



NATIONAL CONGRESS OF AMERICAN INDIANS

U.S. House Committee on Veterans' Affairs Subcommittee on Health

Oversight Hearing: Native Veterans' Access to Healthcare Testimony of Chief Executive Officer Kevin J. Allis National Congress of American Indians October 30, 2019

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CHIEF EXECUTIVE OFFICER
KEVIN ALLIS
FOREST COUNTY POTAWATOMI COMMUNITY

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to provide testimony on the topic of American Indian and Alaska Native (AI/AN) veterans' access to healthcare. I serve as the Chief Executive Officer of NCAI, and I look forward to working with members of this Subcommittee and other members of Congress to better fulfill the federal government's commitment to provide for the wellbeing of AI/AN veterans when they return home.

Founded in 1944, NCAI is the oldest and largest national organization composed of tribal nations and their citizens. Tribal leaders created NCAI in 1944 in response to termination and assimilation policies that threatened the existence of tribal nations. Since then, NCAI has fought to preserve the treaty and sovereign rights of tribal nations, advance the government-to-government relationship between tribal nations and the federal government, and remove historic structural impediments to tribal self-determination.

AI/ANs have a long history of distinguished service to this country. Per capita, AI/ANs serve at a higher rate in the Armed Forces than any other group of Americans and have served in all the nation's wars since the Revolutionary War. In fact, AI/AN veterans served in several wars before they were even recognized as U.S. citizens. Despite this esteemed service, AI/AN veterans have lower personal incomes, higher unemployment rates, and are more likely to lack health insurance than other veterans.

The United States must honor its commitments to AI/AN veterans. The federal government's responsibility to provide quality healthcare to AI/AN veterans comes both from their service to this country and the federal government's treaty and trust obligations to AI/AN people. NCAI calls on Congress and the Administration to ensure that federal policy addresses the unique needs and circumstances of AI/AN veterans and that federal agencies coordinate closely to deliver the best possible services to AI/AN veterans, regardless of whether they are living on rural reservation lands or in major urban areas.

Cultural Competency at the Department of Veterans Affairs

NCAI's Veterans Committee provides a forum for discussing issues that impact AI/AN veterans and helps develop NCAI policy priorities to improve the lives of veterans across Indian Country. Participants in the NCAI Veterans Committee continue to highlight cultural competency issues across the Department of Veterans Affairs (VA) system. This directly impacts the provision of healthcare and can affect how veterans' claims are processed and whether they are approved. For example, the VA's generic Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire does not address cultural issues. This lack of consideration leads to many AI/AN veterans being denied benefits or receiving benefits that are insufficient given the severity of their

conditions. Additionally, aging veterans and those with certain types of traumatic brain injuries affecting language that have reverted to their traditional languages face a lack of translation services.

Given the importance of cultural competency, the NCAI Veterans Committee has expressed the need to increase access to Tribal Veterans Service Organizations (TVSOs) to assist AI/AN veterans with benefits claims and accessing other VA services. Unfortunately, the current regulations require that for a tribal nation to have representatives trained and accredited through the VA, it must establish and fund an organization that has the primary purpose of assisting veterans and survivors with their claims. Requiring a tribal nation to establish and fund a separate organization fails to recognize tribal sovereign decision-making and creates unnecessary regulatory burdens. This burdensome regulatory structure is the reason only a handful of tribally affiliated groups have applied for accreditation – and why even fewer have received accreditation. We urge members of this Subcommittee to examine ways to ensure tribal nations are able to establish TVSOs to better assist AI/AN veterans with the preparation, presentation, and prosecution of benefits claims.

VA-IHS Memorandum of Understanding and GAO-19-291

In 2010, the VA and the Indian Health Service (IHS) signed a Memorandum of Understanding (2010 MOU) “to establish coordination, collaboration, and resources-sharing between the [VA and IHS] to improve the health status of [AI/AN] Veterans.”¹ The MOU includes five goals:

- Increase access to and improve quality of healthcare and services to the mutual benefit of both agencies. Effectively leverage the strengths of the VA and IHS at the national and local levels to afford the delivery of optimal clinical care.
- Promote patient-centered collaboration and facilitate communication among VA, IHS, AI/AN veterans, tribal facilities, and Urban Indian clinics.
- In consultation with tribal nations at the regional and local levels, establish effective partnerships and sharing agreements among VA headquarters and facilities, IHS headquarters and facilities, tribal facilities, and Urban Indian Health Programs in support of AI/AN veterans.
- Ensure that appropriate resources are identified and available to support programs for AI/AN veterans.
- Improve health promotion and disease prevention services to AI/AN veterans to address community-based wellness.²

In furtherance of the 2010 MOU, VA enters reimbursement agreements with IHS and tribal health program facilities. These agreements allow AI/AN veterans to receive VA-eligible healthcare services at IHS and tribal facilities without prior VA approval. There is a single national reimbursement agreement between VA and IHS, which was extended in June 2018 through June 30, 2022. VA negotiates individual reimbursement agreements with tribal facilities.

In March 2019, the U.S. Government Accountability Office (GAO) published a report to provide updated information on implementation of the 2010 MOU. GAO found that since its last report on this issue, reimbursements by VA for healthcare services have increased, particularly at tribal health facilities. It also noted an increase in the number of VA-tribal health facility reimbursement agreements and the number of veterans served under reimbursement agreements.

¹ U.S. Gov’t Accountability Office, GAO-19-291, Actions Needed to Strengthen Oversight and Coordination of Health Care for American Indian and Alaska Native Veterans (2019).

² *Id.*

GAO also identified challenges that continue to hinder full implementation of the 2010 MOU. Specifically, the report found that performance measures established by the agencies do not include targets to track progress and there is no national policy or guidance on referring AI/AN veterans from IHS and tribal facilities to VA for services, potentially causing duplicative tests and services.

GAO made the following recommendations: (1) “[a]s VA and IHS revise the MOU and related performance measures, the Secretary of Veterans Affairs should ensure these measures are consistent with the key attributes of successful performance measures, including having measurable targets”; (2) “[t]he Secretary of Veterans Affairs should, in consultation with IHS and tribes, establish and distribute a written policy or guidance on how referrals from IHS and THP facilities to VA facilities for specialty care can be managed”; and (3) “[a]s VA and IHS revise the MOU and related performance measures, the Director of IHS should ensure these measures are consistent with the key attributes of successful performance measures, including having measurable targets.”³

VA and IHS are in the process of re-negotiating the 2010 MOU. In addition to calling on VA and IHS to ensure tribal stakeholders are at the table for those negotiations, NCAI would like to highlight several issues raised in the GAO report that continue to be tribal priorities for inclusion in the VA-IHS MOU.

Currently, VA does not reimburse for services provided by external providers paid for by IHS or tribal health facilities through the Purchase/Referred Care program. Instead, AI/AN veterans must be referred by VA facilities to be eligible to receive reimbursable specialty care. This is overly burdensome, results in duplicative processes that limit access to care for AI/AN veterans, and wastes federal resources. VA reimbursement of Purchased/Referred Care must be included in the re-negotiated MOU.

A specific focus of the 2010 MOU is the interoperability of the VA and IHS systems “to facilitate sharing of information on common patients and populations.” Nine years later, there still is not interoperability between VA and IHS electronic health information technology systems. NCAI urges VA and IHS to ensure interoperability of their health information as they evaluate and implement new electronic health record systems.

Finally, AI/ANs do not have cost-sharing for services received through IHS. However, AI/AN veterans are subject to the same copayments as other veterans when they receive care at the VA. In fiscal year 2017, approximately 30 percent of AI/AN veterans were charged co-payments, averaging approximately \$281.56 per veteran.⁴ This represents a significant barrier to care for AI/AN veterans. Accordingly, NCAI calls on Congress and the Administration to honor the treaty and trust obligations to provide healthcare to AI/ANs by eliminating VA co-payments for AI/AN veterans.

Pass the Department of Veterans Affairs Tribal Advisory Committee Act of 2019

AI/AN veterans, tribal leaders, and GAO have expressed the need for VA to engage with tribal stakeholders when assessing, developing, and implementing policy affecting AI/AN veterans. Establishing a VA Tribal Advisory Committee (VATAC) will help achieve this goal. Specifically, the VATAC would advise the Secretary on how to improve programs and services for AI/AN

³ *Id.*

⁴ *Id.*

veterans, identify timely issues related to VA programs, propose solutions to identified issues, provide a forum for discussion, and help facilitate getting useful feedback from Indian Country. Building a strong relationship between the VA and tribal nations will increase awareness and understanding across the VA of the unique issues affecting AI/AN veterans in tribal communities. This awareness paired with more direct interaction with tribal leaders who regularly hear from AI/AN veteran constituents will ultimately produce faster solutions and better services for AI/AN veterans.

Legislation has been introduced in the House (H.R. 2791) and the Senate (S. 524) to create a VATAC that would provide vital opportunities for collaboration, communication, and coordination between the VA and tribal nations to help AI/AN veterans access the services they earned through their service to this country. NCAI supports this legislation via Resolution [#REN-19-033](#), “Supporting the Department of Veterans Affairs Tribal Advisory Committee Act.” Accordingly, NCAI urges Congress to act swiftly to enact legislation establishing a VATAC.

Authorize IHS and BIA Advance Appropriations to Provide Certainty for AI/AN Veterans

Congress must uphold its solemn obligations to tribal nations by protecting programs serving Indian Country—especially those serving AI/AN veterans—from uncertainty in the federal budget process.

Following the 2019 government shutdown, NCAI adopted Resolution [#ECWS-19-001](#), which calls on Congress to pass legislation authorizing advance appropriations for IHS and the Bureau of Indian Affairs (BIA). This resolution expands on NCAI Resolution [#ANC-14-007](#), which calls for advance appropriations for IHS.

Preventing federal budget impasses from jeopardizing the health, safety, and wellbeing of AI/AN veterans and all those living in tribal communities is a major priority for Indian Country. Although the Veterans Health Administration receives advance appropriations to prevent federal budget impasses from affecting or interrupting healthcare for veterans, IHS does not receive the same treatment—even though IHS is often the primary agency responsible for providing critical healthcare services to AI/AN veterans. Additionally, services provided through the BIA impact AI/AN veterans’ access to health care both at IHS and VA facilities. For instance, BIA is responsible for construction and maintenance of roads across Indian Country, and lapses in related funding can prevent AI/AN veterans from traveling to healthcare appointments at the VA or Indian health system facilities. Authorizing advance appropriations for IHS and BIA will ensure that medical attention and resources that AI/AN veterans earned through their military service are available when the Administration and Congress cannot agree on spending priorities.

There are currently two bills pending in the U.S. House of Representatives that provide advance appropriations for tribal programs. H.R. 1128, the Indian Programs Advanced Appropriations Act was introduced by Representative Betty McCollum and authorizes advance appropriations for several accounts at IHS and BIA. This legislation has a Senate companion bill, S. 229, and nearly 40 bipartisan co-sponsors. H.R. 1135, the Indian Health Service Advance Appropriations Act, was introduced by Representative Don Young and authorizes advance appropriations for several accounts at IHS. This legislation has a Senate companion bill, S. 2541, and nearly 30 bipartisan co-sponsors.

NCAI supports H.R. 1128 and H.R. 1135, and NCAI strongly urges every member of this Subcommittee and the entire House of Representatives to join in supporting advance appropriations for Indian Country.

Pass the Health Care Access for Urban Native Veterans Act

Urban Indian Organizations (UIOs) are an important part of the Indian healthcare delivery system. Given that a majority of AI/ANs live off reservation, many of our AI/AN veterans utilize the UIO system. AI/AN veterans often prefer to use Indian healthcare providers, including UIOs, for reasons such as cultural competency, community and familial relations, and VA wait times.

Although the 2010 MOU recognizes that VA and IHS must meet the needs of Urban Indian health programs, UIOs are currently ineligible to be reimbursed for the services they provide to AI/AN veterans. Allowing reimbursement for UIO services would not only help alleviate broader issues with wait times at VA facilities, but also would provide AI/AN veterans the opportunity to seek culturally competent care when living away from their own tribal communities, which will help reduce overall health disparities in Indian Country.

NCAI strongly supports addressing this gap in the IHS-VA MOU. Legislation has been introduced in the House (H.R. 4153) and the Senate (S. 2365) to amend the Indian Health Care Improvement Act to provide Native veterans coverage by the VA for services at urban Indian health centers. NCAI's membership passed Resolution [#REN-19-034](#), which calls on Congress to pass this important legislation.

Address Data Collection on Suicide among AI/AN Veterans

AI/ANs experience high rates of depression and psychological distress, which contributes to Native people having one of the highest suicide rates of any group in the United States. While the VA acknowledges suicide as a national health crisis that affects all Americans and publishes reports each year on suicide data, it continues to omit data specific to AI/AN veterans. When VA does disaggregate suicide data by race/ethnicity, AI/AN veterans fall under the category of "other." Capturing data specific to AI/AN veteran suicide is essential for developing effective policy and initiatives to generate improved outcomes. Therefore, NCAI urges Congress and the Administration to work to develop policies and procedures that ensure the collection of AI/AN veteran suicide data so that federal and tribal policy makers have the necessary information to address the suicide crisis among AI/AN veterans.

Invest in Tribal Infrastructure, Road Systems, and Tribal Transit Systems

Although outside this Committee's jurisdiction, supporting a strong surface transportation reauthorization bill for Indian Country also would help address some of the issues AI/AN veterans face when trying to access VA services. NCAI urges Congress to provide significant increases for the Tribal Transportation Program, the Tribal Transit Program, the BIA Road Maintenance Program, and other programs that will improve road conditions and promote road safety in Indian Country. Increased investment in these programs will enhance the ability of AI/AN veterans to travel to VA services.

Conclusion

Thank you for the opportunity to testify regarding AI/AN veterans' access to quality, culturally appropriate healthcare. We greatly appreciate the work of this Committee to address the many challenges and barriers faced by AI/AN veterans. We look forward to working with this Subcommittee on a bipartisan basis to advance federal policies that support those who have served our country.