

US Supreme Court Rules Native American Tribes to Receive Reimbursement for Healthcare Administration Costs

News

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The US Supreme Court ruled in favor of Jenner & Block's client, the Northern Arapaho Tribe, confirming that Native American tribes should be reimbursed by the Indian Health Services (IHS) for certain "contract support costs" — the overhead costs for tribe-provided health care.

Under the Indian Self-Determination and Education Assistance Act (ISDA), tribes are entitled to reimbursement for the indirect costs incurred in providing services, regardless of whether those services are paid for by the IHS or other sources.

"We are pleased with the Supreme Court's decision, which fulfills the Self-Determination Act's promise of ensuring that Tribes that provide health care stand on an equal footing with the Indian Health Service," said Partner Adam Unikowsky who argued on behalf of the tribe. "The Supreme Court's decision will promote tribal sovereignty and provide resources for health care in under-served communities."

In 2016, the Northern Arapaho Tribe contracted with IHS to administer a broad range of health care services on the Wind River Reservation, including outpatient ambulatory medical care and primary care, nursing, mental health, radiology, physical therapy, optometry, dental care, community health services, and laboratory and pharmacy services. The Wind River Service Unit, which provides these services for approximately 12,000 patients primarily from the Northern Arapaho and Eastern Shoshone Tribes, is tied for the lowest level of funding sufficiency across all IHS-funding programs. Due to this severe underfunding, health services on the Wind River Reservation are provided from a health center constructed as a military commissary in 1884 — the oldest IHS facility in the nation.

Unreimbursed contract support costs strike at an already underfunded tribal health care system. As the tribe wrote in their Supreme Court brief, "If tribes cannot recover the contract support costs that they incur when making the same expenditures as IHS, they are penalized for entering into ISDA contracts — precisely the result Congress sought to avoid in ensuring that other contract support costs would be paid."

In addition to Adam, the Jenner & Block team includes Partners Keith Harper and Charlie Galbraith; Special Counsel Craig Williams and Lenny Powell; Associates Arjun Ramamurti and Andrew DeGuglielmo; and Law Clerk Donovan Hicks.

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