Minnesota Department of **Human Services**

November 17, 2015

Ms. Vikki Wachino, Director
Center for Medicaid and CHIP Services
Center for Medicare & Medicaid Services
Sent via electronic mail to TribalAffairs@cms.hhs.gov

Dear Ms. Wachino:

The Minnesota Department of Human Services appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) proposal, "Medicaid Services 'Received Through' an Indian Health Service/Facility: A Request for Comment," released October of 2015.

Overall, DHS is supportive of CMS' effort to expand circumstances in which 100 percent of federal funding would be made available for services provided to American Indian and Alaska Native (AI/AN) individuals through Indian Health Service (IHS) or Tribal facilities. We believe this proposal will help strengthen efforts to improve access to services and overall coordination of care for AI/AN populations.

Please find below DHS' comments on the specifics of this proposal:

1. **Expansion of Benefits Covered at 100 percent FMAP**

   The Department supports the expansion of services eligible for 100 percent of federal funding when provided by an IHS/Tribal facility or through a referral provider. We also support CMS' the application of this expansion to approved state plan benefits, including waiver services. However, because sections 1915 (c) and 1115 of the Act are not uniformly characterized as state plan benefits, this guidance should be clarified to specifically include those benefits.

2. **Expansion of Covered Referral Services for AI/AN Individuals**

   DHS supports interpreting eligible "contractual agents" of IHS/Tribal facilities to include referral providers. However the approach as outlined by CMS, is ambiguous and might actually restrict existing provider-referral arrangements and result in reduced access to care.

For example, requiring the IHS/Tribal facility to "retain responsibility for the provision of services" implies both that the Tribal facilities have the capacity to maintain control of all medical records including the care provided through its referral providers, and that they have responsibility and the liability for the care delivered by referral providers. This standard may be impracticable for many referral arrangements. We hope that CMS will consider more flexibility for Tribal providers and states related to these referral arrangements.

3. Proposed Billing Process

CMS is considering an option under which the IHS and Tribal facilities would choose whether their contract providers would bill directly, or the facility would bill on behalf of those providers. While we are happy to have that conversation with the IHS and Tribal providers in Minnesota, we are concerned that we do not have the IT capacity or the personnel to manage the numerous billing arrangements that would result. We therefore suggest giving states and Tribal providers some flexibility without mandating that states offer this choice for each Tribal provider and referral provider.

Thank you for your efforts thus far on this important topic, and for the opportunity to comment.

Sincerely,

[redacted]

Marie Zimmerman
Medicaid Director

cc: Minnesota Tribal Health Directors