

# The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

## *A Resolution in Support of Enacting Legislation to Ensure Medicaid Fulfills the Federal Trust Responsibility to American Indians/Alaska Natives*

Resolution No. 19-08



Bill John Baker  
Principal Chief

**WHEREAS**, the Inter-Tribal Council of the Five Civilized Tribes (ITC) is an organization that unites the tribal governments of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek), and Seminole Nations, representing approximately 750,000 Indian people throughout the United States; and



Bill Anoatubby  
Governor

**WHEREAS**, Tribes have a unique government-to-government relationship with the Federal government and it is required that the Federal government consult with Tribes on any policy or action that will significantly impact Tribal governments; and



Gary Batton  
Chief

**WHEREAS**, Tribal Nations are political, sovereign entities whose status stems from the inherent sovereignty they possess as self-governing people predating the founding of the United States, and since its founding the United States has recognized them as such and entered into treaties with them on that basis; and



James R. Floyd  
Principal Chief

**WHEREAS**, Executive Order 13175 sets forth clear definitions and frameworks for consultation, policymaking and accountability to ensure that consultation with Indian Tribes is meaningful; and

**WHEREAS**, in 24 U.S.C. § 1602(a)(1) Congress declared that "it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians...to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy."



Greg P. Chilcoat  
Chief

**WHEREAS**, in 1955, Congress created the Indian Health Service (IHS) in order to help fulfill its trust responsibility for health care to Tribes; and

**WHEREAS**, the unmet health needs of AI/ANs are severe and the health status of AI/ANs is far below that of the general population of the United States, resulting in an average life expectancy for AI/ANs 4.5 years less than that for the U.S. all races population; and

**WHEREAS**, in 1976, Congress noted that Medicaid payments were a "needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian" (H.R. Rep. No. 94-1026-Part III); and



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- WHEREAS**, in 1976, Congress established the authority for the IHS, Tribal Nations and Tribal health organizations to seek reimbursement under the federal Medicaid program in order to help fulfill its trust responsibility for health care to the Tribes; and
- WHEREAS**, in FY 2017, the congressional appropriations for IHS was only \$3,026 per person, as compared to average per capita spending nationally for personal health care services of \$9,207; and
- WHEREAS**, the IHS continues to be funded by Congress at less than half of expected need—even when considering available government health insurance resources—leading to rationed care and worse health outcomes for AI/ANs; and
- WHEREAS**, the federal Medicaid program generates significant resources that are critical to the ability of Tribal Nations to meet the health care needs of Tribal citizens, but there are significant gaps in access to quality health care services under the federal Medicaid program for low- and moderate-income AI/ANs, depending upon state of residence; and
- WHEREAS**, AI/ANs across the United States have substantially different eligibility and access to services under the federal Medicaid program based on their state of residence; and
- WHEREAS**, state governments are not reimbursed for the costs of care provided by urban Indian health care providers to AI/ANs to the same degree that state governments are reimbursed for care to AI/ANs provided by IHS and Tribal health care providers; and
- WHEREAS**, the federal Medicaid program provides insufficient flexibility to Tribes to design and implement health service delivery approaches that meet the often times unique circumstances in Indian country; and
- WHEREAS**, Tribal Nations have developed a legislative proposal to address these gaps in access to quality health care services which will create authority for states to extend Medicaid eligibility to all AI/ANs with household income up to 138% of the federal poverty level; authorize Indian Health Care Providers in all states to receive Medicaid reimbursement for mandatory and optional health care services authorized under federal law as well as select services authorized under the Indian Health Care Improvement Act when delivered to Medicaid-eligible AI/ANs; extend full federal funding

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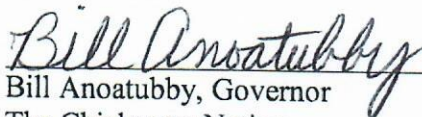
(through 100% FMAP) to states for Medicaid services furnished by urban Indian providers to AI/ANs, in addition to services furnished by IHS/Tribal providers to AI/ANs; clarify that state Medicaid programs are authorized to implement Indian-specific policies and are not permitted to override Indian-specific Medicaid provisions in federal law through state waivers; and removes the limitation on billing by Indian health care providers for services provided outside the four walls of a clinic facility; and

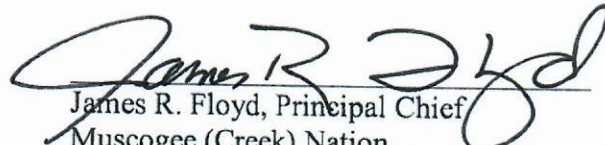
**WHEREAS**, these provisions, if enacted, will improve access to quality health care services for AI/ANs across all states, and thereby advance the Federal government's trust responsibility to AI/ANs and Tribal governments.


**NOW THEREFORE LET IT BE RESOLVED THAT**, the Inter-Tribal Council of the Five Civilized Tribes supports the enactment of legislation to ensure Medicaid advances the Federal government's trust responsibility to AI/AN Tribal governments.

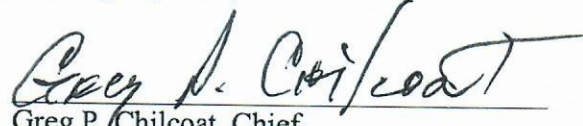
## CERTIFICATION

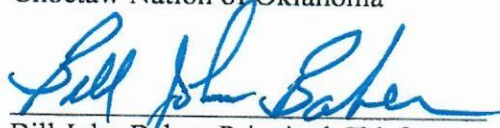
The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Tulsa, Oklahoma, on this 11<sup>th</sup> day of January, 2019, by a vote of 32 for 0 against and 0 abstentions.

  
Bill Anoatubby, Governor  
The Chickasaw Nation

  
James R. Floyd, Principal Chief  
Muscogee (Creek) Nation

  
Gary Bolton, Chief  
Choctaw Nation of Oklahoma

  
Greg P. Chilcoat, Chief  
Seminole Nation of Oklahoma

  
Bill John Baker, Principal Chief  
Cherokee Nation