

**GOVERNMENT – TO – GOVERNMENT  
2015 ACTIVITY REPORT**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

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**PROGRAMS AND SERVICES:**

The Department of Consumer and Business Services' (DCBS) mission is to protect and serve Oregon's consumers and workers while supporting a positive business climate in the state.

DCBS is Oregon's largest business regulatory and consumer protection agency. The department administers state laws and rules to protect consumers and workers and support a positive business climate in the areas of workers' compensation, occupational safety and health, financial services, insurance, and building codes.

Our goals:

Protect consumers and workers in Oregon.

Regulate in a manner that supports a positive business climate.

Be accountable to the public we serve, with excellent service to our customers.

**DEPARTMENTAL STATEMENT:**

The Department of Consumer and Business Services promotes positive relationships between the department and the tribes. Although few DCBS regulatory programs affect the tribes because of their sovereign status, there are occasions when the tribes choose to receive services. In addition, the department often provides education and outreach to the tribes on issues such as homeownership, workplace safety and health, and Medicare. DCBS has an agencywide policy that promotes such communication.

## **A. BUILDING CODES DIVISION (BCD)**

### **1. Issue Name:**

Building department services

#### **Issue Description:**

The Confederated Tribes of Umatilla Indian Reservation requested that the division provide building department services for all projects on tribal land.

#### **Action Taken:**

The division entered into an intergovernmental agreement (IGA) with the Confederated Tribes of Umatilla Indian Reservation in February 2014, and is providing building department services through its Pendleton field office. Terms of the current IGA provide for the division to continue services through 2017.

#### **Action Planned:**

The division will continue to provide building department services as requested by the tribes.

### **2. Issue Name:**

Boiler inspection services

#### **Issue Description:**

Occasionally, a tribe will request an inspection or consultation regarding a piece of boiler equipment located and operated on tribal land.

#### **Action Taken:**

The division provides consultation and inspection services through the boiler program as requests are received.

#### **Action Planned:**

The division will continue to provide boiler-related services as requested by the tribes.

## **B. OCCUPATIONAL SAFETY AND HEALTH DIVISION (Oregon OSHA)**

### **1. Issue Name:**

Occupational safety and health

#### **Issue Description:**

Tribal lands, including reservations and trust lands, pose a unique jurisdictional situation with regard to occupational safety and health regulation. Federal OSHA has jurisdiction over tribal governments and tribal enterprises, as well as private-sector businesses performing work on tribal and trust lands. Federal OSHA requires states to maintain jurisdiction over public-sector employers performing work on tribal lands. Because federal and state occupational safety and health standards are nearly identical, this separation of authority has caused little or no confusion for affected employers and employees. Oregon OSHA maintains a close working relationship with federal OSHA so

either agency can assist employers and employees and direct them to the appropriate resources.

**2. Issue Name:**

Occupational safety and health education, consultation, and the Resource Center

**Issue Description:**

Although Oregon OSHA does not have regulatory jurisdiction over tribal governments and enterprises, the division makes education, consultation, and Resource Center services available to these entities at no cost.

For the period Oct. 1, 2014, through Sept. 30, 2015, the following services were provided to members of the Oregon tribes:

**Workshops:**

- Two attendees from Klamath Casino at Safety Meetings and Committees
- One attendee from McKenzie Commercial at Safety Meetings and Committees
- One attendee at Safety and the Supervisor

**Consultations:**

- Two consultations with the Confederated Tribes of Coos Lower Umpqua
- Two consultations with the Tribes of the Warm Springs

**Resource Center:**

- The Resource Center received six requests for videos and one publication request from tribal members.

**Action Planned:**

Oregon OSHA will continue to provide consultations, education, and Resource Center services upon request. Oregon OSHA is available to make a presentation to tribal entities or associations on safety or health topics, as well as the occupational safety and health services available to them.

**C. Insurance Division**

**1. Issue Name:**

Health care education and outreach

**Issue Description:**

The Patient Protection and Affordable Care Act of 2010 allows all federally recognized tribes to use federal and state-based exchanges to purchase health insurance for their members. All federal financial aid to tribes will come through state-based exchanges rather than local tribal health centers. This is a significant change from previous years, as tribes have not historically relied upon the state for assistance with insurance issues.

**Actions Taken:**

In early 2014, tribal members were being denied Medicaid benefits because the state thought the tribes were providing their members with private insurance. However, rather than providing insurance, some tribes just provided financial medical assistance. The Insurance Division was asked to help resolve the issue. In 2015, the division collaborated with the Oregon Health Authority (OHA) and the Oregon Department of Justice (DOJ) to design an “Is it insurance?” checklist. Although the checklist has not been finalized, the Insurance Division continues to work with OHA and the Department of Human Services (DHS) to answer questions about insurance.

On March 13, 2015, the division’s Consumer Liaison and Tribal Liaison, Kevin Jeffries, attended the Health and Human Services Region 10 Tribal Consultation event in Seattle. That meeting brought together tribes and Alaskan Natives from Oregon, Washington, Idaho, and Alaska to discuss health-care-related issues. Jeffries spoke with tribal leaders about consumer advocacy and addressed differences between insurance and contract health arrangements.

Jeffries attended three OHA Tribal Health Cluster (Senate Bill 770) meetings. At each meeting, he spoke to tribal members about the division’s consumer advocacy services and promoted the community partnership campaign, seeking local contacts to help disseminate the division’s consumer advocacy message.

Those meetings were:

- May 13, 2015, in Pendleton
- Aug. 19, 2015, in Salem, hosted by DCBS and the Health Insurance Marketplace
- Oct. 15, 2015, in Warm Springs

**Actions Planned:**

The Insurance Division will continue to attend the HHS tribal consultation meetings and continue to build relationships of trust with Oregon tribal leaders. The division will continue to explore customer service opportunities in tribal communities.

Kevin Jeffries is scheduled to attend the Oregon Government-to-Government tribal meeting Dec. 15-16 in Canyonville.

**2. Issue Name:**

Property and casualty insurance education and outreach

**Issue Description:**

Tribal members incur losses that could or should be covered by property/casualty insurance. For example, members of the Warm Springs Indian Reservation have been exposed to the devastation of wildfires each summer in recent years.

**Actions Taken:**

The Insurance Division educates the public about best practices when buying and using insurance. In 2015, the division reached out directly to tribal governments to facilitate sharing of insurance information with tribal members.

On Sept. 15, in response to the wildfires in Warm Springs, Kevin Jeffries, Consumer Advocacy Manager Ron Fredrickson, and Consumer Advocate Jim Thompson met tribal leaders and tribal members regarding their homeowner insurance rights.

**Actions Planned:**

The division anticipates being invited back to Warm Springs for further wildfire-related education and outreach – with tribal members and their local news network – in the coming months.

Kevin Jeffries is scheduled to attend the Oregon Government-to-Government tribal meeting Dec. 15-16 in Canyonville.

**D. SENIOR HEALTH INSURANCE BENEFITS ASSISTANCE (SHIBA)**

**1. Issue Name:**

Medicare education, training, and enrollment help

**Issue Description:**

Provide Medicare education and training of tribal elders and Indian Health Services (IHS) staff with the nine federally recognized Oregon tribes:

- Burns Paiute Tribe
- Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians of Oregon
- Confederated Tribes of Grande Ronde
- Confederated Tribes of Siletz Indians
- Confederated Tribes of Umatilla Indian Reservation
- Confederated Tribes of Warm Springs
- Coquille Indian Tribe
- Cow Creek Band of Umpqua Tribe of Indians
- Klamath Tribes

**Actions Taken:**

January to Nov. 5, 2015: SHIBA counselors provided one-on-one information and help to 110 tribal Medicare beneficiaries.

April 15, 2015: SHIBA Field Officer Cynthia Hylton (tribal outreach coordinator) attended the Tribal Elders' Caregiving Conference at the Three Rivers Casino Resort in Florence. She hosted a Medicare information table and interacted with participants.

June 17, 2015: Hylton visited the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians of Oregon in Coos Bay to consult on Medicare benefits with the IHS staff.

June 25-26, 2015: Six IHS Elder Services staff with Confederated Tribes of Warm Springs attended a SHIBA two-day new volunteer training in Redmond.

Sept. 2, 2015: Hylton and SHIBA Field Officer Donna Delikat conducted a Medicare 101 at the public library in Pendleton. The new elder services coordinator with the Confederated Tribes of Umatilla Indian Reservation attended and made a connection for future Medicare training and information for tribal elders and IHS staff.

Oct. 14, 2015: Hylton gave a Medicare 101 presentation for the Confederated Tribes of Warm Springs IHS staff in Warm Springs. Thirty-two tribal elders attended and Hylton provided one-on-one counseling for three hours following the presentation.

Oct. 15, 2015: Hylton gave a Medicare 101 presentation for Confederated Tribes of Umatilla Indian Reservation IHS staff at the Yellowhawk Tribal Health Center in Pendleton.

October to December 2015: Hylton and other SHIBA counselors are providing one-on-one personalized counseling and assistance to tribal elders and IHS staff.

SHIBA sponsors – including Harney County Senior and Community Services, Northwest Senior and Disability Services, Coast Community Health Clinic (Coos County), Willamalane Adult Activity Center (Lane County), Central Oregon Council on Aging (Deschutes, Crook, and Jefferson Counties) – conduct their own outreach and education activities respectively with Burns Paiute, Confederated Tribes of Grande Ronde, Coquille Indian Tribe Confederated Tribes of Siletz Indians, and Confederated Tribes of Warm Springs.

Hylton helped a Jackson County SHIBA volunteer connect an eastern tribal member, not affiliated with the nine Oregon tribes, connect with IHS services through the Cow Creek Band of Umpqua Tribe of Indians.

In 2015, Willamalane Adult Activity Center received a grant from the Confederated Tribes of Siletz Indians to purchase laptops and printers to assist with local Medicare counseling services.

Tribal elders and IHS save money by receiving annual counseling. SHIBA trains and helps IHS service coordinators with applications for Medicare savings programs such as the Oregon Health Plan, Qualified Medicare Beneficiary benefit, and Low-Income Subsidy for Medicare Part D.

**Actions Planned:**

SHIBA will continue to find opportunities to provide Medicare education, training, counseling, and enrollment help to the federally recognized Oregon tribes.

**E. DIVISION OF FINANCE AND CORPORATE SECURITIES (DFCS)**

**1. Issue Name:**

Homeownership and loan servicing consumers' rights

**Issue Description:**

DFCS participated in the ninth-annual Native American Homeownership Fair on Sept. 10, 2015, in Portland. About 250 people attended the event, which was sponsored by the Native American Youth Association (NAYA). The event is open to all tribes that administer affordable housing, homeownership, and renter programs.

**Action Taken:**

The division participated as a vendor. Fernando Velez, consumer information specialist, staffed an information booth and taught two workshops about foreclosure, fraud, and scam prevention.

**Action Planned:**

DFCS is available to participate in homeownership fairs, foreclosure prevention, or other financial consumer-related events sponsored by any of the federally recognized tribes in Oregon.

**2. Issue Name:**

Annual Native Caring Conference – April 2015

**Issue Description:**

The Oregon Tribes Annual Native Caring Conference is an opportunity for agencies to talk one on one with elders from the Oregon tribes about the resources and information available.

**Action Taken:**

Diane Childs, financial education outreach coordinator, attended the Annual Native Caring Conference. Diane staffed a resource table with information about affinity fraud, prevention tips, and ID theft prevention information.

**Action Planned:**

DFCS will continue to participate in fraud prevention and other consumer-related events sponsored by any of the federally recognized tribes in Oregon.

**F. FINANCIAL SERVICES SECTION OF CENTRAL SERVICES DIVISION**

**1. Issue Name:**

Workers' Benefit Fund assessment

**Issue Description:**

Eagle Crossing Restaurant LLC      BIN 1381511-5

Although not required, tribes can choose to participate in Oregon's workers' compensation system. When making this choice, the participating tribal entity also elects to report and pay the Workers' Benefit Fund (WBF) assessment. Eagle Crossing Restaurant LLC elected to get Oregon workers' compensation insurance coverage

through Liberty Northwest Insurance Company from Dec. 15, 2009, until Nov. 14, 2012. Eagle Crossing Restaurant LLC then elected to get Oregon workers' compensation insurance coverage through Travelers Property Casualty Company of America from Nov. 15, 2012, until Nov. 15, 2013. However, the WBF assessment was not reported or paid.

**Action Taken:**

An audit notice was sent to Eagle Crossing Restaurant LLC on April 19, 2013, advising that the WBF assessment was due for second and fourth quarter 2011, and first quarter 2012 through third quarter 2013. In May 2013, Margaret Whitehouse, an auditor in the Central Services Division's Financial Services Section, received a call from Brenda Nathan indicating the business believed it was not subject to the assessment due to its sovereign nation status. They were advised that as they elected to obtain Oregon workers' compensation insurance coverage, they are required to report and pay the WBF assessment.

Previously, on April 28, 2011, Workers' Compensation Division Administrator John Shilts wrote to Randy Nathan, owner of Eagle Crossing Restaurant LLC. Shilts advised that when an Indian tribe or any other exempt-employing entity elects to provide coverage to its employees through the system created by Oregon law, the entity consented to state jurisdiction for matters arising under that coverage. The jurisdiction includes the nature and amount of benefits provided to workers under Oregon law; the jurisdiction of the Oregon Workers' Compensation Board to resolve disputes regarding responsibility and compensability; and the payment of assessments owed by all covered employers and their employees.

On Dec. 19, 2014, a Notice of Estimation for periods second and fourth quarter 2011, and first quarter 2012 through third quarter 2013, was mailed to Eagle Crossing Restaurant LLC. On Feb. 26, 2015, an Order of Default was sent certified to Randall Nathan. No response was received, nor was a hearing requested. The Order of Default became final 30 days after the mailing. Nathan was advised that unless the order was appealed, the amount of \$905.05 would become final. The account was referred to the division's Collections Unit on April 8, 2015. This debt is accruing interest at the statutory rate of 9 percent per annum.

On June 24, 2015, the Collections Unit sent a 30-day demand letter to Eagle Crossing Restaurant LLC in the amount of \$1,119.85. On July 22, 2015, Brenda with Eagle Crossing Restaurant, LLC called and spoke with Nathan Druery in the Collections Unit. Brenda was confused on why she was receiving a demand letter for \$1,119.85, Druery advised Brenda of why they are receiving bill and explained the quarters they still owe. Brenda explained that she paid this with her Oregon Quarterly Report. Druery explained again this is for an audit of those quarters. Brenda asked for additional information on quarters owed. Druery mailed a breakdown of quarters owed on the audit and another final demand letter.

**Action Planned:**

Eagle Crossing Restaurant LLC canceled its workers' compensation insurance policy

effective Nov. 15, 2013. On Oct. 27, 2015, DCBS received a chapter 13 bankruptcy notice for Eagle Crossing Restaurant LLC (Susan Derra case #15-63625-fra13 filed in Oregon). At this time, no future action is planned due to the bankruptcy.

## **G. WORKERS' COMPENSATION DIVISION (WCD)**

**Issue Name:** Request for Reconsideration of workers' compensation benefits

**Issue Description:**

The Workers' Compensation Division received a request for reconsideration on Sept. 14, 2015, from an employee of Spirit Mountain Gaming. The division informed the employee that the employer, which belongs to the Confederated Tribes of Grand Ronde, invoked its sovereign nation status. Because of that, the employer does not fall within the jurisdiction of the division.

**Action Planned:**

The division will continue to provide guidance on workers' compensation issues when needed.

## **DIRECTOR'S OFFICE (DO)**

**General Activities:**

1. DCBS Director Patrick Allen and Ruth Kemmy, manager of multicultural communications, are the tribal liaisons for the department.
2. Kemmy attends the quarterly SB 770 Health Services and Economic Development cluster meetings. Deputy Director Jean Straight presented information on "Key Issues for Small Business" at the Nov. 6, 2015, Economic Development Cluster Meeting.
3. Kemmy participated on the transition team as Cover Oregon transitioned to the Department of Consumer and Business Services. Kemmy and a representative from Cover Oregon visited the tribal clinics to ensure a smooth transition.
4. DCBS hosted a planning meeting with tribal health clinics directors and other representatives on June 22, 2015. The DCBS director and deputy director, the Oregon insurance commissioner, the Oregon Health Insurance Marketplace administrator, and other DCBS key staff participated at this meeting.
5. DCBS hosted the June 5 Economic Development Cluster Meeting and the Aug. 19, 2015 Health Cluster meeting.
6. Straight and Kemmy attended the Nov. 6, 2015, Economic Development Cluster meeting in Coos Bay.

7. Allen, Kemmy, Kevin Jeffries from the Insurance Division, and Robert Smith from the Oregon Health Insurance Marketplace will attend the 2015 the Tribal-State Government to Government Summit, Dec. 15-16, 2015.

**Actions Planned:**

DCBS will continue to attend and support the SB 770 Health Services and Economic Development clusters and their activities.

DCBS will continue to offer a strong presence and collaboration on tribal health issues through the Health Insurance Marketplace.

The department will continue to provide information about its services and programs and identify areas that could benefit or serve the tribes.

DCBS will continue to maintain its positive relationships with all the tribes.