



UNITED SOUTH AND EASTERN TRIBES, INC.
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July 27, 2006

Ms. Betty Gould, Regulations Officer
Division of Regulatory Affairs, Records Access
And Policy Liaison
Indian Health Service
801 Thompson Avenue
Suite 450
Rockville, MD 20852

RE: Comments on Section 506, MMA, 2003-Medicare Like Rates Provision

Ms. Gould:

The United South and Eastern Tribes, Inc. (USET) appreciates the opportunity to comment on "Section 506 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003—Limitation on Charges for Services Furnished by Medicare Participating Inpatient Hospitals to Indians" as published in the Federal Register on April 28, 2006.

USET supports the implementation of this proposed rule, however have provided additional comments regarding some concerns. Please feel free to contact myself or Ms. Dee Sabattus, Health Policy Analyst at (615) 872-7900 should you have questions.

Sincerely,

James T. Martin
Executive Director

cc: Dr. Charles Grim, IHS Director
Ms. Dee Sabattus, USET Health Policy Analyst
File

"Because there is strength in Unity"



**UNITED SOUTH AND EASTERN TRIBES
RESPONSE TO PROPOSED RULE FOR SECTION 506 OF THE
MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND
MODERNIZATION ACT OF 2003—LIMITATION OF CHARGES FOR
SERVICES FURNISHED BY MEDICARE PARTICIPATING INPATIENT
HOSPITALS TO INDIANS; 42 CFR PARTS 136 AND 489**

INTRODUCTION

The following comments are provided on behalf of the twenty-four federally recognized American Indian Tribal Governments that compose the United South & Eastern Tribes, Inc (USET). The USET membership consists of Direct Service, Contract and Compact Tribes. The tribes are located in twelve different States from Maine continuing south to Florida then across to eastern Texas.

The USET Tribal Governments have always maintained that the government-to-government relationship exists between the Federal Government and federally recognized Tribal Governments. Therefore, the following comments are made in accordance with this principle.

SUMMARY

On April 28, 2006 the Department of Health and Human Services (HHS) published the long-awaited proposed regulations to implement Sec. 506 of the Medicare Modernization Act (MMA) which imposes a cap on the amount a hospital may charge an Indian Health Service (IHS), Tribal or Urban Indian organization for Contract Health Service referrals.

As the proposed rule will essentially enable Tribal Governments/Organizations to prolong its inadequate and diminishing budget, by limiting the amount that a Hospital can charge for services provided to a Medicare eligible Indian. In determining the rates Hospitals will be required to use the standard methodology for Medicare reimbursement to calculate the maximum rate that can be charged, not to exceed the Medicare-like rates established by this rule. This rule is not intended to prevent Tribal Governments/Organization from negotiating a lower rate; it however, places a ceiling on the amount that Tribes will pay for services.

COMMENTS

USET appreciates the opportunity to submit comments regarding proposed rule on behalf of twenty-four federally recognized Tribal Governments. USET supports the implementation of this proposed rule, as it has great implications to Tribal Governments/Organizations however; the following are some concerns that USET has:

1. Unacceptable Delay in Publishing the Rules—Sec. 506 of the MMA required HHS to implement the newly proposed rules by December 2004, however, it has taken the Department nearly two years to get to this stage. A study conducted by the Northwest

Portland Area Indian Health Board (NPAIHB) has estimated that approximately \$75 million in savings has been lost due to the delay. USET again appreciates and supports the proposed rule but is unhappy with the length of time it took the Department to implement.

2. How will Tribal Governments/Organization Access the proper Medicare DRG rate—If a Tribal Government/Organization does not use a Fiscal Intermediary how will Tribes be able to access the DRG rates? USET is concerned that relying solely on the contracting Hospitals is too “trusting”. Tribes need a way to check what they have been billed and without a Fiscal Intermediary Tribes have to rely on the Hospitals for this information.
3. Indian Health Service (IHS) consulting with the Centers for Medicare & Medicaid Services (CMS) Tribal Technical Advisory Group (TTAG)—USET would like to express its appreciation to the IHS in consulting with the TTAG regarding the proposed rule. The TTAG is very instrumental in providing expertise on policies, guidelines and programmatic issues affecting the deliver of health care for AI/ANs across Indian Country.
4. Support from the Centers for Medicare & Medicaid Services (CMS)—USET is anticipating that Private Hospitals will have objection to the proposed rules; USET is asking that CMS fully support the proposed rule making it a high priority.

CONCLUSION

Again, USET appreciates the opportunity to submit comments regarding the proposed regulation on behalf of twenty-four federally recognized Tribal Governments. It is evident that IHS is supportive of Tribal interest, however, as pointed out in the comments clarification is needed prior to finalization of the proposed regulations.