



# WHITE MOUNTAIN APACHE TRIBE

## A Sovereign Tribal Nation

### (Opposing an Arizona Health Care Cost Containment System (AHCCCS) Work Requirement for Native Americans)

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- WHEREAS**, the White Mountain Apache Tribe is a federally recognized Indian Tribe, organized pursuant to section 16 of the Indian Reorganization Act of 1934 (48 Stat. 984), with inherent rights of self-determination and self-governance; and
- WHEREAS**, pursuant to Article IV, Section 1(a) and 1(s) of the Constitution of the White Mountain Apache Tribe, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and
- WHEREAS**, Apache Behavioral Health Services, Inc. (“ABHS”) is an organization chartered by the White Mountain Apache Tribe to provide behavioral health services to residents of the Fort Apache Indian Reservation and tribal members of the White Mountain Apache Tribe; and
- WHEREAS**, the State of Arizona through its Arizona Health Care Cost Containment System (“AHCCCS”) administers the Federal Medicaid Program in Arizona under Special Terms and Conditions (“STC”) approved by the United States Centers for Medicare and Medicaid Services (“CMS”); and
- WHEREAS**, AHCCCS administers the Fee for Service Program which pays for medical and behavioral health services for American Indians in Arizona provided by approved Medicaid providers which includes Tribal/ Regional Behavioral Health Authorities (“TRBHA”), such as ABHS, and the Indian Health Service (“IHS”); and
- WHEREAS**, AHCCCS published its intent to apply to CMS for approval of the Arizona Works Waiver Request on January 12, 2017 which, if approved, would add additional eligibility requirements for AHCCCS coverage including: a work requirement for all able-bodied adults; monthly evidence of compliance with the work requirement; and a five-year lifetime limit on eligibility for all able-bodied adults; and
- WHEREAS**, numerous Tribes and Tribal Health Organizations participated in consultation with AHCCCS and opposed the work requirement for American Indians and Alaskan Natives eligible for healthcare through IHS or Tribal health providers such as ABHS; and
- WHEREAS**, after consulting with Tribes on December 19, 2017, AHCCCS submitted the Arizona Works Waiver Request to CMS with an exemption for American Indians; and



***Resolution No. 10-2018-237***

**WHEREAS,** CMS stated, in its January 17, 2018 Dear Tribal Leader letter, responding to numerous Tribes' requests for tribal consultation requesting that CMS exempt American Indians and Alaskan Natives from any state Medicaid Work Requirements, that "[u]nfortunately, we are constrained by statute and our concern that requiring states to exempt AI/ANs from work and community engagement requirements could raise civil rights issues"; and

**WHEREAS,** the opinion of CMS expressed in its January 17, 2018 Dear Tribal Leader letter is contrary to longstanding federal law and policy which recognizes the sovereign authority of tribes over their members and their territory and also recognizes that federal laws and programs addressing the needs and rights of American Indians do not violate the Constitution or laws of the United States; and

**WHEREAS,** numerous tribal organizations including the Tribal Technical Advisory Group to CMS, the National Indian Health Board, and the Inter-Tribal Association of Arizona, as well as numerous Tribes oppose the imposition of a work requirement on American Indians and Alaskan Natives who receive health care through IHS or tribal health organizations; and

**WHEREAS,** the Arizona Legislature enacted HB 2228, which was signed by Governor Ducey on April 12, 2018 and directs AHCCCS to exempt American Indians and Alaskan Natives who are eligible for services through IHS or through a Tribal or Urban Indian Health Program from the Arizona Works Program; and

**WHEREAS,** CMS may approve the Arizona Works Waiver Request without an exemption for American Indians as requested by AHCCCS and as required by HB 2228; and

**WHEREAS,** if the Arizona Works Waiver Request is implemented without an exception for American Indians, many members of the White Mountain Apache Tribe will lose eligibility for AHCCCS coverage and ABHS will suffer a very large loss of revenue which will force ABHS to substantially reduce services to members of the White Mountain Apache Tribe; and

**WHEREAS,** Governor Ducey and AHCCCS should comply with HB 2228 which adopted the American Indian and Alaskan Native exemption for the Arizona Works Medicaid Waiver Request and reject any CMS directive requiring AHCCCS to impose the Arizona Works eligibility requirement on members of the White Mountain Apache Tribe receiving behavioral health services through ABHS.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby opposes the imposition of a work requirement for American Indians and Alaskan Natives who receive healthcare through IHS or tribal health providers due to the significant detrimental impact the requirement will have on White Mountain Apache Tribal members.

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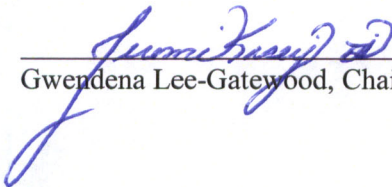
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby urges Governor Ducey and CMS to reject the Arizona Waiver Request unless it complies with HB 2228 and includes an exemption for American Indians and Alaskan Natives.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

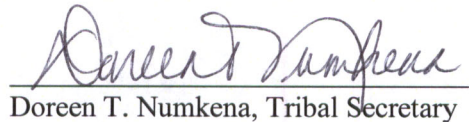
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairwoman, or in her absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on August 10, 2018 duly adopted by a vote of TEN for, ZERO against, and ZERO abstentions by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

  
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Gwendena Lee-Gatewood, Chairwoman

31 Oct 18  
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Date

  
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Doreen T. Numkena, Tribal Secretary

10-31-18  
\_\_\_\_\_  
Date