March 17, 2020

Dear Congressional Native American Caucus:

The National Council of Urban Indian Health (NCUIH) writes to respectfully request that Congress honor the United States’ trust obligation for the provision of health care to American Indians and Alaska Natives. NCUIH respectfully requests that Congress includes in emergency coronavirus aid packages measures to improve access, prevention, mitigation, and treatment at urban Indian organizations (UIOs).¹ As the sole part of the Indian Health Service (IHS) health care system specifically designed to provide health care services to AI/ANs living off reservation, UIOs are a critical component of AI/AN health care. Moreover, more than 70% of AI/AN people live in urban or suburban areas – and their health care needs do not diminish due to place of residence – nor does the federal obligation. Currently, at least 10% of UIOs have patients that have tested positive or are under investigation/quarantine for COVID-19; the remainder have expended resources to prepare for the likely spread of the novel coronavirus to patients in their cities. NCUIH appreciates Congress’s inclusion of UIOs in its first coronavirus stimulus; however, to date, UIOs have received no federal dollars to combat this pandemic. Therefore, we request the inclusion of the following essential provisions:

**Urban Indian Health Care Emergency Funding**

A minimum of $58-$94 million in funding must be provided for emergency supplies and services for urban Indian organizations (UIOs). UIOs operate on extremely low margins and are already experiencing significant budget shortfalls due to local outbreaks and COVID-19 preparation – yet they have received no supplemental federal financial support. UIOs receive primary IHS funding from only one line item in the IHS budget, which provides a mere $57,684,000.

There are immediate needs that require critical funding to enable UIOs to continue to provide high quality care to their patients while also managing local outbreaks and minimizing risks to their communities.

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¹ There are presently 41 IHS UIOs that operate 74 health facilities in 22 states.
For instance, the UIO in Seattle, WA, one of the most affected areas by this pandemic, is projecting a monthly loss of $734,922. The UIO in San Jose, CA, with its first confirmed case on March 13, is also at the front lines of the COVID-19 pandemic where cases have increased more than threefold over the past few days. These are only a few examples of the impacts UIOs are already experiencing, demonstrating the necessity of additional federal support. Therefore, we request a minimum of an additional $58 million to $94 million in emergency funding for UIOs.

**Parity in Federal Medicaid FMAP**

Congress has already recognized the significant benefit an increase in the Medicaid Federal Medical Assistance Percentage (FMAP) will provide in helping health care facilities during this pandemic. Currently, the federal government reimburses states at a 100% rate for Medicaid services provided at IHS and tribal facilities. However, Medicaid services are not reimbursed at this rate for services provided at UIOs – creating a lack of parity in the IHS health care delivery system. An increase in the FMAP rate has real and direct impacts and will ensure additional funding is available at this critical time. For instance, the House of Representatives passed a bill that includes a temporary increase of Medicaid FMAP across the country. It is essential that Congress extend 100% FMAP to services provided at UIOs – to ensure parity across the IHS health care system and increase available funds to help Indian Country address this pandemic.

**Parity in Medical Malpractice Liability to Stretch Limited Federal Dollars**

The cost of liability coverage is expensive – for example, Congress has proposed absolving Personal Protective Equipment (PPE) manufacturers of certain liabilities during this crisis – in an effort to expand protective gear to health care workers, in turn providing more services and better protecting communities from the spread of the novel coronavirus. UIOs are facing significant shortages in PPE, frequently reporting shortages in supply chains and substantial price gouging creating additional budgetary constraints, which is only made worse by the lack of parity in Federal Tort Claims Act (FTCA) coverage at UIOs – and the excessive costs UIOs must therefore incur. Current law provides FTCA coverage for malpractice liability to HRSA Health Centers as well as IHS and tribal facilities. UIOs, which are not covered, must spend hundreds of thousands of dollars to obtain this coverage. In a time of crisis like a pandemic, this translates to millions of dollars that cannot be used to support direct patient care, protection for providers, or other preventative and treatment options to protect their
AI/AN patients and communities at large. Therefore, it is critical that Congress act to correct this technical oversight and enable UIOs to devote more resources to this pandemic.

In addition, it is essential that Congress act expeditiously to provide resources for AI/AN people residing in urban areas. UIOs are already in the midst of this crisis – and we must support them. These provisions are critical to ensure that the national policy, “in fulfillment of [the U.S.’s] special responsibilities and legal obligations to the American Indian people[,] to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to affect that policy”\(^2\) is upheld. By omitting UIOs from federal efforts to address the novel coronavirus pandemic, Congress would omit some AI/AN people — simply on the basis of their place of residence. Thank you for your partnership and support in ensuring urban Indians are included.

Sincerely,

Francys Crevier, J.D.
Executive Director

\(^2\) Indian Health Care Improvement Act, 25 U.S.C. Section 1602