



## **OFFICE OF THE AUDITOR GENERAL**

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### **The Navajo Nation**

### **638 Compliance Review of the Utah Navajo Health System, Inc.**

**Report No. 20-08  
December 2019**


**Performed by:  
WIPFLI, LLP**





## M-E-M-O-R-A-N-D-U-M

**TO** : Daniel Tso, Chairperson  
**HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE**

**FROM** :   
Helen Brown, CFE, Principal Auditor  
Delegated Auditor General  
**OFFICE OF THE AUDITOR GENERAL**

**DATE** : December 31, 2019

**SUBJECT** : Compliance review of the Utah Navajo Health System, Inc.

The Office of the Auditor General herewith transmits Audit Report no. 20-08 , a Review of the Utah Navajo Health System, Inc. compliance with Navajo Nation Council Resolution no. CJY-33-10. The agreed upon procedures engagement to verify compliance was conducted in conjunction with WIPFLI/JOSEPH EVE CPAs and Consultants.

### BACKGROUND

On July 21, 2010, the Navajo Nation Council passed resolution no. CJY-33-10 that authorized the Utah Navajo Health System, Inc. as a tribal organization for the purpose of managing and operating under Title V, the Indian Self-Determination Act (P.L. 93-638) to address the healthcare needs of the Navajo Nation. For continuing authorization, the Utah Navajo Health System, Inc. is required to remain in compliance with the 13 conditions set forth in the Navajo Nation Council resolution.

### OBJECTIVE, SCOPE AND METHODOLGY

The objective of this review was to determine whether the Utah Navajo Health System, Inc. complied with each of the 13 conditions outlined in Navajo Nation Council resolution no. CJY-33-10. The review covered the period of October 1, 2016 to September 30, 2018 and was conducted based on agreed upon procedures involving site visits, review of records, inquiries and analysis.

### SUMMARY

Based on the review results, the Utah Navajo Health System, Inc. has demonstrated compliance with 12 of the 13 conditions. The auditors deemed one condition as unmet:

- Condition #9: Although the Utah Navajo Health System, Inc. drafted a consultation policy on matters of public health dated November 1, 2018 and this draft was structured to follow the consultation guiding principles of the Navajo Nation Council Health, Education and Human Services Committee consulting policy, the draft has not been formally approved and accepted by the Committee as of this report date. Therefore, this condition was deemed unmet.

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In addition, the auditors noted concerns expressed by the Navajo Nation Department of Health regarding the following conditions:

- Condition #5: Although the Utah Navajo Health System, Inc. provided its 2016, 2017 and 2018 audited financial statements, Single Audit reports, corrective action plans, annual reports, survey reports from accreditation organizations, and funding agreements to the Navajo Nation Council Health, Education and Human Services Committee, copies of these reports were not provided to the Navajo Nation Department of Health for their information.
- Condition #8: Although the Utah Navajo Health System, Inc. provided proof of cooperative agreements regarding applicable health care programs with the Navajo Nation Department of Health, the Department represented that more consulting and cooperation is needed to make sure the Utah Navajo Health System, Inc. is providing the health needs of the Navajo Nation.
- Condition #10: Although the Utah Navajo Health System, Inc. did not have any Memorandum of Understanding with the Navajo Nation Department of Health or the Navajo Nation Department of Emergency Services during the review period regarding the use of facilities, the Navajo Nation Department of Health represented that office space for 638 health programs should not be compromised and a comprehensive agreement under one Memorandum of Understanding is needed for all programs under the Navajo Nation Department of Health.

Detailed explanation of the review results can be found in the body of the report.

#### CONCLUSION

The Utah Navajo Health System, Inc. is in compliance with a majority of the 13 conditions set forth in Navajo Nation Council resolution no. CJY-33-10. Accordingly, the Utah Navajo Health System, Inc., as a tribal organization, has met the requirements for continuing authorization from the Navajo Nation to manage and operate under Title V, the Indian Self-Determination Act.

If you have any questions about this report, please contact our office at extension 6303. We extend our appreciation to the Utah Navajo Health System, Inc. management for their assistance and cooperation in completing this review.

xc: Michael Jensen, Chief Executive Officer  
**UTAH NAVAJO HEALTH SYSTEM, INC.**  
Dr. Jill Jim, Department Director  
**NAVAJO DEPARTMENT OF HEALTH**  
Dana Bobroff, Chief Legislative Counsel  
**OFFICE OF LEGISLATIVE COUNSEL**  
LaShawna Tso, Chief of Staff  
**OFFICE OF THE SPEAKER**  
Paulson Chaco, Chief of Staff  
**OFFICE OF THE PRESIDENT/VICE PRESIDENT**  
Chrono

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**INDEPENDENT ACCOUNTANT'S REPORT  
ON APPLYING AGREED-UPON PROCEDURES**

**Navajo Nation  
Utah Navajo Health System, Inc.**

We have performed the procedures enumerated below, which were agreed to by the Navajo Nation, on the compliance of Utah Navajo Health System, Inc. ("UNHS") with the conditions outlined in Navajo Nation Council Resolution CJY-33-10 during its fiscal years ended June 30, 2017 and 2018. UNHS management is responsible for compliance with the conditions outlined in Navajo Nation Council Resolution CJY-33-10. The sufficiency of these procedures is solely the responsibility of the Navajo Nation. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the compliance of UNHS with the conditions outlined in Navajo Nation Council Resolution CJY-33-10. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The procedures and associated findings are as follows:

**Condition 1 – Demonstrate financial stability and financial management capability.**

- *Procedure* - Obtain recent financial statements and calculate current ratio, quick ratio, viability ratio and operating reserve ratio.
- *Results* – We obtained the audited financial statements for 2016, 2017 and 2018 and computed the current ratio, quick ratio, viability ratio, and operating reserve ratio.

	Audited 2016	Audited 2017	Audited 2018	Benchmark
Current ratio	6.39	10.42	3.80	> 2.00
Quick ratio	6.38	10.40	3.79	> 2.00
Viability or debt to equity ratio	0.12	0.07	0.13	<.40
Operating reserve ratio	1.25	1.63	1.60	>.25

*Current Ratio and Quick Ratio* – The ratios are a measure of an organization’s ability to pay current liabilities as they come due utilizing current assets and current assets that are quickly convertible to cash. Ratios in excess of 1.00 indicate there are just enough current assets to pay current liabilities, so higher ratios are preferable. UNHS ratios declined in 2018 as cash was used to fund replacement facilities, however the ratios remains very strong.

*Viability or Debt to Equity Ratio* – The ratio is a measurement of debt relative to the net assets of the organization. Higher ratios indicate organizations are highly leveraged with debt with ratios in excess of 1.00 indicating the organization has more debt than net assets. Low ratios are preferred, UNHS ratio is very low since the organization is carrying very little debt.

*Operating Reserve Ratio* – A reserve equal to three months of annual operating expenses is a suggested minimum goal. The ratio of 1.25, 1.63 and 1.60 for 2016, 2017 and 2018, respectively indicates the UNHS has about 5 - 7 times the suggested minimum operating reserve goal.

- *Procedure* - Review and document the skills, knowledge and experience of the Chief Executive Officer (CEO) and Chief Financial Officer (CFO).
- *Results* – Resumes of the CEO and CFO and qualifications reported on UNHS website were obtained listing the skills, knowledge, and experience of the CEO and CFO overseeing the financial management of UNHS.
  - Michael Jensen, CEO resume included the significant operational and administrative experience in a variety of roles that provides the broad knowledge and skills necessary to oversee a growing organization like UNHS. Mr. Jensen’s educational qualifications of a Master’s in Business Administration (Utah State University), Master’s in Healthcare Administration (Still University), and Master of Science in predictive analytics (Northwestern University) are well suited in today’s healthcare environment where data and the abilities to analyze and use data to drive improved delivery of healthcare services and quality of healthcare services and outcomes have become a necessary skill set.
  - William Harrison, CFO resume included a progression of roles in the organization’s finance department from staff accountant, to controller, to CFO. His educational qualification includes a Bachelor of Arts degree in Accounting from Fort Lewis College. His experience includes practical day to day oversight of financial reporting, grant reporting, and accounting, budgeting, preparation of accounting policies and procedures, as well as supervising patient registration and receivables, and inventory and purchasing. At the time of this review, Mr. Harrison had announced his resignation and UNHS was recruiting for a new chief financial officer. Mr. Harrison’s experience was suited for the role of being a steward to

oversee the assets of the organization, maintain compliance with regulations, and to operate the finance department and provide the information to the business. We observed via an announcement on UNHS website dated February 27, 2019 that the organization has hired a replacement CFO, Andrew Evans, CPA. Mr. Evens received Bachelor's and Master's degrees in accounting from Westminster College in Salt Lake City with experience that includes being an auditor with the national accounting and consulting firm CBIZ and an audit manager with the regional accounting and consulting firm Tanner LLC. Mr. Evans' education and experience appears to be suited to provide oversight over the financial reporting of UNHS.

**Condition 2 - Maintain eligibility for third party payments under the Centers for Medicare and Medicaid Services (CMS).**

- *Procedure* - Review any communications from CMS regarding compliance with CMS regulations.
- *Results* - Per inquiries of Michael Jensen, CEO; William Harrison, CFO, UNHS has received no communications from CMS or the state Medicaid agencies in Utah, Arizona, New Mexico, and Colorado regarding noncompliance with CMS regulations required to maintain eligibility to receive payments. UNHS received a site visit from the Health Resources and Services Administration (HRSA) Bureau of Primary Health Care (BPHC) in October 2016 as part of ongoing compliance to be a Federally Qualified Health Center for Medicare billing purposes and for retaining grant funding under the Health Centers Cluster. A copy of the site visit report was obtained noting matters of compliance and noncompliance. The HRSA site visit covered compliance with the health centers program in the following 19 areas:
  1. Needs Assessment Performed - Met
  2. Required and Additional Services – Not Met
  3. Staffing Requirements – Met
  4. Accessible Hours of Operations/Locations – Met
  5. After-Hours Coverage – Met
  6. Hospital Admitting Privileges and Continuum of Care – Met
  7. Sliding Fee Discounts – Not Met
  8. Quality Improvement/Assurance Plan – Met
  9. Key Management Staff – Met
  10. Contractual/Affiliation Agreements – Met
  11. Collaborative Relationships – Met
  12. Financial Management and Control Policies – Met
  13. Billing and Collections – Not Met – Rapid Resolution applied
  14. Budget – Met
  15. Program Data Reporting – Met
  16. Scope of Project – Not Met
  17. Board Authority – Met
  18. Board Composition – Met
  19. Conflict of Interest Policy – Met

- **Regarding compliance item 2 that was listed as not met** – HRSA determined UNHS provided all required primary, preventative, and enabling health services required under the health centers program and provides additional health services as appropriate and necessary, however, Memorandum's of Understanding /Agreements (MOU/A's) at the time with Riverwood Imaging for diagnostic radiology and with Blue Mountain Hospital and University of Utah Health Systems for coverage in diagnostic laboratory and emergencies during and after-hours did not include the following elements in its contract language for services provided by the health center 1.) How the services will be documented in patient records, 2.) How the health center will pay or bill for the service, and 3.) How the health center's policies and procedures, including sliding fee discount program apply and did not include the following elements for services provided by other than the health center 1.) How referral will be made and managed and the process for tracking and referring patients back to the health center for follow-up care, and 2.) How the referred services are made available equally to all health center patients regardless of ability to pay. HRSA's recommendations were to include the required language in the MOU/A/s for diagnostic imaging, diagnostic laboratory, and coverage for emergencies during and after hours. This did not appear to be a significant compliance finding.
- **Regarding compliance item 7 that was listed as not met** – HRSA determined that UNHS had an appropriately designed sliding fee schedule, however the sliding fee policy did not include the following elements 1.) provisions for review of the sliding fee program by the board of directors at least once every three years and 2.) documentation for family size is by self-declaration and was not identified in the policy. HRSA also noted that UNHS had made an exception that the following services were not covered under the sliding fee policy: physical therapy, occupational therapy, obstetrics, ultrasound, mammography, bone density, podiatry, audiology, nutritional counseling, optometry, echocardiogram, and major dental work. HRSA's recommendations were as follows:  
1.) UNHS must make all services within the scope of practice available under the sliding fee schedule, 2.) Sliding fee schedule must indicate the appropriate documentation for family size being self-declaration and 3.) The sliding fee policy must include provisions for routine review of the policy. We obtained the current UNHS revised sliding fee policy and noting the following. Last revision date was January 2018, it is scheduled to be reviewed January 2021. The sliding fee policy specifically states, "Family size can be self-declared". The sliding fee policy states, "The schedule of fees will be inclusive of all services provided by the health center" and "patients with incomes at or below 200% of the federal poverty guidelines may be eligible for discounted fees based on their ability to pay". Based on this review, UNHS had completed all HRSA recommendations. See note in following paragraph that HRSA determine this was corrected as of November 16, 2016.



- **Regarding compliance item 13 that was listed as not met** - HRSA noted written billing, credit, and collection policies are in place, however, the policies did not include an appropriate policy for fee waivers that stipulate when a fee waiver is available, what documentation is required, and who is authorized to approve one. HRSA noted that as of November 16, 2016, UNHS had submitted documentation to correct the deficiencies reported in its sliding fee program. HRSA noted the sliding fee documentation was also responsive to this finding, thus no condition was reported.
- **Regarding compliance item 16 that was listed as not met** – HRSA noted some areas of coordination of care were not properly indicated on the annual Uniform Data Submission (UDS) report required of health centers. HRSA noted UNHS had incorrectly excluded check marks that a MOU/A existed for diagnostic laboratory and gynecological care and had incorrectly included a check mark that indicated MOU/A's existed for screenings and well child services. This was an insignificant finding on form 5A of the UDS that HRSA requested be corrected.
- A copy of the notice of grant award for Health Centers Cluster for the period March 1, 2018 to February 28, 2019 was obtained. The notice of grant award noted no special conditions to the federal award; therefore all prior site visit matters had been resolved.
- **Procedure** – Review charges, payments, adjustment report from UNHS Athena and Dentrix practice management systems for indications that large numbers of Medicare and Medicaid claims are being rejected, not paid, or written off in whole (charges = adjustments) which could be an indicator of noncompliance with CMS regulations required to maintain eligibility to receive payments.
- **Results** – We queried the charges, payments and adjustments reports from Athena and Dentrix for fiscal year 2018 and observed various individual claims where adjustments were equal to charges for Medicare and Medicaid claim, however we observed no trends regarding large numbers of claims with a specific Medicare or Medicaid payor or over a specific time period being adjusted off in whole that would indicate a lack of compliance with Medicare and Medicaid eligibility requirements.
  - 63 of 2,724 (2.3%) Medicare claims had adjustments equal to charges
  - 37 of 3,183 (1.2%) Medicaid medical claims had adjustments equal to charges
  - 169 of 3,527 (4.8%) Medicaid dental claims had adjustments equal to charges.
- **Procedure** – Searched CMS website for reported fraud and abuse by UNHS.
- **Results** – As of the search on December 30, 2019, there was no fraud or abuse noted on the CMS website.

**Condition 3 – Maintain continued accreditation by a nationally recognized accreditation program.**

- *Procedure* – Obtain and review certificates of accreditation for the facility from a nationally recognized accreditation program.
- *Results* – We obtained certificates of accreditation of UNHS home health durable medical equipment (DME) and ambulatory services programs from The Joint Commission (JACHO) and certification of UNHS as a patient centered medical home from JACHO. We obtained a report from JACHO website noting accreditation history, active status of current accreditations, and quality report from last JACHO site visit in 2016 noting compliance with applicable standards to maintain accreditation.

**Condition 4 – Operate and administer self-governance compact programs under the oversight of the Health, Education, and Human Services Committee (HEHSC) and report to the HEHSC and the Navajo Nation Council when requested to do so.**

- *Procedure* – Inquire with management if UNHS has been requested to appear before HEHSC and/or the Navajo Nation Council.
- *Results* – Per inquiry of Michael Jensen, CEO, UNHS appears annually before the HEHSC to present an annual report and no other formal requests to appear before HEHSC had been received by UNHS. We obtained confirmation from Beverly Martinez, Legislative Advisor with HEHSC, that UNHS presented the 2016, 2017 and 2018 annual reports on July 31, 2017, September 17, 2018 and August 28, 2019, respectively, to HEHSC.

**Condition 5 – Maintain compliance with all monitoring and reporting requirements duly established by HEHSC.**

- *Procedure* – Inquire of Beverly Martinez, Legislative Advisor, HEHSC as to the existence of monitoring and reporting requirements established by the HEHSC.
- *Results* – Beverly Martinez, Legislative Advisor, Office of Legislative Services confirmed Condition 5, items a, b, and c are the monitoring and reporting requirements established by the HEHSC and the HEHSC had received the following documentation from UNHS:

2016 - 2018 Audited financial statements received?		Yes	No
Related single audit reports received?		Yes	No
Annual report received by the HEHSC?		Yes	No
Copies of self-governance compact received by HEHSC?	Fiscal years 2013-2017	Yes	No
Copies of annual funding agreement received by HEHSC?		Yes	No
Copy of JACHO/AAAHC accreditation received by HEHSC?			
JACHO - Primary Care Medical Home	Expires April 1, 2019	Yes	No
JACHO - Ambulatory Health Care	Expires April 1, 2019	Yes	No
JACHO - Home Care	Expires April 5, 2021	Yes	No
JACHO Quality Report received by HEHSC?		Yes	No

- *Procedure* - Obtain copies of the three most recent Federal Single Audit Report including audited financial statements.
- *Results* – We obtained the 2016, 2017 and 2018 Federal Single Audit Report, including audited financial statements and the corrective action plan. The auditor’s report issued on the financial statements and compliance for major programs for each year was an unmodified opinion, which is the highest opinion an auditor can give on a report. Even though there was a unmodified opinion there could still be findings which are listed below.
  - The 2016 Federal Single Audit Report included one finding reported as a significant deficiency in internal control over financial reporting (defined as deficiency or combination of deficiencies that is less severe than a material weakness, yet important enough to merit attention by those charged with governance). The finding observed that UNHS relies on its audit firm to assist with the preparation of the financial statements, disclosures, and schedule of federal awards. This finding is common in small to mid-sized organizations that only issue one set of full disclosure financial statements annually. Small and mid-sized organizations typically rely on their external audit firm for assistance in preparing a set of full disclosure financial statements due to the changing nature of accounting standards. External audit firms typically report this as a finding to ensure those charged with governance are aware of the assistance.

Organizations can then evaluate the cost-effectiveness of having finance staff that obtain/maintain expertise with changing standards versus continuing to have the external audit firm provide this assistance. One finding was also reported over compliance. Uniform Guidance requires when payroll expenses are expensed using a budgetary allocation across multiple programs or funding sources because payroll cost cannot be directly assigned, an “after the fact” analysis of the expense, based on budget versus the expense based on actual time and effort incurred be conducted, and an adjustment be made to adjust expenses to actual if the expenses based on budget are not reasonable. This after the fact analysis was not being conducted. UNHS corrective action plan was that a new time recording system was going to be implemented that would charge programs and funding sources based on actual time and effort. At the time of this inquiry, the new system was in the implementation phase.

- The 2017 Federal Single Audit Report included one finding reported as a significant deficiency in internal control over financial reporting (*defined as deficiency or combination of deficiencies that is less severe than a material weakness, yet important enough to merit attention by those charged with governance*). The finding observed that UNHS relies on its audit firm to assist with the preparation of the financial statements, disclosures, and schedule of federal awards and is a repeat finding from 2016. One finding was also reported over compliance. *Uniform Guidance* requires when payroll expenses are expensed using a budgetary

allocation across multiple programs or funding sources because payroll cost cannot be directly assigned, an “after the fact” analysis of the expense, based on budget versus the expense based on actual time and effort incurred be conducted, and an adjustment be made to adjust expenses to actual if the expenses based on budget are not reasonable. This is a repeat finding from 2016.

- The 2018 Federal Single Audit Report included one finding reported as a significant deficiency in internal control over financial reporting (*defined as deficiency or combination of deficiencies that is less severe than a material weakness, yet important enough to merit attention by those charged with governance*). The finding observed that UNHS relies on its audit firm to assist with the preparation of the financial statements, disclosures, and schedule of federal awards and is a repeat finding from 2017. One finding was also reported over compliance. *Uniform Guidance* requires when payroll expenses are expensed using a budgetary allocation across multiple programs or funding sources because payroll cost cannot be directly assigned, an “after the fact” analysis of the expense, based on budget versus the expense based on actual time and effort incurred be conducted, and an adjustment be made to adjust expenses to actual if the expenses based on budget are not reasonable. This is a repeat finding from 2017.
- *Procedure* - Obtain copies of the Title V Compact agreement and UNHS funding agreement.
- *Results* – We obtained the Title V Compact agreement and UNHS funding agreements for 2012 to 2017 and 2018 funding agreement up to amendment 6.
- *Procedure* – Inquired with the Navajo Nation Department of Health (NNDOH) as to the reports they received from UNHS for 2016, 2017, and 2018.
- *Results* – The NNDOH did not receive the audited financial statements with the federal single audit report, final survey reports and associated corrective action plans or the annual funding agreements for 2016, 2017 and 2018. They did receive the annual reports for those respective years.

**Condition 6 – Maintain continued compliance with all applicable Navajo Nation laws and regulations, including, but not limited to, the Navajo Preference in Employment Act.**

- *Procedure* - Obtain a list of new hires within the most recent fiscal year and select a sample of 10% of new hires to test compliance with Navajo Preference in Employment Act (NPEA) and obtain a copy of UNHS hiring policies.

- *Results* – We obtained a listing of 51 new hires at UNHS for 2018 from the human resources department and haphazardly selected 6 new hires for testing of compliance with UNHS hiring policies. Five of six individuals tested were Navajo as evidenced by Certificates of Indian Blood in the employment file. One position filled for an inventory/asset manager was filled by a non-Navajo individual. Human resources files indicated 9 applicants for the position, of which 4 withdrew their applications, and 4 individuals failed to meet merit, qualifications, or abilities necessary for the position as status was listed as “do not pursue”.
- *Procedure* – Review a list of current job openings on UNHS website to determine if disclosure is made that UNHS is a NPEA employer.
- *Results* – Of nine positions advertised on UNHS website on December 7, 2018, 2 of 9 positions did not have a disclosure statement on the job description that UNHS is a NPEA employer. However, the careers page where all open positions were listed had a “Legal Information” section immediately following the open positions listing clearly presenting UNHS non-discrimination policies and hiring policies in compliance with Public Law 93-638 and the NPEA.

**Condition 7 – Maintain compliance with all applicable Navajo Nation health care policies and priorities duly adopted by the HEHSC.**

- *Procedure* – Obtain copies of changes to Health Care Policies and Priorities adopted by the Health, Education and Human Services Committee.
- *Results* - Per inquiry of Michael Jensen, CEO, UNHS was notified of one change in Health Care Policies and Priorities regarding non-emergency transportation. Obtained copy of the press release from HEHSC announcing the change in policy regarding Non-Emergency Medical Transport. Obtained copy of application form for Navajo Nation Department of Health Non-Emergency Medical Transport listing 25 criteria necessary to apply. Per discussion with Michael Jensen, CEO, UNHS is in process of completing the application pending the completion of criminal background check requirements. Per our various inquiries and discussions with management, we noted no instance of non-compliance with applicable health care policies and procedures adopted by the Health, Education, and Human Services Committee.

**Condition 8 - Consult and cooperate with the Navajo Nation Department of Health concerning public health program needs and programs of the Navajo Nation.**

- *Procedure* - Obtain documentation of programs done with cooperation of the Navajo Nation Department of Health.

- *Results* - We inquired of Michael Jensen, CEO, William Harrison, CFO, and Byron Clarke, COO as to the existence of any cooperative programs concerning public health needs with the Navajo Nation.

Mr. Jensen noted that there are no formal Memorandum of Understanding or Agreement with the Navajo Nation regarding public health program needs and programs of the Navajo Nation. He noted UNHS does consult with the Department of Health to ensure efficient utilization of resources in the area serviced by UNHS, to avoid duplicate efforts, and to ensure services provided are consistent with the public health program needs of the Navajo Nation. UNHS does consult with the Navajo Nation Department of Emergency Services on occasions when UNHS Emergency Services are not available. In those instances, services are provided from Navajo Nation Department of Emergency Services facilities.

However, it was determined from conversations with the NNDOH that there needs to be more consult and cooperation from UNHS to ensure they are providing the health needs of the Navajo Nation.

**Condition 9 – Develop a written policy for consultation on matters of public health in coordination with the Navajo Nation Department of Health and have such policy approved by the HEHSC.**

- *Procedure* - Obtain a written policy for consultation on matters of public health.
- *Results* – We obtained a copy of the Navajo Nation’s HEHSC consultation policy dated July 10, 2012 and we also obtained a copy of a “redline” draft of a consultation policy on matters of public health dated November 1, 2018, developed by the 638 contract sites, specifically Utah Navajo Health System, Winslow Indian Health Care Center, and Tuba City Regional Health Care Corporation addressing the following matters for consultation with the HEHSC and Navajo Department of Health: A.) Public Health Legislation, Regulations, and Policies B.) Public Health Matters and C.) Health Care Organization Matters.

We compared the redline draft prepared by the 638 contract sites to the consultation guiding principles listed in Navajo Nation’s HEHSC consultation policy and noted the redline draft prepared by the 638 contract sites is structured to follow the consultation guiding principles of the Navajo Nation’s HEHSC consulting policy regarding A.) Adequate Notice B.) Accessibility C.) Meaningful Process and D.) Accountability. The “redline” draft prepared by the 638 contact sites has not been formally approved and accepted by the HEHSC per inquiry of Beverly Martinez, Legislative Advisor for HEHSC on February 5, 2019 and as of the date of this report has not been finalized and therefore this condition has been considered as not being met since there is no formal approved document.

**Condition 10 – Enter Memorandums of Understanding with the Navajo Nation Department of Health and Navajo Nation Department of Emergency Medical Service for the Navajo Nation’s use and occupancy of organization facilities as long as such use and occupancy does not interfere with direct care services.**

- *Procedure* – Obtain copies of Memorandums of Understanding (“MOU”) with the Navajo Nation Department of Health and Navajo Nation Department of Emergency Medical Service.
- *Results* – We inquired of Michael Jensen, CEO, William Harrison CFO, and Byron Clarke, COO as to the existence of MOU’s regarding use of UNHS facilities. Mr. Jensen noted he was not aware of existence of any such MOU’s with the Navajo Nation Department of Health or Navajo Nation Department of Emergency Service.

UNHS does not have any shared service programs related to public health and emergency medical services where use of UNHS facilities is required or has been requested by the Navajo Nation Department of Health and Navajo Nation Department of Emergency Services. UNHS does consult with the Navajo Nation Department of Emergency Services on occasions when UNHS Emergency Services are not available. In those instances, services are provided from Navajo Nation Department of Emergency Services facilities. Inquired of Dr. Jill Jim from the NNDOH, regarding MOU’s between UNHS and NNDOH. She indicated that space for 638 health programs should not be compromised and there should be a comprehensive agreement with all programs under the NNDOH to be included on one MOU.

**Condition 11 – In dealing with the federal and state government, be it lobbying, advocacy, litigation, or negotiating efforts, shall only take positions or to make arguments consistent with official published Navajo Nation positions.**

- *Procedure* - Search the internet for any publicity regarding the facilities to determine if UNHS has taken positions contrary to the Navajo Nation positions.
- *Results* – We performed a search on Google regarding existence articles, blogs, or press releases describing lobbying, advocacy, or litigation, or negotiation efforts involving UNHS and federal and state government to determine if UNHS has presented positions inconsistent with official published Navajo Nation positions. Searches returned no evidence of public positions issued by UNHS regarding lobbying, advocacy, litigation, or negotiating efforts.
- *Procedure* –We inquired of Michael Jensen, CEO, William Harrison, CFO, and Byron Clarke, COO regarding if UNHS has engaged in any lobbying, advocacy, litigation, or negotiation efforts where UNHS has taken positions or made arguments inconsistent with official published Navajo Nation positions.

- *Results* – Mr. Jensen noted that UNHS has not engaged in lobbying the federal or state governments and is not aware of any positions UNHS has taken in advocacy, litigation, or negotiation efforts with the federal or state governments that is inconsistent with official Navajo Nation positions.
- *Procedure* – Obtain meeting minutes of the UNHS board of directors for meetings held during the fiscal year ended June 30, 2017 and 2018 to review for actions taken by the board of directors related to positions taken by the Navajo Nation and determine if any UNHS actions are not consistent with Navajo Nation positions.
- *Results* – We observed in the February 21, 2018 meeting minutes discussion of a presentation that the Navajo Nation had solicited proposals for legal services to pursue a potential claim against manufacturers and distributors of opioid products and the law firm selected was meeting with the 638 participants to determine interest in pursuing a single lawsuit that would cover the entire Navajo Nation health care system. The board chair requested the attorney prepare a unified 638 draft resolution for the board to consider and assured the attorney that UNHS was in full support of the Navajo Nation position. A motion was passed to approve UNHS participation in the opioid lawsuit.

**Condition 12 – Not directly charge any tribal member for health care services nor charge the Navajo Nation Employee Benefit Plan or Worker’s Compensation Plan for health care services provided to covered tribal members unless Indian Health Services would be able to charge the tribal member for the same services under the same circumstances unless otherwise authorized by the Navajo Nation Council.**

- *Procedure* - Request the facility to provide a list of tribal members who had received services within the fiscal year period, select a sample of 40 patients, and review the history of charges and payments on the stay or visit to determine if the tribal member was charged for services.
- *Results* – In the 40-item sample, 22 tribal member patients were uninsured, and no cash receipts were recorded as the entire balance was adjusted to zero under the direct care program, 13 patients were tribal members whose services were paid for under Medicare, Medicaid, or other third-party insurance, and 5 were tribal members who received services at another provider under the purchased referred care program and were not billed for those services.
- *Procedure* - Obtain copies of patient billing policies and review to determine existence of provisions inconsistent with Indian Health Service and Navajo Nation Council requirements.



- *Results* – We obtained copies of UNHS accounts receivable management policy, sliding fee scale discount, and purchased referred care policies and noted no provisions in UNHS policies that would have tribal members be billed for services, inconsistent with Indian Health Services and Navajo Nation Council criteria.

**Condition 13 – Provide direct patient care to all Native American eligible users unless otherwise authorized by the Navajo Nation Council.**

- *Procedure* - Interview the front-end staff on the process of registering a new patient and tribal affiliations. Inquire about seeing Native Americans that are from other tribes.
- *Results* – We interviewed five front-desk staff working during our onsite visit and asked if they were aware of any circumstances in which a Native American, Navajo tribal member or other tribal affiliations, was turned away for services. Five of five responded they had not witnessed any such incidents.

We interviewed the same front-desk staff regarding if UNHS policies, management, or others had provided any instructions to turn away Native Americans who are not Navajo Nation tribal members. Five of five responded they have never received any instructions from UNHS to turn away Native Americans who are not Navajo Nation tribal members.

- *Procedure* - Interview the CEO, Michael Jensen, if UNHS turns away any patients for service.
- *Results* – CEO, Michael Jensen's response was that UNHS is prohibited from turning away any patients regardless of race, religion, ability to pay, etc. due to UNHS status as a Federally Qualified Health Center and therefore UNHS does not turn away any patients, unless in a very rare case a patient was violent or threatening.

This report is intended solely for the information and use of the Navajo Nation and Utah Navajo Health System, Inc. and is not intended to be and should not be used by anyone other than these specified parties.

*Wiggle LLP*

Great Falls, Montana  
December 31, 2019

December 31, 2019

Navajo Nation  
Tuba City Regional Health Care Corporation  
Winslow Indian Health Care Center, Inc.  
Utah Navajo Health Systems, Inc.

We have performed agreed upon procedures based on the 13 conditions outlined in the Navajo Nation Council Resolution CJY-33-10 and have some recommendations for future evaluations of these conditions.

1. To ensure the facilities are complying with the resolutions and expectations of the Health Education, and Human Services Committee (HEHSC) and the Navajo Nation Department of Health (NNDOH), consider redefining some of the criteria to make them more specific and measurable.
2. Consider holding, at a minimum, an annual meeting with key members of each organization to ensure open communication, consulting and cooperation concerning the public health needs. If possible, quarterly meetings with an agenda, minutes taken and shared with all participants is recommended to help facilitate this open communication.
3. Complete the consultation policy on matters of public health that is currently in draft form.

Thank you for the opportunity to work with your organization. If you have any questions regarding the recommendations list above, we welcome the opportunity to discuss them further with you.

*Wipfli LLP*