

# BASIS FOR HEALTH SERVICES

## ISSUE

An awareness of the legal basis for the federal obligation to provide health care to American Indians and Alaska Natives is important when designing health care programs, developing federal budgets, coordinating with other agencies, and obtaining regulation waivers for selected Indian programs.

## BACKGROUND

The trust relationship establishes a responsibility for a variety of services and benefits to Indian people based on their status as Indians, including health care. This relationship has been defined in case law and statute as a political relationship that further distinguishes Indians from racial classification for purposes of affirmative action laws and in other federal statutes that establish federally funded programs for the general public.

Treaties between the United States Government and Indian Tribes frequently call for the provision of medical services, the services of physicians, or the provision of hospitals for the care of Indian people. Even before these treaties, the United States Constitution specifically addressed the federal government's primacy role in dealing with Indians in the commerce and treaty clauses. Supreme Court cases, such as *Cherokee Nation v. Georgia* (1831), specifically address the relationship between Tribes, states, and the federal government. Out of this case and others, the guardian/ward relationship was created that forms the basis of the trust relationship.

The Snyder Act of 1921 (25 USC 13) and the permanent reauthorization of the Indian Health Care Improvement Act [enacted in 2010 as part of the Patient Protection and Affordable Care Act (P.L. 111-148)] provide specific legislative authority for Congress to appropriate funds specifically for the health care of Indian people. In addition, numerous other laws, court cases, and Executive Orders reaffirm the unique relationship between tribal governments and the federal government.

## STATUS

There still exists a belief that American Indians and Alaska Natives are not citizens of their states and are not eligible for state programs and benefits. American Indians and Alaska Natives, as citizens of the United States, are eligible to participate in all public, private, and state health programs available to the general population. In addition, they also have treaty rights to federal health care services through the Department of Health and Human Services. The federal trust responsibility to uphold the treaty responsibility for health care to Indians is accomplished by consulting with Indian Tribes and then actively advocating for policy, legislative, and budgetary planning for Indian health care.

## ADDITIONAL INFORMATION

For referral to the appropriate spokesperson, contact the IHS Public Affairs Staff at 301-443-3593.

