

REDDING RANCHERIA TRIBAL GOVERNMENT POLICIES

Chapter TP 9-700

Tribal Self-Insurance Plan Coordination



February 15, 2022

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SECTION 1: PURPOSE

To ensure that those programs and services made available by the United States government to carry out its responsibility to provide health care to Native Americans are not supplanted by medical benefits plans provided by the Redding Rancheria for members, employees and their lawful dependents, except as to such services and amounts specifically authorized by the Tribal Council.

To ensure that member health care is provided in accordance with Congressional policy set forth in 25 U.S.C. Section 1602, including without limitation:

- (a) Recognition of the Federal Government's "special trust responsibilities and legal obligations to Indians";
- (b) The Federal Government's duty "to ensure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy";
- (c) The Federal Government's duty "to raise the health status of Indians and urban Indians"; and
- (d) The Federal Government's duty "to ensure maximum Indian participation in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities".

To coordinate the use of federal and tribal funds to provide health care in accordance with 25 U.S.C. Section 1642, 25 U.S.C. § 1623(b), 25 U.S.C. § 1621a, and 25 U.S.C. § 1621e.

To coordinate available resources in order to assure affordable high quality health care to Redding Rancheria members, employees and their dependents, by maximizing health care resources.

To establish guidance for the coordination of Indian Health Service and self-insurance resources.

SECTION 2: BACKGROUND AND INTENT

- (a) Redding Rancheria Tribal Health System has been established by the Redding Rancheria and designated in a Compact of Self-Governance between Redding Rancheria and the United States government to serve as a tribal organization authorized to administer Indian Health Service ("IHS") and Contract Health Service programs, now referred to as

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Purchases/Referred Care (“PRC”) programs under the Indian Self Determination and Education Assistance Act (“ISDEAA”).

- (b) Indian health programs, whether operated by the Federal government or by and Indian Tribe or Tribal Organization pursuant to the Indian Self-Determination Act are entitled to “payer of last resort” status in accordance with 25 U.S.C. § 1623(b). Under these rules, alternate resources, including private insurance, benefit plan coverage, and state and federal program coverage pay primary. See, for example, IHS PRC Manual Section 2-3.8(H). 25 USC Section 1621e(f) provides an exception to the payer of last resort rule expressly prohibiting reimbursements from tribal self-insurance plans (“TSIPs”), unless agreed to by the Tribe on an annual basis, and allowing TSIPS to be disregarded as an alternate resource. TSIPS, therefore, may take a secondary position to IHS (Direct Care) and PRC.
- (c) Redding Rancheria sponsors a TSIP within the meaning of 25 USC 1621e(f) for the benefit of eligible employees and their dependents, and for members of Redding Rancheria and their spouses and dependents, including eligible Native Americans who also qualify for IHS and PRC services.
- (d) The Redding Rancheria Health System is empowered to authorize certain care under its PRC program for which Medicare-participating facilities must accept Medicare-Like Rates (“MLR”) as payment in full, when such care, in addition to being authorized under CHS (PRC) guidelines, is consistent with Section 506 of the Medicare Modernization Act of 2003 (the “MMA”) and the final regulations issued thereunder at 42 CFR 136.30-136.32 and 42 CFR 489.29 (the “MLR Regulations”).
- (e) 25 USC Section 1621e(f), as modified by the Patient Protection and Affordable Care Act, expressly authorizes arrangements whereby TSIPs can agree to reimburse IHS and PRC programs.
- (f) Chapters 1-800 and 7-700 of the Redding Rancheria Tribal Government Policies provide for the establishment of Employee and Tribal Member health benefit programs. Resolution No.078-12-07-10 dated December 7, 2010 established authority for self-Insurance of employee medical benefits and for the Self-Insurance Fund(s).
- (g) It is the intent of the Tribal Council that, with regard to employees and members who are eligible for federal, state, or private programs required to pay primary under 25 U.S.C. § 1623(b), that the Redding Rancheria limits the amount by which any of its self-insurance programs finance benefits otherwise available from such resources.

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- (h) It is also the intent of the Tribal Council that the Redding Rancheria take advantage of all discounts it is entitled to under the MMA and other federal programs designed to minimize the Tribe's cost for health care expenditures, and to reserve the Tribe's right to available federal funding including fund available through the Catastrophic Health Emergency Fund ("CHEF") per 25 U.S.C. § 1621a.

SECTION 3: DEFINITIONS

As used within this chapter, the following terms shall mean:

- (a) Tribal Self-Insurance Plan (TSIP): A self-insured health plan or plan(s) as defined in 25 U.S.C. § 1642 and 25 U.S.C. § 1621a, et seq., providing for medical benefits for eligible members and employees of the Redding Rancheria and their eligible spouses and dependents.
- (b) Redding Rancheria Tribal Health System: Any health facilities and programs operated by the Redding Rancheria pursuant to a Compact of Self-Governance with the United States Department of Health and Human Services under the provisions of the Indian Self-Determination Act.

SECTION 4: DELEGATED AUTHORITY

The Chief Executive Officer is authorized to:

- (a) Administer this policy, including the adoption of operating procedures for the purpose of reimbursing the Redding Rancheria Tribal Health System pursuant to 25 U.S.C. Section 1621e, et seq. Such policy will provide for identification of health services for which Indian Health Service and PRC programs shall cover as the primary payer and those circumstances under which the Tribal Self-Insurance Program will be treated as an alternate resource or as a secondary payer.
- (b) Adopt self-insured medical benefit plans to provide medical benefit coverage to Tribal Members, spouses and dependents, in accordance with Chapter 7-700 of the Redding Rancheria Tribal Government Policies. Such plan(s) shall be considered Tribally Sponsored Self-Insurance Plan(s) "TSIP" within the meaning of 25 U.S.C. Section 1621e(f), 25 U.S.C. § 1623(b) and 25 U.S.C. § 1642. The provisions of such plans shall be consistent with this policy and reviewed with the Tribal Council prior to adoption.
- (c) Combine and/or coordinate plans adopted under paragraph (b) above with employee medical benefit self-insurance plans adopted pursuant to Chapter TP 1-800 and Resolution No.078-12-07-10, including making provision for

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Native American employees and their dependents to be provided for within plans adopted pursuant to paragraph (b), as appropriate, and to administer such plans in common to the extent combined administration is feasible given available network and administration services.

- (d) To acquire individual and aggregate stop loss, with limits appropriate to contain overall plan risk and to employ administrators, professional provider networks and other service providers to develop and administer the plans.
- (e) To establish premium rates to be charged the member benefit program authorized pursuant to Chapter TP 7-700 and to employee fringe benefit pools or employees, and to administer appropriate reserves.
- (f) To implement such operating procedures and to delegate such duties as are necessary to the efficient operation of the plans and implementation of this policy.

SECTION 5: AUTHORIZED PROGRAMS AND SERVICES (Reserved)

SECTION 6: COORDINATION POLICY

- (a) The Redding Rancheria Tribal Self-Insurance Program (TSIP) will not be treated as an alternate resource with regard to services or coverage provided by an IHS facility (direct care) or PRC program, operated as a federal Indian Health Service program, whether operated directly by Indian Health Services or by an Indian tribe, consortium of tribes or tribal organizations pursuant to a self-determination contract or self-governance compact under P.L. 93-638, as amended. The TSIP shall contain a coordination of benefits provision and other language, as necessary, to ensure that alternate resources and other programs pay primary to the TSIP), except as agreed to by the Tribe and in accordance with 25 U.S.C. Section 1621e(f).
- (b) With regard to the PRC Program the Chief Executive Officer may adopt provisions for the TSIP to be primary for services other than those that would result in loss of federal funding or federal discounting.
- (c) The TSIP may reimburse the Redding Rancheria Tribal Health System, at the discretion of the Redding Rancheria, in such manner as to balance the burden between the IHS (Direct Care) and PRC programs and the TSIP in order to maintain IHS and PRC services to eligible Indians. Reimbursements shall be in accordance with and subject to 25 U.S.C. § 1621e(f).

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- (d) The TSIP shall not be required to reimburse IHS and PRC programs not operated by the Redding Rancheria.
- (e) The Chief Executive Officer may adopt operating procedures providing for reimbursement of the Health System for Direct Services and PRC for claims paid, other than those reimbursed by the Catastrophic Health Emergency Fund (CHEF), provided that any such reimbursement in no way forfeits rights to MLR as payment in full, and provided that such procedures shall ensure that the Redding Rancheria, through its Chief Executive Officer, retains authority to adopt and amend procedures, rates and limits as shall be prescribed from time to time consistent with the policy goals set forth herein and the reimbursement provisions of 25 U.S.C. Section 1621e, as amended by the Patient Protection and Affordable Care Act .
- (f) Reimbursement for direct services shall be credited to the Health Services fund and administered in accordance with Chapter 7-600 of these policies. Reimbursement of PRC services shall be accounted for as a reduction of PRC expenditures. Any payment or reimbursement of IHS or PRC eligible care (or care that would be eligible but for funding limitations) by the Tribe or through the TSIP, however, shall be accounted for in a manner that does not reduce the appearance of member need and that takes into account any direct or indirect tribal subsidy. All Tribal subsidies for IHS or PRC eligible care are made under a reservation of rights to seek additional federal funding.
- (g) Acceptance of responsibility for coverage, or to provide for reimbursement of the Health Center for Direct Services or PRC services, by the TSIP, shall at all times remain voluntary and discretionary on the part of the Redding Rancheria, and subject to the availability of self-insurance funds. The Redding Rancheria reserves the right to change or modify its TSIP at any time in all respects.
- (h) Nothing in the policy is intended to waive the sovereign immunity of the Redding Rancheria.

Legislative History:

Originally Adopted by Tribal Council Resolution #011-01-24-12, dated January 24, 2012.

Amended by Tribal Council Resolution #019-02-15-22, dated February 15, 2022.