



**MONTANA CONSORTIUM FOR  
Urban Indian Health**

**The Importance of 100% FMAP  
Reimbursement  
to Montana's Urban Indian Organizations  
and the State of Montana**

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# **The Importance of 100% FMAP Reimbursement to Montana’s Urban Indian Organizations and the State of Montana**

Permanently authorizing the federal government’s 100% Federal Medical Assistance Percentage (FMAP) for services provided by Urban Indian Organizations (UIOs), under the bipartisan Urban Indian Health Parity Act, is both critical and mutually beneficial for the State of Montana, Montana’s five Urban Indian Organizations, and the urban populations they serve.

## **What are Montana’s Urban Indian Organizations?**

UIOs are nonprofit organizations, situated in an urban center, and operated for the purpose of administering an urban Indian health program and related activities pursuant to Title V of the Indian Health Care Improvement Act. UIOs provide quality and culturally comprehensive services for American Indians and Alaska Natives (AI/ANs) living in urban areas, as well as services to non-AI/AN individuals.

There are 41 UIOs nationwide. Montana has the second highest number of UIOs of any state in the country, with five UIOs, which include the Billings Urban Indian Health and Wellness Center (Billings), the Butte Native Wellness Center (Butte), the Indian Family Health Clinic (Great Falls), the Helena Indian Alliance – Leo Pocha Clinic (Helena), and the All Nations Health Center (Missoula). UIOs serve AI/ANs from the eight federally recognized Tribal nations in Montana. All five Montana UIOs are members of the Montana Consortium for Urban Indian Health (MCUIH).

UIOs provide Montana’s urban Indian people with health and social services and serve as a critical resource for the communities they serve, including those AI/ANs that may not have access to an Indian Health Service (IHS) or Tribal health facility. In Montana, around one-third (30%) of the AI/AN population lives in a county with a UIO.<sup>1</sup> Additionally, while UIOs are committed to serving urban Indian people, they also serve a broader range of non-AI/AN individuals, largely in underserved populations. For example, in 2020, IHS reported that 55 percent of the total population served at UIOs nationwide were Medicaid beneficiaries, with 46 percent of the AI/AN population served at UIOs being Medicaid beneficiaries.<sup>2</sup>

The “Declaration of National Indian Health Policy” in the Indian Health Care Improvement Act (IHCIA) states as follows:

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<sup>1</sup> See Montana Budget and Policy Center, *Urban Indian Health Funding: An Unmet Need* (February 2024), available at [https://montanabudget.org/report/uio-2024#\\_edn16](https://montanabudget.org/report/uio-2024#_edn16).

<sup>2</sup> Indian Health Service, “[Urban Indian Organization: National Uniform Data System Summary Report – 2021](#),” last accessed on April 8, 2024.

Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

(1) to ensure the highest possible health status for Indians *and urban Indians* and to provide all resources necessary to effect that policy.”<sup>3</sup>

In fulfillment of this national policy, Congress appropriates funding for a three-part Indian healthcare system consisting of the IHS, tribal health programs, and UIOs (referred to as the “I/T/U” system).

### **What is FMAP?**

Although administered by states, the federal government and the states jointly fund Medicaid. The Federal Medical Assistance Percentage (FMAP) is the share of Medicaid costs funded by the federal government. The remaining percentage is funded by the State. The Social Security Act sets forth a formula by which the FMAP and the state share are determined. The FMAP varies state by state from a floor of 50% to 74% depending on per capita income in the State.

In Montana, the fiscal year 2024 FMAP is approximately 63.91%,<sup>4</sup> meaning the federal government covers 63.91% of the cost of Medicaid services provided to regular Montana Medicaid patients. The FMAP for the Medicaid expansion population is 90%.

However, states receive 100% percent FMAP reimbursement from the federal government for all Medicaid services provided to AI/ANs through IHS and tribally operated facilities. This special 100% FMAP rule means the federal government covers 100% of the cost of Medicaid services provided by IHS and tribal health care providers to AI/ANs.

### **Why Do States Receive a Special 100% FMAP Reimbursement for Services Received Through IHS and Tribal facilities?**

Congress first authorized IHS and tribal providers to bill Medicaid in order to supplement inadequate IHS resources in 1976. It explained that “[t]hese Medicaid payments are viewed as a much-needed supplement to a health care program which has for too long been insufficient to provide quality health care to the American Indian.”<sup>5</sup> Because Medicaid is funded by both the States and the Federal government, Congress also took steps to ensure that opening up IHS access to State Medicaid services would not unduly burden the States with what is a federal responsibility. Congress amended Section 1905(b) of the Social Security Act to apply a special 100% FMAP rate for services provided to AI/ANs that are received through an IHS or tribally-operated facility. This ensured that Medicaid services provided to AI/ANs through the IHS system would be paid

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<sup>3</sup> 25 U.S.C. § 1602(a)(1) (emphasis added).

<sup>4</sup> KFF, State Health Facts, [Federal Medical Assistance Percentage \(FMAP\) for Medicaid and Multiplier](#), last accessed on April 8, 2024.

<sup>5</sup> H.R. REP. NO. 94-1026(III) at 21 (1976).

for entirely by the United States, and not individual State Medicaid programs. The House Report explained:

The Committee has made a technical change in the provision for a 100 percent Federal matching rate for State Medicaid expenditures for eligible Indians receiving services in IHS facilities in order to place that provision within title XIX of the Social Security Act. The Committee approved this provision because:

1. The Federal government has treaty obligations to provide services to Indians; it has not been a State responsibility;
2. Since the 100 percent matching is limited to services in IHS facilities, it is clearly being paid for Indians who are already IHS eligible (and therefore clearly part of the population to which the U.S. Government has an obligation) and who are already eligible for full Federal funding of their services; and
3. States with a large IHS eligible Indian population have a limited tax base because so much of the land is public and not taxable; the higher matching rate under Medicaid simply recognizes this.

### **Why Are Medicaid Services Received Through UIO's Treated Differently?**

Although the federal government owes the same trust responsibility to provide health services to AI/ANs living in urban areas as other AI/ANs, UIOs were left out of the initial 100% FMAP rule in 1976, and thus States are not currently eligible for 100% FMAP reimbursement for services provided by UIOs.<sup>6</sup> Both UIOs and tribal health programs are funded by the IHS. Specifically, tribal health programs are funded through the IHS pursuant to the Indian Self-Determination and Education Assistance Act, while UIOs are funded through the IHS pursuant to Title V of the IHCA.

#### **A. In Response to Covid-19, Montana UIOs Demonstrated That A Temporary Authorization for 100% FMAP Was Extremely Successful.**

In response to decades of advocacy and support of Tribal partners, Congress, in response to the COVID-19 pandemic, through Section 9815 of American Rescue Plan Act (ARPA), amended Section 1905(b) of the Social Security Act to temporarily extend 100% FMAP for services provided to Medicaid beneficiaries at UIOs for eight fiscal quarters. This meant that, for this limited time period, the federal government was required to bear the cost of Medicaid services provide to AI/ANs no matter which facet of the Indian health system they utilized, as required by the trust responsibility.

Section 9815 of ARPA temporarily eased the financial burden on the state of Montana by allowing the state to be reimbursed by the federal government for the full cost of providing care to Medicaid beneficiaries at UIOs. Together UIOs and the State of

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<sup>6</sup> 42 U.S.C. § 1396d(b).

Montana worked together to increase the reimbursement rates for Montana UIOs by 61% and ultimately provided Montana UIOs with over \$500,000 in additional funding, which is being used by the Helena Indian Alliance to construct a new clinic and establish a new behavioral health unit. According to research done by the National Council of Urban Indian Health, continuing the 100% FMAP provision would result in savings of \$7.1 million for the State of Montana.<sup>7</sup>

The temporary provision expired on March 31, 2023. As a result, the state once again is responsible for covering a portion of the cost of Medicaid services provided to eligible Medicaid beneficiaries receiving services at Montana's UIOs.

### **B. A New Authorization Is Needed – Support the Urban Indian Health Parity Act!**

On November 30, 2023, Representative Don Bacon (NE-02) and Representative Paul Ruiz (CA-25) introduced a bipartisan bill, the Urban Indian Health Parity Act (H.R. 6533), to address the health care gaps for urban AI/AN Medicaid beneficiaries by permanently reauthorizing 100% FMAP for UIOs. Representative Bacon stated as follows:

Since the federal government is not funding Medicaid services at 100% . . . our state has to shoulder the additional costs. This means our Urban Indian Organizations have reduced ability to serve the 46 percent of Native patients who are receiving Medicaid benefits. Nebraska's 2<sup>nd</sup> district is home to approximately 10,000 American Indian and Alaska Natives and we need to provide these organizations with the ability to best serve them and this bill will do that.

Montana's UIOs, the State of Montana, and their Medicaid eligible beneficiaries would equally benefit from this permanent reauthorization of 100% FMAP.

### **Who Supports Permanent Congressional Reauthorization of 100% FMAP for Services Received Through UIOs?**

Authorizing 100% FMAP for UIO's is about fulfilling the federal trust responsibility to AI/AN people and does not implicate or affect Tribal sovereignty or the government-to-government relationship between Tribes and the United States. Consequently, according to the National Council of Urban Indian Health, the extension of 100% FMAP for services received through UIOs has broad support across Indian Country.<sup>8</sup> For example, the CMS Tribal Technical Advisory Group included a request for 100% FMAP for Medicaid services provided at UIOs in its list of legislative priorities. Additionally, in 2017, the National Indian Health Board passed Resolution 17-06, "Support of Legislative and Administrative Efforts to Extend 100% FMAP to Urban Indian Health Programs," which states that the "trust responsibility for the provision of health care to AI/ANs is one which by law is

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<sup>7</sup> National Council of Urban Indian Health, [Policy Report, States Again Shoulder the Cost of Unmet Federal Trust Responsibility, Congress Must Reauthorize 100% FMAP for Urban Indian Health Care](#), at 5, last accessed May 24, 2024 (providing full list of Indian health and partner organization support).

<sup>8</sup> *Id.* at 9–10.

assigned to the federal government, not the states, which renders the inadequate FMAP for [UIOs] wholly inconsistent with the federal government's solemn obligation." Likewise, the National Congress of American Indians passed resolution SD-15,070 in 2015 to request 100% FMAP for services received through UIOs, stating that "[t]he IHS system was first authorized to bill the Medicaid program in 1976 in order to ensure that States did not have to bear the costs associated with such services."

### **Does 100% FMAP for Services Received Through UIOs Cost Tribes or the State Money?**

No. The cost of Medicaid services is generally split between the state and the federal government and the FMAP is the federal government's percentage share of the cost. Thus, extending 100% FMAP to UIOs does not affect the IHS budget, nor does it affect funding for carrying out the Indian Self-Determination and Education Assistance Act and the Indian Health Care Improvement Act. Instead, it authorizes the federal government to use federal Medicaid funds to reimburse states for 100% of these services. Setting the FMAP for Medicaid services provided at UIOs at 100% only ensures that federal Medicaid dollars cover the entire cost of these services. Coverage for these costs only affects federal Medicaid dollars and saves the state money. There is no effect on IHS or Tribal funds.

### **The MCUIH Request**

MCUIH requests that you support Montana's UIOs in requesting Congress to pass the bipartisan Urban Indian Health Parity Act. With your support and the proper continued investments, UIO facilities can help Montana to thrive by expanding services and community led programs for Montana's underserved urban populations.