The Confederated Tribes of the Colville Reservation

Prepared Statement of the Honorable Jarred-Michael Erickson, Chairman
Confederated Tribes of the Colville Reservation

House Committee on Natural Resources
Subcommittee on Indian and Insular Affairs

Legislative Hearing on H.R. 7516, the "Purchased and Referred Care Improvement Act of 2024"

April 30, 2024

The Confederated Tribes of the Colville Reservation ("Colville Tribes" or the "CCT") appreciates the Subcommittee holding today's hearing on H.R. 7516, the "Purchased and Referred Care Improvement Act of 2024." The CCT developed the bill in response to a litany of issues it has endured with the Indian Health Service's ("IHS's") mismanagement of the Purchased-Referred Care ("PRC") program on the Colville Reservation.

The CCT is a direct service tribe, which means that health care and associated billing and administrative support is provided by IHS employees. For direct service tribes, H.R. 7516 would clarify and strengthen IHS's duties to inform providers that tribal members are not liable for PRC bills. The bill would also require IHS to reimburse tribal members who have paid medical bills out-of-pocket for PRC services when IHS failed to pay the PRC providers for those services.

Although now considered a single Indian tribe, the Colville Tribes is a confederation of twelve aboriginal tribes and bands from across eastern Washington state, northeastern Oregon, Idaho, and British Columbia. The present-day Colville Reservation is in north-central Washington state and was established by an Executive Order in 1872. The Colville Reservation covers more than 1.4 million acres, and its boundaries include portions of both Okanogan and Ferry counties, two of the lowest median income counties in the state. Geographically, the Colville Reservation is larger than the state of Delaware and is the largest Indian reservation in the pacific Northwest.

The CCT is in the beginning stages of contracting all IHS functions under the Indian Self-Determination and Education Assistance Act of 1975. This process will take time, however. In the meantime, we must rely on IHS to provide health care to our tribal citizens.

A. **Mismanagement of the PRC Program on the Colville Reservation**

IHS has a trust responsibility to provide health care to Indian beneficiaries through direct care at IHS or tribally operated health facilities and through the PRC program. The PRC program provides IHS beneficiaries with specialty or other care from private, non-IHS health providers when such care is unavailable at IHS facilities. The Colville Tribes, like other Indian tribes in the Portland IHS Area, is particularly reliant on the PRC program because of the lack of inpatient

IHS hospital facilities in the Portland Area. Without full-service hospital facilities, many health care services must be referred to private providers through the PRC program because those services are not available in outpatient clinics.

Private health providers voluntarily participate in the PRC program by executing an agreement with IHS. For tribal members to receive health care services through the PRC program, IHS must approve a purchase order for the services, which is essentially a voucher that the PRC provider relies on to get paid by IHS for providing the services. Even with an IHS authorized purchase order, private providers will require tribal members to sign boilerplate forms that state that the patient will be financially responsible for any medical bills that private insurance or IHS does not pay.

When Congress reauthorized the Indian Health Care Improvement Act (IHCIA) in 2010, it amended section 222[1] of that Act, which relates to liability for payment. Section 222 states that for PRC care authorized by IHS, the patient is not liable for payment associated with the care. It also requires IHS to communicate this to both the PRC provider and the patient within five business days after receiving notice of a claim by the PRC provider.

IHS has never uniformly or effectively implemented section 222 at federally managed service units, including on the Colville Reservation. Beginning in 2017, IHS moved the PRC program from the local Colville Service Unit to the Portland Area Office for reasons that were never fully explained to the Colville Tribes. This change, which continued until October 2022, meant that federal employees 350 miles away from the Colville Reservation were now responsible for approving and processing purchase orders, communicating with local PRC providers, ensuring that providers were paid in a timely manner, and otherwise administering the PRC program. Our local IHS personnel at the Colville Service Unit, most of whom are Colville tribal members, had no control over how the PRC program was administered during this five-year period.

During the time the Portland Area administered the PRC program for the Colville Service Unit, IHS did not provide the notice required by section 222 to providers and tribal member patients on a timely or consistent basis, if at all. Payment for purchase orders to PRC providers consistently went unpaid, which prompted the providers to pursue tribal members for payment of the bills when the providers did not receive payment from IHS. Our local IHS personnel went to great lengths to try to get PRC services for our tribal members and otherwise make the PRC program workable as best they could. The IHS Portland Area Office, however, would impose new obstacles at every turn.

The IHS Portland Area office returned the PRC program back to the Colville Service Unit in the fall of 2022. Our local IHS staff found that a large backlog of unreconciled purchase orders—referred to as "undelivered orders"—had accumulated during the time the Portland Area Office administered the program. Undelivered orders include purchase orders that have not been

[1] Section 222 is codified at 25 U.S.C. § 1621u.

paid, have been partially paid, were issued but not used, or any number of other circumstances that prevented the purchase orders from being reconciled and closed out.

For every year since 2018 that the IHS Portland Area administered the PRC program, a backlog accumulated annually of between 1500 to 2000 undelivered orders. The Colville Tribes estimates that of the approximately $33 million in PRC carryover funds that the IHS Portland Area currently has on its books, as much as $24 million of that amount is attributable to the undelivered orders at the Colville Service Unit dating back to 2018.

B. IHS Mismanagement has Inflicted Hardships on Tribal Members and Eroded Health Care Delivery on the Colville Reservation

IHS's mismanagement of the PRC program—specifically its failure to pay PRC providers—has created a domino effect of negative outcomes. Since most tribal members cannot afford to pay medical bills, when IHS does not pay PRC providers and the providers do not receive payment from tribal members, the providers will usually assign the debt to third party debt collectors. Even though section 222 of the IHCIA generally states that individuals are not liable for bills associated with authorized PRC services, the PRC providers rely on the boilerplate consent forms that they require all patients to sign as an alternative basis to pursue the debt.

Being referred to collection agencies negatively impacts tribal members' credit scores, which results in higher interest rates for mortgages and consumer loans and, in some cases, the inability to obtain credit or financing altogether. Because of IHS's mismanagement of the PRC program, many tribal members on the Colville Reservation have had their credit negatively impacted through no fault of their own. For those tribal members who are able and choose to pay medical bills from PRC services out of fear of having their credit impacted by collections activity, IHS does not have a readily accessible process to reimburse those payments.

IHS's mismanagement of the PRC program has resulted in many Colville tribal members avoiding IHS care altogether out of fear of being saddled with medical bills and having their credit negatively affected. For some individuals who do not have other insurance or healthcare options, they simply go without care. Also, when tribal members shun IHS facilities, the user population for a given IHS service unit will decrease, which will reduce the service unit's allocation of PRC funds under the PRC distribution formula. This has been happening at the Colville Service Unit for years and our allocation of PRC funds has decreased because of it.

Yet another consequence of IHS's mismanagement is a dwindling number of local health providers that are willing to participate in the PRC program. Like most rural communities, north central and northeastern Washington has a limited number of private health providers. When these providers cannot predict if or when IHS will pay them for PRC services, they have little reason to continue participating in the PRC program.

The Colville Tribes is aware of PRC providers that have refused to schedule appointments with tribal members that have balances from previous PRC purchase orders that

have not been paid by IHS. We are also aware of providers that have dropped out of the PRC program because of IHS's administration of the program. The limited and shrinking number of PRC providers is aggravated by the high vacancy rate of IHS employed health providers. There is a 64 percent vacancy rate at the Colville IHS Service Unit, and many of these vacancies have been unfilled for months, or even years. The Colville Service Unit's one full-time doctor is leaving on May 1, 2024.

C. The PRC Improvement Act would Provide Overdue Clarity to the PRC Program

H.R. 7516 would amend section 222 of the IHCIA to clarify that individuals that receive PRC care that is authorized by IHS shall not be liable to any "provider, debt collector, or any other person." The current section 222 does not mention debt collectors, so the inclusion of these references will provide needed clarity.

The inclusion of "[n]otwithstanding any other provision of law" at the beginning of section 222(a) is intended to preempt, by operation of federal law, the boilerplate consent forms that providers require patients to sign before receiving care from establishing an independent right for the provider to assign medical bills generated by the visit (that IHS does not pay) to collection agencies. Federally preempting the use of these forms to prevent providers from pursuing tribal members for IHS-authorized PRC medical bills through collection agencies will keep the focus and responsibility for paying those medical bills on IHS, where it belongs.

Finally, H.R. 7516 would add new subsection to section 222 that requires IHS to reimburse individuals who paid medical bills out-of-pocket for IHS authorized PRC services. The new subsection would require IHS to implement reimbursement procedures by allowing individuals to submit evidence of payment electronically or in-person at IHS facilities. On the Colville Reservation, many elders who have been sent to collections for unpaid IHS PRC bills require the option to provide documents in-person instead of online. This provision is intended to accommodate those circumstances. Upon receipt of evidence of payment, IHS would have 30 days to provide the reimbursement.

While there are many issues with IHS's management of the PRC program, the Purchased and Referred Care Improvement Act would address the critical issue of tribal members being sent to collections agencies. The Colville Tribes urges the Committee to take whatever steps are necessary to secure enactment of H.R. 7516 into law.

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