Win-Win: Renegotiating Montana Tribally Owned Nursing Facility Rates

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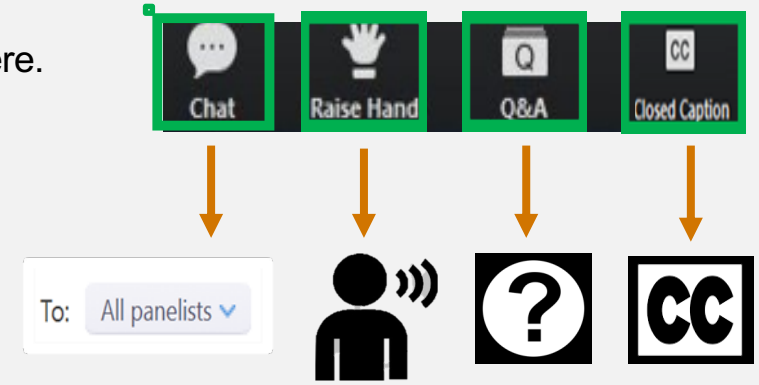

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Win-Win: Renegotiating Montana Tribally Owned Nursing Facility Rates

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Opening in a Good Way

Webinar Objectives

- Explain why renegotiating Medicaid reimbursement was a win for facility residents, tribes, and the state Medicaid agency
- Describe the process of building support and trust
- Review what Montana included in the Medicaid state plan amendment (SPA)

What Montana Did

Tribal nations and the State of Montana came together to develop **1** new Montana Medicaid reimbursement rate for tribally owned nursing facilities.

Caveats:

- Tribes must have a 638 agreement with IHS to provide nursing facility care.
- Tribes must bill Medicaid even if they have a contracted entity operating the nursing facility.
- Tribal nursing facilities continue to be licensed and certified by the State of Montana and must comply with all nursing facility rules and regulations.

Why Montana Developed a New Rate

Two tribal nations (Crow and Blackfeet) owned nursing facilities:

- Both had low census and were in remote areas.
- Both were subsidized by their respective tribes at approximately $1 million annually.
- Both wanted to provide better services to their tribal members.
    - Example: Transporting residents 122 miles round trip from Crow Agency to Billings for medical care in a 10-year-old van with close to 200,000 miles on it.

Why Montana Developed a New Rate (cont.)

State Medicaid agency perspective:

- Affordable Care Act of 2010 and reauthorization of Indian Health Care Improvement Act brought new opportunities to provide and or refinance long-term care services.
- Low-risk opportunity for the state to provide meaningful assistance to tribal governments and members.
    - Nursing facility residents are expensive for a state, and all residents of these facilities were IHS and Medicaid eligible.
- Refinancing saved the state's general fund approximately $500,000 annually.
- The State of Montana shared concerns over service limitations to tribal members and financial stability of the facilities.

“A Rising Tide Raises All Boats”
Earning Trust

Informal discussions:

- Part of ongoing scheduled visits to the reservation that occur at least twice a year.
- Began individual refinancing overtures in Summer 2014 with both tribes.
- State was clear that this would be financially beneficial for all parties.

Formal consultation for SPA (2014):

- Public notice in newspapers October 30.
- Tribal consultation with IHS, tribes, urban Indian centers November 6.
- Tribal consultation with Crow tribal government November 7.
- Tribal consultation with Blackfeet tribal government November 13.
- Virtual tribal consultation with all other tribal governments December 4 and December 9.
- SPA submitted to CMS December 10.

Negotiated Reimbursement

IHS does not establish a nursing facility or any other LTSS rates because it has never been funded to provide these services.

- Therefore, Montana cannot adopt the IHS all-inclusive rate as it does for most services.

Montana chose a negotiated rate methodology because it allows the state and tribal government to do just what it says: Negotiate a rate.

- The rate is “reasonable,” but it is not cost-based and is not subject to retroactive settlement back to costs incurred.
- The negotiated rate recognizes that Montana’s tribal nursing facilities have a small resident census to support costs and are dependent on Medicaid for payment.

Nuts and Bolts:

Considerations in Developing the Negotiated Rate

Percentage of residents in the nursing facility who are IHS eligible is **CRUCIAL** to know prior to negotiations for both the state and tribes:

- CMS has the policy of "one facility, one rate," so if the facility rate increases and some residents are not IHS eligible, the state general fund cost will increase for non-IHS eligible residents.
- The state's Federal Medical Assistance Percentage (FMAP) plays a big part in these calculations.

What does the state want out of rate negotiations?

- Is their goal non-monetary?
- Do they need to achieve cost neutrality at a minimum?
- Or do they have a targeted general fund amount they must save by implementing a new negotiated rate?
    - The client mix and FMAP will affect cost neutrality and savings goals.
    - Politically and financially, is the state willing to absorb the increased general fund cost for some residents?

Nuts and Bolts (cont.)

What does the tribe want out of the negotiated rate?

- Have they been subsidizing their facility and need to recoup at least that amount?
- Do they have an amount they need to cover non-Medicaid clients or related non-covered services?
    - If needed, is the tribe willing to provide the increased general fund cost for non-IHS eligible residents through certified public expenditures to offset the state's increased costs?

None of these were an issue in Montana because the facility residents were all IHS eligible.

Nuts and Bolts (cont.)

Montana **negotiated** rate is based on the following:

1. Cost of delivering services using cost report data as the baseline.
2. Adjustment related to occupancy patterns at the tribal facility.
3. Amount of tribal subsidy that has been provided to maintain the operation of the tribal facility.
4. Geographic area impacts related to wages and recruitment and retention of direct and indirect care staff.
5. Unmet needs in equipment, transportation, grounds, maintenance, and housekeeping to deliver nursing facility services (amortized at 30% per year).

State Plan Amendment

Montana included this change as part of its Service 9a Indian Health Services SPA.

- If it was in the nursing facility SPA, the likelihood of its being inadvertently taken out by state staff in the future would be higher.
- CMS staff who were reviewing this IHS and tribal SPA understood that rates can be different for tribal providers and, if placed in the nursing facility SPA, it would be scrutinized and subject to question every time the SPA is updated (which is at least annually in Montana).

State Plan Amendment (cont.)

Include an automatic inflation factor in the SPA; see boldface text below:

- "Payment for nursing homes will be on a per diem (per day) rate. The rate **negotiated with tribes** for 2014 is $389.14. This **2014 rate will be adjusted annually based on the inpatient hospital percentage increase or decrease** to the approval rates published each year in the Federal Register …" – MT SPA TN 14-0042
- Prior to the SPA approval, the 2014 rates were $167.92 (Blackfeet) and $168.01(Crow).
- The rate has only decreased once in eight years: The 2020 rate was $592.42 and the 2021 rate was $585.81.
- The 2022 approved rate is $683.29.

CMS and State Medicaid Involvement
IHS Medicaid Interplay is Complex

- Educate yourself about IHS and Medicaid and be the best advocate you can be.
- Just like not all state Medicaid or tribal health or IHS staff understand when negotiated rates or 100% FMAP is available, not all staff at CMS will either.
- Be patient to a point, **but** if you are getting nowhere, don't be afraid to ask for a specialist at either the state or CMS level.
- If you know another state has an approved state plan or waiver that would be beneficial, let the state Medicaid agency and CMS know.
    - Montana, Wyoming, and Washington (and probably others) have approved SPAs for enhanced tribally owned nursing facility reimbursement.

Conclusion

- Continue to build relationships.
- Don’t forget the power of a thank you.
  - Remember: Most people involved with Medicaid (state and federal) want to do work that benefits people.
  - A short note, email, text, or voice mail thanking someone for their help and letting them know why the result is important to your tribal members is the best “relationship” investment you can make.
  - Bonus points if you cc their boss!

Questions?

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