



January 17, 2024

Dear Tribal Leader:

I am writing to notify you that a Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register*, proposing the removal of outdated regulations on the use of Indian Health Service (IHS) funds for certain abortions. Pursuant to 25 U.S.C. § 1672, I am also writing to initiate Tribal Consultation on the NPRM, which proposes removing these outdated regulations appearing in the Code of Federal Regulations (C.F.R.) at 42 C.F.R. Part 136, Subpart F. The regulations do not align with the current statutory text of the “Hyde Amendment,” a provision in annual appropriations legislation made applicable to IHS via 25 U.S.C. § 1676.

The Hyde Amendment currently provides that no covered funds “shall be expended for any abortion” or “for health benefits coverage that includes coverage of abortion,” **except** “if the pregnancy is the result of an act of rape or incest; or . . . in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.”

The IHS has complied with the law and has clarified its compliance with the statutory limitation through policy directive Circular 22-15, which reiterates that IHS funds may be used to pay for or otherwise provide for abortions in limited situations as noted above.

Please make plans to join the IHS on Tuesday, February 27, 2024 for a virtual Tribal Consultation session to provide your input and feedback on the proposed rule. Session details follow:

**Date:** Tuesday, February 27, 2024

**Time:** 12:00 p.m. – 2:00 p.m. ET

**Telephone:** (833) 568-8864 (Toll Free)  
Meeting ID: 161 053 8463  
Passcode: 017886

**Zoom:** Please register in advance for this meeting: [https://ihs-gov.zoomgov.com/meeting/register/vJIsd-yrpj8sGWTr\\_e6NYHiGFFpUeEzudr0#/registration](https://ihs-gov.zoomgov.com/meeting/register/vJIsd-yrpj8sGWTr_e6NYHiGFFpUeEzudr0#/registration)

**WRITTEN COMMENTS and RECOMMENDATIONS:**

**Comments on the NPRM must be submitted as outlined in the *Federal Register* by Friday, March 8, 2024.**

The IHS does not expect the NPRM will have any substantial direct effect or impact because it only removes outdated regulations. The IHS values opportunities for dialogue with Tribes and to inform Tribal Leaders of this opportunity to comment on the NPRM.

If you have questions or need additional information, please contact Joshua Marshall, Senior Advisor to the Director, Indian Health Service, by email at [joshuah.marshall@ihs.gov](mailto:joshuah.marshall@ihs.gov), or by telephone at (301) 443-1083. Thank you for your support and partnership. I look forward to your recommendations and feedback.

Sincerely,

Roselyn Tso  
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Roselyn Tso -S  
Date: 2024.01.17  
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Roselyn Tso  
Director