Alaska Native Health Board

THE VOICE OF ALASKA TRIBAL HEALTH SINCE 1968

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December 20, 2019

Courtney O'Byrne King
State Plan Coordinator and Legislative Liaison
Division of Health Care Services
Alaska Department of Health & Social Services
4501 Business Park Blvd., Bldg. L
Anchorage, Alaska 99503-7167

Re: Proposed State Plan Amendment to Add Licensed Marriage and Family Therapists Under the Other Licensed Practitioners Benefit

Dear Ms. King,

The Alaska Native Health Board (ANHB) appreciates the opportunity to provide comments as part of our tribal consultation on the proposed State Plan Amendment (SPA) to add licensed marriage and family therapists (LMFTs) under the other licensed practitioners benefit.

The ANHB was established in 1968 with the purpose of promoting the spiritual, physical, mental, social, and cultural well-being and pride of Alaska Native people. ANHB is the statewide voice on Alaska Native health issues and is the advocacy organization for the Alaska Tribal Health System (ATHS), which is comprised of tribal health programs that serve all of the 229 tribes and over 177,000 Alaska Natives and American Indians throughout the state. As the statewide tribal health advocacy organization, ANHB helps Alaska's tribes and tribal programs achieve effective consultation and communication with state and federal agencies on matters of mutual concern.

At our in-person consultation on December 13, 2019, the Department noted that the proposed addition of LMFTs would be submitted to the Centers for Medicare and Medicaid Services (CMS) as an adjustment to the proposed SPA already under consideration with CMS that adds licensed clinical social workers (LCSWs) and psychologists under the other licensed practitioners benefit. Our comments here also parallel the requests we made during the consultation conducted over the summer on that proposed SPA: we request this SPA be revised (or a companion SPA be created) to add LMFTs, LCSWs, psychologists, licensed professional counselors (LPCs), and other qualified behavioral health clinicians to the list of eligible providers in Tribal Clinics for Tribal Clinic Services.

For several years, the Alaska Tribal Health System and the Department of Health and Social Services (DHSS or "Department") have discussed modifying the State Plan (or "the Plan") to cover the delivery of integrated medical and behavioral health services in Tribal Clinics, including the services of LMFTs, LCSWs, psychologists, LPCs, and other

professional behavioral health clinicians, and to reimburse those services as "encounters" at the Tribal Clinic encounter rate. This was a priority and included in one of the Medicaid reform concept papers requested presented by the ATHS during the "tribal Medicaid reform" meetings in 2016. At the time both parties saw clear benefits to such a change: it would increase access to behavioral health services and help the ATHS identify and treat behavioral health issues early, before they become more acute and costly to treat. However, at the request of the Department the ATHS was requested to postpone working on this proposal, because the State explained it would be better suited to address these issues when the 1115 behavioral health was developed.

Unfortunately, while the 1115 waiver addresses many issues outside of the ATHS, it does not address this specific goal of supporting integrated behavioral health by covering the services of behavioral health clinicians as a Tribal Clinic service as was proposed and agreed during the Tribal Medicaid Reform initiative. After postponing this topic at the request of the Department, we now ask for resolution in this SPA, or in companion SPAs submitted with it or in the very near future.

From our discussion at in-person tribal consultation, we understand that the Department believes our request would require an amendment to the Tribal Clinics reimbursement section of the Plan (4.19-C Tribal Clinic Services) and an estimate of the resulting fiscal impact to the State and federal governments. Even if our request could be achieved through modifying the currently-proposed SPA, the Department believes this would slow the process, and we understand it is not willing to delay implementing the legislative directive to otherwise cover the behavioral health clinicians' services. However, the Department agreed to seriously and expeditiously review our request and work with us to identify a path to Medicaid coverage of integrated behavioral health services in tribal clinics. We appreciate that commitment.

A solution we discussed, and agreed to diligently investigate together, is the option for Tribal clinics to elect to be designated as Tribal FQHCs, with the State amending its State Plan to reimburse such FQHCs at the encounter rate. Because the services of behavioral health clinicians are covered under the Medicaid FQHC benefit, this would allow behavioral health and medical health services to be integrated in tribal clinics and to be reimbursed at the encounter rate. Changing to an FQHC designation also has the potential to resolve the "four walls" limitation on clinic services, which CMS says precludes encounter rate payment for services provided outside the clinic facility, and which CMS announced it will begin enforcing after January 30, 2021. As you know, CMS suggested Tribal FQHC designation as a solution to the four walls problem, because federal Medicaid law allows FQHC services to be furnished in any community location. However, it is not yet clear whether that would be a successful strategy in Alaska since, ironically and among other things, Alaska has imposed its own four-walls restriction on FQHC services. Further, the Department explained there are many steps it would need to take before it could agree to and implement the Tribal FQHC option.

As a first step, the Department agreed to provide a realistic timeline, in the next several weeks, of the specific tasks that would be needed to achieve integration by either adding behavioral health clinicians under the tribal clinic benefit or adopting a Tribal FQHC option. Identifying the tasks and timeline are important in light of the January 30, 2021 deadline that CMS has imposed States

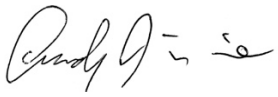
and tribal clinics to come into compliance with the "clinic services" requirements by converting to a Tribal FQHC or changing their enrollment status to FQHC before that date.

For its part, the ATHS agreed to further analyze the advantages, disadvantages, and any obstacles in the way of the Tribal FQHC option.

We understand the Department is working under tight timelines and diligently pursuing significant changes to the State Plan and regulations related to the transformation of the behavioral health system of care. While we recognize the challenges that presents, integrating behavioral health and medical services in community settings is also vitally important to achieving success in behavioral health care delivery.

We thank the Department again for consulting with us on this proposed State Plan Amendment, and we look forward to hearing from the Department on a timeline to achieve behavioral health provider integration into Tribal Clinics or through a Tribal FQHC option. If the Department would like further dialogue or information on this request, please do not hesitate to contact us. You may reach ANHB and the Tribal Behavioral Health Directors at (907) 562-6006 or at anhb@anhb.org.

Sincerely,



Andrew Jimmie
Chairman, Elected Tribal Leader, Village of Minto

CC: Albert Wall, Deputy Commissioner for Family, Community & Integrated Services
Gennifer Moreau-Johnson, Director of Behavioral Health