited cost-sharing obligations outside of IHS, I/T/Us, and contracted health services. However, they are exempt from cost-sharing for services provided by IHS, Indian tribes, tribal organizations, and urban Indian organizations (I/T/Us), or through referral under contract health services.

## How will providers know that an AI/AN does not have cost-sharing?

- Applicable cost-sharing amounts will be identified on Medicaid or marketplace health plan cards issued to members.
- Providers will receive notices from state agencies about cost-sharing exemption.
- Providers can confirm exemption with appropriate agency by calling the provider hotline.

## When shopping for a plan, will an AI/AN who is eligible for cost-sharing have to pick a specific cost-sharing plan?

In families where household members qualify for different levels of cost-sharing reductions (e.g., one family member is AI/AN), the least common denominator rule applies. The rule is that the entire household would qualify for the cost-sharing variation available to the member who qualifies for the least generous CSR.

## How can navigators assist families with split tribal membership?

- Advise AI/AN on benefits specified by the ACA, such as CSRs, income exclusions, special open enrollment periods, and exemption from minimum health care coverage mandate.
- Assist with obtaining documents required for enrollment, including tribal blood cards, etc., where applicable.
- Provide enrollment assistance to household members who might be eligible for different coverage options and offer information on accessing IHS and I/T/U providers and services.

# Tribal Sponsorship of Premiums

## Payment by I/T/Us to the Marketplace

The marketplace may allow Indian tribes, tribal organizations, and urban Indian organizations to pay the QHP premiums on behalf of qualified individuals.

The IHCIA allows I/T/Us to purchase health benefits coverage for IHS beneficiaries through a:

- Tribally owned and operated health care plan;
- State or locally authorized or licensed health care plan;
- Health insurance provider or managed care organization;
- Self insured plan; or a
- High-deductible or health savings account plan.

## How will tribes make payments to the marketplace?

Marketplaces have three options for the methods of premium payment:

- Take no part in payment of premiums, which means that enrollees must pay premiums directly to a QHP issuer;
- Facilitate the payment of premiums by enrollees by creating an electronic “pass through” of premiums without directly retaining any of the payments; or
- Establish a payment CMS-9989-P 52 option where the marketplace collects premiums from enrollees and pays an aggregated sum to the QHP issuers.

A marketplace may consider setting up an upfront group payment mechanism similar to the mechanism currently used by some tribes to enroll members in the Medicare Prescription Drug Program. Under that program, tribes offer a selection of plans from which their members may choose, thus limiting the members’ options.