

Draft Pending Adoption

Draft: 8/29/23

NAIC/American Indian and Alaska Native Liaison Committee
Seattle, Washington
August 13, 2023

The NAIC/American Indian and Alaska Native Liaison Committee met in Seattle, WA, Aug. 13, 2023. The following Committee members participated: Glen Mulready, Chair (OK); Trinidad Navarro, Vice Chair (DE); Lori K. Wing-Heier (AK); Dean L. Cameron represented by Randy Pipal (ID); Grace Arnold (MN); Chlora Lindley-Myers represented by Carrie Couch (MO); Troy Downing represented by Bob Biskupiak (MT); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by John Arnold (ND); Alice T. Kane represented by Colin Baillio and Paige Duhamel (NM); Andrew R. Stolfi represented by TK Keen (OR); Larry D. Deiter represented by Tony Dorschner (SD); Jon Pike (UT); Mike Kreidler represented by Todd Dixon (WA); Nathan Houdek (WI); and Jeff Rude (WY). Also participating were: Peni Itula Sapini Teo (AS); Diane Carter (OK); Patrick Smock (RI); Carter Lawrence (TN); and Cassie Brown (TX).

1. Adopted its Spring National Meeting Minutes

Commissioner Navarro said the Committee meets to discuss insurance issues of importance to tribal members to promote education, understanding, and collaboration to enhance consumer protection in Indian country. Navarro said he would conduct the meeting on behalf of Commissioner Mulready, who was unable to be at the meeting in person due to a conflict but would be participating virtually.

Director Wing-Heier made a motion, seconded by Commissioner Rude, to adopt the Committee's March 24 minutes (see *NAIC Proceedings – Spring 2023, NAIC/American Indian and Alaska Native Liaison Committee*). The motion passed unanimously.

2. Heard an Update from Oklahoma on the *McGirt v. Oklahoma* U.S. Supreme Court Case

Mithun Mansinghani (Lehotsky Keller Cohn LLP) said the *McGirt v. Oklahoma* case that was brought before the U.S. Supreme Court was about tribal sovereignty in that it took away land from tribes' reservations and gave it to Oklahoma for state government. He said it has remained that way for 100 years and was looked at by the U.S. Congress (Congress) due to a criminal case. Mansinghani said the case of *Worster v. Georgia* in 1830 was the first case about state versus tribal sovereignty. However, it ended with an abandoned decision. He said increased assertion of tribal sovereignty was seen before land was carved out for Indian-owned casinos. Mansinghani said it was also at the forefront when tribal lending cases led to tribal members avoiding state and federal usury laws. He said tribes were then given patent ownership over pharmaceuticals, which non-tribal members tried to use to avoid state taxation and regulation. He said the Sovereign Nation Insurance Company (SNIC) has challenged state sovereignty through several laws in different states. Mansinghani said the scope of immunity being sought is higher in Indian country, with *McGirt v. Oklahoma* being recently cited for life and health insurance in New York and Wisconsin, as well as with regard to short-term disability insurance.

3. Heard a Presentation from HCSC on the Effect of Risk Adjustment Treatment of Tribal Enrollees Under the ACA

Josh Goldberg (Health Care Services Corporation—HCSC) gave a presentation on the effect of risk adjustment treatment of tribal enrollees under the federal Affordable Care Act (ACA). He said his colleagues spoke at the tribal roundtable last week about the challenges and successes of their work with the Oklahoma Department of Insurance (DOI) and that he would like to give a brief refresher at this meeting on the issue. He said when comparing the risk term and the rating term with regard to cost-sharing reduction (CSR) and the induced demand

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factor (IDF), the old model indicated that the silver zero cost-sharing plan was rated as number one and the limited cost-sharing plan was rated as number two. However, this is no longer true in the current marketplace. Goldberg said when comparing the predictive results to the actual results for accuracy and CSR Electronic Medical Records-EMR in all states, the silver plan rated above predictive in the chart, indicating it was higher or over-predicted. The limited plan rated under in the chart, indicating it was lower or under-predicted, which resulted in the company being underpaid because the zero cost sharing predictive ratio was too low, at 0.71. He said this had no effect at the federal level but varied at the state level, so there is a financial disincentive for companies to sell these plans to tribal populations. Goldberg said the Milliman Analysis compared two companies with zero split—one at 90% and the other at 10% by recalibrating the CSR factors to be at the higher level. When looking at the bronze plan, he said the modeling results magnified by 4% when added to additional benefits, while the preferred is equal for both companies. Goldberg said the federal government stopped making restitution of cost sharing in 2016 due to rating term consideration. He said Milliman produced a white paper in 2021 at the national level but did not have state-specific data, so it went back to get more granular data. The federal Centers for Medicare & Medicaid Services (CMS) has been working on this recently as well, so it is taking this new study seriously.

4. Heard an Update from Alaska on the Risk Adjustment Treatment of Alaska Native Enrollees Under the ACA

Director Wing-Heier said health care clinics in Alaska enroll patients in the National Tribal Health Care (NTHC), and Alaska pays one month's premium for the silver plan when Alaska Natives come in for health care services, and the charges for medical care are usually significant. She said the NTHC sued Primera over this. However, this involves native politics, so the state cannot get involved in it. Director Wing-Heier said the issue is substance abuse, and Alaska natives are being targeted to enroll in the Alaska plan and being taken to out-of-state facilities for drug abuse treatment because Alaska pays for such treatment at a much higher rate. She said they are looking for the bad lead generators that are doing this and are taking action to stop them because such policies are not legal due to the fraudulent applications that are not approved in Alaska, and the care is being done in facilities that are not licensed. However, this has caused another problem. The patients are being thrown out of these facilities in another state with no way to get back home to Alaska. Commissioner Navarro said the recent revisions to the NAIC's *Unfair Trade Practices Act* (#880) from the Improper Marketing of Health Insurance (D) Working Group will help stop this type of fraudulent activity. Duhamel said New Mexicans are being sent to similar facilities, and she will circulate an article through Lois Alexander (NAIC) to all Committee members.

5. Considered Drafting a Letter to the CMS Regarding Native American Issues Under the ACA

Commissioner Navarro asked if any committee members would like to speak to this suggestion but received no input.

6. Discussed Other Matters

Commissioner Pike said the Sovereign Nation Health Consortium (SNHC) consisted of three tribes. He said Utah sent a letter to the SNHC attorney asking them to put in writing their intent about marketing to non-tribal members because the attorney had previously said SNHC would not be selling to non-tribal members. However, Commissioner Pike said that SNHC was selling insurance coverage to non-tribal members outside of tribal lands. SNHC's attorney has not responded.

Having no further business, the NAIC/American Indian and Alaska Native Liaison Committee adjourned.

Member Meetings/Committees/Consumer CMTE/AIAN/2023 Summer NM-AIAN/Minutes_Summer National Meeting_AIAN CMTE.docx

Draft: 10/13/23

Adopted by the Executive (EX) Committee and Plenary, Dec. XX, 2023

Reaffirmed by the NAIC/Consumer Liaison Committee, Oct. 13, 2023

2024 Reaffirmed Mission Statement

NAIC/AMERICAN INDIAN AND ALASKA NATIVE LIAISON COMMITTEE

The mission of the NAIC/American Indian and Alaska Native Liaison Committee is to provide a forum for ongoing dialogue between NAIC members and the American Indian and Alaska Native communities concerning insurance issues of common interest. Specifically, the Liaison Committee will provide a forum for an exchange of information and views on issues surrounding the availability of insurance for American Indian and Alaska Native consumers and tribal interests, an opportunity for American Indian and Alaska Native groups to bring insurance consumer protection issues to the attention of NAIC members, and a dialogue on best practices for dealing with insurance issues unique to sovereign tribal nations.

NAIC Support Staff: Lois E. Alexander



Sovereign Nations Insurance in Washington State

Commissioner Mike Kreidler

Washington State Office of the Insurance Commissioner (OIC)



Washington State Insurance Commissioner Mike Kreidler



Deputy Insurance Commissioners

M. Todd Dixon,
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What is Sovereign Nations Insurance (SNI)?

- The Shivwits Band of Paiutes, Kanosh Band of Paiutes, and Confederated Tribes of the Goshute Reservation.
 - Three federally recognized tribes based in Utah.
- Formed Sovereign Nations Health Consortium which governs two subsidiaries
 - Sovereign Nations Insurance, LLC (SNI), and
 - Native American Restoration Association
 - A membership association for non-Indians to receive tribal insurance benefits

How did we get here?

- March 2022- OIC learns from other states that Sovereign Nations Insurance (SNI) is operating in other states
- May 25, 2022- OIC opens an internal investigation
- September 23, 2022- SNI contacts Commissioner Kreidler to describe their consortium, insurance products, and legal authority
- November 7, 2022- OIC Tribal Consultation #1 with state tribal leaders
- November 14, 2022- SNI leadership meets with Commissioner Kreidler in Olympia, WA

How did we get here, continued

- | | |
|--------------------|--|
| December 6, 2022- | OIC Tribal Consultation #2 with state tribal leaders |
| December 20, 2022- | OIC issues a Cease and Desist |
| March 20, 2023- | SNI files a demand for hearing |
| May 8, 2023- | OIC Tribal Consultation #3 with state tribal leaders |
| October 31, 2023- | Settlement Agreement |

Health plans are not ACA compliant

Limited benefit plans

- Maternity coverage is subject to a \$5,000 deductible, separate from plan deductible, for normal delivery plus 20% coinsurance. Must have an expected due date for delivery of at least 300 days after your plan effective date for bills to be covered.
- 3 mental health visits annually and then chatbot care.
- Additional \$1,500 copay applies to Emergency Room. Copay waived if admitted.
- Additional \$1,500 copay applies to Ambulance.

Health plans are not ACA compliant, continued

Graduated coverage schedule for pre-existing conditions.

Pre-existing Condition Coverage Schedule

Policy Period	Coverage Amount
First 12 months	No Coverage
Months 13-24	Covered up to \$15,000
Months 25-36	Covered up to \$30,000
Months 37 and after	Full Coverage

Health plans are not ACA compliant, continued

Deductibles and Coverage Maximums

Deductible (per plan year)	\$5,000 (x3 for families)
Annual Coverage Maximum (per plan year)	\$100,000
Lifetime Coverage Maximum	\$500,000
Coinsurance	20%
Coinsurance Out-of-Pocket Maximum (per plan year)	\$5,000 (x3 for families. Does not include office visits or prescriptions)
Total Out-of-Pocket Maximum (per plan year)	\$10,000 (x3 for families. Does not include office visits or prescriptions)

Our policy is to collaborate with tribal leaders

Washington state law under [RCW 43.376.020\(1\)](#), requires the OIC to “Make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes and develop a consultation process that is used by the agency for issues involving specific Indian tribes.”



Policy No. 5 / OIC Tribal Consultation and Collaborative Process

Effective date October 9, 2013

Revised date May 31, 2018

Approving
Authority


Mike Kreidler, Insurance Commissioner

Reference RCW 43.376.020(1)

I. Purpose

This policy establishes a consultation and collaboration process between the Office of the Insurance Commissioner (OIC) and federally-recognized Indian Tribal Governments in the development and implementation of any OIC policies or actions that directly affect one or more of the 29 federally recognized Indian Tribes of Washington (Indian tribes). It is adopted in

[tribal relations page.](#)

What we heard from tribal leaders in our state:

Do not allow these plans to be sold on our reservations

Do not allow these plans to be sold to Native Americans living off reservation

Marketing concerns

Washington State has 106 Tribal Assisters working for the state exchange

What we heard from tribal leaders in our state, continued

The Governor's Indian Health Advisory Council ([GIHAC](#)) created under [RCW 43.71B.020](#) exists to address issues with managed care in the state Medicaid system. This council includes:

- One representative from each tribe, designated by the tribal council
- American Indian Health Commission ([AIHC](#))* Executive Director
- Medicaid Director
- Governor's office
- Commissioner Kreidler
- And many other interested parties

Additionally, three Urban Indian programs provide healthcare in Spokane, Seattle, and Portland area.

*(AIHC) representing 29 federally recognized tribes

Washington supports tribal clinics and health care

[WAC 284-170-310](#) requires insurers in Washington to offer contracts to all Indian Health Care Providers in their service area and encourages following the [Washington State Indian Health Care Provider Addendum](#) while serving:

- 313,600 AI/AN
- 29 federally recognized tribes
- 54% of AI/AN live off reservation

Settlement Agreement

SNI agrees to end all insurance business in Washington State

SNI agrees not to re-enter the market

OIC rescinds C&D and agrees to no fine

The Settlement Agreement resolves the C&D

Contact us with questions

M. Todd Dixon,

Charles Malone,

Deputy Insurance
Commissioner for
Consumer Protection,
Tribal Liaison

Deputy Insurance
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Policy No. 5 / OIC Tribal Consultation and Collaborative Process

Effective date October 9, 2013

Revised date May 31, 2018 _____

Approving Authority 
Mike Kreidler, Insurance Commissioner

Reference **RCW 43.376.020(1)**

I. Purpose

This policy establishes a consultation and collaboration process between the Office of the Insurance Commissioner (OIC) and federally-recognized Indian Tribal Governments in the development and implementation of any OIC policies or actions that directly affect one or more of the 29 federally recognized Indian Tribes of Washington (Indian tribes). It is adopted in compliance with the State of Washington Centennial Accord of 1989 and Washington Senate Bill 6175 as codified at Chapter 43.376 RCW. The purpose of the consultation and collaboration process is to:

- A. Ensure that notice is furnished to the parties identified in Section V.C. of this policy of any policy or action proposed by the OIC that directly affects Indian tribes;
- B. Provide an opportunity for the parties to collaborate and consult with the OIC prior to implementation of a policy or action that directly affects Indian tribes;
- C. Satisfy the requirement for the OIC to collaborate and consult with Indian tribes;
- D. Provide an opportunity to confer with Urban Indian Health Programs (UIHPs) and collaborate with the American Indian Health Commission for Washington (AIHC); and
- E. Recognize the unique status of Indian tribes as distinct from the status of, for example, stakeholders, municipalities, or counties.

II. Sovereignty and Disclaimer

The OIC respects the sovereignty of each Indian tribe. In execution of this policy, no party waives: any rights, including treaty rights; immunities, including sovereign immunities; or jurisdiction. This policy does not diminish any rights or protections afforded Indian persons or entities under state or federal law including the right of each of the parties to elevate an issue of importance to any decision-making authority of another party.

III. General Requirements of Tribal Consultation and Collaboration

- A. **Consultation.** Pursuant to the Washington Centennial Accord and Washington Senate Bill 6175 as codified at Chapter 43.376 RCW, tribal consultation shall:
1. Reflect the government-to-government relationship between the State of Washington and each individual government of Indian tribes;
 2. Be meaningful;
 3. Be a process that includes regular and ongoing exchange of information and opinions;
 4. Consist of informed decision-making; and
 5. Result in mutual understanding between Indian tribes as sovereign nations and the State of Washington on all policies and actions that directly affect Indian tribes.
- B. **Collaboration.** RCW 43.376.020(1) requires the OIC to make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes and develop a consultation process that is used by the OIC for issues involving specific Indian tribes. In the context of this policy, that means to engage in regular and meaningful collaboration with Indian tribes on all agency policies and actions that directly affect them. Collaboration is a working relationship between and among all parties to identify issues, solve problems, create solutions, and propose recommendations for consideration at consultations. The following are guidelines for OIC staff members to consider when collaborating with Indian tribes.
1. Acknowledge Indian tribes as political governing bodies and respect their sovereignty and the unique cultural and legal status they hold.
 2. Recognize that Indian tribes are traditionally, culturally, and administratively different not only from state government but also from each other.
 3. Seek a format for discussions that works best for the issue or issues that are involved. For example, some issues involve complex technical, legal, or policy issues. In those instances, consider establishing work groups or task forces to vet the issues and then formulate recommendations for consideration by the parties.
 4. Work in cooperation and coordination with the Governor's Office of Indian Affairs.

5. Work with Indian tribes in assessing and addressing unmet needs, service gaps, and other outstanding issues within the scope of the OIC's authority.
6. Ensure the OIC's thorough consideration of all suggestions and recommendations.

IV. Tribal Collaboration Procedure

Tribal collaboration will be facilitated by the Tribal Advisory Workgroup (TAW).

- A. The purpose of the TAW is to:
 1. Satisfy the requirement for the OIC to collaborate with Indian tribes, UIHPs, and the AIHC under RCW 43.376.020; and
 2. Assist in the identification of any policy or action proposed by the OIC that directly affects Indian tribes or has an impact or potential impact on Indian tribes.
- B. The TAW shall be facilitated by the OIC and AIHC and shall consist of representatives from the OIC (including the OIC Tribal Liaison), tribal leaders, and AIHC Executive and Policy Committee members. The TAW shall also include representatives from Indian Health Services operated programs, 638 tribal contracted and compacted programs, and UIHPs (together referred to as "I/T/U Providers"). These representatives will participate in quarterly meetings. Notice regarding these meetings will be emailed to all parties listed in Section IV.C. and will be posted on both the OIC and AIHC and/or Northwest Portland Area Indian Health Board (NPAIHB) websites.
- C. TAW meetings may include the participation of experts and decision-makers who will explain issues and listen to the concerns of tribal leaders, I/T/U Providers, and representatives of the AIHC. I/T/U Providers, tribal leaders, and the AIHC will provide advice and recommendations on whether OIC policies or actions directly affect Indian tribes.
- D. TAW meetings, recommendations, and other forms of collaboration contribute to the consultation process but are not a substitute for the requirement for the OIC to conduct consultation as required under this policy.

V. Tribal Consultation Procedure

- A. **When Tribal Consultation Must Occur.** Consultation and collaboration with Indian tribes and tribal officials must occur prior to implementation of all OIC policies and actions that directly affect Indian tribes except for emergency rulemaking. For the purposes of this policy, the phrase "policies and actions that directly affect Indian tribes" means the development of policies, agreements, and program implementation by the OIC that have substantial direct effects on Indian tribes or the relationship between the OIC and Indian tribes. This may include rulemaking as well as interpretive and policy statements described in RCW 34.05.230.

1. **Issues Directly Affecting Indian Tribes:** Such policies or actions include, but are not limited to, the following:
 - a. OIC rules regarding consumer access to health care providers including essential community provider provisions; and
 - b. OIC rules or actions regarding health insurance issuer contract requirements with I/T/U Providers.
 2. **Emergency Rule Exception.** When the OIC proposes an emergency rule that directly affects Indian tribes, consultation must occur as soon as practicable after the rulemaking is initiated.
- B. **Determination of Issues for Consultation.** The determination of whether a policy or action will directly affect Indian tribes will be made jointly by the Insurance Commissioner, the TAW, and as requested, the parties referenced in subsection C. of this section.
- C. **Required Parties.** Each party shall be represented by individuals with decision-making authority. Contact information for each of the parties to consultation shall be maintained by the parties. Updates to contact information shall be directed to the OIC Tribal Liaison referenced in Section VI. Consultation parties are:
1. **The Insurance Commissioner.** In the absence of the Insurance Commissioner, the Chief Deputy Insurance Commissioner or Deputy Insurance Commissioner with the appropriate decision-making authority.
 2. **Indian tribe or tribe** means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, as defined by 25 U.S.C. § 1603(14). All Indian tribes that are parties to consultation under this policy are listed in Appendix "C."
 3. **Urban Indian Health Programs** means an Urban Indian Organization, as defined by 25 U.S.C. § 1603(29). In Washington State, there are two UIHPs: the Seattle Indian Health Board and the NATIVE Project of Spokane, as referenced in Appendix "C." Note: *An UIHP does not represent any Indian tribe nor does it substitute for an Indian tribe in any consultation held under this policy.*
 4. **AIHC Board Chair** or authorized representative who has authority to make decisions on behalf of the AIHC. *The AIHC is a not-for-profit entity that works on behalf of the Indian tribes and two urban Indian health organizations in Washington State on health policy and priority American Indian/Alaska Native (AI/AN) health issues that improve the Washington State tribal health delivery system and the health of individual AI/AN residents. Note: The AIHC does not represent any Indian tribe nor does it substitute for an Indian tribe in any consultation held under this policy.*
 5. **Tribal organizations** organized under the Indian Self-Determination and Education Assistance Act (P.L. 93-638; 25 U.S.C. § 450b(1)) such as the NPAIHB. Note: *A tribal*

organization does not represent any Indian tribe nor does it substitute for an Indian tribe in any consultation held under this policy.

- D. Notification and Meeting Requirements.** The OIC, Indian tribes, UIHPs, or the AIHC may initiate consultation at any time. To the extent permitted by law, the OIC shall not implement any policy or action that directly affects Indian tribes unless and until the OIC has followed the process described below.

1. Step 1: Written Notification of Consultation and Selection of the Consultation Venue.

- a. The OIC, Indian tribes, UIHPs, or the AIHC may request a consultation. Note: *UIHPs and the AIHC do not represent any Indian tribe nor do they substitute for an Indian tribe in any consultation held under this policy.*
- b. If the OIC is requesting the consultation, the OIC will propose a date and location for the consultation in a written request (see Appendix "A") at least 60 days prior to the proposed date except the OIC may issue the written request less than 60 days prior to the proposed date in special circumstances or when the matter or matters subject to the consultation are time-sensitive but in no event less than 21 days. All OIC requests for consultation will be posted on the OIC website and emailed to the Indian tribes, UIHPs, and the AIHC identified in this section.
- c. If an Indian tribe, UIHP, or AIHC is requesting a consultation, a written request must be sent to the Insurance Commissioner with a copy to the OIC Tribal Liaison.
- d. Upon receiving a consultation request from an Indian tribe, UIHP, or AIHC, the OIC will propose a date and location for the consultation and provide notice as described in Step 1.b.
- e. Requests for changes to the OIC's proposed date and/or location for consultation must be made within 7 days of the OIC's notice and must propose a specific alternative (see Appendices "A" and "B").
- f. Written requests must identify the specific policy or action that requires consultation and provide an estimate of its impact on AI/AN people, their healthcare providers, and/or Indian tribes.
- g. Face-to-face consultations are preferred but consultations may include participation via webinars, teleconferences, or both. Alternative consultation types may occur upon mutual agreement. Parties may submit written comments to the OIC in lieu of attendance at the consultation.

2. Step 2: Consultation Meeting.

In order for consultation to be meaningful as required in Section III.A. of this policy, the following actions shall occur at all tribal consultations:

- a. The meeting must be held at a venue convenient to the parties.
- b. The parties identified in subsection C. of this section shall be present as contemplated by subsection D.1.g.

- c. It is not required that parties be represented or in attendance for a valid consultation meeting to occur. Any consultation is valid when the notice procedures contained in this subsection are observed even if not all parties attend.
- d. Each issue and proposed action or policy that is a basis of the consultation request will be identified and fully explained.
- e. An opportunity will be afforded for all parties to further collaborate, ask questions, provide feedback, offer criticisms, etc.
- f. When specifically responding to other parties' questions, feedback, criticisms, etc., the OIC, when appropriate and feasible, will communicate its proposed action or actions.
- g. A record of the meeting will be made by the OIC for the purpose of subsequently preparing minutes.

3. Step 3: Action Required after Consultation.

- a. The OIC will communicate to all parties listed in this section within a reasonable time of its decision regarding the subject of the consultation.
- b. Such communication shall be made via the OIC website, United States Postal Service, email, or as otherwise mutually agreed upon by the parties participating in the consultation.
- c. The OIC will maintain records of its tribal consultation activities including any meeting minutes and communications to parties about outcomes and decisions after consultation meetings consistent with applicable law. These records will also be made available to the public on the OIC website.

VI. OIC Tribal Liaison

- A. The OIC Tribal Liaison shall arrange meetings, receive the contact information of all parties listed in Section V.C. of this policy, conduct workgroups, and distribute materials and other documents related to proceedings under this policy.
- B. The OIC Tribal Liaison is not a substitute for the required representatives of the OIC listed in Section V.C. of this policy except when authorized to act on behalf of the Insurance Commissioner and in possession of the appropriate decision-making authority.

VII. Scope and Application

- A. This policy applies to all OIC divisions, programs, services, projects, activities, and employees when issues directly affecting Indian tribes are involved. OIC deputies and managers, who implement policy, oversee programs, services, and contracts, are responsible for implementing this policy within the scope of the OIC's authority. The Deputy Insurance

Commissioner for Consumer Protection is primarily responsible for implementing the provisions of this policy in cooperation with the OIC Tribal Liaison. This includes ensuring that OIC employees receive adequate training to help them understand their roles in implementing this policy and, when appropriate, in participating in the TAW established by Section IV.

- B. This policy does not govern matters within the insurance regulatory authority of the Insurance Commissioner such as conducting investigations, reviewing rate requests or forms submitted by insurers or issuers to the OIC, performing financial examinations, taking market conduct actions under Chapter 48.37 RCW, or enforcing compliance with the provisions of Title 48 RCW through administrative or judicial proceedings.
- C. This policy is intended only to improve the internal management of the OIC and does not create any right, benefit, or responsibility, substantive or procedural, enforceable at law by any party against the OIC or any person.

VIII. Effective Date

This policy will be effective on the date indicated above and will be reviewed and evaluated periodically or at the request of any of the parties identified in Section V.C.

APPENDIX A: CONSULTATION LETTER

Date

Party to Consultation

<<Address 1>>

<<Address 2>>

Re: [Insert name of Issue for Consultation]

Dear <<PARTY TO CONSULTATION>>:

The Washington State Office of Insurance Commissioner ("OIC") is proposing to adopt or implement the following policy or take the following action:_____

_____. **[Note: Enclose relevant documentation with this letter].** The OIC desires to initiate government-to-government consultation with _____ [insert party name] for this proposed policy or action.

The above policy or action, if adopted or implemented, will impact tribes and urban indian organizations by _____

The above policy or action will/will not have a financial impact upon tribes and urban Indian organizations in the State of Washington. This financial impact is estimated to be _____.

The Tribal Consultation is tentatively scheduled for _____, 20__, at ____ a.m./p.m. at _____ [insert location]. **[Note: The OIC is to specify a date at least 60 days from date of this letter except under special circumstances].** If you prefer an alternate date or location, please submit this request on the attached tribal response form by _____ **[Note: Tribe, UIHP, or AIHC to specify a date at least 7 days from receipt of this letter].** In lieu of or in addition to participating in this meeting, the OIC is inviting your comments on this proposal.

Your response to this letter is greatly appreciated. In your response, please update your contact information to ensure prompt receipt of communications related to this proposal. The OIC is also inviting comments regarding any other tribal concerns that the proposal may raise. Please provide a response by **[Note: Tribe, UIHP, or AIHC to submit a response at least 7 days from receipt of this letter]** so that the described proposal and any of those identified areas of concern may be included on the meeting agenda for discussion. Should you have any questions about this proposal, you may contact **[Insert the name, phone number, and address of the OIC Tribal Liaison or designated OIC staff contact here].**

Sincerely,

Insurance Commissioner

cc: American Indian Health Commission for Washington State, Northwest Portland Area Indian Health Board

APPENDIX B: CONSULTATION PARTY RESPONSE FORM

Consultation Party Response Form for [Name of Tribe/AIHC/Urban Indian Health Program]

Name of Action or Policy: _____

Response to this request for consultation:

- Thank you for the information and initiation of consultation letter; however, we do not need to consult any further on this issue.
- We do not have a comment or concern at this time, although we request continued notification regarding this issue.
- We wish to consult on this issue at the time and location referenced in the attached letter.
- We wish to consult on this issue at an alternate time and location referenced in the attached letter. Please contact us at the number listed below to schedule this time.

Signature of individual completing form

Date

Name and Title (Print)

Name of Tribe/AIHC/Urban Indian Health Program

Has there been a change to your authorized representative? If so, whom should we contact about this issue if you are interested in discussing it further or receiving additional information?

Name (please print): _____

Phone number: _____

E-mail address: _____

Fax number: _____

APPENDIX C: LIST OF INDIAN TRIBES, URBAN INDIAN HEALTH PROGRAMS, AND TRIBAL ORGANIZATIONS FOR CONSULTATION

INDIAN TRIBES

Colville Confederated Tribes
Confederated Tribes of the Chehalis Reservation
Cowlitz Indian Tribe
Hoh Tribe
Jamestown S'Klallam Indian Tribe
Kalispel Tribe
Lower Elwha Klallam Tribe
Lummi Nation
Makah Tribe
Muckleshoot Tribe
Nisqually Tribe
Nooksack Tribe
Port Gamble S'Klallam Tribe
Puyallup Tribe
Quileute Tribe
Quinault Indian Nation
Samish Indian Nation
Sauk-Suiattle Tribe
Shoalwater Bay Tribe
Skokomish Tribe
Snoqualmie Tribe
Spokane Tribe
Squaxin Island Tribe
Stillaguamish Tribe
Suquamish Tribe
Swinomish Tribe
Tulalip Tribes
Upper Skagit Tribe
Yakama Nation

URBAN INDIAN ORGANIZATIONS

Seattle Indian Health Board
NATIVE Project of Spokane

TRIBAL ORGANIZATIONS

American Indian Health Commission for Washington State
Northwest Portland Area Indian Health Board