

WHY A CLARIFYING AMENDMENT IS NECESSARY TO THE PROPOSED AEL REVIEW PROCESS REGULATION:

The “AEL Factor” is a fraction, expressed as:

The Tribe’s AEL / The National Average AEL

As a result, unless the proposed AEL review process regulation is amended, an increase in one tribe’s AEL will result in a decrease in every other tribe’s AEL, and thus a decrease in CAS funding for every tribe that uses the AEL. That is because an increase in one tribe’s AEL causes every other tribe’s AEL factor denominator to increase, thus lowering everyone else’s AEL factor.

For example, assume there are only two tribes in the United States.

Tribe A: Its AEL is \$200.

Tribe B: Its AEL is also \$200.

Thus, the “national average AEL” is also “\$200 ,” being, obviously, $\$200 + \$200 / 2$.

So, each tribe has an “AEL Factor” of “1” ($\$200 / (\$200 + \$200 / 2)$).

BUT, if Tribe A gets its AEL changed to, say, \$300, then Tribe B's AEL factor is reduced to .80, because its dominator just got increased. The denominator now becomes \$250 $((\$200 + \$300) / 2)$, and so Tribe B's AEL factor becomes $\$200 / \250 , or .80. If Tribe B uses the AEL to calculate its CAS, it has just lost 20% of its CAS Funds.

THE CAS WORKING GROUP NEVER INTENDED FOR ANOTHER TRIBE'S AEL FACTOR TO DECREASE WHENEVER A TRIBE GOT ITS AEL INCREASED.

This unintended consequence can be avoided by keeping the AEL factor denominator constant, even if some tribes are successful in increasing their AEL numerators. The low-AEL tribes aren't harmed by this, while the CAS funding of higher-AEL tribes is protected. Under this proposal, in our example Tribe B would keep its original AEL factor of "1," even if Tribe A got its AEL increased.

To cure this unintended problem, the denominator of the AEL factor should remain constant. The current national average is \$239, and the AEL factor is not subject to inflation adjustments (the inflation adjustment comes later in the formula process). So, the "AEL Factor" should be express as:

Numerator: The Tribe's own AEL

Denominator: \$239

Amend 1000.302 to read, "The AEL Factor" is the local area AEL divided by \$239.