



Scenarios: American Indians, Alaska Natives, and Special Tribal Provisions



Updated

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Special Provisions Applicable to Members of a Federally Recognized Tribe and Alaska Native Claims Settlement Act (ANCSA) Corporation Shareholders

Members of federally recognized Tribes or Tribal members for short, includes, Alaska Natives and ANCSA corporation shareholders:

- Tribal members who purchase health insurance in the Health Insurance Marketplace and who have incomes at or above 100 or below 300 percent of the federal poverty level can enroll in a zero-cost sharing plan. However, they must also pay premiums and be eligible to receive advanced premium tax credits in order to have zero-cost sharing. If they have household incomes that are below 100 or at or above 300 percent of the federal poverty level, they can enroll in a limited cost-sharing plan.
- They can enroll in a Marketplace plan at any time, not just during open enrollment. They can also change Marketplace plans up to once a month. Consumers should be advised that if they select a plan after the 15th of the month, the current plan will not end and the new plan will not start until the month following the next month. For example, coverage elected on March 16th would not begin until May 1st and the current coverage would end April 30th. If a plan is selected before or on March 15th, coverage would begin April 1st.
- Tribal members and those eligible for Indian health care services can apply for an exemption from the individual shared responsibility requirement through the Marketplace or they can self-attest to their eligibility on their tax forms. If they get this exemption, they will not have to pay the penalty if they do not have Minimum Essential Coverage.

Special Provisions Applicable to Members of a Federally Recognized Tribe and ANCSA Corporation Shareholders, continued

- They may qualify for Medicaid and the Children's Health Insurance Program (CHIP). There are special protections for American Indians and Alaska Natives (AI/AN) in Medicaid and CHIP.
 - AI/AN in Medicaid and CHIP may receive money from traditional, cultural activities (like the sale of pottery or jewelry or items for traditional and cultural activities) that is not counted for Medicaid or CHIP eligibility determinations.
 - AI/AN who have ever used Indian Health Service/ Tribal health care programs/Urban Indian health programs (I/T/Us) are exempt from Medicaid cost sharing and all AI/AN who are eligible for I/T/U services are exempt from paying enrollment fees or premiums.
 - AI/AN in Medicaid or CHIP managed care can go to I/T/Us for services, even if the facility is not in the managed care network, and the State program will pay for covered services.

Special Provisions Applicable to non-Tribal members who are eligible to receive services from the Indian Health Service, Tribal health programs, or Urban Indian health programs, otherwise known as an “Indian health care provider” or I/T/U.

- Who are the consumers who are eligible to receive services from the Indian Health Service (IHS), tribal health care providers, or Urban Indian health programs?
 - Children and descendants of tribal members,
 - pregnant women carrying a child of a tribal member,
 - individuals who have a Certificate of Indian blood from the Bureau of Indian Affairs,
 - individuals who are members of State recognized Tribes and
 - others determined by the government to be Indians for purposes of Indian Health Service may receive benefits from the Indian Health Service, tribal health care or urban Indian health programs.

Special Provisions Applicable to non-Tribal members who are eligible to receive services from the Indian Health Service, Tribal health programs, or Urban Indian health programs, otherwise known as an “Indian health care provider” or I/T/U, continued

- It is important to note that non-Tribal members are subject to the Marketplace’s general financial assistance program eligibility rules if they sign up for a QHP. They are also subject to the general enrollment opportunity rules, unless they sign up on the same application as a Tribal family member.
- AI/AN who receive a referral through Contract Health Services (now called Purchased/Referred Care, or PRC) can have Marketplace cost sharing waived, when enrolled in a QHP.
- Medicaid/CHIP protections apply to ALL I/T/U eligible AI/ANs.

Tribal Directory

- For more information about the process of enrolling in a Tribe, please see the BIA webpage that also has information on the Tribal Leaders:
<http://www.doi.gov/tribes/enrollment.cfm>
- Information on federally recognized Tribes and State recognized Tribes are in the National Conference of State Legislatures website. The link is here: <http://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx#ak>

Scenario: Exemptions for Tribal Members and others who are eligible to receive services from the Indian Health Service (IHS), tribal program, or Urban Indian health program, otherwise known as Indian health care providers

George, 37 Years Old, Single Father

- George lives on a Tribal reservation in Montana. He works on his family's tree farm and earns around \$40,000 annually.
- George has a 6-year old son, Landon, who is also a Tribal member
- George and Landon use the Indian Health Service (IHS) for all of their health care needs. Luckily, there is an IHS hospital and health center close by that they can go to when they need health care. George is satisfied with the care they receive and does not want to enroll in a Marketplace QHP.
- George is afraid that he will have to pay the individual shared responsibility penalty for himself and his son since he does not have minimum essential coverage.

Scenario: Exemptions for Tribal members and others who are eligible to receive services from the Indian health care providers.

- Receiving medical care from an Indian health care provider does not satisfy the minimum essential coverage requirement. Therefore, American Indians and Alaska Natives must either:
 - Enroll in a Marketplace plan or other minimum essential coverage plan; or
 - Pay the individual shared responsibility payment; or
 - Apply for and receive the exemption for American Indians and Alaska Natives and other individuals who are eligible to receive services from an Indian health care provider.
- Because George and his son are members of a federally recognized Tribe, he can apply for an exemption from the individual shared responsibility requirement for both of them. If George applies for an exemption, he will not be required to pay the fee for not being covered by a QHP. How does George apply for an exemption for himself and his son?

Scenario: Exemptions for Tribal Members and others who are eligible to receive services from the Indian Health Service (IHS), Tribal program, or Urban Indian health program

- To apply for an exemption, consumers must complete the following steps:
 - **Complete** the Marketplace exemption application form for American Indians, Alaska Natives, and others eligible for services from an Indian health care provider.
 - The Marketplace exemption application form can be accessed at:
<http://marketplace.cms.gov/applications-and-forms/tribal-exemption.pdf>
 - **Submit** the completed application, along with **copies** of the required documentation that supports the claim of membership in a federally recognized Tribe or eligibility for services from an Indian health care provider.
 - After submitting the exemption application, consumers will receive an Exemption Certificate Number (ECN).
 - **Use** the ECN when filling out their federal tax return. Consumers should keep this number in a safe place as they will need to report it on their federal tax forms annually.
- Instead of using their ECN, consumers can self-attest on the federal income tax return using the IRS health coverage exemption form. The IRS exemption form can be accessed at: <http://www.irs.gov/pub/irs-pdf/f8965.pdf>

Why Should American Indians and Alaska Natives Consider Enrolling in a Marketplace QHP?

- **Broader Provider Network:** If they ever need to see a specialist, get health care where the Indian health care provider is not accessible, or would like to have new or different providers, a Marketplace QHP would give them these options. QHPs have larger networks of pharmacies, hospitals, and other health service organizations where consumers can access care.
- **Increased Access to Services:** By enrolling in a Marketplace health plan, AI/AN consumers may have year around access to more covered health care services. Unlike purchased and referred care, QHP funding is not dependent upon the fiscal year.
- **Low Cost:** Due to special provisions, American Indians and Alaska Natives may be eligible for zero cost-sharing or limited cost-sharing Marketplace plans (depending on income and household size), which means no or lower copays, coinsurance, and deductible costs. They may also be eligible for financial assistance through the Marketplace to help lower monthly premium costs.
- **Flexibility:** American Indians and Alaska Native consumers can sign up for a Marketplace plan at any time during the year and they can change Marketplace plans up to once a month. They need to be aware that the change in coverage may not be immediate, if they change through the 15th of the month, coverage in the new plan will begin the first day of the following month. If it is after the 15th of the month, the new plan will take effect the first day of the second month after coverage is selected.

Mixed Tribal Status Household

The Shepherd Household

- Charles is 29 years-old and is a member of a federally recognized Tribe. Charles is a local entrepreneur and estimates that he will earn \$50,000 in 2015.
- Molly is 26 years-old and is married to Charles. She is not a member of a federally recognized Tribe. Molly owns a small catering business (no other employees) and estimates that she will earn \$12,000 in 2015.
- Charles and Molly have two daughters: Stacey, 5 years-old, and Elizabeth, 3 years-old. Both girls are members of the Tribe.
- Charles claims his parents David and Kay as dependents. David and Kay are both 56 years-old and are members of the Tribe. Kay takes care of her grandchildren, while David teaches art classes at the local reservation. He estimates that he will earn around \$3,500 in 2015. Kay does not have any income for 2015.
- Last year, Molly was still covered under her parents' plan. The rest of the Shepherd household applied for an exemption and continued to use Indian Health Services for their health care needs. This year, the whole Shepherd household wants to enroll in a Marketplace plan.

Mixed Tribal Status Household, continued

How Should a Mixed Tribal Status Household Apply for Marketplace Coverage?

- Molly is not a member of the Tribe; however, the Tribe has made Tribal services available to her as the spouse of a tribal member. Therefore, some of the Affordable Care Act's provisions for American Indians and Alaska Natives **would** also apply to Molly.
- Molly can apply for an exemption from the individual shared responsibility requirement if she chooses not to get minimum essential coverage.
- But because Molly is not a member of the Tribe, some of the Affordable Care Act's provisions for American Indians and Alaskan Natives **would not** apply to Molly.
- Molly will only be able to enroll in and change QHPs during the open enrollment period or a special enrollment period. However, if Molly applies on the same application as her husband, she would be allowed to change plans monthly just as he is.
- Molly and Charles will talk through their option of enrolling in a plan together, which would require Charles to lose his AI/AN benefits because the benefits are only offered on plans specially for AI/ANs. If Molly and Charles want to enroll in a plan together, they need to review their cost savings, if any, on a different plan for deductibles and other out-of-pocket costs unless they qualify for financial assistance through the Marketplace.

Mixed Tribal Status Household, continued

- The whole Shepherd household can apply for Marketplace coverage on a **single application**. Filing a single application allows all family members, including non-Tribal members like Molly to benefit from the special monthly enrollment periods.

Mixed Tribal Status Household, continued

Determining Household size and Income

- **Do David and Kay qualify as tax dependents?** The IRS defines who meets the criteria to be a “qualifying relative” tax dependent. Information on who meets the criteria can be found here on the IRS website <http://www.irs.gov/publications/p17/cho3.html>. If the domestic partner meets the criteria to be a qualifying relative and can be claimed as a tax dependent, the domestic partners can apply for coverage together. For the purpose of this presentation, let’s assume that David and Kay qualify as tax dependents.
- **Whose income is counted?** Only Charles and Molly’s income will be counted when determining eligibility for Medicaid, CHIP, and financial assistance through the Marketplace. David’s income will not be included, not only because since he earns less than \$6,200 annually and is not required to file a tax return.
- **What is the total household size and income?** The Shepherd household size is six people and their reported income will be \$62,000, which will affect eligibility determinations. This is also the household size and income that would be used for family and children’s Medicaid or CHIP applications. Aged, blind and disability Medicaid applications have different eligibility rules.

Mixed Tribal Status Household, continued

Possible Eligibility Determinations for the Shepherd Household

- **CHIP:** Depending on the state where they live, Stacey and Elizabeth may be eligible for CHIP. Their parents will not have to pay out-of-pocket expenses for CHIP coverage due to special AI/AN provisions.
- **Zero Cost-Sharing Plan:** American Indian and Alaska Native consumers who purchase health insurance in the Health Insurance Marketplace and who have incomes at or above 100 and below 300 percent of the federal poverty level may be eligible enroll in a zero-cost sharing plan, which means they will not have to pay out-of-pocket costs (like deductibles, copayments, and coinsurance) when they get care, but they will have to pay premiums and qualify for APTCs
- If these consumers have household incomes that are below 100 percent or at or above 300 percent of the federal poverty level, they can enroll in a **Limited Cost-Sharing Plan**, which means no copays, deductibles, or coinsurance when they get services from Indian health care providers. They will need a referral from an Indian health care provider to avoid cost sharing when receiving EHBs through a provider outside the Indian health system.
- Because the Shepherd household income at \$62,000 for a household of six is between 100 – 300 percent of the federal poverty level, the Tribal members of the Shepherd household may qualify for a zero cost-sharing plan.
- Based on household taxable income, the Shepherd household may also qualify for help paying the cost of monthly premiums under the Marketplace's general financial assistance program eligibility rules.

Key Takeaways

- **Special provisions applicable to Tribal members**
 - Zero-cost sharing plans with APTCs If income is at or above 100 or below 300% FPL.
 - Pay no cost sharing for services through an Indian health provider or if referred through P/R Services if income is below 100 or at or above 300% FPL
 - Enroll in and change plans up to once a month—make sure of timing, though
 - Qualify for an exemption from the requirement to have Minimum Essential Coverage
- **Special provisions applicable to non-Tribal members who are eligible and receive services from an Indian health care provider.**
 - Qualify for an exemption from the requirement to have Minimum Essential Coverage
- **Eligibility**
 - Monies received from traditional, cultural activities are not considered income for the Medicaid/CHIP income calculation
 - Medicaid/CHIP Indian protections apply for eligible consumers.
- **Important things to keep in mind with mixed Tribal status families**
 - Same application, not the same plan:
 - Tribal family members will still be eligible for zero-cost sharing or limited cost-sharing plans, if otherwise eligible
 - Non-tribal family members will benefit from the special monthly enrollment periods available to Tribal members if they apply together.