

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; OVERRIDING THE VETO OF CO-56-21 THAT PROPOSED REAFFIRMING THE NAVAJO NATION'S REQUEST TO THE GOVERNOR OF NEW MEXICO TO ACTIVATE THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC. INDIAN MANAGED CARE ENTITY TO INCREASE MEDICAL RESOURCES AVAILABLE TO THE NAVAJO PEOPLE DURING THE COVID-19 STATE OF EMERGENCY

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and has the authority to approve or amend the laws of the Navajo Nation. 2 N.N.C. § 102, § 102(A).
- B. All Navajo Nation Council resolutions that approve new laws or amend existing laws may be vetoed by the Navajo Nation President. 2 N.N.C. § 164(A)(17) and § 1005(C)(10)-(11).
- C. However, those resolutions vetoed by the President are subject to override by the Council via "a two-thirds (2/3) vote of the membership of the Navajo Nation Council." 2 N.N.C. § 1005(C)(11).
- D. Navajo Nation Council resolutions proposing a veto override must be submitted to the Naabik'íyáti' Committee before consideration by the Council. 2 N.N.C. § 164 (A)(17).

SECTION TWO. FINDINGS

- A. Resolution No. CO-56-21 was passed by the Navajo Nation Council and certified by the Speaker of the Council on October 19, 2021. CO-56-21 is titled: "AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; REAFFIRMING THE REQUEST TO THE GOVERNOR OF NEW MEXICO TO ACTIVATE THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC., INDIAN MANAGED CARE ENTITY TO INCREASE THE MEDICAL RESOURCES AVAILABLE TO NAVAJO PEOPLE DURING THE COVID-19 STATE OF EMERGENCY." **EXHIBIT 1.**

- B. Navajo Nation President Jonathan Nez vetoed CO-56-21 and explained his decision in a memorandum to the Speaker dated November 6, 2021. **EXHIBIT 2.**
- C. The Navajo Nation Council disagrees with the reasons for the President's veto as stated in his memorandum, and continues to believe in the need for CO-56-21.
- D. Therefore, the Navajo Nation Council chooses to exercise its veto override authority pursuant to 2 N.N.C. § 164(A)(17).

SECTION THREE. OVERRIDING THE VETO OF CO-56-21

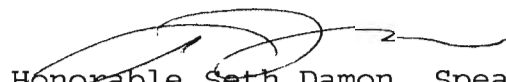
The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution No. CO-56-21, effective upon certification of the Speaker of the Navajo Nation Council and in accordance with 2 N.N.C. § 221(A) and § 221(C). With this override, Resolution No. CO-56-21 shall have full force and effect.

SECTION FOUR. SAVING CLAUSE

If any portion of this Action is determined invalid by the Navajo Nation Supreme Court, or by a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the remainder of this Action shall be the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 19 in Favor, and 01 Opposed, on this 26th day of January 2022.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

Feb 3, 2022
DATE

Motion: Honorable Vince R. James
Second: Honorable Paul Begay, Jr.

Speaker Seth Damon not voting

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - THIRD YEAR, 2021



AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; REAFFIRMING THE REQUEST TO THE GOVERNOR OF NEW MEXICO TO ACTIVATE THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC., INDIAN MANAGED CARE ENTITY TO INCREASE THE MEDICAL RESOURCES AVAILABLE TO NAVAJO PEOPLE DURING THE COVID-19 STATE OF EMERGENCY

BE IT ENACTED

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee is a Standing Committee of the Navajo Nation Council with the delegated authority to ensure compliance and implementation of laws and policies of the Navajo Nation relating to health, social services, education, general government services and human services. 2 N.N.C. §§ 400, 401(B)(2), 401(B)(6)(A)-(B), and 401(B)(7)(A).
- B. The Resources and Development Committee is a Standing Committee of the Navajo Nation Council with the delegated authority to periodically receive reports and review the operations of the Navajo Nation enterprises, authorities, and industries. 2 N.N.C. §§ 500 and 501(B)(4)(e).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the delegated authority to assist development of federal and state programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships; and to coordinate all federal, county and State programs with other branches of the Navajo Nation government to provide the most efficient delivery of services. 2 N.N.C. §§ 700 and 701(4) and (7). In addition, a proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee. 2 N.N.C. § 164(A)(9).
- D. The Navajo Nation Council is the governing body of the Navajo Nation empowered to state policy and enact laws of the Navajo Nation. 2 N.N.C. §§ 102(A) and 164(A).

SECTION TWO. FINDINGS

- A. COVID-19 is a dangerous and extremely contagious respiratory virus; as of June 22, 2021, the Navajo Nation has reported 30,972 cases of COVID-19 and 1,347 related deaths. The virus has not been completely eradicated and variants continue to emerge.
- B. The Navajo Nation Commission on Emergency Management with the concurrence of the Navajo Nation President declared a Public Health State of Emergency on March 11, 2020 to address the COVID-19 pandemic and mitigate spread of the virus. See CEM-20-03-11.
- C. In time of national crisis and legitimate fears and concerns about the spread of the COVID-19, it is imperative that the Navajo Nation take advantage of all available resources to combat this pandemic and provide healthcare services to Navajo members and their communities.
- D. On January 23, 2020, the Naabik'iyáti' Committee adopted Resolution NABIJA-06-20, attached as Exhibit A without exhibits, urging the Governor of the State of New Mexico and the New Mexico Human Services Department to, among other things, collaborate with the Naat'aanii Development Corporation ("NDC") to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity ("IMCE") and have it fully operational in New Mexico in the first quarter of 2020 and in Arizona and Utah thereafter.
- E. On March 20, 2020, the Navajo Nation Council adopted Resolution CMA-14-20, attached as Exhibit B without exhibits, which resolved that:
 - 1. The Navajo Nation hereby urges the Governor of the State of New Mexico and the New Mexico Human Services Department to collaborate with the Naat'aanii Development Corporation to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity and have it fully operational in New Mexico in the first quarter of 2020 and in Arizona and Utah thereafter; and
 - 2. The Navajo Nation hereby also urges the Governor of the State of New Mexico and the New Mexico Human Services Department to implement passive enrollment mechanisms that will ensure enrollment of the majority of the 81,000

American Indians and Alaska Natives residing within the Navajo Nation into the Naat'aanii Development Corporation - Molina healthcare, Inc. managed care program; and

3. The Navajo Nation hereby further urges the Governor of the State of New Mexico and the New Mexico Human Services Department to take those steps necessary to ensure that healthcare decisions can be made collectively by a family unit and that non - American Indian and non - Alaska Natives family members of an eligible individual be allowed to enroll in the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.
- F. On March 27, 2020, Jonathan Nez, Navajo Nation President, vetoed Navajo Nation Council resolution number CMA-14-20 stating, among other reasons for his veto, that he supports active enrollment and not passive enrollment as the Council stated in CMA-14-20.
 - G. On April 17, 2020, the Navajo Nation Council by resolution number CAP-23-20, attached as Exhibit C without exhibits, over-rode President Nez' veto by a vote of 16 in favor and 6 opposed making Navajo Nation Council resolution numbers CMA-14-20 and CAP-23-20 final law of the Navajo Nation on the matter.
 - H. Since April 17, 2020, the New Mexico Governor and the New Mexico Human Services Department held a number of meetings and completed negotiations on a draft contract with Naat'aanii Development Corporation - Molina Healthcare, Inc. to create the IMCE but the New Mexico Governor ceased all meetings and communications in January 2021 regarding the IMCE establishment. There has been no progress on the IMCE since then.
 - I. The State of New Mexico has refused to execute the completed draft IMCE Agreement based on the excuse that the governor requires the Navajo Nation to waive its sovereign immunity and that the Navajo Nation president must also sign the Agreement.
 - J. However, NDC has previously informed the Human Services Department that NDC can waive its sovereign immunity for enforcement of the IMCE in state judicial and administrative agencies and additional waiver of the Navajo Nation's sovereign immunity is not required. In addition, on January 7, 2021, the Navajo Nation Attorney General, in response to a request from the Human Services Department, opined that the

Navajo Nation does not need to be a party signatory to the IMCE contract.

- K. The Navajo Nation Council is willing to support active enrollment in the IMCE on the condition that the President execute a joint letter from the Council to the governor supporting the immediate establishment of the IMCE.
- L. The Navajo Nation Council believes that it is in the best interest of the Navajo Nation and the Navajo people to complete the establishment of Naat'aanii Development Corporation - Molina Healthcare, Inc. as the managed care program (Navajo MCO) so that Navajo MCO members will have access to free testing and diagnostics for COVID-19; the Navajo MCO will also provide doctor and hospital visits with all necessary prescriptions, x-rays and laboratory services for members that require treatment against the virus.
- M. Naat'áanii Development Corporation's Board of Directors and Management have extensive background and experiences managing, leading, and growing multi-billion dollar companies. The IMCE will provide additional revenue to the Indian Health Service (I.H.S.) and Pub. L. 93-638 healthcare facilities on the Navajo Nation. The IMCE's source of funds are separate from I.H.S. and Pub. L. 93-638 healthcare funds and will not compete for IHS/Navajo funding.
- N. In this time of crisis, it is imperative that the Navajo Nation and the State of New Mexico move quickly to complete implementation of the Navajo MCO so it can aid Navajo people during this pandemic crisis and beyond.

SECTION THREE. SUPPORTING IMCE THROUGH ACTIVE ENROLLMENT

The Navajo Nation Council hereby approves and resolves that:

- A. The Navajo Nation hereby reaffirms its prior position with the addition that enrollment may occur through active enrollment provided the President co-signs a letter to the governor supporting immediate establishment of the IMCE.
- B. The Navajo Nation hereby re-urges the Governor of the State of New Mexico and the New Mexico Human Services Department to collaborate with the Naat'aanii Development Corporation and to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity and have it fully operational in New Mexico in 2021 and in Arizona and Utah thereafter.

- C. The Navajo Nation hereby also re-urges the Governor of the State of New Mexico and the New Mexico Human Services Department to implement active enrollment mechanisms that will ensure enrollment of the majority of the 81,000 American Indians and Alaska Natives residing within the Navajo Nation into the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.
- D. The Navajo Nation hereby further re-urges the Governor of the State of New Mexico and the New Mexico Human Services Department to take those steps necessary to ensure that healthcare decisions can be made collectively by a family unit and that non-American Indian and non-Alaska Natives family members of an eligible individual be allowed to enroll in the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.
- E. The Navajo Nation hereby urges the Governor of the State of New Mexico and the New Mexico Human Services Department to respect and honor the sovereign will of the Navajo Nation by moving forward with the full implementation of the Indian Managed Care Entity with Naat'aanii Development Corporation as the official designated entity on behalf of the Navajo Nation.

SECTION FOUR. EFFECTIVE DATE

The legislation enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

SECTION FIVE. SAVINGS CLAUSE

Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those provisions that are not determined invalid shall remain the law of the Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 23 in Favor, and 00 Opposed, on this 19th day of October 2021.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

10.28.2021

DATE

Motion: Honorable Eugenia Charles-Newton
Second: Honorable Jamie Henio

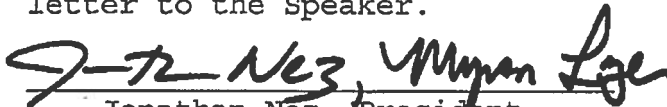
Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2021.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 06 day of November, 2021 for the reason(s) expressed in the attached letter to the Speaker.


Jonathan Nez, President
Navajo Nation



NABIJA-06-20

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE OF THE
24th NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ÍYÁTI' COMMITTEES; REQUESTING THAT THE GOVERNOR OF THE STATE OF NEW MEXICO AND NEW MEXICO HUMAN SERVICES DEPARTMENT COLLABORATE WITH THE NAAT'AANII DEVELOPMENT CORPORATION TO SECURE ALL NECESSARY APPROVALS FOR EXPEDITIOUSLY LAUNCHING THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC. INDIAN MANAGED CARE ENTITY; SUPPORTING PASSIVE ENROLLMENT FOR THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC. MANAGED CARE PROGRAM

WHEREAS:

- A. The Navajo Nation established the Health, Education, and Human Services Committee as a Navajo Nation Council standing committee and as such empowered the Health, Education, and Human Services Committee to establish Navajo Nation policy governing health and social services of the Navajo Nation and its tribal organizations, entities, and enterprises. 2 N.N.C. §§ 400, 401 (B)(1).
- B. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation Council standing committee and as such empowered the Naabik'iyáti' Committee to monitor the programs and activities of federal and state departments and to assist development of programs designed to serve the Navajo people through intergovernmental relationships between the Navajo Nation and such departments. 2 N.N.C. § 700 (A), see 2 N.N.C. § 701 (A)(7).
- C. The Navajo Nation has government-to-government relationships with the State of New Mexico and the United States and the sovereign right to establish managed health care services for its members.
- D. Medicaid is a health insurance program that serves low-income children and adults, individuals with disabilities, and seniors, including Native Americans and Alaska Natives in all

categories. Medicaid is jointly funded by the states and federal government, but administered by the states and within a framework established by federal statutes, regulations and guidance, states can choose how to design aspects of their Medicaid program. Under Section 1115 of the Social Security Act, states may apply for federal permission to implement and test new approaches to administering Medicaid programs.

- E. There are approximately 81,000 Medicaid eligible Navajos living in New Mexico who experience a heavier disease burden, including a thirty-one (31%) percent higher mortality rate, than the overall United States rate. This heavier disease burden is buoyed by the socio-economic hurdles Navajos face in accessing the healthcare system, especially physical and behavioral specialty providers, and further exacerbated by the reality that current Medicaid benefit packages do not integrate key components of Navajo culture. As a result, Navajos access care at lower rates and experience worse outcomes when compared to the average Medicaid population.
- F. In 2012, pursuant to the reauthorization of the Affordable Care Act and amendment of the Indian Health Care Improvement Act Reauthorization and Extension Act, the United States' Congress tasked the Centers for Medicare and Medicaid Services ("CMS") with assessing the feasibility of establishing a Navajo Medicaid Agency within the borders of the Navajo Nation for the express purpose of improving the provision of Medicaid benefits to American Indians and Alaska Natives and their families residing within the Navajo Nation. CMS's findings determined that such an approach would be feasible and could provide exponential benefits to underserved Navajos and their families.
- G. Recognizing the dire state of the Medicaid eligible Native American and Alaska Native population's access to healthcare in New Mexico, in 2017, the State's Medicaid program (Centennial Care 2.0) received a 42 CFR § 1115 Waiver approved by CMS authorizing Centennial Care to (1) collaborate with Indian Managed Care Entities ("IMCE"), including a pilot project with the Navajo Nation or a Navajo Nation entity; and (2) require American Indian and Alaska Native populations

within specific zip codes or zones to enroll in a managed care delivery system. 42 CFR § 1115, see also CMS' Indian Provisions in the Final Medicaid and Children's Health Insurance Program Managed Care Regulations attached as Exhibit A.

- H. A managed care organization ("MCO") is a health care organization that offers managed care health plans to eligible enrollees using a specific provider network and offering specific services and products. An IMCE (Indian Managed Care Entity) is an MCO that is controlled by a Tribe or Tribal Organization and offers health services and products specifically tailored to American Indians and Alaska Natives, as well as specific tribal populations. See Exhibit A, see also Naat'aanii Development Corporation, Passive Enrollment Preserves Diné Choice Navajo Indian Managed Care Entity attached as Exhibit B.
- I. The Naat'aanii Development Corporation ("NDC") is a federally-chartered for-profit corporation formed by the Navajo Nation under Section 17 of the Indian Reorganization Act; its Charter was approved by the Secretary of the Interior and ratified by the Navajo Nation Council under Resolution No. CO-69-17 to advance economic development programs and initiatives in markets on and off Navajo Nation lands. Resolution No. CO-69-17 attached as Exhibit C.
- J. NDC was the only respondent to the January, 2018 Request for Information commissioned by the State of New Mexico's Human Services Department ("HSD") soliciting proposals for how an IMCE could be established to address the healthcare needs of American Indians and Alaskan Natives residing within New Mexico's borders.
- K. NDC has subcontracted with Molina Healthcare Inc. to develop an ICME and ensure that the Navajo people are offered a Medicaid managed care program that (a) is dedicated to American Indians and Alaska Natives and their families residing within the Navajo Nation; (b) provides access to quality care; and (c) is tailored to American Indian, specifically Navajo, and Alaska Native health, cultural, and geographical needs.

- L. NDC will contract exclusively and directly with HSD as a Medicaid managed care provider, and in partnership with its subcontractor, Molina Healthcare Inc., will offer a culturally competent Medicaid program, compliant with all federal and state statutes, regulations and rules, to eligible Navajos and their families that is sensitive to Navajo, American Indian and Alaska Native healthcare needs.
- M. The managed care solution that the NDC-Molina IMCE will bring to eligible American Indians and Alaska Natives residing within the Navajo Nation will (1) better align healthcare value and quality through programs that improve outcomes, like care coordination and utilization management; (2) improve access to care for American Indians and Alaska Natives by emphasizing the role of primary care providers who identify and treat conditions and connect patients with specialists for more complex needs; (3) provide services in a culturally competent manner that are uniquely tailored to the Navajo Nation population and their family members.
- N. The NDC-Molina IMCE will first be geographically focused around the Northwest quadrant of New Mexico but will cover members wherever they travel throughout the Navajo Nation including the States of New Mexico, Arizona and Utah and will include all Centennial Care covered benefits including key tribal services currently provided under Centennial Care (traditional healing, tribal care coordinators within IHS facilities, tribal peer specialists, etc.), and will look to develop programs that address key social determinants of health (housing, employment, food insecurity and enhanced transportation) and support health improvement for American Indians and Alaska Natives residing within the Navajo Nation.
- O. The NDC-Molina IMCE will also give members access to a comprehensive statewide provider network first in New Mexico and then in Arizona and Utah including primary care providers, specialists, hospitals, core service agencies, and also enable American Indians and Alaska Natives to continue to have direct access to Indian Health Services facilities and providers for their healthcare needs.

- P. The access of American Indians and Alaska Natives residing within the Navajo Nation to all of the benefits of the NDC-Molina managed care program will be maximized if HSD implements passive enrollments mechanisms to ensure that the majority of the 81,000 American Indians and Alaska Natives residing within the New Mexico portion of the Navajo Nation are automatically enrolled in the NDC-Molina managed care program until they choose to opt out. See Naat'aanii Development Corporation and Molina Healthcare, New Mexico Indian Managed Care Entity: Potential Opportunities attached as Exhibit D.

NOW THEREFORE, BE IT RESOLVED:


- A. The Navajo Nation hereby urges the Governor of the State of New Mexico and the New Mexico Human Services Department to collaborate with the Naat'aanii Development Corporation to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity and have it fully operational in New Mexico in the first quarter of 2020 and in Arizona and Utah thereafter.
- B. The Navajo Nation hereby also urges the Governor of the State of New Mexico and the New Mexico Human Services Department to implement passive enrollment mechanisms that will ensure enrollment of the majority of the 81,000 American Indians and Alaska Natives residing within the Navajo Nation into the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.
- C. The Navajo Nation hereby further urges the Governor of the State of New Mexico and the New Mexico Human Services Department to take those steps necessary to ensure that healthcare decisions can be made collectively by a family unit and that non-American Indian and non-Alaska Natives family members of an eligible individual be allowed to enroll in the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.

DIRECTIVES

- A. The Naat'aanii Development Corporation-Molina Healthcare Inc. Indian Managed Care Entity shall report quarterly to the Navajo Department of Health, Office of the President and Vice-President, Health Education Human Services Committee and the Naabik'iyáti' Committee on the operations of the Indian Managed Care Entity. The report shall be in a format and answer questions recommended by the Health Education Human Services Committee.
- B. The Naat'aanii Development Corporation-Molina Healthcare Inc. Indian Managed Care Entity shall share data with the Navajo Department of Health as requested by the Executive Director of the Department of Health, by the Health Education Human Services Committee, or by the Naabik'iyáti' Committee.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 18 in Favor, and 00 Opposed, on this 23rd day of January 2020.


(Honorable Seth Damon, Chairman
Naabik'iyáti' Committee

Motion: Honorable Vince James
Second: Honorable Jimmy Yellowhair

Chairman Seth Damon not voting



RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION

RELATING TO AN EMERGENCY; REQUESTING THE GOVERNOR OF NEW MEXICO TO ACTIVATE THE NAAT'AANII DEVELOPMENT CORPORATION - MOLINA HEALTHCARE, INC. INDIAN MANAGED CARE ENTITY TO INCREASE THE MEDICAL RESOURCES AVAILABLE TO NAVAJO PEOPLE DURING THE COVID-19 STATE OF EMERGENCY

WHEREAS:

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Naabik'iyáti' Committee is a Standing Committee of the Navajo Nation Council empowered to assist development of federal and state programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships; and to coordinate all federal, county and state programs with other branches of the Navajo Nation government to provide the most efficient delivery of services. 2 N.N.C. §§ 701 (4) and (7).
- C. Pursuant to 2 N.N.C. §164 (A)(16) "[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council."
- D. On March 11, 2020 the President of the Navajo Nation declared a public health State of Emergency, attached as **Exhibit A**, for the entire Navajo Nation due to the outbreak of the COVID-19 Coronavirus.
- E. In this time of national crisis and legitimate fears and concerns about the spread of the COVID-19, it is imperative that Navajo Nation take advantage of all available resources to combat this pandemic and provide healthcare services to Navajo members and their communities.

F. On January 23, 2020, the Naabik'iyáti' Committee adopted Resolution NABIJA-06-20, attached as Exhibit B without exhibits, which resolved that:

1. The Navajo Nation hereby urges the Governor of the State of New Mexico and the New Mexico Human Services Department to collaborate with the Naat'aanii Development Corporation to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity and have it fully operational in New Mexico in the first quarter of 2020 and in Arizona and Utah thereafter; and
2. The Navajo Nation hereby also urges the Governor of the State of New Mexico and the New Mexico Human Services Department to implement passive enrollment mechanisms that will ensure enrollment of the majority of the 81,000 American Indians and Alaska Natives residing within the Navajo Nation into the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program; and
3. The Navajo Nation hereby further urges the Governor of the State of New Mexico and the New Mexico Human Services Department to take those steps necessary to ensure that healthcare decisions can be made collectively by a family unit and that non-American Indian and non-Alaska Natives family members of an eligible individual be allowed to enroll in the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.

G. Once the newly created Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program (Navajo MCO), the Navajo MCO members will have access to free testing and diagnostics for COVID-19; the Navajo MCO will also provide doctor and hospital visits with all necessary prescriptions, x-rays and laboratory services for members that require treatment against the virus.

H. In this time of crisis, it is important that the Navajo Nation move quickly to implement the Navajo MCO so they can aid Navajo people during this pandemic crisis.

NOW, THEREFORE, BE IT RESOLVED:

As the governing body of the Navajo Nation, the Navajo Nation Council hereby approves and resolves that:

- A. The Navajo Nation hereby urges the Governor of the State of New Mexico and the New Mexico Human Services Department to collaborate with the Naat'aanii Development Corporation to expeditiously secure all necessary regulatory approvals, contracts and infrastructure for launching the Naat'aanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity and have it fully operational in New Mexico in the first quarter of 2020 and in Arizona and Utah thereafter; and
- B. The Navajo Nation hereby also urges the Governor of the State of New Mexico and the New Mexico Human Services Department to implement passive enrollment mechanisms that will ensure enrollment of the majority of the 81,000 American Indians and Alaska Natives residing within the Navajo Nation into the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program; and
- C. The Navajo Nation hereby further urges the Governor of the State of New Mexico and the New Mexico Human Services Department to take those steps necessary to ensure that healthcare decisions can be made collectively by a family unit and that non-American Indian and non-Alaska Natives family members of an eligible individual be allowed to enroll in the Naat'aanii Development Corporation - Molina Healthcare, Inc. managed care program.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 00 Opposed, on this 20th day of March 2020.


 Honorable Seth Damon, Speaker
 24th Navajo Nation Council

3.23.2020
 DATE

Motion: Honorable Raymond Smith, Jr.
 Second: Honorable Carl R. Slater

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this _____ day of _____, 2020.

Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this 27 day of March, 2020 for the reason(s) expressed in the attached letter to the Speaker.

J. Nez *Myra Fier*
Jonathan Nez, President
Navajo Nation



CAP-23-20

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION
RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL;
OVERRIDING THE NAVAJO NATION PRESIDENT'S VETO OF NAVAJO NATION
COUNCIL RESOLUTION CMA-14-20

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. All resolutions enacting new law or amending existing laws are subject to veto by the President of the Navajo Nation pursuant to 2 N.N.C. § 1005 (C) (10) and (11) and override by the Navajo Nation Council. 2 N.N.C. § 164 (A) (17).
- B. A vetoed resolution shall first be submitted to Naabik'íyáti' Committee before consideration by the Council. 2 N.N.C. § 164 (A) (17).
- C. Veto legislation passed by the Navajo Nation Council [is] subject to an override of the veto by two-thirds (2/3) vote of the membership of the Navajo Nation Council. 2 N.N.C. § 1005(C) (11).

SECTION TWO. FINDINGS

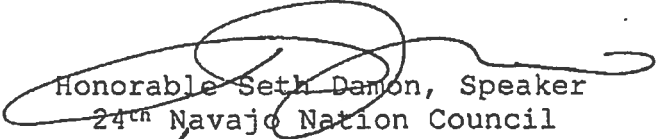
- A. The Navajo Nation approved Council Resolution CMA-14-20, "Requesting the Governor of the State of New Mexico to Activate the Naat'áanii Development Corporation - Molina Healthcare, Inc. Indian Managed Care Entity to Increase the Medical Resources Available to Navajo People During the COVID-19 State of Emergency, attached as Exhibit 1.
- B. The Navajo Nation President vetoed CMA-14-20 on March 26, 2020 and provided a memorandum, attached as Exhibit 2, to support his decision to veto the Council Resolution.

SECTION THREE. OVERRIDE

The Navajo Nation Council hereby overrides the Navajo Nation President's veto of Resolution CMA-14-20.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 16 in Favor, and 06 Opposed, on this 17th day of April 2020.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

April 23, 2020
DATE

Motion: Honorable Pernell Halona
Second: Honorable Edison J. Wauneka

Speaker Seth Damon not voting

NAVAJO NATION

902

Navajo Nation Council 2021 Fall Session

10/19/2021

01:47:17 PM

Amd# to Amd#	Legislation 0107-21: Reaffirming	PASSED
MOT Charles-Newton	the Request to the Governor of	
SEC Henio, J	New Mexico to Activate the	
	Naat'aani Development....	

Yeas : 23

Nays : 0

Excused : 0

Not Voting : 0

Yea : 23

Begay, E	Daniels	Slater, C	Tso, E
Begay, K	Freeland, M	Smith	Walker, T
Begay, P	Halona, P	Stewart, W	Wauneka, E
Brown	Henio, J	Tso	Yazzie
Charles-Newton	James, V	Tso, C	Yellowhair
Crotty	Nez, R	Tso, D	

Nay : 0

Excused : 0

Not Voting : 0

Presiding Speaker: Damon

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

November 6, 2021

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515



RE: CO-56-21, *An Action Relating to Health, Education and Human Services, Resources and Development, and Naabik'iyáti' Committees and the Navajo Nation Council; Reaffirming the Request to the Governor of New Mexico to Activate the Naat'aanii Development Corporation - Molina Healthcare, Inc., Indian Managed Care Entity to Increase the Medical Resources Available to Navajo People During the COVID-19 State of Emergency*


Dear Speaker Damon,


We appreciate the Navajo Nation Council presenting this resolution a second time; however, many questions remain and issues that are not addressed. Previously we pointed out the intent of the Naat'aanii Development Corporation did not include providing or managing healthcare, this matter remains unanswered. The partnership with Molina Healthcare, Inc. should be explored in depth on issues such as its relationship with the State of New Mexico, consultation with healthcare providers in the Navajo Nation, the efficiency model of healthcare for Navajo People as related to the overall health of Navajo People, reimbursement for Indian Health Services or P.L. 93-638 healthcare facilities, in-network healthcare service providers compared to traveling to out-of-network providers, and opportunity to bid for services by other Medicaid managed care providers.

The health of our Navajo People is important and should not be the basis for profit. Our People have serious health issues and both the Navajo Nation Council and the Office of the President and Vice President continually advocate for increased funding to federal healthcare facilities. If the Navajo Nation moves to services by an Indian Managed Care Entity then we must look into how the local healthcare facilities address the health issues of the Navajo People and not limit the hospital visits to increase profits; as opposed to the services of a managed care organization. Consultation with the Department of Health and Indian Health Services could explain the issues and clear up the confusion.

This is not simply a matter of a waiver of sovereign immunity or offering specialized services. The health of our Navajo People requires a thoughtful examination into healthcare services outside the treaty obligation of the federal government. We cannot support CO-56-21.

Sincerely,


Jonathan Nez, President
THE NAVAJO NATION


Myron Lizer, Vice President
THE NAVAJO NATION

NAVAJO NATION

975

1/26/2022

Navajo Nation Council 2022 Winter Session

02:50:43 PM

Amd# to Amd#	11. NEW BUSINESS - Item (H)	PASSED
MOT James, V	Legislation 0009-22:	
SEC Begay, P	Overriding the Veto of CO-56-21 that Proposed Reaffirming the...	

Yeas : 19

Nays : 1

Excused : 1

Not Voting : 2

Yea : 19

Begay, E	Daniels	Nez, R	Tso, D
Begay, K	Freeland, M	Slater, C	Tso, E
Begay, P	Halona, P	Stewart, W	Wauneka, E
Brown	Henio, J	Tso	Yellowhair
Charles-Newton	James, V	Tso, C	

Nay : 1

Yazzie

Excused : 1

Crotty

Not Voting : 2

Walker, T	Smith
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Presiding Speaker: Damon