



# NICOA

## National Indian Council On Aging

Advocating for American Indian and Alaska Native Elders

### NATIONAL INDIAN COUNCIL ON AGING

#### Resolution # 2014-03

#### **TITLE: Medicaid Asset Recovery Exemption for American Indian/Alaska Native Elders**

**WHEREAS**, we, the members of the National Indian Council on Aging, Inc. (NICOA) of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the issues and needs of American Indian and Alaska Native Elders, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of our Elders, do hereby establish and submit the following resolution; and

**WHEREAS**, NICOA was established in 1976 by Tribal Leaders to advocate for improved comprehensive health, social services, and economic wellbeing for American Indian and Alaska Native Elders. NICOA submits to the National Congress of American Indians (NCAI) this resolution passed by its members at their biennial meeting on September 5, 2014; and

**WHEREAS**, federal law requires recovery of assets ("estate recovery") by states when a patient has been in long term care. Trust assets and some traditional property may not be recovered but most real and personal property of AI/ANs is subject to liens by the state under this rule when a patient dies; and

**WHEREAS**, estate recovery was authorized to alleviate some of the financial costs of long term care provided by the Medicaid program. States are required to recover the costs of nursing home or home and community-based services and may recover for other related Medicaid expenses. There is narrow discretion to grant hardship exemptions or waive estate recovery; and

**WHEREAS**, one third of AI/ANs are in families with incomes below the federal poverty line. A report by the Kaiser Family Foundation states that "[the AI/AN] poverty rate is higher than any other racial or ethnic group and about twice as high as the poverty rate of the overall nonelderly population." This means that many AI/ANs have no choice but to accept Medicaid benefits for life-saving care. They may be aware of the dangers of estate recovery but have few other options available, or they may decline needed care; and


**WHEREAS**, an exemption from estate recovery for AI/ANs nationwide would be consistent with the Affordable Care Act exemption from tax penalties and would ensure that the health status of AI/ANs would be substantially improved; it would likely save lives. This exemption is fundamentally consistent with the trust responsibility the US government owes to AI/ANs; and

**NOW THEREFORE BE IT RESOLVED**, that NICOA does hereby request the Secretary of Health and Human Services to waive all estate recovery for AI/ANs enrolled in Medicaid; and

**BE IT FURTHER RESOLVED** that this resolution shall be the policy of NICOA until it is withdrawn or modified by subsequent resolution.

#### **CERTIFICATION**

I hereby certify that the above resolution was passed before a duly called meeting of the National Indian Council on Aging membership on 5, September 2014, in Phoenix, AZ, at which a quorum was present.

  
Chairman