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EFFECTIVE DATE NOTE: At 64 FR 58318, 58319, Oct. 28, 1999, as corrected at 65 FR 53914, Sept. 6, 2000, subparts A-G of part 36 were redesignated as part 36a and suspended indefinitely, effective Oct. 28, 1999. At 67 FR 35342, May 17, 2002, part 36a was redesignated as part 136a and moved to subchapter M.

Subpart A—Purpose

§ 136a.1 Purpose of the regulations.

These regulations establish general principles and program requirements for carrying out the Indian health program.

[46 FR 40692, Aug. 11, 1981. Redesignated at 52 FR 35048, Sept. 16, 1987]

§ 136a.2 Administrative instructions.

The Service periodically issues administrative instructions to its officers and employees which are primarily found in the Indian Health Service Manual and the Area Office and Program Office supplements. These instructions are operating procedures to assist officers and employees in carrying out their responsibilities, and are

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not regulations establishing program requirements which are binding upon members of the general public.

[46 FR 40692, Aug. 11, 1981. Redesignated at 52 FR 35048, Sept. 16, 1987]

Subpart B—What Services Are Available and Who Is Eligible To Receive Care?

§ 136a.10 Definitions.

As used in this subpart:

Appropriate ordering official means, unless otherwise specified by contract with the health care facility or provider or by a contract with a tribe or tribal organization, the ordering official for the Service Unit in which the individual requesting contract health services or on whose behalf the services are requested, resides.

Area Director means the Director of an Indian Health Service Area Office designated for purposes for administration of Indian Health Service Programs.

Contract health services means health services provided at the expense of the Indian Health Service from public or private medical or hospital facilities other than those of the Service or those funded by the Service.

Emergency means any medical condition for which immediate medical attention is necessary to prevent the death or serious impairment of the health of an individual.

Health Service Delivery Area means a geographic area designated pursuant to § 36.15 of this subpart.

Indian tribe means any Indian tribe, band, nation, or other organized group 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, 43 U.S.C. 1601 *et seq.*, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

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 (43 U.S.C. 1601 *et seq.*), and Indian

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allotments if considered reservation land by the Bureau of Indian Affairs.

Reside means living in a locality with the intent to make it a fixed and a permanent home. The following persons will be deemed residents of the Health Service Delivery Area:

(1) Students who are temporarily absent from the Health Service Delivery Area during full time attendance at programs of vocational, technical, or academic education including normal school breaks;

(2) Persons who are temporarily absent from the Health Service Delivery Area for purposes of travel or employment (such as seasonal or migratory workers);

(3) Indian children placed in foster care outside the Health Service Delivery Area by order of a court of competent jurisdiction and who were residents within the Health Service Delivery Area at the time of the court order.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

Service means the Indian Health Service.

Service Unit Director means the Director of Indian Health Service programs for a designated geographical or tribal area of responsibility or the equivalent official of a contractor administering an IHS program.

[52 FR 35048, Sept. 16, 1987, as amended at 55 FR 4609, Feb. 9, 1990]

§ 136a.11 Services available.

(a) *Type of services that may be available.* Services for the Indian community served by the local facilities and program may include hospital and medical care, dental care, public health nursing and preventive care including immunizations, and health examination of special groups such as school children.

(b) *Where services are available.* Available services will be provided at hospitals and clinics of the Service, and at contract facilities (including tribal facilities under contract with the Service).

(c) *Determination of what services are available.* The Service does not provide

the same health services in each area served. The services provided to any particular Indian community will depend upon the facilities and services available from sources other than the Service and the financial and personnel resources made available to the Service.

(d) *Priorities when funds, facilities, or personnel are insufficient to provide the indicated volume of services.* Priorities for care and treatment, as among individuals who are within the scope of the program, will be determined on the basis of relative medical need and access to other arrangements for obtaining the necessary care.

[46 FR 40692, Aug. 11, 1981, as amended at 52 FR 35048, Sept. 16, 1987]

§ 136a.12 Persons to whom health services will be provided.

(a) Subject to the requirements of this subpart, the Indian Health Service will provide direct services at its facilities, and contract health services, as medically indicated, and to the extent that funds and resources allocated to the particular Health Service Delivery Area permit, to persons of Indian or Alaska Native descent who:

(1) Are members of a federally recognized Indian tribe; and

(2) Reside within a Health Service Delivery Area designated under § 36a.15; or

(3) Are not members of a federally recognized Indian tribe but are the natural minor children (18 years old or under) of a member of a Federally recognized tribe and reside within a Health Service Delivery Area designated under § 36a.15.

(b) Subject to the requirements of this subpart, the Indian Health Service will also provide direct services at its facilities and, except where otherwise provided, contract health services, as medically indicated and to the extent that funds and resources allocated to the particular Health Service Delivery Area permit, to people in the circumstances listed below:

(1) To persons who meet the eligibility criteria in paragraph (a) of this section except for the residency requirement, who formerly resided within a Health Service Delivery area designated under § 36a.15, and who present