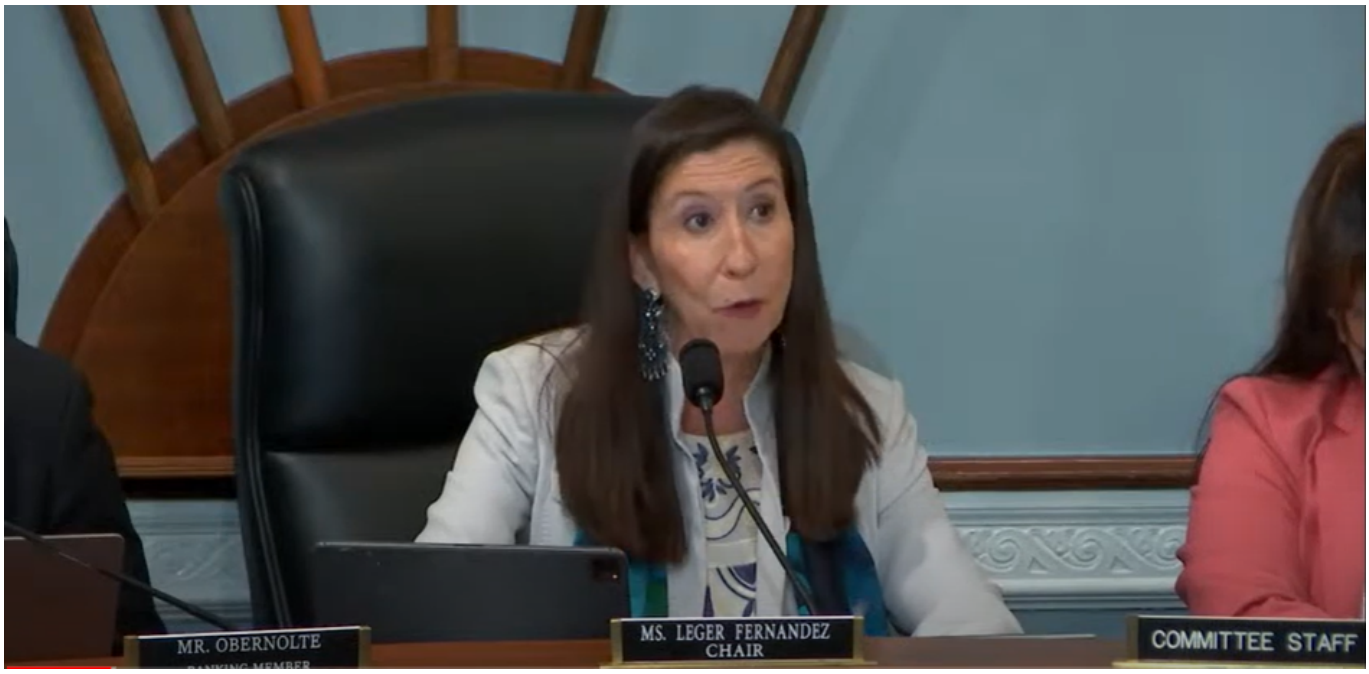
Urban Indian Health Policy Updates: Hearing Held with Bipartisan Support for Advance Appropriations

Category: Policy Blog
written by NCUIH | July 29, 2022

July is almost over! Here's what's happening next week:

- Tuesday, August 2, 2022 from 2:00 – 3:30 pm Eastern – Tribal Consultation and Urban Confer on Indian Health Service (IHS) Health Information Technology (HIT) Modernization (DULL): Health IT Modernization Data Management Strategy (Registration Link)

1 Big Thing: Congressional hearing held on securing stable funding for the Indian Health Service



"A quarter of a century has passed without the Indian Health Service receiving full-year funding" said Chair Leger Fernandez.

Yesterday, NCUIH Board Member Maureen Rosette testified before Congress in support of stable funding for the Indian Health Service (IHS) through Advance Appropriations until mandatory funding is implemented. While legislation is not required for Advance Appropriations that can be accomplished through Appropriations bills, this hearing showed continued support from Congressional leaders in making Advance Appropriations a reality.

"The federal government has a responsibility, a sacred responsibility, to fulfill the central trust

and treaty responsibility for health care services to Native Americans," said Representative Betty McCollum (D-MN-04).

"Rather than fulfilling our trust responsibility to [Native people], instead, we tell them to wait until the government reopens. It really puts them in an unacceptable situation," said Jay Obernolte (R-CA-8), SCIP Acting Ranking Member.

Native Organization leaders also emphasized the importance for urgently achieving advance appropriations.

> "Every [Native] community has been impacted by government shutdowns that could be avoided through advance appropriations."
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> ***– Jonathan Nez, President of the Navajo Nation and member of NIHB***
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> "Indian Country has long supported advance appropriations as a pragmatic solution to the impact of funding disruptions that we've experienced all across the IHS system."
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> ***– Fawn Sharp, Vice President of the Quinault Indian Nation and President of NCAI***
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> "One of the most limited and scarcely resourced Urban Indian Organizations received seven overdose patients during the last shutdown after they were forced to close their doors, five of which were fatal."
>
> ***– Maureen Rosette, Chippewa Cree Nation, NCUIH board member and Chief Operating Officer at NATIVE Project***

Go deeper: Acting Director of IHS Liz Fowler explained how Urban Indian Organizations are impacted by funding instability.

> "Urban Indian organizations are funded through a different mechanism than our tribal health programs. They're funded through contracts and grants. The contracts are Federal acquisition regulation contracts. One reason that they're disproportionately impacted is that during a continuing resolution, we're able to pay tribal programs, whose contracts and compacts have start dates within the continuing resolution period, their full year funding through an exception apportionment process. We are unable to do this for the urban Indian organizations and so they receive funding for a partial amount that's consistent with the continuing resolution period. So it's a piecemeal funding method for those programs."

2. Senate releases draft funding bills with Advance Appropriations, Increase for Urban Indian Health

The Senate Appropriations Subcommittee has released its fiscal year (FY) 2023 Interior, Environment, and Related Agencies bill with $80.4 million for urban Indian health— $7 million above the current enacted level, and $32 million below the President's request.

- The bill also authorizes $7.38 billion for the Indian Health Service (IHS), an increase of $762 million from FY 2022, but $1.72 billion below the President's request.
- Thanks to the robust advocacy efforts from NCUIH, Urban Indian Organizations (UIOs) and Tribes alike, the bill text provides $5.577 billion of advance appropriations for IHS for FY 2024.
- Other key provisions include $9 million to improve maternal health, increased funding for mental health programs, and expanded funding for community health representatives.

What's next: The Committee is not going to conduct markups and it is expected that there will be a continuing resolution when FY22 funding expires on September 30, 2022. NCUIH will continue to advocate for full funding for IHS and urban Indian health with Advance Appropriations for FY23 as negotiations proceed later in the year.

House Appropriations Status*:* The House passed H.R. 8294 as part of six-bill package on July 21, 2022. The bill included $200 million for urban Indian health, but fails to include advance appropriations for IHS.

3. On our radar: Challenge to Indian Child Welfare Act Advances at Supreme Court

The Supreme Court is preparing to hear a constitutional challenge to the Indian Child Welfare Act (ICWA) that consolidates four petitions to review the Fifth Circuit's April 2021 en banc decision in *Brackeen v. Haaland*.

- In this decision, the United States Court of Appeals for the Fifth Circuit upheld the overall constitutionality of ICWA. However, it overturned certain ICWA processes and provisions that concern placement preferences of Native children in Indian homes.
- On May 26, 2022, the Court received amicus briefs from supporters of the ICWA challengers. The challengers and their amici argue that ICWA violates several constitutional provisions including equal protection, anticommandeering, and nondelegation.

Why it matters: ICWA represents the gold standard in child welfare proceedings, strengthening and preserving American Indian and Alaska Native (AI/AN) family structure and culture.

By the numbers: When ICWA was established in 1978, studies showed that between 25% and 35% of all Native children were removed from their homes by state child welfare and private adoption agencies. Of those, 85% were placed with non-Native families, even when fit and willing relatives were available.

The bottom line: ICWA re-established tribal authority to safeguard against such practices by requiring that Native children be placed with extended family members, other tribal members, or other Native families prior to placement in non-Indian homes.

What's next: The next round of amicus briefs in support of ICWA and Tribal intervenors are due by August 12, 2022, and oral arguments are expected to begin after the Supreme Court term starts in October.

Go deeper: NCUIH previously provided an in-depth analysis on the impact of ICWA. We will continue to monitor ongoing developments as *Brackeen v. Haaland* proceeds to oral argument, and to provide updates on how the case impacts urban Indian communities.

4. From the blog: Bipartisan Support for Urban Confer at Senate Hearing, Labor-HHS funding update

- *Bipartisan Support for Urban Confer at Senate Hearing*
- *Urban Indian Leaders Encouraged to Apply for New Environment Protection Agency Advisory Committee on Children's Health*
- *Challenge to Indian Child Welfare Act Advances at Supreme Court*
- *House Appropriations Committee Approves Labor-HHS Bill with Funding Increases for Indian Country*
- *Resource: America's Disproportionate Investment in Healthcare for American Indians and Alaska Natives*

5. One last thing: Resource: America's Disproportionate Investment in Healthcare for American Indians and Alaska Natives



NCUIH recently published a one-pager showcasing the disproportionate gaps in national healthcare investment for American Indians and Alaska Natives (AI/ANs).

Why it matters: The Indian Health Service (IHS) and Urban Indian Health budgets have long been underfunded.

What they're saying: In the agency's Fiscal Year (FY) 2023 Performance Budget Submission to Congress, IHS highlighted these disparities, noting that the "Indian health system is chronically underfunded compared to other healthcare systems in the U.S."

By the numbers: NCUIH's analysis of FY 2018 appropriations shows that the US spends $11,172 in healthcare costs per person. In contrast, Tribal and IHS facilities receive $4,078 per IHS eligible patient, while Urban Indian Organizations (UIOs), which support the over 70% of AI/ANs living off-reservation, receive just $672 per AI/AN patient from the IHS budget.

Go deeper: NCUIH data further shows that the gap between tribal budgetary needs submitted via requests to Congress and eventual appropriations has continued to skyrocket over recent years, thereby increasing discrepancies in per-person healthcare spending at UIOs.
(Download one pager)

We need you! We are calling on Native health advocates to contact the Speaker today to support

Advance Appropriations! (*Action Alert*)