

SUBCHAPTER D—HUMAN SERVICES

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

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Subpart A—Definitions, Purpose and Policy

§20.1 Definitions.

(a) *Appeal* means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges as provided in part 2 of this chapter.

(b) *Applicant* means an individual or persons on whose behalf an application for assistance and/or services has been made under the part.

(c) *Application* means the process through which a request is made for assistance or services.

(d) *Area Director* means the Bureau official in charge of an Area Office.

(e) *Authorized representative* means a parent or other caretaker relative, conservator, legal guardian, foster parent, attorney, paralegal acting under the supervision of an attorney, friend or

other spokesperson acting on behalf or representing the applicant or recipient.

(f) *Bureau* means the Bureau of Indian Affairs, U.S. Department of the Interior.

(g) *Child* means a person under the age of 18 or such other age of majority as may be established for purposes of parental support by tribal or state law (if any) applicable to the person at his or her residence, except that no person who has been emancipated by marriage shall be deemed a child.

(h) *Child welfare assistance* means financial assistance provided on behalf of an Indian child, or an Indian under age 22 if assistance was initiated before age 18, who requires placement in a foster home or specialized non-medical care facility in accordance with standards of payments established by the State pursuant to the foster care program under title IV of the Social Security Act (49 Stat. 620) or who has need of special services not available under general assistance.

(i) *Commissioner* means the Commissioner of Indian Affairs.

(j) *Designated representative* means an official of the Bureau designated by a Superintendent to hold a hearing as prescribed in §20.30 and who has had no prior involvement in the proposed decision under §20.12 and whose hearing decision under §20.30 shall have the same force and effect as if rendered by the Superintendent.

(k) *Family and community services* means social services, including protective services, usually not including money payments, provided through the social work skills of casework, group work or community development to solve social problems involving children, adults or communities.

(l) *Foster care service* means those social services provided when an Indian person lives away from the family home.

(m) *BIA general assistance* is a secondary or residual source of assistance for eligible Indian people and means financial aid payments to eligible Indian individuals and households for assistance in meeting the cost of essential needs.

(n) *Indian* means any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe.

(o) *Indian court* means Indian tribal court or court of Indian offenses.

(p) *Indian tribe* means any Indian tribe, band, nation, rancheria, pueblo, colony, or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the U.S. Government for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(q) *Miscellaneous assistance* means a financial payment made for burial services, to facilitate the provision of emergency food or disaster programs, or for other financial needs not defined in this part but related to assistance for needy Indians.

(r) *Near reservation* means those areas or communities adjacent or contiguous to reservations which are designated by the Commissioner upon recommendation of the local Bureau Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area. The Commissioner shall designate each area and publish the designations in the FEDERAL REGISTER.

(s) *Need* means the deficit after consideration of income and other liquid assets necessary to meet the cost of basic need items and special need items as defined by the Bureau standard of assistance for the State in which the applicant or recipient resides.

(t) *Public assistance* means those programs of assistance provided under title IV of the Social Security Act (49 Stat. 620), as amended, and includes the Aid to Families with Dependent Children (AFDC) Program provided under title IV-A.

(u) *Recipient* means an individual or persons who have been determined as eligible and are receiving financial assistance or services under this part.

(v) *Reservation* means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(w) *Resources* means income and other liquid assets available to an Indian person or household to meet current living costs, unless otherwise specifically excluded by Federal statute. Liquid assets are those properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties.

(x) *Secretary* means the Secretary of the Interior.

(y) *Superintendent* means the Bureau official in charge of an agency office.

(z) *Supplemental Security Income* means those programs of assistance provided under title XVI of the Social Security Act (49 Stat. 620), as amended.

(aa) *Traditional Indian country* means the State of Oklahoma except Oklahoma City and non-trust land in the city of Tulsa.

(bb) *Tribal governing body* means the recognized governing body of an Indian tribe.

(cc) *Essential needs* include at a minimum shelter, food, clothing and utilities, but do not include needs, except for burial expenses, beyond those basic and special needs included in the Bureau standard of assistance for the State where the Indian individual or household lives.

(dd) *Household* means persons living together with the *head of household* who may be related or unrelated to the *head of household* and who function as members of the family.

(ee) *Tribal Work Experience Program (TWEP)* means a program operated by tribal contract which provides eligible participants with work experience and training that promotes and preserves work habits and develops work skills.

(ff) *Recipient* means an individual to whom or for whom a BIA general assistance payment is made for the month.

(gg) *Case* includes all individuals in the household as defined in §20.1(dd) whose needs are included in the BIA general assistance payment made for the month.

(25 U.S.C. 2 and 9)

[42 FR 6568, Feb. 2, 1977, as amended at 50 FR 39928, Sept. 30, 1985]

§20.2 Purpose.

The regulations in this part govern the provision of general assistance, child welfare assistance, miscellaneous assistance and family and community services to eligible Indians.

§20.3 Policy.

When assistance or services are not available or not being provided by state, local, or other agencies, general assistance, child welfare assistance, miscellaneous assistance and family and community services shall be provided for eligible Indians by the Bureau in a manner designed to promote personal and family unity and economic and social stability, working toward attainment of self-sufficiency.

§20.4 Information collection.

The information collection requirements contained in §§20.10, 20.11, 20.22, 20.23, and 20.24 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0017. The information is collected to determine applicant eligibility for services. The information will be used to determine eligibility and to insure uniformity of services. Response is required to obtain a benefit.

[53 FR 21994, June 13, 1988]

Subpart B—Administrative Procedures

§20.10 Application for assistance or services.

(a) Written or oral applications by or on behalf of any individual or group will be accepted for assistance or services under this part. In addition to applications from persons desiring assistance or services, referrals will be accepted directly from relatives, interested individuals, social welfare agencies, law enforcement agencies, courts and others.

(b) Applications for assistance or services under this part shall be made to the Superintendent or an official representative. All applications for assistance shall ultimately be reduced to a written form. However, a written statement by an appropriate representative of the Bureau social services program as to why protective social services under §20.24(b)(2) were provided may be accepted in lieu of a written application.

§20.11 Securing information.

(a) The applicant will be the primary source of information regarding his circumstances for the purpose of determining eligibility and need. If it is necessary to secure information from other sources, the applicant will be asked to authorize the release of information. The applicant will be informed, in advance, of the kinds of information needed, the source to be used, and that the information obtained will be used only in connection with the application for assistance or services under this part or as otherwise required by law.

(b) Recipients shall be required to make timely and accurate reports of any change in circumstances which may affect their eligibility or the amount of financial assistance.

§20.12 Decision.

(a) Action on an application for assistance shall consist of the following:

(1) The application shall be approved if the applicant meets the appropriate eligibility criteria set forth in subpart C of this part for the type of assistance

requested, and financial assistance may be retroactive, as appropriate, to the date of application.

(2) The application shall be denied if the applicant does not meet the appropriate eligibility criteria set forth in subpart C of this part for the type of assistance requested.

(3) Action to approve or deny an application shall be made within 30 days of the date of the application, or if not the applicant shall be notified in writing of the reasons why such a decision cannot be made, but in no event shall any application be held pending beyond 45 days of the date of the application.

(b) As appropriate, other decision actions include the following:

(1) To increase or decrease the amount of recipient's financial assistance pursuant to the eligibility criteria set forth in subpart C of this part.

(2) To suspend or terminate recipient's financial assistance pursuant to the eligibility criteria set forth in subpart C of this part.

§ 20.13 Written notice of proposed decision.

Written notice of all proposed decisions shall be mailed or hand delivered to the applicant or recipient which clearly and completely advise of their legal rights to contest any adverse proposed decision as set forth in § 20.30 or under part 2 of this chapter and shall further consist of the following:

(a) A statement of the action being taken, the effective date, and the reasons for the decision.

(b) If the action is to reduce, suspend, or terminate financial assistance to the recipient, the written notice shall be provided to the recipient 20 days in advance of the proposed effective date.

(c) Shall advise the applicant or recipient of his right to request a hearing if dissatisfied with the proposed decision.

(d) Shall advise the applicant or recipient of his right to be represented by an authorized representative at no expense to the Bureau.

(e) Shall advise the applicant or recipient that failure to request a hearing within the 20 day period following the date of notice of proposed decision will cause the proposed decision to become final subject to appeal under part

2 of this chapter, and that the decision will not be disturbed except for fraud or gross irregularity or where found by higher authority that failure to appeal on the part of the applicant or recipient would result in inequity or injustice to the parties.

§ 20.14 Adjusting incorrect payments.

(a) When the Bureau finds that an incorrect payment of financial assistance has been made to an individual or family, proper adjustment or recovery shall be required, based upon individual need as appropriate to the circumstances that resulted in an incorrect payment. However, prior to adjustment or recovery by the Bureau, the recipient shall be notified of the proposal to correct the payment and given an informal opportunity to resolve the matter. If an informal resolution cannot be attained the recipient is entitled to a written notice of decision, and a hearing if requested, in accordance with §§ 20.12, 20.13 and 20.30. Unless a hearing is requested or an appeal made, the proposed decision shall become final within 20 days after written notice is mailed or delivered to the recipient.

(b) Applicants and recipients who knowingly and willfully provide the Bureau with false, fictitious or fraudulent information are subject to prosecution under 18 U.S.C. 1001, which carries a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

Subpart C—Eligibility Conditions

§ 20.20 General.

(a) Basic eligibility conditions shall be:

(1) The applicant must be an Indian, except that in the States of Alaska and Oklahoma a one-fourth degree or more Indian or Native blood quantum will be an additional eligibility requirement; and

(2) The applicant must reside on a reservation; or

(3) The applicant must reside near reservation as specifically defined in § 20.1(r) and be a member of the tribe that requested designation of the near reservation service area.

(b) The applicant must further meet the additional eligibility requirements for each of the specific programs of assistance or services as set forth in §§ 20.21 through 20.24 in order to be eligible for assistance or services under that program.

(c) Upon written request of an appropriate tribal governing body or the appropriate Bureau line official, the Deputy Assistant Secretary may authorize emergency short-term assistance and services to Indians, not otherwise eligible under this part, who reside on a reservation or in designated near-reservation areas, when necessary to meet need as defined at § 20.21(s) and prevent hardship caused by fire, flood or acts of nature.

[42 FR 6568, Feb. 2, 1977, as amended at 50 FR 12529, Mar. 29, 1985; 50 FR 39928, Sept. 30, 1985]

§ 20.21 General assistance.

In States where BIA general assistance would otherwise be available, the Bureau will not provide general assistance:

(a) To on or near-reservation members of tribes currently not served by BIA general assistance unless the tribe formally requests, through final governing body action, that the Bureau operate a general assistance program. Such request for BIA general assistance should be timed with the Bureau's next fiscal year for the general assistance program;

(b) In any State having a general assistance program available to meet the needs of eligible citizens, including the needs of Indians. A State general assistance program is available if payments are:

(1) Available statewide to eligible individuals and families, including Indians on reservations;

(2) Authorized by State law with funds regularly appropriated to make such payments, or if State law requires all county governments or localities to make such payments even though payments may fluctuate subject to the limited availability of funds;

(3) For the purpose of meeting monthly minimum essential needs on a continuing basis; and,

(4) Where the Bureau provides general assistance on a reservation in one State and that reservation extends into

a bordering State(s), the Bureau will provide general assistance to members of the tribe in the other bordering State(s) based on the standard of assistance in the State where the recipient or applicant resides. However, the Bureau will provide such assistance in the bordering State(s) only to those members who are not eligible for State general assistance as defined in § 20.21.

(c) In States where the Bureau provides general assistance, Indians, in order to be considered eligible for general assistance under this part, must meet the requirements prescribed in § 20.20(a); and the following conditions:

(1) Must not receive financial assistance from AFDC or Supplemental Security Income (SSI);

(i) Indians eligible to receive AFDC or SSI will be allowed to receive BIA general assistance once they have applied for and until they begin to receive assistance payments from AFDC or SSI, except that payment shall be authorized when good cause reasons, such as physical isolation, lack of transportation or intermittent availability of State eligibility specialists, temporarily prevent concurrent application; and when it can be documented that the application process has been initiated by scheduling an appointment, or that the BIA/tribal caseworker has initiated the application process on behalf of the general assistance applicant.

(ii) The Bureau will not make payments for any month for which AFDC or SSI payments are made.

(2) Must have insufficient resources to meet the basic and special need items defined by the Bureau standard of assistance;

(3) Must apply for assistance from other Federal, State, county, or local programs for which they may be eligible concurrent with application to the Bureau for general assistance, unless good cause reasons, such as physical isolation with sporadic access to transportation or intermittent availability of State eligibility specialists, temporarily prevent concurrent application; and when it can be documented that the application process has been initiated by scheduling an appointment, or

that the BIA/tribal caseworker has initiated the application process on behalf of the general assistance applicant.

(d) *Redeterminations.* (1) The Bureau shall determine eligibility and the amount of the BIA general assistance payment based on its best estimate of income and circumstances which will exist in the month for which the Bureau is to provide assistance. Recipients are required to immediately inform the Bureau of any changes in status which may affect their eligibility or amount of assistance. The Bureau shall redetermine eligibility:

(i) Whenever there is an indication of a change in circumstances;

(ii) Not less frequently than every three (3) months for individuals who are not exempt under paragraph 20.21(i) from seeking or accepting employment;

(iii) Not less frequently than one every six (6) months for all households.

(2) The redetermination process shall include personal contact with the recipient, preferably a home visit, not less than once a year to evaluate changes in living circumstances and household composition, and to assess the need for continued assistance.

(e) *Standards of assistance.* (1) Where the Bureau operates a general assistance program, its standard of assistance shall be the AFDC payment standard used in the State where the applicant or recipient resides. In a State that meets 100 percent of the need standard, the Bureau standard is the need standard. In a State that does not meet need in full and applies a rateable reduction to the need standard, the Bureau standard is the rateable reduced amount. The AFDC payment standard incorporates the same basic and special need items as the AFDC standard of assistance, and is the amount from which the Bureau will subtract net income and liquid assets to determine eligibility for and the amount of the Bureau's general assistance payment.

(2) In the event the State has no standard for one adult, the Bureau standard for one adult shall be the difference between the standard for one child and the standard for a household of two which includes an adult, or one-half the amount of the standard for a household of two, whichever is greater.

(f) *Resources.* In determining eligibility for and the amount of the general assistance payment, the Bureau shall consider all types of income and other liquid assets available for support and maintenance unless otherwise disregarded under § 20.21(g), or specifically excluded by Federal statute. All earned or unearned income will be counted as income in the month received and as a liquid asset thereafter, except certain income from the sale of real personal property as provided for under § 20.21(f)(2)(i). Resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum, as defined at 25 CFR 20.1(w), and has the ability to make such sum available for support and maintenance.

(1) *Earned income* means in cash or in kind earned by an individual through the receipt of wages, salary, commissions, or profit from activities in which he is engaged as a self-employed individual or as an employee.

(i) Earned income includes earnings over a period of time for which settlement is made at one given time, as in the instance of the sale of farm crops, livestock, etc.

(ii) With respect to self-employment, *earned income* means total profit from business enterprise, i.e., gross receipts after subtracting business expenses directly related to producing the goods or services and without which the goods or services could not be produced. Business expenses do not include items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal on loans for capital assets or durable goods.

(2) *Unearned income* includes but is not limited to:

(i) Income from: Interest; oil and gas and other mineral royalties; rental property; cash contributions such as child support and alimony; retirement, disability and unemployment benefits; per capita payments not excluded by Federal statute; sale of trust land and real or personal property which is not

set aside for the purpose of reinvestment in trust land or a primary residence, or if set aside, has not been reinvested in trust land or a primary residence at the end of one year from the date the income was received; Federal and State tax refunds. All of the above shall be counted to the extent they are not disregarded by Federal statute.

(ii) Income in kind contributions providing shelter at no cost to the individual or household: In establishing the amount of the in kind contribution, the Bureau shall use the amount for shelter included in the standard, if identifiable, or 25 percent of the standard unless there is evidence provided that the value of free shelter is less; and,

(iii) Assistance provided by a State, county or local agency.

(3) The Bureau shall prorate (i): Over a 12-month period recurring annual income received by individuals, such as teachers whose regular employment does not engage them on a year round basis; (ii) income received by individuals employed on a contractual basis over the period of the contract; and (iii) intermittent income received quarterly, semiannually or yearly over the period covered by the income. The Bureau shall prorate the income unless there is evidence that the income will not continue to be received in the future. *However*, for a period of three years from the publication date of these regulations, the Bureau will not prorate lease income which has been obligated by a household in a manner which makes it unavailable in consumable form to the household.

(g) *Disregards*. (1) The Bureau shall disregard, from the gross amount of earned income, amounts deducted for:

- (i) Federal, State and local taxes;
- (ii) Social Security (FICA);
- (iii) Health insurance;
- (iv) Work related expenses, including reasonable transportation costs;
- (v) Child care costs except where the other parent in the home is not working or is not disabled; and
- (vi) The cost of special clothing, tools and equipment directly related to the individual's employment. All of the above, as appropriate, will be disregarded from self-employment income after deducting costs of doing business.

(2) The Bureau shall disregard as income, or other liquid assets:

(i) The first \$1000 of liquid resources available to the household;

(ii) Any home produce from garden, livestock and poultry utilized by the applicant or recipient and his/her household for their consumption;

(iii) Resources specifically excluded by Federal statute.

(h) *Payments*. (1) The Bureau shall make assistance payments in an amount not to exceed the difference between the Bureau standard of assistance and all resources not otherwise disregarded. In the event the State in which the individual or household lives applies a rateable reduction to that difference or maintains a system of dollar maximums on the payment, the Bureau shall also apply the rateable reduction and/or the maximum to the payment.

(2) If there is more than one household living in a dwelling and the household(s) receiving general assistance contribute to shelter expenses, the Bureau shall prorate the actual shelter cost, but the amount in the payment for shelter will not exceed the amount in the Bureau standard of assistance for shelter, or if not identifiable, the prorated amount, in addition to other needs, cannot exceed the total amount in the standard for individuals or households in similar circumstances.

(3) The Bureau will round the payment down to the next lower whole dollar.

(4) In no case shall the Bureau provide retroactive payments of general assistance for any period prior to the date of application for assistance.

(i) *Employment*. (1) An applicant or recipient must actively seek employment, including use of available tribally or Bureau-funded employment assistance services. The individual is also required to accept available local employment. An individual who does not comply will not be eligible for general assistance. These requirements do not apply to:

- (i) A person under the age of 16 years;
- (ii) A full-time student under the age of 19 who is attending an elementary or secondary school, or a vocational or technical school equivalent to a secondary school;

(iii) A person suffering from an illness, when it is determined on medical evidence or on other sound basis that the individual's illness or injury is serious enough to temporarily prevent entry into employment;

(iv) An incapacitated person, when verified that a physical or mental impairment determined by a physician or licensed or certified psychologist, by itself or in conjunction with age, prevents the individual from engaging in employment;

(v) A person who, upon the documented assessment of the social services caseworker, and pending examination by a physician or other appropriate professional, is deemed essentially incapacitated because of age, physical or mental impairment;

(vi) An individual responsible for a person in the home who has a verified physical or mental impairment that requires the individual in the home on a virtually continuous basis, and there is no other appropriate household member available;

(vii) A parent or other individual who personally provides full-time care of a child under that age of 6;

(viii) A parent or minor living in the household if the other parent is not exempt from seeking or accepting employment;

(ix) A person who is working 30 hours or more per week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 work days; and

(x) A person for whom employment is not accessible in a commuting time that is reasonable and comparable with others in similar circumstances.

(2) Where the tribe administers a Tribal Work Experience Program (TWEP), the nonexempt individual shall be available to participate. However, participation does not relieve the individual from seeking or accepting employment.

(3) Individuals not exempt under one of the preceding clauses of this section must, in seeking employment, provide evidence of efforts to obtain employment.

(4) Individuals not exempt under one of the preceding clauses of this section,

who refuse, or otherwise fail to seek and accept available local employment, or who voluntarily and without good cause do not maintain their employed status, will not be eligible to receive general assistance for a period of 60 days following the date of application, or eligibility redetermination.

(i) The 60-day period of ineligibility will be renewed upon each application for general assistance until the applicant complies with the requirement to seek and accept available local employment.

(ii) An unemployed individual against whom a 60-day eligibility suspension has been levied will have the suspension period reduced by 30 days upon providing evidence that he/she has made effort to seek employment.

(iii) Periods of eligibility suspension shall affect only the individual who fails to comply with the provision of this section, but shall not apply to other members of his/her household.

[50 FR 39928, Sept. 30, 1985]

§ 20.22 Child welfare assistance.

An Indian child meeting the requirements prescribed in § 20.20(a) shall be considered eligible for child welfare assistance or services under this part. *Provided, That:*

(a) The child's legally responsible parent, guardian, or Indian court having jurisdiction:

(1) Requests such assistance in writing and is unable to provide necessary care and guidance for the child in his own home for other than financial reasons and is unable to meet the cost of foster care.

(2) Requests such assistance in writing and is unable to provide for the child's special needs which cannot be through other assistance programs including the Bureau's general assistance program.

(b) The child is not receiving and is not eligible to receive public assistance or Supplemental Security Income payments and is not included in such payments made to others. However, an otherwise eligible child may receive child welfare assistance under this part upon application for and pending initial receipt of public assistance or Supplemental Security Income payments

and may receive continued services irrespective of assistance payments if such services are not otherwise available.

(c) The child resides in an area where comparable child welfare assistance and services are not available or are not being provided to all residents on the same basis from a State, county or local public jurisdiction.

§20.23 Miscellaneous assistance.

In the absence of other resources, miscellaneous assistance shall be provided to eligible Indians meeting the requirements prescribed in §20.20(a): *Provided*, That they reside in areas where comparable miscellaneous assistance is not available or is not being provided to all residents on the same basis from a State, county or local public jurisdiction.

§20.24 Family and community services.

(a) Family and community services shall be provided for Indians meeting the requirements prescribed in §20.20(a) who request such services or on whose behalf such services are requested.

(b) Family and community services may include, but are not limited to, the following:

(1) Family and individual counseling to assist in solving problems related to family functioning, housekeeping practices, care and supervision of children, interpersonal relationships, economic opportunity, money management, and problems related to illness, physical or mental handicaps, drug abuse, alcoholism and violation of law.

(2) Protective services which are provided when children or adults are deprived temporarily or permanently of needed supervision by responsible adults, or are neglected, exploited, or need services when they are mentally or physically handicapped or otherwise disabled, and for children who have run away from home. Protective services will be developed in consultation and cooperation with tribal protective services, if applicable. Such services may include but are not limited to the following:

(i) Response to requests from members of the community on behalf of

children or adults alleged to need protective services.

(ii) Family and supplemental services, including referral for homemaker and day care services, which appropriately divert children from the juvenile justice system.

(iii) Services to responsible family members or guardians to seek appropriate court protections for the child or adult and, in the absence of such responsible adult, to seek the appointment of a guardian.

(3) Services to Indian courts, which may include but are not limited to the following:

(i) Investigations and reports as to allegations of child and adult abuse and neglect, abandonment, delinquency, running away from home, and conditions such as mentally or physically handicapped or otherwise disabled.

(ii) Provision of social information related to the disposition of a case, including evaluation of alternative resources of treatment.

(iii) Provision of services requested by the court prior to adjudication such as marriage and divorce counseling, child custody, and after adjudication such as probation, foster care, supervision of children and adults in their own home.

(4) Foster care services for children which shall be provided when an Indian child is a recipient of child welfare assistance under §20.22 and services are not available from another source, and may be provided as needed for an Indian child living away from its parent(s) in the absence of a child welfare assistance payment. Such services shall include but are not limited to:

(i) Determination that foster care is the best available plan for the child.

(ii) Development of an immediate and long range plan to establish a more stable emotional and social life for the child and its family, including referral of the child for adoption when indicated.

(iii) Services in the recruitment and development of suitable foster homes and other foster care facilities.

(iv) Services to responsible family members, or at the request of an Indian court having jurisdiction, in the selection of a suitable foster care facility

and a continued evaluation of the suitability of the facility.

(v) Services in the placement of an Indian child for long or short term foster care suited to his needs and to review the plan periodically.

(vi) Services to parent(s), foster parent(s), or other caretaker(s) to provide care and guidance for the child in foster care.

(5) Foster care services for adults which shall be provided when a general assistance payment under §20.21 is made for their care in a foster care facility, or when needed in the absence of a general assistance payment. The services may include but are not limited to:

(i) Arranging for care in a private family home, or a facility for the care of the aged or disabled except where the primary service provided by the facility is medical.

(ii) Services to responsible family members, guardians, or at the request of an Indian court having jurisdiction, in selecting a facility which will provide needed care.

(iii) Services providing for continuity with family and community ties.

(iv) Services to continually evaluate the suitability of the selected care facility, including referral for other care as indicated.

(6) Community services which are services involving other groups, agencies, and facilities in the community may include but are not limited to:

(i) Responses to community needs for evaluating social conditions affecting the well-being of its citizens.

(ii) Treatment of the identified conditions that are within the competence of social services.

(iii) Maintenance of a liaison relationship with other community agencies for the purpose of:

(A) Identifying the availability of services that may be utilized to assist in solving the social problems of individuals, families and children.

(B) Facilitating the use of available community services by Indian persons who need them.

§20.25 Consultation with tribes.

Bureau personnel shall upon request provide consultation and advice to tribal governing bodies and other tribal

entities including Indian courts seeking to organize their social services to meet more effectively the social service needs of their people. See §11.21 of this chapter. All programs provided for in this part shall, insofar as possible, be consistent with tribal custom, codes and law.

Subpart D—Hearings and Appeals

§20.30 Hearings and appeals.

(a) Any applicant or recipient of financial assistance under this part who is dissatisfied with any decision or action concerning eligibility for or receipt of financial assistance may request a hearing before the Superintendent or his designated representative within 20 days after the date of mailing or delivery of the written notice of the proposed decision as provided in §20.13. The Superintendent may extend the 20 day period for good cause shown and documented in the record.

(b) Upon request for a hearing by a recipient dissatisfied by a proposed decision the recipient's financial assistance will be continued or reinstated to provide no break in financial assistance until the date of decision by the Superintendent or his designated representative in accordance with §20.30(f).

(c) The Superintendent or his designated representative shall set a date for the hearing within 10 days of the date of request for a hearing, at a location convenient to both parties, and give written notice to the applicant or recipient.

(d) The written notice of hearing date and location shall include:

(1) A statement of the issues.

(2) The applicant or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau.

(3) The applicant or recipient's right to present both oral and written evidence, and written statements prior to or during the hearing.

(4) The applicant or recipient's right to confront and cross-examine witnesses at the hearing.

(5) The applicant or recipient shall have the right of one continuance of

not more than 10 days with respect to the date of hearing.

(6) The applicant or recipient's right to examine and copy, at a reasonable time before and during the hearing, his case record as it relates to the proposed action being contested.

(e) The Superintendent or his designated representative shall conduct the hearing in an informal but orderly manner, record the hearing, and provide the applicant or recipient with a transcript of the hearing upon request.

(f) The Superintendent or his designated representative shall render a written decision within 10 days of the completion of the hearing. The written decision shall consist of the following:

(1) A written statement covering the evidence relied upon and reasons for the decision.

(2) The applicant or recipient's right to further appeal from any dissatisfied decision in accordance with procedures for appeals from administrative actions set forth in part 2 of this chapter.

(g) An interested party wishing to make such an appeal may request Bureau assistance in preparation of the appeal also as prescribed in part 2 of this chapter.

PART 21—ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR RELIEF OF DISTRESS AND SOCIAL WELFARE OF INDIANS

Sec.

- 21.1 Commissioner to negotiate contracts.
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AUTHORITY: Sec. 3, 48 Stat. 596, as amended; 25 U.S.C. 454.

SOURCE: 22 FR 10531, Dec. 24, 1957, unless otherwise noted.

§21.1 Commissioner to negotiate contracts.

The Commissioner of Indian Affairs may negotiate with State, territory,

county or other Federal welfare agencies for such agencies to provide welfare services as contemplated by the Act of June 4, 1936 (49 Stat. 1458; 25 U.S.C. 452), for Indians residing within a particular State within the exterior boundaries of Indian reservations under the jurisdiction of the Bureau of Indian Affairs or on trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs.

[29 FR 5828, May 2, 1964]

§21.2 Contracts; by whom executed.

All contracts executed for the purposes of §21.1 shall be signed on behalf of the United States by the Commissioner of Indian Affairs. The proper officer of the State, territory, county or welfare agency shall execute the contract on its behalf. Evidence of the authority of such officer must accompany the contract. All contracts must be executed in quintuplicate. (They shall become effective only after approval by the Secretary of the Interior.)

§21.3 State or other contracting agency furnish plan of operation.

A plan executed by the proper State or other agency entering into the contract shall accompany each instrument. This plan shall describe the services and assistance to be rendered under the terms of the contract. It shall include a budget showing the plan of expenditure of the funds to be turned over to the State or other agency. Upon the approval of the contract, no deviation from the plan shall be made unless approved in advance by the Commissioner of Indian Affairs.

§21.4 Standards of service.

Standards of aid, care, and service rendered to the Indians under the contracts shall not be less than those standards maintained by the State for other clients requiring similar aid, care and services.

§21.5 Personnel.

The personnel employed for public welfare services to Indians under the contract shall be subject to the State merit system and to the approval of the Commissioner of Indian Affairs and the welfare authorities of the State,