



Challenges on the Horizon for Native American Sovereignty and Health Care

Cathleen E. Willging, Behavioral Health Research Center of the Southwest
Elise Trott Jaramillo, Pacific Institute for Research and Evaluation
Emily A. Haozous, Pacific Institute for Research and Evaluation

In a recent ruling about new Medicaid work rules, the Trump administration seeks to undermine the sovereignty of tribal nations and limit the healthcare benefits to which Native Americans have long been entitled. This is the latest in a series of moves to reduce federal commitments to Native peoples who suffer from poorer health and shorter life expectancies than other Americans.

The Federal Responsibility for Native American Health Care

Many Americans do not know that the Indian Health Service was established by treaty in exchange for land and natural resources ceded to the U.S. government. Native Americans' right to federally-funded health care is recognized in the Constitution, affirmed by the Supreme Court, and codified in U.S. laws. Health care for Native Americans is a political right, not a racial preference as the Trump administration has argued.

Nonetheless, Congress has never allocated enough money to adequately meet the needs of Native people. Established in 1955, the Indian Health Service operates an extensive network of hospitals for at least 567 federally-recognized tribes; and its annual budget also covers tribally-run programs and urban health clinics. But in 2015 the Service's per capita healthcare expenditure was \$3,688. This was much less than \$9,523 per capita expenditures for the U.S. population as a whole, and lower than federal healthcare expenditures via Medicare, Medicaid, and the Veterans Administration. When care demands exceed funds, users may be denied services, including treatment for cancer and other potentially life-threatening illnesses. Native people are negatively affected by anemic funding and inadequate access to services – as indicated by a 30% vacancy rate for doctors, dentists, and physician assistants.

How the Affordable Care Act Has Benefited Native Americans

After its 2010 passage, health reform reduced disparities for Native Americans and shored up the Indian Health Service. Coupled with Medicaid expansion in some states, the Affordable Care Act extended coverage to millions of additional Americans, and special provisions facilitated the enrollment of Native adults in insurance plans offered on the health exchanges. The 2010 law also permanently reauthorized the Indian Health Care Improvement Act of 1976, which includes steps to modernize programs and expand long-term care. It also funds patient transportation, addressing one of the biggest barriers to accessing care faced by members of Native communities. Analyzing data from the American Community Survey, the Georgetown University Health Policy Institute reports marked declines from 2008 to 2015 in uninsured rates for Native people. Nationally, the uninsured rates declined from 25% to 15%.

Overall, the Medicaid expansion under the Affordable Care Act provided an infusion of financial support to the Indian Health Service and tribally-run programs, adding \$880 million in new Medicaid revenues in fiscal year 2016 alone. These funds have been used to increase services, retain more staff, put money into outdated infrastructure, and pay for specialty services that the agency could not previously provide. These advances allow the agency to finally deliver the health care that treaties have promised. And increased healthcare services bring new jobs and opportunities to economically-depressed areas.

Under all aspects of health reform, more Native Americans are finally getting affordable health care – through Medicaid as well as improved tribal programs. Although traditional funding streams for Native health are directed to areas with high concentrations of reservation land, up to 78% of Native people live in urban

settings. This is the population that will be most hurt by the Trump administration's policy changes.

Trump Era Threats to Native Health and Sovereignty

The 2017 Republican tax legislation and the Trump administration's 2019 budget proposals may roll back recent advances that have been shown to improve healthcare access for Native people. Once it is fully implemented, tax changes are projected to increase the federal deficit by \$1.4 trillion, which will likely create pressures to reduce funding for safety-net programs that enhance the health of Native people, including vital programs providing food, housing, and educational assistance. Although the 2019 budget would modestly increase funding for the Indian Health Service by \$400 million, it also proposes \$266 billion in cuts to Medicare and \$306 billion in cuts to Medicaid over a ten-year period, shrinking the two most important sources of public insurance for Native people across the nation. Republican hopes to transform Medicaid into a block grant program would shift the responsibility for Native health care from the federal government to the states, which would enjoy greater leeway to cut benefits and shrink eligibility. States could institute complicated rules for people to get care and impose restrictive work requirements for all Americans who need public health insurance. If such measures come to pass, then the Indian healthcare system would receive less funding than it did prior to the Affordable Care Act, making it harder for the Indian Health Service to maintain current services and keep clinic and hospital doors open. Native health care gains made over the past eight years would disappear.

Across presidential administrations, Congress has squeezed Indian Health Service funding. This has not kept Congressional representatives from ever more loudly criticizing the agency for "inefficiency and mismanagement" and "poor decision making." Today, pending legislation calling for an outside audit of the Indian Health Service is likely to fuel efforts to privatize the system, much like current attempts to privatize the Veterans Administration.

Most worrisome of all, the Trump administration now asserts that Native Americans should no longer be exempt from state-imposed work requirements and other rule changes for social programs. This abandons longstanding legal precedents and would seriously harm Native people living in communities where well-paying jobs with private insurance benefits are scarce. If the Trump administration successfully contends that exemptions for Native Americans are racial preferences rather than treaty obligations between the United States and tribal nations, it will destroy the foundation of longstanding rights and benefits for Native people in this country.