

# 'Obamacare' repeal could affect Indian Country health care

By Dean Rhodes

Smoke Signals editor

Concern is growing in Indian Country that repeal of the Affordable Care Act – also known as ‘Obamacare’ – by the Republican-controlled Congress and Trump administration could have a negative and possibly devastating effect on health care in Indian Country by limiting Tribes’ ability to generate revenue to fund their health care systems.

Tribal Council Vice Chair Cheryle A. Kennedy, who has a long history of working in health care for the Grand Ronde Tribe, addressed the issue at the Jan. 25 Tribal Council meeting. She also chairs the Health Committee for the Affiliated Tribes of Northwest Indians and is vice chair of the Northwest Portland Area Indian Health Board.

Tribal Attorney Rob Greene said during the same meeting that the Grand Ronde Tribe will send a letter to Speaker of the House Paul Ryan, Senate Majority Leader Mitch McConnell and the Oregon congressional delegation voicing its concerns.

“It basically is to keep in place the Indian Health Care Improvement Act, which is a piece of the Affordable Care Act,” Kennedy said. “It is the vehicle that delivers health care for Native Americans.

“I believe most Tribes have sent in their letters already that try to refocus that health care is a big industry and there are jobs that are very important to all citizens. So we really wanted to emphasize that piece of it. Also that the various states of the Northwest are working with Tribes already and do have some policies in place.”

The Indian Health Care Improvement Act was originally approved by Congress in 1976, but the authorization for appropriations expired in 2000. In 2010, a new version of the act was approved by Congress as an addendum to the Affordable Care Act, which is now under fire from Republicans and President Donald Trump, who vowed to repeal it during the 2016 election.

The Indian Health Care Improvement Act stated, among other things, that the Indian Health Service is the payor of last resort when an eligible Native American is covered by another health plan and excludes health benefits provided by Tribal governments as taxable income. Before passage of the Affordable Care Act, the Internal Revenue Service took the position that Tribes paying for health care services for their Tribal members should be taxable income.

The National Indian Health Board issued a letter on Jan. 18 that stated, “The Indian Health Care Improvement Act amendments ... are separate and distinct from the ACA and must be preserved to ensure that the Indian health delivery system remains viable. ... The IHCA is clearly and easily severable from the ACA because it solely relates to the federal trust responsibility to provide health care to Indian Tribes and their members.”

Democratic Arizona Congress-



Kelly Rowe

Care Act occur without a replacement.

“Repealing the ACA would set many Americans back years, but it could set the First Americans back decades, if not return them to the health care of the dark ages,” Grijalva said. “This vulnerable population – already a victim of historic, shameful mistreatment by the United States government – deserves better. We should be taking further steps forward toward improving the health of American Indians and Alaska Natives, rather than taking a giant leap back by repealing the Affordable Care Act.”

Grijalva said the Affordable Care Act re-authorized the dormant Indian Health Care Improvement Act and increased funding and grant authority for a wide range of chronically underfunded services. The Indian Health Service, which treats patients living on Tribal lands nationwide, serves an estimated 2.2 million Americans.

Joe Finkbonner, executive director of the Northwest Portland Area Indian Health Board, attended a listening session with incoming Trump administration representatives that was held in Crystal City, Va., in late January. The session was coordinated by the National Congress of American Indians.

“They were there solely to listen and not to respond to any questions or enter into any dialogue,” Finkbonner said. “It’s hard to say how it went because Tribal leaders were clear and very strong about what their priorities were, and what I don’t know is how that was received or what the follow-up is going to be yet from the Trump administration.”

Early signs, however, indicate that Indian Country’s relationship with the Trump administration could be bumpy. The Trump administration has greenlighted the Dakota Access Pipeline, which galvanized nationwide Tribal support for the Standing Rock Sioux Tribe in North Dakota. Northeastern Tribes have a long history of dealing with Trump, who lobbied against Native American casinos in the 1990s when he was a private businessman.

“Some of the Tribal leaders who

man Raul Grijalva issued a press release on Jan. 30 that highlighted the damage to Indian Country should repeal of the entire Affordable



Cheryle A. Kennedy

were there were the same Tribal leaders who were sitting across from President Trump when he testified about the effect of Indian gaming back in the ’90s,” Finkbonner said. “Some of those Tribal leaders talked about their adverse relationship that they had at that time with Mr. Trump. They didn’t sound hopeful at all.”

If the Affordable Care Act is repealed in its entirety, reimbursement for Medicare services furnished by Indian hospitals and clinics would end, as would the health care marketplaces where Native Americans can sign up for health insurance and receive government subsidies to help pay for it.

Northwest Portland Area Indian Health Board Governmental Affairs/Policy Director Laura Platero said that between 2012 to 2014, American Indian and Alaska Native Medicaid enrollment in Northwest states increased by 13 percent.

“Those individuals would lose their Medicaid coverage,” Platero said. “Those individuals would still go to an ITU, but the ITU couldn’t get reimbursed for those services, which means there would be a loss in revenue.” ITU stands for Indian Health Service, Tribal or urban Indian health clinic.

Finkbonner said the average Tribal member will still have access to primary care if the Indian Health Care Improvement Act is repealed along with the Affordable Care Act, but they may see a difference in accessing specialty care.

“The Tribe might be more mindful of their own Purchased and Referred Care referral process versus if they were eligible for either a subsidized (health care) premium or Medicaid,” Finkbonner said. “Then the referral would be much quicker and simpler, and less resource taxing to the Tribe.”

Grand Ronde Health Services Director Kelly Rowe concurred with Finkbonner, saying that average Tribal members may see their health care options shrink as the Grand Ronde Tribe, along with all Tribes, would have fewer resources.

Rowe said she most fears Medicaid turning into a block grant program that would distribute a set sum to every state. Then Native Americans would be lumped in with everyone else needing health care funding and Native Americans have a long history of getting the

short end of the stick.

Rowe estimated that the Grand Ronde Tribe could lose about 33 percent of its estimated third-party receipts from services for Medicaid-eligible patients.

“The Indian Health Care Act fulfills a trust responsibility by the federal government,” Rowe said. “One of the Medicaid replacements that seems to be bandied about is this idea of block grants for the states. Right now, Medicaid does not have a cap on it as it’s an entitlement program and is guaranteed funding for enrolled participants. There’s not a limited budget. ... If they put a cap on it and the state of Oregon only has a limited budget and the federal government feels that absolves them from their trust responsibility for health care for Native Americans, then we are combined with everybody else and the ability for us to have equitable resources would decrease because of that cap.”

Rowe said those decreased resources could shrink further if the Tribe is no longer being able to bill Medicaid or Medicare for services, which are provisions included in the Indian Health Care Improvement Act. The federal government currently pays 100 percent for Native American health care under Medicare and Medicaid and that would end if the Indian Health Care Improvement Act is scrapped with the Affordable Care Act.

“Medicaid reimbursements are critically important in filling the gap created by chronic underfunding of the Indian Health Service, and are a critical source of funding for Tribes seeking to take over IHS hospital systems through self-governance agreements,” the National Indian Health Board said.

Reduced funding and the end of 100 percent federal reimbursements would mean Tribal members could potentially lose health care services, especially referrals to specialists.

“For the Tribal membership more or all health care resources would come from Tribal dollars,” Rowe said. “The program would shrink to available funding. That’s the possibility.

“The biggest thing for me is that this is a federal trust responsibility and our government-to-government relationship is supposed to protect the promise made by the federal government to provide health care for us. To think that it could get totally devalued or washed away ... it’s pretty appalling. It’s hard not to go back to that feeling of broken promises or broken treaties, that sense of losing what we have.”

If the Indian Health Care Improvement Act is scrapped because it is part of the Affordable Care Act, Tribal members might see only “basic services” at the local health clinic, Rowe said, or the Tribe would have to devote more of its already taxed casino revenues to maintain current Tribal member health care.

“There are multiple reasons the repeal of the ACA is alarming for Indian health care,” Rowe added. “I think we’re all on pins and needles right now.” ■

**“Repealing the ACA would set many Americans back years, but it could set the First Americans back decades, if not return them to the health care of the dark ages.”**

**~ Democratic Arizona Congressman Raul Grijalva**