

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
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CMCS Informational Bulletin

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FROM: Daniel Tsai, Deputy Administrator and Director,
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SUBJECT: Further Extension of Grace Period Related to the “Four Walls”
Requirement under 42 C.F.R. § 440.90 for Indian Health Service and
Tribal Facilities to February 11, 2025

The Center for Medicaid and CHIP Services (CMCS) is issuing this CMCS Informational Bulletin (CIB) to announce that the Centers for Medicare & Medicaid Services (CMS) is further extending a grace period previously granted to Indian Health Service (IHS) facilities, including those facilities operated by Tribes and Tribal organizations under the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638.¹ The grace period permits IHS and Tribal facilities to continue to claim Medicaid reimbursement under the clinic services benefit at 42 C.F.R. § 440.90 (including at the IHS All-Inclusive Rate (AIR)) for services provided outside of the “four walls” of the facility. On January 15, 2021, due to the urgent need to ensure continued access to services provided by IHS and Tribal facilities during the COVID-19 public health emergency (PHE), and the need for states, IHS, and Tribes to focus limited resources on addressing the COVID-19 PHE, CMS issued a CIB extending the grace period from January 30, 2021 to October 31, 2021 (January 15, 2021 CIB), available on Medicaid.gov at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib11421.pdf>. On October 4, 2021, due to the continuing burden of the COVID-19 PHE, CMS issued another CIB further extending the grace period for states and IHS and Tribal facilities to nine months after the COVID-19 PHE ends, available on Medicaid.gov at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib10421.pdf>. Because the COVID-19 PHE ended on May 11, 2023, this extension of the grace period is scheduled to expire on February 11, 2024.

Although the COVID-19 PHE is now over, the process for returning to regular Medicaid eligibility operations following the March 31, 2023 expiration of the Medicaid continuous enrollment condition under section 6008(b)(3) of the Families First Coronavirus Response Act (FFCRA), commonly referred to as “unwinding,” is straining state and Tribal resources, and is expected to do so well into 2024. This higher volume of work and focus on unwinding could impede states’ and Tribes’ ability to complete the work needed to make an informed decision about an option described in the January 15, 2021 CIB (referred to in that CIB as “the Tribal

¹ In this document, we refer to facilities operated by Tribes and Tribal organizations under the ISDEAA as “Tribal facilities.”

FQHC option”) and take steps to effectuate that option, if preferred by states and Tribes.² In consideration of these factors, and because CMS is reviewing the clinic benefit regulation and the associated four walls requirement, CMS is further extending this grace period for states and Tribal facilities for twelve additional months. This will extend the four walls grace period end date to February 11, 2025. CMS is also further extending the grace period for IHS-operated facilities for the same time period, to give IHS and states additional time to work toward a solution addressing compliance with the four walls requirement for IHS-operated facilities.

Additional information on the four walls requirement, the Tribal FQHC option, and the related grace period can be found in the January 15, 2021 CIB and the October 4, 2021 CIB.

For more information about the four walls requirement and the grace period discussed in this CIB, please contact Kitty Marx, Director, Division of Tribal Affairs, kitty.marx@cms.hhs.gov.

² Under the Tribal FQHC option, a Tribal facility enrolls in Medicaid as a Federally qualified health center (FQHC). Nothing in federal Medicaid law prevents FQHCs from claiming Medicaid payment for Medicaid FQHC services provided outside of the four walls of the FQHC. If consistent with section 1902(bb)(6) of the Social Security Act, states can adopt the IHS AIR as an alternative payment methodology (APM) for Medicaid-covered FQHC services provided by Tribal facilities that are FQHCs, in lieu of the prospective payment system rate.

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