

History of Recognition of Tribal Court Civil Judgements

Arizona law provides for the *recognition* and enforcement of tribal court orders for involuntary commitment to treatment including admission to the Arizona State Hospital (ASH) for American Indians residing on tribal reservations. The Arizona statute is necessary as tribal governments are sovereign and have sole jurisdiction over tribal members on reservations. Legal, jurisdictional, and continuity of care issues exist related to the coordination of courts ordering treatment for American Indians. In 2008, a number of areas of concern were identified regarding the process of court ordered treatment for American Indians. Some of the concerns resulted from the unique structure of the Arizona managed care behavioral health care system prior to 2018.

Additionally, historic issues of tribes and tribal members receiving services in the Arizona Behavioral Health System were identified, including, but not limited to, the following:

- Reluctance to enroll in another health care system for fear of irrevocably losing health care benefits American Indians receive under the Federal Indian Health Services (IHS).
- Eligible American Indians can switch between AHCCCS' Fee-for-Service and managed care health plans, in addition to receiving services at IHS/tribally operated facilities.
- American Indian lack of familiarity with a non-IHS health care delivery system and the perceived lack of culturally sensitive and/or appropriate behavioral health care services.
- The legal right of American Indians under Federal law to have a choice between enrollment in a state behavioral health plan/Regional Behavioral Health Authorities (RBHA) or Tribal Regional Behavioral Health Authorities (TRBHA) and the AHCCCS American Indian Health Program (AIHP) also compounds the lack of understanding of how American Indians can access behavioral health services.

In early 2008, the Intertribal Council of Arizona (ITCA) placed a request concerning a critical need for training and informational outreach to the tribes and the RBHAs. As a result, a tribal forum comprised of the Division of Behavioral Health Services within the Department of Health Services and ITCA convened to address tribal involuntary commitment issues in Arizona.

During the forum, the tribes advised that American Indians were being kept in tribal jails without professional behavioral health services for months on end pending admission to the Arizona State Hospital (AzSH). Tribes had also identified arguments countering local mandatory treatment requirements citing the lack of in-patient facilities on the reservation, the lack of available health care services on Indian reservations and/or RBHA refusals to enter into agreements to provide services on Indian reservations. As a result, Tribal representatives felt that the State was remiss in addressing this disparity in the provision of entitled and critically needed behavioral health services to American Indians.

In efforts to reduce barriers for American Indians receiving care within the reservation, Arizona tribes and the RBHAs began to negotiate and sign Letters of Agreement (LOA). These LOA's allow RBHAs the permission to enter Tribal lands and communities to deliver the services set out while creating a

partnership to deliver quality and culturally appropriate services that follow all tribal laws and ordinances.

Prior to July 1, 2016, DBHS was the responsible entity for delivery of behavioral health services within Arizona. Effective July 1, 2016, DBHS and AHCCCS underwent an administrative simplification. For more information regarding this merger, please see [Governor Ducey's Administrative Simplification](#).

Prior to October 1, 2022, members enrolled in the American Indian Health Program (AIHP) received physical health care services from AIHP and received their behavioral health services from a Regional Behavioral Health Authority (RHBA) or a Tribal Regional Behavioral Health Authority (TRBHA). As of October 1, 2022, AIHP members will still have the option to enroll with an MCO with a Regional Behavioral Health Agreement (RBHA) and TRBHA but also have the new option to enroll with AIHP for all health plan benefits.