



Importance of Extending Federal Tort Claims Act (FTCA) Coverage to Urban Indian Organizations (UIOs) in Response to COVID-19

FTCA coverage would create parity for UIOs

The Indian Health Service (IHS) health care delivery system includes IHS, Tribal Health Programs and UIOs. Currently, both IHS and Tribal Health Programs receive FTCA malpractice coverage for employees, but UIOs do not.

FTCA has been available for tribal contractors in health care settings for over three decades

Community Health Centers providing services to underserved communities receive FTCA liability coverage for both employees and volunteers.

First extended to HRSA Health Centers in the early 1990's

UIOs must spend millions of dollars in scarce resources on insurance coverage when those resources could be better utilized to expand services available to Urban Indian patients.

Malpractice insurance can cost a UIO up to \$250,000 per year

FTCA coverage would free up millions of dollars for UIOs to provide necessary health care services in response to COVID-19

UIOs are uniquely positioned to deliver health care services in COVID-19 hot spots and FTCA coverage would equip them with essential tools for COVID-19 response. In responding to the COVID-19 pandemic, UIOs have had to redirect already limited resources to provide testing and care for those directly affected by the virus, while also continuing to provide quality primary health care services for the Urban Indian communities they serve.

The impacts of costly malpractice insurance during the COVID-19 pandemic

- › *Exacerbates budgetary strains caused by decades of underfunding*
- › *Unnecessarily imposes limitations on health care services practitioners can provide*
- › *Negatively impacts essential practitioner retention and recruitment*
- › *Creates barriers to care and practitioner recruitment*
- › *Reduces staffing retention during a time of critical shortages*

There is broad, widespread, and bipartisan support for UIO parity in malpractice coverage

The Administration, Department of Health & Human Services (HHS), and Indian Health Service support FTCA coverage for UIOs.

FY 2021 President's Budget Request included FTCA for UIOs

- › *HHS Congressional Justification included the following legislative proposal:*
"To amend the Indian Health Care Improvement Act (IHCIA) to provide FTCA coverage to UIOs in the same manner as Indian Self-Determination and Education Assistance Act (ISDEAA) contractors and mandate that all medical malpractice claims and judgments be paid from the Department of Treasury's Judgment Fund."

SOURCE : [DEPARTMENT OF HEALTH & HUMAN SERVICES FY 2021 IHS CONGRESSIONAL JUSTIFICATION](#)

The Tribal Budget Formulation Work Group has included FTCA for UIOs as a priority

- › *UIOs "must divert precious dollars from health care to pay for expensive malpractice insurance. Given the financial constraints under which [UIOs] must work, this inequity must be corrected."*

SOURCE : [NATIONAL TRIBAL BUDGET FORMULATION WORK GROUP FY 2021 RECOMMENDATIONS](#)

Representatives Ruben Gallego (D-AZ) and Markwayne Mullin (R-OK) introduced H.R. 6535

- › *"to expand Federal Tort Claims Act (FTCA) coverage to urban Indian health organizations, giving them a desperately needed boost in resources as they suffer shortages, closures, and financial hardship as a result of the COVID-19 pandemic."*

SOURCE: [REP. RUBEN GALLEGO PRESS RELEASE](#)

S. 1250 in the 115th Congress (introduced by Senator Barrasso, cosponsored by Senators Thune, Hoeven, and Daines) ordered reported favorably out of Committee on Indian Affairs with Senator Udall amendment to include FTCA for UIOs.



The ability of Urban Indian Organizations to provide cost-effective health services has been jeopardized by the lack of FTCA coverage commonly afforded to other federally-funded Indian health programs. The skyrocketing cost of malpractice insurance in recent years has compromised the scope of services that Urban Indian Organizations can provide pursuant to contracts or grants that they receive from the Indian Health Service.

IF UIOs receive FTCA coverage, additional resources would be used for:

Recruitment and retention

1. Additional physicians, nurses, psychiatrists and other medical staff. This coverage would include professionals/paraprofessionals within the UIOs ranging from: MD and DDS, DMD, Optometrist (DO), Clinical Psychologist, LCSW's, NP, PA, Registered Nurse, Registered Dental Assistants, Dental Assistants, Medical Assistants and Substance Abuse Counselors.
2. Specialists employed in full or part time capacity.
3. Living wages for health and administrative staff.

Expanded services

1. More services available to patients – through elimination of limitations on covered services in insurance policies
2. UIOs report they could:
 - › *Increase vital transportation services.*
 - › *Provide additional specialized cultural approaches to medical, psychological, and rehabilitation services.*
 - › *Increase specialized services due to employment of specialists (i.e. an on-staff ENT with full hospital privileges could provide AI/AN patients with access to many surgeries at little or no cost without having to leave the UIO).*

Repurposing of limited resources to support critical services

1. Cost savings to UIO can range from \$100K-\$250k per annum.
2. Critical during the COVID-19 pandemic given the significant impacts of COVID-19 response.

H.R. 6535 is a bipartisan bill that would provide FTCA coverage to UIOs during this critical time

“Urban Indian Health Centers play a critical role in providing health care to Native Americans. Our bill ensures they are covered by the FTCA so that they won't have to use their limited resources to cover costly liability bills. I want to thank Congressman Gallego for working with me on this legislation that will improve health care for Native Americans.”

- REP. MULLIN (R-OK)

“Urban Indian organizations, including Native Health in my District, are on the front lines of this pandemic. Individual facilities are reporting skyrocketing costs in the hundreds of thousands and dangerous supply shortages. Three UIOs have already closed their doors as a result of the strain. We cannot afford to leave urban Indians without access to care during this public health crisis. My bill will both bring long overdue parity to urban Indian health providers and provide an infusion of desperately resources to an urban Indian health system on the brink.”

- REP. GALLEG0 (D-AZ)