

**Department of Health Services & WI Indian Tribes  
2009 Consultation Implementation Plan  
November 2008 – May 2009**

The Wisconsin Department of Health Services (DHS) and the federally recognized Indian Tribes in Wisconsin held an annual consultation meeting November 13, 2008. This Implementation Plan is the product of the consultation meeting. The plan is a set of mutually agreeable short and long term strategies to address health and human services issues. The Department and Wisconsin Indian Tribes agree to collaborate and provide staff as required to successfully achieve these outcomes.

**TRIBAL -COUNTY RELATIONS**

**Issue 1: Improving Menominee Tribe-County Relationship** (Carried over from previous plan.)

The Menominee Tribe reports a lack of consistency in the referrals and payments they receive from Menominee County. The County makes a referral to Maehnowesekiyah based on the client's choice but then does not follow through with payment for treatment services. The County has provided a variety of reasons for not paying. It is known that if a tribal member is referred to another treatment facility the county follows through with payment.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. DHS will follow up with Menominee County to see if the templates are being utilized.	January 15, 2009	Gail Nahwahquaw, DHS/DMHSAS	

**AODA & MENTAL HEALTH SERVICES**

**Issue 1: AODA Services to Pregnant Teens** (Carried over from previous plan.)

The Menominee Tribe provides AODA services to pregnant teens. However, some physicians are reluctant to refer pregnant teens to AODA treatment because they fear that referring them for AODA services will deter the teens from seeking prenatal care, especially if social service or law enforcement agencies become involved.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. Provide guidance for health care workers/physicians	March 2009	Joyce Allen,	

about when to make referrals in an effort to resolve this issue without involving the Wisconsin Legislature. A status update and draft of language will be sent to all tribes for comment.		DHS/DMHSAS, Connie Klick, DCF; June Paul, DCF	
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**Issue 2: Attracting and Retaining Staff** (Carried over from previous plan.)

Tribal health clinics have a difficult time attracting and retaining quality medical, pharmacy, behavior health and dental providers. In many cases, tribes cannot match salaries offered in more urban settings. Incentives should be developed to attract quality people in tribal communities. Low salaries and low retention rates result in a lack of behavioral health counselors in rural areas. Even if tribes have money to pay for services, there aren't enough counselors to work with clients.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. Arrange a conference call between DHS, DWD, health directors and mental health directors to identify a couple priority areas that we can focus on over the next year.	January 2009	Jim Weber, DHS/TAO	
2. Schedule a meeting of tribal health directors, behavior health directors and Secretary Timberlake to discuss this issue so DHS understands the challenges and how DHS can leverage resources that are needed.	January 2009	Jeff Muse, GLITC	
3. Arrange a meeting to explore long term care work force development. An alliance is already in place but tribes are not really connected, ie. CNAs and personal care workers.	January 2009	Sinikka Santala, DHS/DLTC	

**Issue 3: Tribal Youth Treatment and/or Detention Center** (Carried over from previous plan.)

Tribal youths are often sent out of state for AODA treatment because there is no culturally competent in-patient treatment program in Wisconsin. In addition, tribal youths are often sent all the way to Racine for secure detention. Both situations cause hardship for Indian families, and the long distances prohibits family involvement in rehabilitation.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
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1. A list of people on the Tribal State Collaboration for Positive Change and WIAJ will be sent to all consultation meeting participants.	December 31, 2008	David Rynearson, DHS/TAO	
2. The WIAJ will be asked to present the results of the feasibility study and provide a progress report at the next consultation meeting.	May 2009	David Rynearson DHS/TAO and WIAJ Representative	

**Issue 4: Counties Request Tribes Pay More for AODA Treatment & Mental Health Commitments.** (Carried over from previous plan.)

Some counties are asking tribes to pay more for the cost of court ordered mental health commitments and AODA treatment. Neither county nor tribe is in a financial position to pay for the amount of services needed. Tribes are worried that very soon people in need will be left without services. In Menominee County the issue was taken to the county-tribe task force and the issue has become a point of contention. The tribe feels the county believes the tribe has “deeper pockets than we do.” Chairwoman Waukau believes they need a common sense approach to resolving the issue. Chairman Shopodock of the Forest County Potawatomi Community reports that the Tri-County Human Service Center is billing the tribe for AODA treatment when tribal members agree to enter treatment instead of going to jail. Tribes feel this is unfair. Counties are responsible for paying costs of court-ordered commitment and AODA treatment. The state does not step in to help with payment except for the annual Community Aids allocation provided to each county. Because of this, many counties are trying to find alternatives to commitments and using other services as preventative measures, such as wraparound services, when a person comes out of treatment or before they enter. The state Community Aids allocation to counties includes Mental Health, Social Services and Substance Abuse Block Grant funds. Counties do not receive extra funding for mental health commitments. Federal funding for these services has been decreasing for the past several years.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. Create a joint DHS and Tribal strategy for recouping more federal revenue for mental health and AODA services.	May 2009	Rea Holmes, DHS/OS	

**Issue 5: 1915-I Waivers**

The state Community Aids allocation to counties includes Mental Health, Social Services and Substance Abuse Block Grant funds. Counties do not receive extra funding for mental health commitments. Federal funding for these services has been decreasing for the

past several years. However, there has been a change in federal law that allows states to identify certain groups that would receive services by submitting a state plan amendment with waiver-like elements. There is a match requirement, which would need to be addressed since MH services match comes from counties. The question remains who pays the match when it comes through tribes? DHS is giving serious consideration to applying for this state plan amendment to CMS. John Easterday asked if tribes have an interest in being involved, as DHS may need to form a work group to gain federal approval. DHS would like to focus around mental health services a strategy to infuse MH resources into the system around the state, which could pay for a lot of what is considered targeted-case management and much more.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. DHS will send tribes information about 1915-I Waiver asking tribes to indicate whether they are interested in participating.	December 15, 2008	John Easterday and Joyce Allen, DHS/DMHSAS and Tribal Leaders	

### **LONG TERM CARE REFORM**

#### **Issue 1: Long Term Care Reform** (Carried over from previous plan.)

Questions exist about how tribal members will access long-term care services for elders and individuals with physical or developmental disabilities when Family Care expands. Most tribes provide health care, personal care, and aging services to elders but often must reach outside the tribal system for specialized health care and services for individuals with development disabilities. DHS and Tribes need to examine all options available to ensure that tribal members will have access to the full range of services in the new managed care environment. The Department recognizes and respects the unique circumstances facing each of the 11 Wisconsin tribes. In particular, the Ho-Chunk Nation's 15 county service area overlaps multiple Family Care care management areas. DHS will provide technical assistance to address these special circumstances in developing systems that meets the tribes' long term care needs. The Department is in the process of developing guidelines to tribes to implement the Tribal Aging and Disability Specialist model. Information to be shared with Tribes will include the process to apply for funding, timing for funding availability, model position description for the specialist and a model memorandum of understanding to be developed between the Tribe and ADRC.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. Tribal Aging and Disability Resource (ADR) Specialist application packets will be sent to each tribe.	Spring 2009	Gail Schwersenska,	

<p>2. Draft language for establishing MOUs between ADRCs and Tribal ADR Specialists will be reviewed by the Tribal Aging Directors and then sent to Tribal Chairs/ Presidents for comment. ADRCs will be given an opportunity to comment after tribal comments are addressed.</p>	<p>March 2009</p>	<p>DHS/DLTC and Tribal Representatives  Gail Schwersenska, DHS/DLTC</p>	
<p>3. DHS will assist tribes to connect with MCO leadership in their area to explore ways how tribal service providers could become part of the MCO network. DHS will also identify if tribal providers need additional technical assistance to become a Family Care provider.</p>	<p>January 2009</p>	<p>Sinikka Santala, DHS/DLTC</p>	
<p>4. DHS will invite tribal providers to meet with MCO directors at their regular meeting to discuss issues identified in Item 3.</p>	<p>March 2009</p>	<p>Sinikka Santala, DHS/DLTC</p>	
<p>5. DHS and Tribes will research the tribes' level of need for Disability Benefits Specialists.</p>	<p>May 2009</p>	<p>Tribal Aging Directors and Gail Schwersenska, DHS/DLTC</p>	
<p>6. DHS will further clarify at what rate FQHCs can be paid for in the Family Care provider network.</p>	<p>May 2009</p>	<p>Sinikka Santala, DHS/DLTC</p>	

**Issue 2: Tribes as Home & Community-Based Waiver Agencies** (Carried over from previous plan.)

A process for becoming a Home and Community Based Waiver Agency has been developed by DHS so tribes can manage and bill for their own Medicaid Waiver slots. DHS has entered into a Home and Community Based Waiver contract with Menominee Tribe

effective January 1, 2008. Becoming a waiver agency could assist in removing tribal members from county waiting lists and into services if tribes are able to provide the 40% local match. If/when 100% FMAP is available the federal government will pay 100% for these services. A technical assistance document has been sent to all tribes describing this process.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. Tribes will review the draft DHS letter to Wisconsin's Congressional delegation and respond whether they want to sign-on or send their own letter requesting 100% federal MA reimbursement for tribal Medicaid Waiver services.	December 31, 2008	Tribal leaders	
2. DHS will continue examining the feasibility of operating a waiver program that would be operated by tribes.	May 2009	Sinikka Santala, DHS/DLTC	

## MEDICAID

**Issue 1: Data Exchange Project for 100% Federal Reimbursement for Tribal Members** (Carried over from previous plan.) States can claim 100% federal Medicaid reimbursement (FMAP) for services provided by tribal clinics that have a 638 Agreement with Indian Health Services to serve American Indians/Alaska Natives. A conservative estimate by DHS at this time suggests that \$2-3 million in federal Medicaid reimbursement is going unclaimed due to lack of an American Indian identifier on Wisconsin Medicaid claim forms. Currently, only 39% of such claims are identified as serving American Indians even though it is estimated that as many as 95% of the persons served at tribal clinics are American Indian. If Wisconsin could capture this additional federal funding, it would provide opportunities for DHS and Tribes to design initiatives that would expand Medicaid services and increase payments paid to tribal clinics. A pilot project is underway with the Lac du Flambeau Tribe to establish a confidential data sharing process that would automatically indicate claims for American Indians in the DHS CARES system. When this pilot project is successfully completed, DHS staff will approach other tribes in an effort to enter into similar agreements with the other ten tribes. In return for helping the Department draw down 100% FMAP, the tribes want assurance that additional revenues collected will be invested in tribal programs. The Department agreed to create a methodology that tracks additional federal revenue generated through this project and to work with tribes to design new tribal specific Medicaid initiatives. Opportunities also exist to claim 100% FMAP for long term care services that tribes provide its members, thus eliminating county waiting lists and creating a new source of funding for tribal long term care programs.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. DHS will continue to collaborate with the Lac du Flambeau Tribe seeking appropriate methods of capturing additional federal revenue.	February 2009	Jim Jones, DHS/DHCAA, DHS IT Staff, and Lac du Flambeau IT Staff	
2. DHS will create a method for tracking additional federal revenue generated by the Data Exchange Projects.	May 2009	Jim Jones, DHS/DHCF	
3. DHS will contact other tribal governments to determine whether they want to participate in the pilot project.	May 2009	Jim Weber, DHS/TAO	
4. DHS and Tribes will establish a work group to identify long-term strategies for enhancing tribal health systems using the federal revenue generated through the new data sharing agreements; e.g. flat rate option or other collaborative arrangements.	November 2009	Tribal Representatives, WTHDA, and Jim Jones, DHS/DHCAA	
<p><b>Issue 2: Reimbursement for Personal Care Services</b> (Carried over from previous plan.)</p> <p>Current state law prevents tribes from billing Medicaid for personal care services unless they are a licensed Home Health Agency. DHS has proposed a change to this rule, which is expected to be ready for public hearing in 2008. Until that time, tribes can be reimbursed for personal care services they provide to Medicaid eligible tribal members through billing agreements with a county or an Independent Living Center.</p>			
<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. DHS will notify tribes when the Home Health administrative rule is scheduled for public hearing.	February 2009	Liz Scudder, DHS/DLTC	

**Issue 3: Exempting Per Capita Payments** (Carried over from previous plan.)

Federal rules require that per capita payments be counted as income when determining eligibility for federally funded programs. Per capita payments make some tribal elders ineligible for Medicaid even though the per capita payment is not high enough to meet all of their needs. In order to disallow a portion of per capital payments from income, DHS must amend the State Medicaid Plan. In order to do this, DHS must first conduct an analysis to determine how much of an exemption the Department may be able to afford. When an amount is determined, CMS must approve an amendment. DHS and Tribes must collaborate to collect the data required for this analysis; Specifically, DHS needs to know the average per capita payment and frequency of payments provided by each tribe. If tribes have questions about this request, DHS/DHCF staff is available to explain why the information is needed, the benefits to tribal members, the DHS confidentiality process and other details. Effective 12/1/08, DHS will allow a \$500 per month deduction from each person’s payment in determining eligibility and cost share.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. DHS will determine whether the deduction applies to FoodShare eligibility.	January 2009	Jim Jones, DHS/DHCAA	
2. Once verified, DHCAA will send a letter to tribal leaders and county and tribal IM programs explaining the change in eligibility determination policy.	January 30, 2009	Jim Jones, DHS/DHCAA	

**PUBLIC HEALTH**

**Issue 1:** The state, counties and tribes would benefit from strengthening communicable disease collaboration and communication on disease investigations. A template MOU should be developed to facilitate this process.

<b>Deliverable</b>	<b>Due Date</b>	<b>Party/ies Responsible</b>	<b>Status of Deliverable</b>
1. DHS will facilitate meetings between the Forest County Health Department and the Forest County Potawatomi Health and Wellness Center to develop a model MOU that can be used by other counties and tribes.	January 30, 2009	DHS/DPH Northern Regional Office, Forest County Health Department, and	

		FCP Health and Wellness Center	
<b>Issue 2:</b> There is no current inventory of tribal public health systems. DHS will work with tribes to inventory tribal public health programs.			
1. Continue to work with the Oneida Tribe to develop a public health program inventory tool to use with other tribes.	May 2009	DHS/DPH Northeastern Regional Office and Oneida Tribe's Community Health Center	
2. Discuss with Tribal Health Directors to determine if other tribes want to utilize the inventory.	May 2009	DHS/DPH Regional Office and Tribal Health Directors	
<b>Issue 3:</b> If federal preparedness funds are not spent, Wisconsin will see a reduction of preparedness dollars in years ahead. DHS would like to work with tribal health leaders and provide technical assistance needed to meet requirements of the public health preparedness CDC grant. Current funding levels do not cover the amount of staff time required, which has some tribes questioning if it's worth accepting the grant. Tribes are requesting technical assistance to help them meet the CDC's objective in a cost effective manner.			
1. DHS regional office staff will work with tribal preparedness programs that have a need for assistance to meet grant objectives.	May 2009	DHS/DPH Regional Offices and Tribal Preparedness Leaders	

**CONSULTATION PROCESS**

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**Issue 1: Updates to Consultation Policies** (Carried over from previous plan.)

DHS received a request that it develop a more detailed procedure that includes timelines as part of the Department's *Policy Regarding Consultation with Wisconsin's Indian Tribes, Section V. Resolution of Issues*. There are concerns with DHS timeliness when responding to requests for assistance in resolving conflicts between tribes and county/state programs. The WI Dept. of Children and Families has contacted tribal leaders to solicit appointments to a joint DCF & DHS work group, which will create new language for this section.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. DHS, DCF and Tribes will convene a work group to revise the "Resolution of Issues" section of both departments' consultation policies.	February 2009	Jim Weber, DHS/Tribal Affairs Office, Jennie Mauer, DCF/Secretary's Office, Tribal Representatives	

**Issue 2: Uniformity of Consultation Process**

Different consultation implementation plan formats are being used by each state agency, which is confusing to tribal leaders reading each of the 14 plans. Tribal representatives in attendance said they prefer the DHS/DCF format over others being used by state agencies.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. Secretary Timberlake will discuss with DOA Secretary Michael Morgan tribes' request to modify all state consultation implementation plans to mirror the DHS format.	May 2009	Secretary Karen Timberlake, DHS/OS	

**FEDERAL AGENDA** (Carried over from previous plan.)

**Issue 1: Tribes and DHS identified federal legislation and federal policies that prevent tribal members from receiving the full range of services they need. Solutions to address these needs were outlined:**

**A. Lower Eligibility Age for Aging and Medicaid Programs**

Life expectancy for Native Americans (65 years) is shorter than that of all other U.S. Non-Natives (73.3 years). The highest mortality rate is for people between the ages of 50 – 65. This means that the average Native American barely lives long enough to reach the age of eligibility for most age-related programs. In addition, evidence indicates that Native Americans experience the same limitations in their daily living at age 45 as do non-Native American people at age 65. Because of this, many Native elders would benefit from receiving earlier preventative care, screenings and early intervention treatment. Native American tradition generally considers a person an elder at age 55.

**B. Recoup more federal revenue for mental health & AODA commitments/services.** (See MH & AODA Issues)

**C. Capture more revenue to serve foster children and drug endangered children with special needs.**

**D. 100 % FMAP for Waiver Services** (Long Term Care, Issue 2)

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. DHS will amend its federal agenda to include seeking support addressing the items above.	February 2009	Rea Holmes, DHS/OS	
2. DHS and Tribes will create a strategy for addressing these issues with Wisconsin’s congressional delegation and other influential parties.	January 2009	Rea Holmes, DHS/OS and Tribes Representatives	

**TRIBAL DISPARITIES WORK GROUP**

**Issue 1:** The DHS Tribal Consultation Policy requires educational opportunities for DHS staff to become more knowledgeable about the cultures and needs of tribal communities in Wisconsin. In October 2008, the Menominee Tribe designed a day-long presentation for DHS staff that explained the history of and special needs within the Menominee community. The Menominee Tribe provided an in-depth presentation of the inequities and disparities that exist between tribal communities and other communities in Wisconsin as a first step to finding new ways to eliminate them. As a follow up to the successful Menominee Tribe’s session, DHS is initiating a Tribal Disparities Work Group with the aim of formulating and proposing unique strategies to DHS that will focus on reducing the disparities that exist in tribal communities.

Deliverable	Due Date	Party/ies Responsible	Status of Deliverable
1. A letter will be sent to tribal chairs/presidents asking for appointments to a Tribal Disparities Work Group.	December 31, 2008	Dave Rynearson, DHS/TAO	
2. The work group will convene its first meeting.	January 2009	Dave Rynearson, DHS/TAO	