



# Silver State Health Insurance Exchange

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## AGENDA ITEM

For Possible Action

Information Only

**Date:** February 16, 2023

**Item Number:** VI

**Title:** Tribal Sponsorship Program: Waiving certain certification requirements for NV Tribal Nations and Tribal Exchange Representatives

### PURPOSE

The purpose of this report is to provide information to the Board and public regarding the status of the Exchange’s implementation of the Tribal Sponsorship Program. The Exchange is also requesting that the Board of Directors consider the expressed barriers of Tribes in implementing parts of this program and take into consideration possible action of waiving NV Tribal Nations from certain parts of the certification process for Tribal Exchange Representatives enrolling Tribal members into qualified health plans (QHP) on the Exchange.

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## **TRIBAL SPONSORSHIP PROGRAM (TSP): OVERVIEW**

Under the Affordable Care Act (ACA) of 2010, Indian tribes, tribal organizations, Tribal Health Clinics, and urban Indian organizations can pay Qualified Health Plan (QHP) premiums on behalf of their tribal members who are enrolled in health insurance through Nevada Health Link.

A Tribal sponsorship program enables Nevada Tribal Nations to provide financial support, which helps pay the cost of premiums and/or out-of-pocket expenses for their tribal members who qualify to enroll in a QHP through Nevada Health Link. Tribal sponsor entities choose who they will cover, what plans to include, and what level of coverage to provide.

The establishment of a Tribal Sponsorship program lies within [45 C.F.R. 155.240\(b\)](#) – Payment of premiums, and [45 C.F.R. 156.1250](#) – Acceptance of certain third-party payments.

## **IMPLEMENTING THE TRIBAL SPONSORSHIP PROGRAM:**

Currently, there are 28 Federally Recognized Tribal Nations within the State of Nevada. Out of that 28, in 2022, the Exchange received about seven inquiries from Tribal Nations interested in participating in a Tribal Sponsorship Program. Specifically, the Tribal Health Clinic Directors who oversee programs at their tribal clinics reached out with interest in this program.

To date, the Exchange has the Ft. McDermitt Paiute-Shoshone Wellness Center currently participating in the Tribal Sponsorship Program. Other Tribal clinics are close to participating in this program or have expressed interest and have spoken with the Exchange about how to best operationalize such a program.

At a meeting in November 2022 between the Tribal Health Directors and Exchange staff, the Tribal Health Directors expressed concerns and, more specifically, barriers with at least two areas of the program, thus hindering their ability to implement the program fully.

Two overarching areas of concern were:

- 1) Aggregated billing set up with Tribal administrative oversight.
- 2) Exchange Enrollment Facilitator/Certified Enrollment Counselor (EEF/CEC) certification process that is required by the Division of Insurance (DOI) for enrolling individuals into a qualified health plan.

Actions taken by the Exchange to address and take into consideration the barriers expressed by the Tribal Health Directors have led to many meetings since November 2022 with multiple stakeholders and partners. For the billing side of the program, the Exchange reached out to insurance carriers and the Exchange's platform technology vendor, GetInsured. The Exchange's goal is to connect the Tribes with the Exchange's insurance carriers for how payments of tribal members' premiums can be aggregated and how the tribal clinic can receive monthly reports for reconciliation on their end. Along with addressing other issues that the Tribal Health Directors brought to our attention, conversations about working out the barriers for billing are ongoing and promising.

Regarding the certification process part of the program, the Exchange has had several meetings with Deputy Attorney General (DAG), Radhika Kunnel, the DOI team, and the Legislative Counsel Bureau's (LCB) legal chief deputy. The Exchange would like to acknowledge and thank our DAG and the DOI for their time, comments, questions, and support of this consideration for the Nevada Tribes.

### **EXCHANGE ENROLLMENT FACILITATOR/CERTIFIED ENROLLMENT COUNSELORS (EEF/CEC): BARRIERS WITH DOI CERTIFICATION**

Currently, EEF/CECs, Navigators and Assisters go through the DOI and Exchange certification process to be considered licensed to assist a consumer with enrollment into a QHP. Tribal Health Directors have expressed the following barriers with the DOI certification process being applied to them:

- High turnover among their clinic staff
- Limited resources in rural Nevada areas
- Lack of funding to pay extra fees
- Important to have someone familiar with the tribe doing the enrolling because each tribe has their own administrative structure
- Tribal members are more comfortable working with someone they are familiar with within their tribe due to the impact of historical trauma
- The Tribal Health clinic sponsoring a tribal member will only be enrolling their tribal members—no one outside of their tribal community will be enrolled by Tribal Exchange Representatives.
- Tribal Health Directors plan on enrolling members in only Bronze plans.

Currently, these are the EEF/CEC Certification requirements:

1. Fingerprint & background check Fee - approx. \$80.00 (DOI required)
2. ADBanker EEF pre-licensing course (\$150) – (Exchange Required)
3. NV State EEF Exam approx. \$55 (DOI required)
4. Submit and pay for DOI application approx. \$185 (DOI required)
5. Take Nevada Health Link training/certification & exam– Free (Exchange required)

### **WAIVE FOR NV TRIBES THE DOI CERTIFICATION PROCESS:**

Based on our research, the Exchange would like to move forward with waiving the certification and testing requirements of in-person assisters per NRS and NAC 695J for NV Tribal Nations.

The Exchange will categorize individuals within a NV Tribe who enroll only those within their tribal community into QHPs as “**Tribal Exchange Representatives.**” Categorizing tribal individuals this way, the Exchange requests to waive Tribal Exchange Representatives from the DOI certification process. It will be noted that individuals without certification as an EEF/CEC cannot present themselves to the public as an EEF/CEC.

The specific purpose of a Tribal Exchange Representative is to enroll only their Tribal community members into qualified health plans through the Tribal Sponsorship Program or outside of the sponsorship program. Tribal Exchange representatives will be given access to the Exchange’s technology enrollment platform in order to complete enrollments and oversee the administration of billing, etc. with the insurance carrier.

**Proposed Training Criteria and other Requirements of “Tribal Exchange Representatives”:**

1. Nevada Health Link Training general
  - a. Training will include but is not limited to:
    - i. Training overview
    - ii. Affordable Care Act Basics
    - iii. IRA/ARPA Overview
    - iv. Privacy Security and Fraud Prevention Standards
    - v. Marketplace Tribal Exchange Representative Essentials
    - vi. Nevada SBE Platform for Tribal Exchange Representative
    - vii. Nevada Health Link's Policies and Agreements
2. Nevada Health Link Enrollment specific training
  - a. One-on-one training with enrollment tips from Rosa Alejandre, the Exchange’s Navigator Program Manager. This can be virtual.
3. MOU/MOA and any other agreements signed as needed for the implementation of the tribal sponsorship and for clarifying the responsibilities of the Tribal clinics, the Tribal Exchange Representatives, the Exchange, and any other parties involved.

Concurrently, 45 C.F.R 155.225(d)(8)(ii) relates to Certified Application Counselors meeting licensing, **and** certification standards as prescribed by the State or Exchange, if applicable, **so long as such standards do not prevent the application of the provisions of the ACA.** Section (ii) stating, **“Requirements that would prevent certified application counselors from providing services to all persons to whom they are required to provide assistance.”**

Current requirements are a barrier for Tribes and their ability to be able to provide services to their tribal members whom they are required to assist. Again, we are NOT calling the Tribal Exchange Representatives CAC/CEC/EEFs or assisters. They would not be licensed and they would again only serve the tribal population for which they serve.

Additionally, the process of fingerprinting and background checks of Tribal Exchange Representatives is a separate and evolving conversation that the Exchange is having in parallel with Tribes as it may be redundant due to other fingerprinting and background checks performed separately and distinct from this program. The Exchange consulted with the DOI regarding this and have come to the understanding that this is up to the Exchange on how to move forward and can be determined internally.

## **CONCLUSION AND CONSIDERATION OF THE EXCHANGE BOARD:**

After taking into consideration the NV Tribes remarks about barriers to implementing the Tribal Sponsorship program, the DOI comments, the Exchange Deputy Attorney General's comments, the Chief Deputy Legislative Counsel's guidance, and referencing CFRs, NRS, and NAC guidance, the Exchange is asking the Board of Directors to approve of recognizing that a tribal individual who enrolls tribal community members into a qualified health plan not be considered an EEF or CEC, but recognize that such positions will be called Tribal Exchange Representatives for the sole purpose of helping tribal community members. It is important to recognize that waiving a Tribal Exchange Representative from the DOI requirements of certification would remove barriers and benefit the tribes in successfully implementing the Tribal Sponsorship program with the Exchange.

The Exchange understands that there will be significant work to fully implement and enhance the current enrollment management platform for the tribes to operate a Tribal Sponsorship program. As the NV Tribes and the Exchange embark on this program, the Exchange recognizes that adjustments may need to be considered as the program progresses over time. The Exchange looks forward to collaborating with the Tribes and any other stakeholders in having meaningful conversations and meetings with them as we work on agreements, policies, and procedures to be implemented for this endeavor. Our goal is to have such documents drafted and put into place as soon as possible or by July 1<sup>st</sup>, 2023, whichever comes first.