The National Congress of American Indians
Resolution #ABQ-10-080

TITLE: Support for the Implementation of a Uniform Definition under the Patient Protection and Affordable Care Act

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Patient Protection and Affordable Care Act (Affordable Care Act) (Public law 111-148) was enacted on March 23, 2010; and

WHEREAS, the Affordable Care Act contains many favorable procedural rules, cost-sharing protections and mandatory enrollment exemptions specific to individual American Indians/Alaska Natives, referred to generally as “Indian”; and

WHEREAS, the references to “Indian” in the Affordable Care Act is not uniformly defined or lacks a reference to a definition of “Indian”; and

WHEREAS, the Centers of Medicare and Medicaid Services (CMS) Tribal Technical Advisory Group (TTAG) drafted a position paper titled “The Definition of Indian” under the Affordable Care Act on the issues regarding the definitions of Indian; and

WHEREAS, in the TTAG paper, the recommendation was made that the definition of Indian, adopted by the CMS that is found at 42 C.F.R. Section 447.50 and is consistent with the Indian Health Services (IHS) regulations on eligibility for IHS services, should be adopted uniformly in implementing the Affordable Care Act, including for the Exchange Plans, Medicaid Expansion, and the specific American Indians/Alaska Natives provisions; and

WHEREAS, the other national organizations and tribal advisory committees, such as the National Indian Health Board, have reviewed this paper and approved this proposed definition; and
WHEREAS, NCAI membership includes tribes yet to be recognized by the United States; and

WHEREAS, this definition shall be used only for implementation of the Affordable Care Act.

NOW THEREFORE BE IT RESOLVED, that in order to avoid confusion in the implementation of the Affordable Care Act and to ensure that American Indians/Alaska Natives receive the benefits and special protection intended for them in the law, one definition of “Indian” must be recommended in the implementation of the Affordable Care Act; and

BE IT FURTHER RESOLVED, that NCAI will support the definition of Indian that was adopted by the CMS in its implementation of the Medicaid cost sharing protections, found at 42 C.F.R 447.50, should be adopted uniformly in implementing the Affordable Care Act and not for any other purpose; and

BE IT FURTHER RESOLVED, that this definition shall be used only for implementation of the Affordable Care Act and that this definition shall not be used or interpreted to intrude into or diminish any right or funding of federally recognized tribes under the IHCIA.

BE IT FURTHER RESOLVED, that this definition shall not be used or interpreted to affect who is eligible for services provided directly from the Indian Health Service.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Annual Convention of the National Congress of American Indians, held at the Albuquerque Convention Center in Albuquerque, NM on November 14-19, 2010, with a quorum present.

ATTEST:

President

Recording Secretary