



JAN 29 2021

Dear Tribal Leader:

I am writing to provide an update on the notice of proposed rulemaking (NPRM) related to the administration of the Catastrophic Health Emergency Fund (CHEF) published in the *Federal Register* on January 26, 2016 (81 FR 4239).

The NPRM proposed to 1) establish definitions governing the CHEF, including definitions of disasters and catastrophic illnesses; 2) establish that a Service Unit shall not be eligible for reimbursement for the cost of treatment until the episode of care's cost has reached a certain threshold; 3) establish a procedure for reimbursement of the portion of the costs for authorized services that exceed such threshold costs; 4) establish a procedure for payment from the CHEF for cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment; and 5) establish a procedure that will ensure no payment will be made from CHEF to a Service Unit to the extent the provider of services is eligible to receive payment from any other Federal, state, local, or private source of reimbursement for which the patient is eligible. In addition, the CHEF NPRM proposed to set a threshold for fiscal year 2016 at \$19,000, with annual increases based on the Consumer Price Index.

During the CHEF NPRM comment period, several Tribes and Tribal Organizations expressed concern about provisions in the NRPM related to coordination with Tribal self-insurance as an alternate resource. In response to those concerns, the Indian Health Service (IHS) engaged in additional Tribal Consultation and decided to delay moving forward with the NPRM pending the resolution of relevant litigation. The IHS intends to proceed with developing a new CHEF NPRM consistent with how Tribal self-insurance is currently recognized in Agency policy at <https://www.ihs.gov/ihtm/pc/part-2/chapter-3-purchased-referred-care/>. Agency policy does not consider tribally funded Tribal self-insurance plans as an alternate resource under the IHS's payer of last resort rule. Tribally operated Purchased/Referred Care (PRC) programs can choose to follow this coordination process, or they may develop their own policies to coordinate with Tribal self-insurance plans.

Because the IHS intends to publish a new CHEF NPRM that reflects the changes to IHS policy and takes into consideration other comments received by stakeholders, the CHEF NPRM published on January 26, 2016, should not be relied upon for any reason by the IHS or tribally operated PRC programs.

If you have any questions regarding the CHEF proposed rule, please contact CAPT John E. Rael, Director, Office of Resource Access and Partnerships, IHS, by e-mail at john.rael@ihs.gov.

Sincerely,

/Elizabeth A. Fowler/
Acting Director