retary is authorized to cooperate with the Small Business Administration and the Corporation for National and Community Service and other Federal agencies in the use of existing programs of this character in those agencies. In addition, the Secretary is authorized to enter into contracts with private organizations for providing such services and assistance.

(Pub. L. 93–262, title V, § 502, Apr. 12, 1974, 88 Stat. 83; Pub. L. 93–113, title VI, § 601(d), Oct. 1, 1973, 87 Stat. 416; Pub. L. 103–82, title IV, § 405(f), Sept. 21, 1993, 107 Stat. 921.)

AMENDMENTS

1993—Pub. L. 103–82 substituted ''the Corporation for National and Community Service'' for ''ACTION Agency''.

1973—Pub. L. 93–113 substituted ''ACTION Agency'' for ''ACTION''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

§ 1543. Funds limitation for private contracts

For the purpose of entering into contracts pursuant to section 1542 of this title in fiscal year 1985, the Secretary is authorized to use not to exceed 6 percent of any funds appropriated for any fiscal year pursuant to section 1512 of this title. For fiscal year 1986 and for each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 93–262, title V, § 503, Apr. 12, 1974, 88 Stat. 83; Pub. L. 98–449, § 13, Oct. 4, 1984, 98 Stat. 1726.)

AMENDMENTS

1984—Pub. L. 98–449 amended section generally, substituting provisions limiting funds expended for private contracts to 6 percent of appropriated funds in 1985 and authorizing the appropriation of such sums as may be necessary to carry out this subchapter in fiscal years after 1985 for provisions putting a 5 percent limitation on use of appropriated funds.

§ 1544. Additional compensation to contractors of Federal agency

Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian-owned economic enterprise as defined in this chapter.

(Pub. L. 93–262, title V, § 504, added Pub. L. 100–442, § 7, Sept. 22, 1988, 102 Stat. 1765.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 450*l* of this title; title 40 section 276d–3; title 42 sections 254b, 1320d, 14402.

GENERAL PROVISIONS

§ 1601. Congressional findings

The Congress finds the following:

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

(Pub. L. 94–437, § 2, Sept. 30, 1976, 90 Stat. 1400; Pub. L. 102–573, § 3(a), Oct. 29, 1992, 106 Stat. 4526.)

AMENDMENTS

1992—Pub. L. 102–573 substituted ''finds the following:'' for ''finds that—'' in introductory provisions and struck out last sentence of subsec. (d) which compared death rates of Indians to those of all Americans for tuberculosis, influenza and pneumonia, and compared death rates for infants, subsec. (e) which related to threat to fulfillment of Federal responsibility to Indians posed by low health status of American Indian people, subsec. (f) which enumerated causes imperiling improvements in Indian health, and subsec. (g) which related to confidence of Indian people in Federal Indian health services.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–313, § 1(a), Oct. 19, 1996, 110 Stat. 3820, provided that: ''This Act [amending sections 1603, 1613a, 1621j, 1645, 1665e, 1665j, and 1680k of this title] may be cited as the 'Indian Health Care Improvement Technical Corrections Act of 1996'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–573 provided that: ''This Act [see Tables for classification] may be cited as the 'Indian Health Amendments of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–630, title V, § 501, Nov. 28, 1990, 104 Stat. 4556, provided that: ''This title [enacting sections 1621h, 1637, 1659, and 1660 of this title, amending sections 1653, 1657, and 2474 of this title, and enacting provisions set out as notes under sections 1621h, 1653, and 2415 of this title] may be cited as the 'Indian Health Care Amendments of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–713, § 1, Nov. 23, 1988, 102 Stat. 4784, provided that: ''This Act [enacting sections 1616 to 1616j, 1621a to 1621g, 1636, 1651 to 1658, 1661, 1662, and 1680a to 1680j of this title and sections 254s and 295j of Title 42, The Public Health and Welfare, amending sections 1603, 1612 to 1613a, 1614, 1615, 1621, 1631, 1632, 1634, 1674, 1676, and 1678 to 1680 of this title and section 5316 of Title 5, Government Organization and Employees, repealing section 1635 of this title and section 254r of Title 42, enacting provisions set out as notes under this section and sections 1611, 1621b, 1661, and 1677 of this title and sections 254r, 1395qq, and 1396j of Title 42, amending provisions set out as a note under section 1396j of Title

42, and repealing provisions set out as a note under section 1396j of Title 42] may be cited as the 'Indian Health Care Amendments of 1988'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–537, § 1(a), Dec. 17, 1980, 94 Stat. 3173, provided that: ''this Act [enacting sections 1622, 1634, and 1676 to 1680 of this title, amending sections 1603, 1612 to 1614, 1621, 1651 to 1657, and 1674 of this title and section 294y–1 of Title 42, The Public Health and Welfare, and repealing section 1658 of this title] may be cited as the 'Indian Health Care Amendments of 1980'.''

SHORT TITLE

Section 1 of Pub. L. 94–437 provided: ''That this Act [enacting this chapter and sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amending sections 234, 1395f, 1395n, and 1396d of Title 42, and enacting provisions set out as notes under section 1671 of this title and sections 1395qq and 1396j of Title 42] may be cited as the 'Indian Health Care Improvement Act'.''

SEPARABILITY

Pub. L. 100–713, title VIII, § 801, Nov. 23, 1988, 102 Stat. 4839, provided that: ''If any provision of this Act, any amendment made by this Act [see Short Title of 1988 Amendment note above], or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''

AVAILABILITY OF APPROPRIATIONS

Pub. L. 100–713, § 4, Nov. 23, 1988, 102 Stat. 4785, provided that: ''Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)(A), (B)]) which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.''

§ 1602. Declaration of health objectives

(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

(9) Reduce drug-related deaths to no more than 3 per 100,000.

(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

(11) Reduce suicide among men to no more than 12.8 per 100,000.

(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

(16) Increase years of healthy life to at least 65 years.

(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

(31) Reduce stroke deaths to no more than 20 per 100,000.

(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

(41) Reduce the most severe complications of diabetes as follows:

(A) End-stage renal disease, 1.9 per 1,000.

(B) Blindness, 1.4 per 1,000.

(C) Lower extremity amputation, 4.9 per 1,000.

(D) Perinatal mortality, 2 percent.

(E) Major congenital malformations, 4 percent.

(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

(A) Diphtheria among individuals aged 25 and younger, 0.

(B) Tetanus among individuals aged 25 and younger, 0.

(C) Polio (wild-type virus), 0.

(D) Measles, 0.

(E) Rubella, 0.

(F) Congenital Rubella Syndrome, 0.

(G) Mumps, 500.

(H) Pertussis, 1,000.

(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

(54) Reduce infectious diarrhea by at least 25 percent among children.

(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b) of this section.

(Pub. L. 94–437, § 3, Sept. 30, 1976, 90 Stat. 1401; Pub. L. 102–573, § 3(b), Oct. 29, 1992, 106 Stat. 4526.)

AMENDMENTS

1992—Pub. L. 102–573 amended section generally. Prior to amendment, section read as follows: ''The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616*l*, 1621, 1621b, 1621m, 1665g, 1671 of this title.

§ 1603. Definitions

For purposes of this chapter—

(a) ''Secretary'', unless otherwise designated, means the Secretary of Health and Human Services.

(b) ''Service'' means the Indian Health Service.

(c) ''Indians'' or ''Indian'', unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) of this section, except that, for the purpose of sections 1612 and 1613 of this title, such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [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.

(e) ''Tribal organization'' means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) ''Urban Indian'' means any individual who resides in an urban center, as defined in subsection (g) of this section, and who meets one or more of the four criteria in subsection (c)(1) through (4) of this section.

(g) ''Urban center'' means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under subchapter IV of this chapter, as determined by the Secretary.

(h) ''Urban Indian organization'' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 1653(a) of this title.

(i) ''Area office'' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

(j) ''Service unit'' means—

(1) an administrative entity within the Indian Health Service, or

(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

(k) ''Health promotion'' includes—

(1) cessation of tobacco smoking,

(2) reduction in the misuse of alcohol and drugs,

(3) improvement of nutrition,

(4) improvement in physical fitness,

(5) family planning,

(6) control of stress, and

(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).

(*l*) ''Disease prevention'' includes—

(1) immunizations,

(2) control of high blood pressure,

(3) control of sexually transmittable diseases,

(4) prevention and control of diabetes,

(5) control of toxic agents,

(6) occupational safety and health,

(7) accident prevention,

(8) fluoridation of water, and

(9) control of infectious agents.

(m) ''Service area'' means the geographical area served by each area office.

(n) ''Health profession'' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, an allied health profession, or any other health profession.

(*o*) ''Substance abuse'' includes inhalant abuse.

(p) ''FAE'' means fetal alcohol effect.

(q) ''FAS'' means fetal alcohol syndrome.

(Pub. L. 94–437, § 4, Sept. 30, 1976, 90 Stat. 1401; Pub. L. 96–537, § 2, Dec. 17, 1980, 94 Stat. 3173; Pub. L. 100–713, title II, §§ 201(b), 203(b), title V, § 502, Nov. 23, 1988, 102 Stat. 4803, 4804, 4824; Pub. L. 102–573, § 3(c), title IX, § 902(1), Oct. 29, 1992, 106 Stat. 4529, 4591; Pub. L. 104–313, § 2(a), Oct. 19, 1996, 110 Stat. 3820.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (d), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables.

The Indian Self-Determination Act, referred to in subsec. (j)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (n). Pub. L. 104–313 inserted ''allopathic medicine,'' before ''family medicine'' and substituted ''an allied health profession, or any other health profession'' for ''and allied health professions''.

1992—Subsec. (c). Pub. L. 102–573, § 902(1), substituted ''sections 1612 and 1613 of this title'' for ''sections 1612, 1613, and 1621(c)(5) of this title''.

Subsecs. (m) to (q). Pub. L. 102–573, § 3(c), added subsecs. (m) to (q).

1988—Subsec. (h). Pub. L. 100–713, § 502, inserted ''urban'' after ''governed by an''.

Subsec. (i). Pub. L. 100–713, § 201(b), added subsec. (i) and struck out former subsec. (i) which defined ''rural Indian''.

Subsec. (j). Pub. L. 100–713, § 201(b), added subsec. (j) and struck out former subsec. (j) which defined ''rural community''.

Subsec. (k). Pub. L. 100–713, §§ 201(b), 203(b), added subsec. (k) and struck out former subsec. (k) which defined ''rural Indian organization''.

Subsec. (*l*). Pub. L. 100–713, § 203(b), added subsec. (*l*).

1980—Subsec. (a). Pub. L. 96–537, § 2(a), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (h). Pub. L. 96–537, § 2(b), substituted ''governed by an Indian controlled board of directors'' for ''composed of urban Indians''.

Subsecs. (i) to (k). Pub. L. 96–537, § 2(c), added subsecs. (i) to (k).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1656, 1934, 2403 of this title; title 42 sections 1395qq, 1396d, 1396j, 1396s, 1396u–2, 1397bb.

SUBCHAPTER I—INDIAN HEALTH PROFESSIONAL PERSONNEL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1621h, 1661 of this title.

§ 1611. Congressional statement of purpose

The purpose of this subchapter is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.

(Pub. L. 94–437, title I, § 101, Sept. 30, 1976, 90 Stat. 1402; Pub. L. 102–573, title I, § 101, Oct. 29, 1992, 106 Stat. 4530.)

AMENDMENTS

1992—Pub. L. 102–573 amended section generally. Prior to amendment, section read as follows: ''The purpose of this subchapter is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.''

ADVISORY PANEL AND REPORT ON RECRUITMENT AND RETENTION

Pub. L. 100–713, title I, § 110, Nov. 23, 1988, 102 Stat. 4800, directed Secretary of Health and Human Services to establish an advisory panel composed of 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service, 3 representatives of tribal health boards, and 1 representative of an urban health care organization, such advisory panel to conduct an investigation of (1) administrative policies and regulatory procedures which impede recruitment or retention of physicians and other health professionals by Indian Health Service, and (2) regulatory changes necessary to establish pay grades for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under 38 U.S.C. 4103 and 4104 and costs associated with establishing such pay grades, and, no later than the date that is 18 months after Nov. 23, 1988, to submit to Congress a report on the investigation, together with any recommendations for administrative or legislative changes in existing law, practices, or procedures.

§ 1612. Health professions recruitment program for Indians

(a) Grants for education and training

The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

(A) to enroll in courses of study in such health professions; or

(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) of this subsection or who are undertaking training necessary to qualify them to enroll in any such course of study; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1) of this subsection.

(b) Application for grant; submittal and approval; preference; payment

(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(Pub. L. 94–437, title I, § 102, Sept. 30, 1976, 90 Stat. 1402; Pub. L. 96–537, § 3(a), Dec. 17, 1980, 94 Stat. 3173; Pub. L. 100–713, title I, § 101, Nov. 23, 1988, 102 Stat. 4785; Pub. L. 102–573, title I, §§ 102(a), 117(b)(1), title IX, § 902(2)(A), Oct. 29, 1992, 106 Stat. 4530, 4544, 4591.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–573, § 102(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;''.

Subsec. (a)(2). Pub. L. 102–573, § 102(a)(2), substituted ''course of study'' for ''school'' in two places and ''paragraph (1)'' for ''clause (1)(A)''.

Subsec. (a)(3). Pub. L. 102–573, § 102(a)(3), substituted ''enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1) of this subsection'' for ''enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection''.

Subsec. (b)(1). Pub. L. 102–573, § 902(2)(A), substituted ''prescribe. The Secretary shall'' for '': *Provided*, That the Secretary shall''.

Subsec. (c). Pub. L. 102–573, § 117(b)(1), struck out subsec. (c) which authorized appropriations for fiscal years 1989 to 1992.

1988—Subsec. (c). Pub. L. 100–713 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $900,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,800,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section $2,300,000 for the fiscal year ending September 30, 1981, $2,600,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.''

1980—Subsec. (c). Pub. L. 96–537 substituted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriation of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1613. Health professions preparatory scholarship program for Indians

(a) Requirements

The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in the health professions.

(b) Purposes and duration of grants; preprofessional and pregraduate education

Scholarship grants made pursuant to this section shall be for the following purposes:

(1) Compensatory preprofessional education of any grantee, such scholarship not to exceed two years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary).

(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).

(c) Covered expenses

Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses of a grantee while attending school.

(d) Basis for denial of assistance

The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

(e) Eligibility for assistance under other Federal programs

The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

(Pub. L. 94–437, title I, § 103, Sept. 30, 1976, 90 Stat. 1403; Pub. L. 96–537, § 3(b), Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100–713, title I, § 102, Nov. 23, 1988, 102 Stat. 4785; Pub. L. 102–573, title I, § 102(b), Oct. 29, 1992, 106 Stat. 4530.)

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–573, § 102(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.''

Subsec. (b)(1). Pub. L. 102–573, § 102(b)(2), inserted before period at end ''on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)''.

Subsec. (b)(2). Pub. L. 102–573, § 102(b)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Pregraduate education of any grantee leading to a baccalaureate degree in an approved premedicine, predentistry, preosteopathy, preveterinary medicine, preoptometry, or prepodiatry curriculum, such scholarship not to exceed four years.''

Subsec. (c). Pub. L. 102–573, § 102(b)(4), struck out ''full time'' after ''while attending school''.

Subsec. (e). Pub. L. 102–573, § 102(b)(5), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

''(1) $3,000,000 for fiscal year 1989,

''(2) $3,700,000 for fiscal year 1990,

''(3) $4,400,000 for fiscal year 1991, and

''(4) $5,100,000 for fiscal year 1992.''

1988—Subsec. (c). Pub. L. 100–713, § 102(b), inserted ''of a grantee while attending school full time'' after ''expenses''.

Subsecs. (d), (e). Pub. L. 100–713, § 102(a), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: ''There are authorized to be appropriated for the purpose of this section: $800,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,300,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section $3,510,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, $4,620,000 for the fiscal year ending September 30, 1983, and $5,300,000 for the fiscal year ending September 30, 1984.''

1980—Subsec. (b). Pub. L. 96–537, § 3(b)(1), substituted provisions specifying in pars. (1) and (2), purposes for which scholarship grants could be made, for provisions that the scholarship grant shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of the grantee.

Subsec. (d). Pub. L. 96–537, § 3(b)(2), substituted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriations of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

§ 1613a. Indian health professions scholarships

(a) General authority

In order to provide health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full or part time in appropriately accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 254*l* of title 42, except as provided in subsection (b) of this section.

(b) Recipients; active duty service obligation

(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) of this section and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

(2) An individual shall be eligible for a scholarship under subsection (a) of this section in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a) of this section.

(3)(A) The active duty service obligation under a written contract with the Secretary under section 254*l* of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—

(i) in the Indian Health Service;

(ii) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(iii) in a program assisted under subchapter IV of this chapter;[1]

(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians; or[2]

(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).

(C) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation described in subparagraph (A) by service in a program specified in that subparagraph that—

(i) is located on the reservation of the tribe in which the recipient is enrolled; or

(ii) serves the tribe in which the recipient is enrolled.

(D) Subject to subparagraph (C), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—

(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

(ii) two years; and

(C) the amount of the monthly stipend specified in section 254*l*(g)(1)(B) of title 42 shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(5)(A) An individual who has, on or after October 29, 1992, entered into a written contract with the Secretary under this section and who—

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(ii) is dismissed from such educational institution for disciplinary reasons,

(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individ-

[1] So in original. Probably should be followed by ''or''.

[2] So in original. The ''; or'' probably should be a period.

ual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 1616a of this title in the manner provided for in such subsection.

(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

(i) it is not possible for the recipient to meet that obligation or make that payment;

(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

(c) Placement Office

The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 254m of title 42 without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.

(Pub. L. 94–437, title I, § 104, as added Pub. L. 100–713, title I, § 104(a), Nov. 23, 1988, 102 Stat. 4786; amended Pub. L. 102–573, title I, §§ 102(c), 103, Oct. 29, 1992, 106 Stat. 4531, 4532; Pub. L. 104–313, § 2(b), Oct. 19, 1996, 110 Stat. 3820.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(3)(A)(ii), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

PRIOR PROVISIONS

A prior section 104 of Pub. L. 94–437, title I, Sept. 30, 1976, 90 Stat. 1403, amended former section 234 of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (b)(3)(A). Pub. L. 104–313, § 2(b)(1)(A), substituted ''The active duty service obligation under a written contract with the Secretary under section 254*l* of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—'' for ''The active duty service obligation prescribed under section 254m of title 42 shall be met by a recipient of an Indian Health Scholarship by service—'' in introductory provisions, struck out ''or'' at end of cl. (iii), and substituted ''; or'' for period at end of cl. (iv).

Subsec. (b)(3)(B). Pub. L. 104–313, § 2(b)(1)(C), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C). Pub. L. 104–313, § 2(b)(1)(D), substituted ''described in subparagraph (A) by service in a program specified in that subparagraph'' for ''prescribed under section 254m of title 42 by service in a program specified in subparagraph (A)''.

Pub. L. 104–313, § 2(b)(1)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 104–313, § 2(b)(1)(E), substituted ''Subject to subparagraph (C),'' for ''Subject to subparagraph (B),'' and ''described in subparagraph (A)'' for ''prescribed under section 254m of title 42''.

Pub. L. 104–313, § 2(b)(1)(B), redesignated subpar. (C) as (D).

Subsec. (b)(4)(B). Pub. L. 104–313, § 2(b)(2)(A), substituted ''the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—'' for ''the period of obligated service specified in section 254*l*(f)(1)(B)(iv) of title 42 shall be equal to the greater of—'' in introductory provisions.

Subsec. (b)(4)(C). Pub. L. 104–313, § 2(b)(2)(B), made technical amendment to reference in original act which appears in text as reference to section 254*l*(g)(1)(B) of title 42.

Subsec. (b)(5)(C) to (F). Pub. L. 104–313, § 2(b)(3), added subpars. (C) to (F).

1992—Subsec. (a). Pub. L. 102–573, § 102(c)(1)(C), substituted ''accredited schools and pursuing courses of study in the health professions'' for ''accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work''.

Pub. L. 102–573, § 102(c)(1)(A), (B), substituted ''Indians, Indian tribes, tribal organizations, and urban Indian organizations'' for ''Indian communities'' and ''full or part time'' for ''full time''.

Subsec. (b)(2). Pub. L. 102–573, § 102(c)(2)(A), substituted ''full or part time'' for ''full time'' and ''course of study'' for ''health profession school''.

Subsec. (b)(3). Pub. L. 102–573, § 102(c)(2)(B), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, and added subpars. (B) and (C).

Subsec. (b)(4). Pub. L. 102–573, § 102(c)(2)(C), added par. (4).

Subsec. (b)(5). Pub. L. 102–573, § 103, added par. (5).

Subsec. (c). Pub. L. 102–573, § 102(c)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''For purposes of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 1603 of this title, including all individuals described in clauses (1) through (4) of that subsection.''

Subsec. (d). Pub. L. 102–573, § 102(c)(4), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(d) of Pub. L. 102–573 provided that: ''The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) [amending this section] shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act [this section] after the date of the enactment of this Act [Oct. 29, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1614, 1616a, 1616a–1, 1616m of this title.

§ 1614. Indian health service extern programs

(a) Employment of scholarship grantees during nonacademic periods

Any individual who receives a scholarship grant pursuant to section 1613a of this title shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Employment of medical and other students during nonacademic periods

Any individual enrolled in a course of study in the health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Employment without regard to competitive personnel system or agency personnel limitation; compensation

Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health and Human Services.

(Pub. L. 94–437, title I, § 105, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 95–83, title III, § 307(n)(2), Aug. 1, 1977, 91 Stat. 393; Pub. L. 96–537, § 3(c), Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100–713, title I, § 103, Nov. 23, 1988, 102 Stat. 4786; Pub. L. 102–573, title I, §§ 102(e), 117(b)(2), title IX, § 902(2)(B), Oct. 29, 1992, 106 Stat. 4532, 4544, 4591.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 102(e)(1), substituted ''section 1613a of this title'' for ''section 254r of title 42''.

Subsec. (b). Pub. L. 102–573, § 102(e)(2), substituted ''course of study in the health professions'' for ''school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions''.

Subsec. (c). Pub. L. 102–573, § 902(2)(B), substituted ''Department of Health and Human Services'' for ''Department of Health, Education, and Welfare''.

Subsec. (d). Pub. L. 102–573, § 117(b)(2), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

1988—Subsec. (d). Pub. L. 100–713 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''There are authorized to be appropriated for the purpose of this section: $600,000 for fiscal year 1978, $800,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section $990,000 for the fiscal year ending September 30, 1981, $1,140,000 for the fiscal year ending September 30, 1982, $1,310,000 for the fiscal year ending September 30, 1983, and $1,510,000 for the fiscal year ending September 30, 1984.''

1980—Subsec. (d). Pub. L. 96–537 substituted provisions authorizing appropriations of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriation of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

1977—Subsec. (a). Pub. L. 95–83 substituted reference to ''section 294y–1 of title 42'' for reference to ''section 104'' meaning section 104 of Pub. L. 94–437, which added section 234(i)(2) of Title 42, The Public Health and Welfare.

§ 1615. Continuing education allowances

(a) Discretionary authority; scope of activities

In order to encourage physicians, dentists, nurses, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) Limitation

Of amounts appropriated under the authority of this subchapter for each fiscal year to be used to carry out this section, not more than $1,000,000 may be used to establish postdoctoral training programs for health professionals.

(Pub. L. 94–437, title I, § 106, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 100–713, title I, § 105, Nov. 23, 1988, 102 Stat. 4787; Pub. L. 102–573, title I, §§ 104(a), 115, Oct. 29, 1992, 106 Stat. 4533, 4543.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 104(a), inserted ''nurses,'' after ''physicians, dentists,''.

Subsec. (b). Pub. L. 102–573, § 115, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

''(1) $500,000 for fiscal year 1989,

''(2) $526,300 for fiscal year 1990,

''(3) $553,800 for fiscal year 1991, and

''(4) $582,500 for fiscal year 1992.''

1988—Subsec. (b). Pub. L. 100–713 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated for the purpose of this section: $100,000 for fiscal year 1978, $200,000 for fiscal year 1979, and $250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this chapter.''

§ 1616. Community Health Representative Program

(a) Under the authority of section 13 of this title, the Secretary shall maintain a Community Health Representative Program under which the Service—

(1) provides for the training of Indians as health paraprofessionals, and

(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

(b) The Secretary, acting through the Community Health Representative Program of the Service, shall—

(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program,

(2) in order to provide such training, develop and maintain a curriculum that—

(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,

(3) maintain a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education,

(4) maintain a system that provides close supervision of Community Health Representatives,

(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated, and

(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

(Pub. L. 94–437, title I, § 107, as added Pub. L. 100–713, title I, § 107, Nov. 23, 1988, 102 Stat. 4788; amended Pub. L. 102–573, title I, § 105, Oct. 29, 1992, 106 Stat. 4535.)

AMENDMENTS

1992—Subsec. (b)(2). Pub. L. 102–573, § 105(1), inserted ''and maintain'' in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 102–573, § 105(2), inserted at end ''with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,''.

Subsec. (b)(3). Pub. L. 102–573, § 105(3), substituted ''maintain'' for ''develop'' in two places.

Subsec. (b)(4). Pub. L. 102–573, § 105(4), struck out ''develop and'' before ''maintain''.

Subsec. (b)(5). Pub. L. 102–573, § 105(3), substituted ''maintain'' for ''develop''.

§ 1616a. Indian Health Service Loan Repayment Program

(a) Establishment

(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the ''Loan Repayment Program'') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

(2) For the purposes of this section—

(A) the term ''Indian health program'' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

(i) directly by the Service;

(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under—

(I) the Indian Self-Determination Act [25 U.S.C. 450f et seq.], or

(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the ''Buy-Indian'' Act; or

(iii) by an urban Indian organization pursuant to subchapter IV of this chapter; and

(B) the term ''State'' has the same meaning given such term in section 254d(i)(4) of title 42.

(b) Eligibility

To be eligible to participate in the Loan Repayment Program, an individual must—

(1)(A) be enrolled—

(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) in an approved graduate training program in a health profession; or

(B) have—

(i) a degree in a health profession; and

(ii) a license to practice a health profession in a State;

(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

(C) meet the professional standards for civil service employment in the Indian Health Service; or

(D) be employed in an Indian health program without a service obligation; and

(3) submit to the Secretary an application for a contract described in subsection (f) of this section.

(c) Application and contract forms

(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (*l*) of this section in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner

calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d) Vacancies; priority

(1) Consistent with paragraph (3), the Secretary, acting through the Service and in accordance with subsection (k) of this section, shall annually—

(A) identify the positions in each Indian health program for which there is a need or a vacancy, and

(B) rank those positions in order of priority.

(2) Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

(A) Indians; and

(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.

(e) Approval

(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.

(2) The Secretary shall provide written notice to an individual promptly on—

(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

(B) the Secretary's disapproving an individual's participation in such Program.

(f) Contract terms

The written contract referred to in this section between the Secretary and an individual shall contain—

(1) an agreement under which—

(A) subject to paragraph (3), the Secretary agrees—

(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B)(iii), and

(B) subject to paragraph (3), the individual agrees—

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b)(1) of this section—

(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) of this section until the individual completes the course of study or training, and

(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

(iii) to serve for a time period (hereinafter in this section referred to as the ''period of obligated service'') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

(4) a statement of the damages to which the United States is entitled under subsection (*l*) of this section for the individual's breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

(g) Loan repayment purposes; maximum amount; tax liability reimbursement; schedule of payments

(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

(C) reasonable living expenses as determined by the Secretary.

(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) of this section the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 254*l*–1(g)(2)(A) of title 42) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

(h) Effect on employment ceiling of Department of Health and Human Services

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

(i) Recruiting programs

The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a) of this section.

(j) Prohibition of assignment to other government departments

Section 215 of title 42 shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

(k) Staff needs of health programs administered by Indian tribes

The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(*l*) Voluntary termination of study or dismissal from educational institution; collection of damages

(1) An individual who has entered into a written contract with the Secretary under this section and who—

(A) is enrolled in the final year of a course of study and who—

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(ii) voluntarily terminates such enrollment; or

(iii) is dismissed from such educational institution before completion of such course of study; or

(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii) of this section,

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f) of this section, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

(A) ''A'' is the amount the United States is entitled to recover;

(B) ''Z'' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at

the maximum legal prevailing rate, as determined by the Treasurer of the United States;

(C) ''t'' is the total number of months in the individual's period of obligated service in accordance with subsection (f) of this section; and

(D) ''s'' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of title 42.

(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31 shall apply to any such contract to the extent not inconsistent with this subsection.

(m) Cancellation or waiver of obligations; bankruptcy discharge

(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

(n) Annual report

The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 1671 of this title, a report concerning the previous fiscal year which sets forth—

(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

(3) the number of contracts described in subsection (f) of this section that are entered into with respect to each health profession;

(4) the amount of loan payments made under this section, in total and by health profession;

(5) the number of scholarship grants that are provided under section 1613a of this title with respect to each health profession;

(6) the amount of scholarship grants provided under section 1613a of this title, in total and by health profession;

(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

(Pub. L. 94–437, title I, §108, as added Pub. L. 100–713, title I, §108, Nov. 23, 1988, 102 Stat. 4789; amended Pub. L. 102–573, title I, §§106(a)–(g)(1), (h), (i), 117(b)(3), title IX, §902(2)(C), (D), Oct. 29, 1992, 106 Stat. 4535–4537, 4544, 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(2)(A)(ii)(I), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–573, §106(a)(1), substituted ''health professionals'' for ''physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals''.

Subsec. (b)(1)(A)(i). Pub. L. 102–573, §106(a)(2)(A)(i), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or''.

Subsec. (b)(1)(A)(ii). Pub. L. 102–573, §106(a)(2)(A)(ii), substituted ''a health profession'' for ''medicine, osteopathy, dentistry, or other health profession''.

Subsec. (b)(1)(B). Pub. L. 102–573, §106(a)(2)(B), in cl. (i), substituted ''a degree in a health profession; and'' for ''a degree in medicine, osteopathy, dentistry, or other health profession;'', redesignated cl. (iii) as (ii) and substituted ''a health profession'' for ''medicine, osteopathy, dentistry, or other health profession'', and struck out former cl. (ii) which read as follows: ''completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and''.

Subsec. (b)(2) to (4). Pub. L. 102–573, §106(a)(2)(C), inserted ''and'' at end of par. (2)(D), added par. (3), and

struck out former pars. (3) and (4) which read as follows:

''(3) submit an application to participate in the Loan Repayment Program; and

''(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f) of this section) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.''

Subsec. (d)(1). Pub. L. 102–573, §106(b)(1), substituted ''Consistent with paragraph (3), the'' for ''The''.

Subsec. (d)(1)(A). Pub. L. 102–573, §902(2)(C), substituted ''Indian health'' for ''Indian Health''.

Subsec. (d)(3). Pub. L. 102–573, §106(b)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102–573, §106(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) of this section and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4) of this section.''

Subsec. (e)(2)(A). Pub. L. 102–573, §106(d), inserted '', including extensions resulting in an aggregate period of obligated service in excess of 4 years'' before ''; or''.

Subsec. (g)(1). Pub. L. 102–573, §106(e), in introductory provisions, substituted ''loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for'' for ''loans received by the individual for''.

Subsec. (g)(2)(A). Pub. L. 102–573, §106(f), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f) of this section, the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1).''

Subsec. (g)(3). Pub. L. 102–573, §106(g)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.''

Subsec. (i). Pub. L. 102–573, §902(2)(D), substituted ''health professional programs of the Service'' for ''Service manpower programs''.

Subsec. (k). Pub. L. 102–573, §106(h), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: ''The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.''

Subsec. (n). Pub. L. 102–573, §106(i), amended subsec. (n) generally. Prior to amendment, subsec. (n) consisted of pars. (1) and (2) requiring submission of annual reports to Congress by the first of March and the first of July of each year.

Subsec. (*o*). Pub. L. 102–573, §117(b)(3), struck out subsec. (*o*) which read as follows: ''There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 106(g)(2) of Pub. L. 102–573 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act [this section] entered into on or after the date of enactment of this Act [Oct. 29, 1992].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1613a, 1616a–1, 1616b, 1616c, 1616d, 1616j, 1616k, 1616m, 1621h, 1671 of this title.

§ 1616a–1. Scholarship and Loan Repayment Recovery Fund

(a) Establishment

There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the ''Fund''). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b) of this section. Amounts appropriated for the Fund shall remain available until expended.

(b) Authorization of appropriations

For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

(A) the liability of individuals under subparagraph (A) or (B) of section 1613a(b)(5) of this title for the breach of contracts entered into under section 1613a of this title; and

(B) the liability of individuals under section 1616a(*l*) of this title for the breach of contracts entered into under section 1616a of this title; and

(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) of this section and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

(c) Use of funds

(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]—

(A) to which a scholarship recipient under section 1613a of this title or a loan repayment program participant under section 1616a of this title has been assigned to meet the obligated service requirements pursuant to[1] sections; and

(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 1613a of this title or section 1616a of this title.

(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

(d) Investment of excess funds

(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary de-

[1] So in original. Probably should be ''to such''.

termines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(Pub. L. 94–437, title I, § 108A, as added Pub. L. 102–573, title I, § 110, Oct. 29, 1992, 106 Stat. 4538.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c)(1), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1616b. Recruitment activities

(a) The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 1616a of this title, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

(Pub. L. 94–437, title I, § 109, as added Pub. L. 100–713, title I, § 108, Nov. 23, 1988, 102 Stat. 4794; amended Pub. L. 102–573, title I, § 107, Oct. 29, 1992, 106 Stat. 4538.)

AMENDMENTS

1992—Pub. L. 102–573, § 107(1), substituted ''Recruitment activities'' for ''Travel expenses for recruitment'' in section catchline.

Subsec. (b). Pub. L. 102–573, § 107(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There are authorized to be appropriated $100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.''

§ 1616c. Tribal recruitment and retention program

(a) Projects funded on competitive basis

The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 1616a(a)(2) of this title).

(b) Eligibility

(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) of this section for such projects.

(Pub. L. 94–437, title I, § 110, as added Pub. L. 100–713, title I, § 108, Nov. 23, 1988, 102 Stat. 4794; amended Pub. L. 102–573, title I, § 117(b)(4), Oct. 29, 1992, 106 Stat. 4544.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–573 struck out subsec. (c) which authorized appropriations for fiscal years 1990 to 1992.

§ 1616d. Advanced training and research

(a) Establishment of program

The Secretary, acting through the Service, shall establish a program to enable health professionals to pursue advanced training or research in areas of study for which the Secretary determines a need exists. In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications.

(b) Obligated service

An individual who participates in a program under subsection (a) of this section, where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program (as defined in section 1616a(a)(2) of this title) for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after October 29, 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (*l*) of section 1616a of this title in the manner provided for in such subsection.

(c) Eligibility

Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity to participate in the program under subsection (a) of this section.

(Pub. L. 94–437, title I, § 111, as added Pub. L. 100–713, title I, § 108, Nov. 23, 1988, 102 Stat. 4795; amended Pub. L. 102–573, title I, § 108, Oct. 29, 1992, 106 Stat. 4538; Pub. L. 103–435, § 16(a), Nov. 2, 1994, 108 Stat. 4573.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c), is title I of Pub. L. 93–638, Jan. 4, 1975, 88

Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–435, § 16(a)(1), struck out ''who have worked in an Indian health program (as defined in section 1616a(a)(2) of this title) for a substantial period of time'' after ''health professionals'' and inserted at end ''In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications.''

Subsec. (b). Pub. L. 103–435, § 16(a)(2), inserted ''(as defined in section 1616a(a)(2) of this title)'' after ''Indian health program''.

1992—Subsec. (b). Pub. L. 102–573, § 108(1), amended last sentence generally. Prior to amendment, last sentence read as follows: ''The Secretary shall develop standards for appropriate recoupment for such remaining service.''

Subsec. (d). Pub. L. 102–573, § 108(2), struck out subsec. (d) which directed Secretary to prescribe regulations to carry out this section.

§ 1616e. Nursing program

(a) Grants

The Secretary, acting through the Service, shall provide grants to—

(1) public or private schools of nursing,

(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2)[1] of title 20), and

(3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

(b) Purposes

Grants provided under subsection (a) of this section may be used to—

(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or nurse practitioners,

(2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,

(3) provide a program that encourages nurses, nurse midwives, and nurse practitioners to provide, or continue to provide, health care services to Indians,

(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and nurse practitioners, or

(5) provide any program that is designed to achieve the purpose described in subsection (a) of this section.

(c) Application

Each application for a grant under subsection (a) of this section shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

(d) Preference

In providing grants under subsection (a) of this section, the Secretary shall extend a preference to—

(1) programs that provide a preference to Indians,

(2) programs that train nurse midwives or nurse practitioners,

(3) programs that are interdisciplinary, and

(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 2624(a)[1] of this title.

(e) Quentin N. Burdick American Indians Into Nursing Program

The Secretary shall provide one of the grants authorized under subsection (a) of this section to establish and maintain a program at the University of North Dakota to be known as the ''Quentin N. Burdick American Indians Into Nursing Program''. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 1616g(b) of this title and the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title.

(f) Service obligation

The active duty service obligation prescribed under section 254m of title 42 shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) of this section that is funded by a grant provided under subsection (a) of this section. Such obligation shall be met by service—

(A) in the Indian Health Service;

(B) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(C) in a program assisted under subchapter IV of this chapter; or

(D) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(g) Authorization of appropriations

Beginning with fiscal year 1993, of the amounts appropriated under the authority of this subchapter for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) of this section for the training of nurse midwives, nurse anesthetists, and nurse practitioners.

(Pub. L. 94–437, title I, § 112, as added Pub. L. 100–713, title I, § 108, Nov. 23, 1988, 102 Stat. 4795; amended Pub. L. 102–573, title I, §§ 104(b), (c), 114(a), Oct. 29, 1992, 106 Stat. 4533, 4543.)

REFERENCES IN TEXT

Section 2397h of title 20, referred to in subsec. (a)(2), was omitted in the general amendment of chapter 44

[1] See References in Text note below.

(§ 2301 et seq.) of Title 20, Education, by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

Section 2624 of this title, referred to in subsec. (d)(4), was repealed by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976. See section 7834 of Title 20, Education.

The Indian Self-Determination Act, referred to in subsec. (f)(B), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–573, § 114(a), inserted "and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20)" after "community colleges".

Subsecs. (e), (f). Pub. L. 102–573, § 104(b), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 102–573, § 104(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $5,000,000 for the purpose of carrying out the provisions of this section.

"(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least $1,000,000 to provide grants under subsection (a) of this section for the training of nurse midwives."

Pub. L. 102–573, § 104(b)(1), redesignated subsec. (f) as (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616e–1, 1616g, 1621p of this title.

§ 1616e–1. Nursing school clinics

(a) Grants

In addition to the authority of the Secretary under section 1616e(a)(1) of this title, the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18.

(b) Purposes

Grants provided under subsection (a) of this section may be used to—

(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18);

(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

(3) carry out any other activities determined appropriate by the Secretary.

(c) Amount and conditions

The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

(d) Design

The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) Authorization to use amounts

Out of amounts appropriated to carry out this subchapter for each of the fiscal years 1993 through 2000 not more than $5,000,000 may be used to carry out this section.

(Pub. L. 94–437, title I, § 112A, as added Pub. L. 102–573, title I, § 104(f), Oct. 29, 1992, 106 Stat. 4534.)

§ 1616f. Tribal culture and history

(a) Program established

The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational instruction in the history and culture of such tribes and in the history of the Service.

(b) Tribally-controlled community colleges

To the extent feasible, the program established under subsection (a) of this section shall—

(1) be carried out through tribally-controlled community colleges (within the meaning of section 1801(4)[1] of this title) and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2)[1] of title 20),

(2) be developed in consultation with the affected tribal government, and

(3) include instruction in Native American studies.

(Pub. L. 94–437, title I, § 113, as added Pub. L. 100–713, title I, § 109, Nov. 23, 1988, 102 Stat. 4796; amended Pub. L. 102–573, title I, §§ 114(b), 117(b)(5), Oct. 29, 1992, 106 Stat. 4543, 4544; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

Section 1801 of this title, referred to in subsec. (b)(1), was amended by Pub. L. 98–192, § 1(1), Dec. 1, 1983, 97 Stat. 1335, to designate par. (4) as subsec. (a)(4), and was amended by Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828, so that it no longer defines the term "tribally controlled community college".

Section 2397h of title 20, referred to in subsec. (b)(1), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of Title 20, Education, by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244 made technical amendment to reference in original act which appears in text as reference to section 1801(4) of this title.

1992—Subsec. (b)(1). Pub. L. 102–573, § 114(b), inserted before comma at end "and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20)".

Subsec. (c). Pub. L. 102–573, § 117(b)(5), struck out subsec. (c) which authorized appropriations for fiscal years 1990 to 1992.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see sec-

[1] See References in Text note below.

tion 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 1616g. INMED program

(a) Grants

The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the ''Indians into Medicine Program'' (hereinafter in this section referred to as ''INMED'') as a means of encouraging Indians to enter the health professions.

(b) University of North Dakota

The Secretary shall provide one of the grants authorized under subsection (a) of this section to maintain the INMED program at the University of North Dakota, to be known as the ''Quentin N. Burdick Indian Health Programs'', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title and the Quentin N. Burdick American Indians Into Nursing Program established under section 1616e(e) of this title.

(c) Regulations; contents of recruitment program

(1) The Secretary shall develop regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants provided under this section shall agree to provide a program which—

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

(E) to the maximum extent feasible, employs qualified Indians in the program.

(d) Report to Congress

By no later than the date that is 3 years after November 23, 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program.

(Pub. L. 94–437, title I, § 114, as added Pub. L. 100–713, title I, § 109, Nov. 23, 1988, 102 Stat. 4796; amended Pub. L. 102–573, title I, §§ 109, 117(b)(6), Oct. 29, 1992, 106 Stat. 4538, 4544.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–573, § 109, inserted ''to be known as the 'Quentin N. Burdick Indian Health Programs','' after ''North Dakota,'' and ''Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title and the Quentin N. Burdick American Indians Into Nursing Program established under section 1616e(e) of this title.'' at end.

Subsec. (e). Pub. L. 102–573, § 117(b)(6), struck out subsec. (e) which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616e, 1621p of this title.

§ 1616h. Health training programs of community colleges

(a) Grants

(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation or in a tribal clinic.

(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

(b) Eligibility

(1) The Secretary, acting through the Service, shall award grants to community colleges that have established a program described in subsection (a)(1) of this section for the purpose of maintaining the program and recruiting students for the program.

(2) Grants may only be made under this section to a community college which—

(A) is accredited,

(B) has access to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals,

(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and

(ii) stipulate certifications necessary to approve internship and field placement opportunities at service unit facilities of the Service or at tribal health facilities,

(D) has a qualified staff which has the appropriate certifications, and

(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1) of this section.

(c) Agreements and technical assistance

The Secretary shall encourage community colleges described in subsection (b)(2) of this section to establish and maintain programs described in subsection (a)(1) of this section by—

(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

(2) providing technical assistance and support to such colleges.

(d) Advanced training

Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

(1) has already received a degree or diploma in such health profession, and

(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C) of this section.

(e) Definitions

For purposes of this section—

(1) The term ''community college'' means—

(A) a tribally controlled community college, or

(B) a junior or community college.

(2) The term ''tribally controlled community college'' has the meaning given to such term by section 1801(4)[1] of this title.

(3) The term ''junior or community college'' has the meaning given to such term by section 1058(e)[1] of title 20.

(Pub. L. 94–437, title I, § 115, as added Pub. L. 100–713, title I, § 109, Nov. 23, 1988, 102 Stat. 4797; amended Pub. L. 102–573, title I, § 117(b)(7), Oct. 29, 1992, 106 Stat. 4544; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

Section 1801 of this title, referred to in subsec. (e)(2), was amended by Pub. L. 98–192, § 1(1), Dec. 1, 1983, 97 Stat. 1335, to designate par. (4) as subsec. (a)(4), and was amended by Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828, so that it no longer defines the term ''tribally controlled community college''.

Section 1058 of title 20, referred to in subsec. (e)(3), was amended by Pub. L. 105–244, title III, § 303(b)(1), Oct. 7, 1998, 112 Stat. 1639, which redesignated subsecs. (d) and (e) as (e) and (f), respectively.

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–244 made technical amendment to reference in original act which appears in text as reference to section 1801(4) of this title.

1992—Subsec. (f). Pub. L. 102–573 struck out subsec. (f) which authorized appropriations for fiscal years 1990 to 1992.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 1616i. Additional incentives for health professionals

(a) Incentive special pay

The Secretary may provide the incentive special pay authorized under section 302(b) of title 37 to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b)(1) of this section for which recruitment or retention of personnel is difficult.

(b) List of positions; bonus pay

(1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service for which recruitment or retention is difficult.

(2)(A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).

(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed $2,000.

(c) Work schedules

The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61 of title 5, for health professionals employed by, or assigned to, the Service.

(Pub. L. 94–437, title I, § 116, as added Pub. L. 100–713, title I, § 109, Nov. 23, 1988, 102 Stat. 4798; amended Pub. L. 102–573, title I, § 117(b)(8), title IX, § 901(1), Oct. 29, 1992, 106 Stat. 4544, 4590.)

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–573, § 901(1), struck out subsec. (d) which required a report to Congress by the Secretary no later than 6 months after Nov. 23, 1988, relating to overtime pay for individuals employed by the Service.

Subsec. (e). Pub. L. 102–573, § 117(b)(8), struck out subsec. (e) which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616j, 1621h of this title.

§ 1616j. Retention bonus

(a) Eligibility

The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

(1) is assigned to, and serving in, a position included in the list established under section 1616i(b)(1) of this title for which recruitment or retention of personnel is difficult,

(2) the Secretary determines is needed by the Service,

(3) has—

(A) completed 3 years of employment with the Service, or

(B) completed any service obligations incurred as a requirement of—

(i) any Federal scholarship program, or

(ii) any Federal education loan repayment program, and

(4) enters into an agreement with the Service for continued employment for a period of not less than 1 year.

[1] See References in Text note below.

(b) Minimum award percentage to nurses

Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) of this section shall be awarded to nurses.

(c) Rates; maximum rate

The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4) of this section, but in no event shall the annual rate be more than $25,000 per annum.

(d) Time of payment

The retention bonus for the entire period covered by the agreement described in subsection (a)(4) of this section shall be paid at the beginning of the agreed upon term of service.

(e) Refund; interest

Any physician or nurse failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 1616a(*l*)(2)(B) of this title.

(f) Physicians and nurses employed under Indian Self-Determination Act

The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] if such physician or nurse is serving in a position which the Secretary determines is—

(1) a position for which recruitment or retention is difficult; and

(2) necessary for providing health care services to Indians.

(Pub. L. 94–437, title I, § 117, as added Pub. L. 100–713, title I, § 109, Nov. 23, 1988, 102 Stat. 4799; amended Pub. L. 102–573, title I, § 104(d), Oct. 29, 1992, 106 Stat. 4533.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (f), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsecs. (b) to (f). Pub. L. 102–573 added subsec. (b), redesignated former subsecs. (b) to (e) as (c) to (f), respectively, and amended subsec. (f) generally, substituting provisions relating to physicians and nurses employed under the Indian Self-Determination Act for provisions which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621h of this title.

§ 1616k. Nursing residency program

(a) Establishment

The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 1616a(a)(2)(A) of this title), and have done so for a period of not less than one year, to pursue advanced training.

(b) Program components

Such program shall include a combination of education and work study in an Indian health program (as defined in section 1616a(a)(2)(A) of this title) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or a Master's degree.

(c) Service obligation of program participant

An individual who participates in a program under subsection (a) of this section, where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (*l*) of section 1616a of this title in the manner provided for in such subsection.

(Pub. L. 94–437, title I, § 118, as added Pub. L. 102–573, title I, § 104(e), Oct. 29, 1992, 106 Stat. 4534; amended Pub. L. 103–435, § 16(b), Nov. 2, 1994, 108 Stat. 4573.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–435 inserted before period at end "or a Master's degree".

§ 1616*l*. Community Health Aide Program for Alaska

(a) Maintenance of Program

Under the authority of section 13 of this title, the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

(1) provides for the training of Alaska Natives as health aides or community health practitioners;

(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

(b) Training; curriculum; Certification Board

The Secretary, acting through the Community Health Aide Program of the Service, shall—

(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

(2) in order to provide such training, develop a curriculum that—

(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

(C) promotes the achievement of the health status objectives specified in section 1602(b) of this title;

(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

(Pub. L. 94–437, title I, § 119, as added Pub. L. 102–573, title I, § 111, Oct. 29, 1992, 106 Stat. 4539.)

§ 1616m. Matching grants to tribes for scholarship programs

(a) In general

(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 1613a of this title.

(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

(b) Compliance with requirements

(1) An Indian tribe or tribal organization receiving a grant under subsection (a) of this section shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) of this section to the Indian tribe or tribal organization; and

(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

(c) Course of study in health professions

An Indian tribe or tribal organization shall provide scholarships under subsection (b) of this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 1613a(a) of this title.

(d) Contract requirements

In providing scholarships under subsection (b) of this section, the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

(1) obligate such recipient to provide service in an Indian health program (as defined in section 1616a(a)(2)(A) of this title), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

(2) provide that the amount of such scholarship—

(A) may be expended only for—

(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 254*l*(g)(1)(B) of title 42, such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

(e) Breach of contract

(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) of this section and who—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(B) is dismissed from such educational institution for disciplinary reasons,

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 1616a of this title in the manner provided for in such subsection.

(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

(f) Nondiscriminatory practice

The recipient of a scholarship under subsection (b) of this section shall agree, in providing health care pursuant to the requirements of subsection (d)(1) of this section—

(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or pursuant to the program established in title XIX of such Act [42 U.S.C. 1396 et seq.]; and

(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act [42 U.S.C. 1395u(b)(3)(B)(ii)] for all services for which payment may be made under part B of title XVIII of such Act [42 U.S.C. 1395j et seq.], and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act [42 U.S.C. 1396 et seq.] to provide service to individuals entitled to medical assistance under the plan.

(g) Payments for subsequent fiscal years

The Secretary may not make any payments under subsection (a) of this section to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.

(Pub. L. 94–437, title I, § 120, as added Pub. L. 102–573, title I, § 112, Oct. 29, 1992, 106 Stat. 4540.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare, respectively. Part B of title XVIII of the Act is classified generally to part B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 1616n. Tribal health program administration

The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.

(Pub. L. 94–437, title I, § 121, as added Pub. L. 102–573, title I, § 113, Oct. 29, 1992, 106 Stat. 4542.)

§ 1616*o*. University of South Dakota pilot program

(a) Establishment

The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as ''USDSM'') to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

(b) Purposes

The purposes of the program established pursuant to a grant provided under subsection (a) of this section are—

(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

(c) Composition; designation

The pilot program established pursuant to a grant provided under subsection (a) of this section shall—

(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

(d) Coordination with other schools

The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) of this section with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

(e) Development of additional professional opportunities

The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.

(Pub. L. 94–437, title I, § 122, as added Pub. L. 102–573, title I, § 116, Oct. 29, 1992, 106 Stat. 4543.)

§ 1616p. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title I, § 123, as added Pub. L. 102–573, title I, § 117(a), Oct. 29, 1992, 106 Stat. 4544.)

SUBCHAPTER II—HEALTH SERVICES

§ 1621. Indian Health Care Improvement Fund

(a) Approved expenditures

The Secretary is authorized to expend funds which are appropriated under the authority of this section, through the Service, for the purposes of—

(1) eliminating the deficiencies in health status and resources of all Indian tribes,

(2) eliminating backlogs in the provision of health care services to Indians,

(3) meeting the health needs of Indians in an efficient and equitable manner, and

(4) augmenting the ability of the Service to meet the following health service responsibilities, either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.], with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

(A) clinical care (direct and indirect) including clinical eye and vision care;

(B) preventive health, including screening mammography in accordance with section 1621k of this title;

(C) dental care (direct and indirect);

(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

(E) emergency medical services;

(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

(G) accident prevention programs;

(H) home health care;

(I) community health representatives; and

(J) maintenance and repair.

(b) Effect on other appropriations; allocation to service units

(1) Any funds appropriated under the authority of this section shall not be used to offset or limit any appropriations made to the Service under section 13 of this title, or any other provision of law.

(2)(A) Funds appropriated under the authority of this section may be allocated on a service unit basis. The funds allocated to each service unit under this subparagraph shall be used by the service unit to reduce the health status and resource deficiency of each tribe served by such service unit.

(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) of this section shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes.

(c) Health resources deficiency levels

For purposes of this section—

(1) The term ''health status and resource deficiency'' means the extent to which—

(A) the health status objectives set forth in section 1602(b) of this title are not being achieved; and

(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

(2) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

(3) The Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe.

(d) Programs administered by Indian tribe

(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such funds may be used for health planning, training, technical assistance, and other administrative support functions.

(e) Report to Congress

By no later than the date that is 3 years after October 29, 1992, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

(4) an estimate of—

(A) the amount of health service funds appropriated under the authority of this chapter, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

(B) the number of Indians eligible for health services in each service unit or Indian tribe; and

(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.

(f) Appropriated funds included in base budget of Service

Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

(g) Continuation of Service responsibilities for backlogs and parity

Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

(h) Authorization of appropriations

Any funds appropriated under the authority of this section shall be designated as the ''Indian Health Care Improvement Fund''.

(Pub. L. 94–437, title II, § 201, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 96–537, § 4, Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100–713, title II, § 201(a), Nov. 23, 1988, 102 Stat. 4800; Pub. L. 102–573, title II, § 201(a), (c), 207(b), 217(b)(1), Oct. 29, 1992, 106 Stat. 4544, 4546, 4551, 4559.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (a)(4) and (d), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573, § 201(c), amended section catchline generally.

Subsec. (a). Pub. L. 102–573, § 201(a)(1)(A), substituted ''this section'' for ''subsection (h) of this section'' in introductory provisions.

Subsec. (a)(1). Pub. L. 102–573, § 201(a)(1)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''raising the health status of Indians to zero deficiency,''.

Subsec. (a)(4). Pub. L. 102–573, § 201(a)(1)(C), in introductory provisions inserted '', either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,'' after ''responsibilities'' and substituted ''status and resource deficiencies'' for ''resources deficiency''.

Subsec. (a)(4)(B). Pub. L. 102–573, § 207(b), substituted ''preventive health, including screening mammography in accordance with section 1621k of this title'' for ''preventive health''.

Subsec. (b)(1). Pub. L. 102–573, § 201(a)(2)(A), substituted ''this section'' for ''subsection (h) of this section''.

Subsec. (b)(2). Pub. L. 102–573, § 201(a)(2)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''Funds which are appropriated under the authority of subsection (h) of this section may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) of this section to raise all Indian tribes to health resources deficiency level II.''

Subsec. (b)(2)(A). Pub. L. 102–573, § 201(a)(2)(C), in first sentence, substituted ''this section'' for ''subsection (h) of this section'' and struck out ''but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met'' after ''service unit basis'' and, in second sentence, struck out ''(in accordance with paragraph (2))'' after ''the service unit'' and substituted ''reduce the health status and resource deficiency'' for ''raise the deficiency level''.

Subsec. (b)(2)(B). Pub. L. 102–573, § 201(a)(2)(D), inserted '', and with the active participation of,'' after ''in consultation with''.

Subsec. (b)(3). Pub. L. 102–573, § 201(a)(2)(B), redesignated par. (3) as (2).

Subsec. (c)(1). Pub. L. 102–573, § 201(a)(3)(B), amended par. (1) generally, substituting provisions defining ''health status and resource deficiency'' for former provisions defining ''health resources deficiency''.

Pub. L. 102–573, § 201(a)(3)(A), redesignated par. (2) as (1) and struck out former par. (1) which specified the health resource deficiency levels of an Indian tribe.

Subsec. (c)(2). Pub. L. 102–573, § 201(a)(3)(A), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (c)(3). Pub. L. 102–573, § 201(a)(3)(A), (C), redesignated par. (4) as (3) and substituted ''The'' for ''Under regulations, the'' and ''extent of the health status and resource deficiency'' for ''health resources deficiency level''. Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 102–573, § 201(a)(3)(A), redesignated par. (4) as (3).

Subsec. (d)(1). Pub. L. 102–573, § 201(a)(4), substituted ''this section'' for ''subsection (h) of this section''.

Subsec. (e). Pub. L. 102–573, § 201(a)(5)(A), in introductory provisions, substituted ''3 years after October 29, 1992, the Secretary shall submit to the Congress the current health status and resource deficiency report'' for ''60 days after November 23, 1988, the Secretary shall submit to the Congress the current health services priority system report''.

Subsec. (e)(1). Pub. L. 102–573, § 201(a)(5)(B), substituted ''health status and resource deficiencies'' for ''health resources deficiencies''.

Subsec. (e)(2). Pub. L. 102–573, § 201(a)(5)(C), substituted ''the extent of the health status and resource deficiency of'' for ''the level of health resources deficiency for''.

Subsec. (e)(3). Pub. L. 102–573, § 201(a)(5)(D), substituted ''eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and'' for ''raise all Indian tribes served by the Service below

health resources deficiency level II to health resources deficiency level II;''.

Subsec. (e)(4) to (6). Pub. L. 102–573, § 201(a)(5)(E), redesignated par. (6) as (4) and struck out former pars. (4) and (5) which read as follows:

''(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;

''(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and''.

Subsec. (f). Pub. L. 102–573, § 201(a)(6), redesignated par. (2) as entire subsec. and struck out former par. (1) which read as follows: ''The President shall include with the budget submitted to the Congress under section 1105 of title 31 for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.''

Subsec. (h). Pub. L. 102–573, § 217(b)(1), substituted ''this section'' for ''this subsection'' and struck out former first sentence which authorized appropriations for fiscal years 1990 to 1992.

1988—Pub. L. 100–713 amended section generally, substituting subsecs. (a) to (h) relating to improvement of Indian health status for former subsecs. (a) to (e) relating to direct patient care program.

1980—Subsec. (c)(1). Pub. L. 96–537, § 4(a)(1), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(2). Pub. L. 96–537, § 4(a)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(3). Pub. L. 96–537, § 4(a)(3), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(A). Pub. L. 96–537, § 4(b)(1), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(B). Pub. L. 96–537, § 4(b)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(C). Pub. L. 96–537, § 4(b)(3), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(D). Pub. L. 96–537, § 4(b)(4), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(E). Pub. L. 96–537, § 4(b)(5), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

Subsec. (c)(5). Pub. L. 96–537, § 4(c)(1), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

Subsec. (c)(6). Pub. L. 96–537, § 4(c)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(7). Pub. L. 96–537, § 4(c)(3), struck out par. (7) which authorized appropriation for the items referred to in subsecs. (c)(1) to (c)(6) of such sums as may be specifically authorized by an act enacted after Sept. 30, 1976, for fiscal years 1981, 1982, 1983, and 1984, and which further authorized positions for items referred to in subsecs. (c)(1) to (c)(6) other than subsecs. (c)(4)(E) and (c)(5), as may be specified in an act enacted after Sept. 30, 1976.

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 201(b) of Pub. L. 102–573 provided that: ''Except with respect to the amendments made by subsection (a)(5) [amending this section], the amendments made by subsection (a) [amending this section] shall take effect three years after the date of the enactment of this Act [Oct. 29, 1992]. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1660a, 1671 of this title.

§ 1621a. Catastrophic Health Emergency Fund

(a) Establishment; administration; purpose

(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the ''Fund'') consisting of—

(A) the amounts deposited under subsection (d) of this section, and

(B) the amounts appropriated to the Fund under this section.

(2) The Fund shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

(3) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(b) Regulations; procedures for payment

The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

(A) for 1993, not less than $15,000 or not more than $25,000; and

(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the

consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

(A) service units or facilities of the Service, or

(B) whenever otherwise authorized by the Service, non-Service facilities or providers,

in rendering treatment that exceeds such threshold cost;

(4) establish a procedure for payment from the Fund in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

(5) establish a procedure that will ensure that no payment shall be made from the Fund to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

(c) Effect on other appropriations

Amounts appropriated to the Fund under this section shall not be used to offset or limit appropriations made to the Service under authority of section 13 of this title or any other law.

(d) Reimbursements to Fund

There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

(Pub. L. 94–437, title II, § 202, as added Pub. L. 100–713, title II, § 202, Nov. 23, 1988, 102 Stat. 4803; amended Pub. L. 102–573, title II, §§ 202(a), 217(b)(2), Oct. 29, 1992, 106 Stat. 4546, 4559.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(4), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(1)(B). Pub. L. 102–573, § 202(a)(1), substituted ''to the Fund under this section'' for ''under subsection (e) of this section''.

Subsec. (b)(2). Pub. L. 102–573, § 202(a)(2), substituted ''shall establish at—'' and subpars. (A) and (B) for ''shall establish at not less than $10,000 or not more than $20,000;''.

Subsec. (c). Pub. L. 102–573, § 202(a)(3), substituted ''Amounts appropriated to the Fund under this section'' for ''Funds appropriated under subsection (e) of this section''.

Subsec. (e). Pub. L. 102–573, § 217(b)(2), struck out subsec. (e) which authorized appropriations for fiscal years 1989 to 1992.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 202(b) of Pub. L. 102–573 provided that: ''The amendment made by subsection (a)(2) [amending this section] shall take effect January 1, 1993.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621f, 1621j of this title.

§ 1621b. Health promotion and disease prevention services

(a) Authorization

The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objectives set forth in section 1602(b) of this title.

(b) Evaluation statement for Presidential budget

The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 1671 of this title an evaluation of—

(1) the health promotion and disease prevention needs of Indians,

(2) the health promotion and disease prevention activities which would best meet such needs,

(3) the internal capacity of the Service to meet such needs, and

(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

(Pub. L. 94–437, title II, § 203, as added Pub. L. 100–713, title II, § 203(c), Nov. 23, 1988, 102 Stat. 4805; amended Pub. L. 102–573, title II, § 203, Oct. 29, 1992, 106 Stat. 4546.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 203(1), inserted before period at end ''so as to achieve the health status objectives set forth in section 1602(b) of this title''.

Subsec. (b). Pub. L. 102–573, § 203(2), in introductory provisions, substituted ''section 1671'' for ''section 1621(f)''.

Subsec. (c). Pub. L. 102–573, § 203(3), struck out subsec. (c) which directed establishment of between 1 and 4 health-related demonstration projects to terminate 30 months after Nov. 23, 1988.

CONGRESSIONAL FINDINGS ON HEALTH PROMOTION AND DISEASE PREVENTION

Section 203(a) of Pub. L. 100–713 provided that: ''The Congress finds that health promotion and disease prevention activities will—

''(1) improve the health and well being of Indians, and

''(2) reduce the expenses for medical care of Indians.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1621c. Diabetes prevention, treatment, and control

(a) Incidence and complications

The Secretary, in consultation with the tribes, shall determine—

(1) by tribe and by Service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and

(2) based on paragraph (1), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications

resulting from, diabetes among tribes within that Service unit.

(b) Screening

The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(c) Model diabetes projects

(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on October 29, 1992, and located—

(A) at the Claremore Indian Hospital in Oklahoma;

(B) at the Fort Totten Health Center in North Dakota;

(C) at the Sacaton Indian Hospital in Arizona;

(D) at the Winnebago Indian Hospital in Nebraska;

(E) at the Albuquerque Indian Hospital in New Mexico;

(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

(G) at the Bellingham Health Center in Washington;

(H) at the Fort Berthold Reservation;

(I) at the Navajo Reservation;

(J) at the Papago Reservation;

(K) at the Zuni Reservation; or

(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).

(d) Control officer; registry of patients

The Secretary shall—

(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes;

(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area;

(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices; and

(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.

(e) Authorization of appropriations

Funds appropriated under this section in any fiscal year shall be in addition to base resources appropriated to the Service for that year.

(Pub. L. 94–437, title II, § 204, as added Pub. L. 100–713, title II, § 203(c), Nov. 23, 1988, 102 Stat. 4806; amended Pub. L. 102–573, title II, §§ 204, 217(b)(3), title IX, § 901(2), Oct. 29, 1992, 106 Stat. 4546, 4559, 4590.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 901(2), redesignated par. (1) as entire subsec., redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, substituted ''paragraph (1)'' for ''subparagraph (A)'' in par. (2), and struck out former par. (2) which read as follows: ''Within 18 months after November 23, 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.''

Subsec. (c). Pub. L. 102–573, § 204(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on November 23, 1988:

''(A) Claremore Indian Hospital in Oklahoma;

''(B) Fort Totten Health Center in North Dakota;

''(C) Sacaton Indian Hospital in Arizona;

''(D) Winnebago Indian Hospital in Nebraska;

''(E) Albuquerque Indian Hospital in New Mexico;

''(F) Perry, Princeton, and Old Town Health Centers in Maine; and

''(G) Bellingham Health Center in Washington.

''(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

''(A) Fort Berthold Reservation;

''(B) the Navajo Reservation;

''(C) the Papago Reservation;

''(D) the Zuni Reservation; and

''(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.''

Subsec. (d)(4). Pub. L. 102–573, § 204(2), added par. (4).

Subsec. (e). Pub. L. 102–573, § 217(b)(3), substituted ''this section'' for ''subsection (c) of this section'' and struck out at beginning ''There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.''

§ 1621d. Hospice care feasibility study

(a) Duty of Secretary

The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

(2) to determine the most efficient and effective means of furnishing such care.

(b) Functions of study

Such study shall—

(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

(4) identify and evaluate various means for providing hospice care, including—

(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

(B) the provision of such care by a community-based hospice program under contract to the Service; and

(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

(c) Report to Congress

Not later than the date which is 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report containing—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

(d) Definitions

For the purposes of this section—

(1) the term ''terminally ill'' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

(2) the term ''hospice program'' means any program which satisfies the requirements of section 1395x(dd)((2) of title 42; and

(3) the term ''hospice care'' means the items and services specified in subparagraphs (A) through (H) of section 1395x(dd)(1) of title 42.

(Pub. L. 94–437, title II, § 205, as added Pub. L. 102–573, title II, § 206(a), Oct. 29, 1992, 106 Stat. 4548.)

PRIOR PROVISIONS

A prior section 1621d, Pub. L. 94–437, title II, § 205, as added Pub. L. 100–713, title II, § 203(c), Nov. 23, 1988, 102 Stat. 4807, related to Native Hawaiian health promotion and disease prevention, prior to repeal by Pub. L. 100–579, § 14, formerly § 10, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100–690, title II, § 2310, Nov. 18, 1988, 102 Stat. 4229; renumbered § 14, Pub. L. 102–396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948. See section 11701 et seq. of Title 42, The Public Health and Welfare.

§ 1621e. Reimbursement from certain third parties of costs of health services

(a) Right of recovery

Except as provided in subsection (f) of this section, the United States, an Indian tribe, or a tribal organization shall have the right to recover the reasonable expenses incurred by the Secretary, an Indian tribe, or a tribal organization in providing health services, through the Service, an Indian tribe, or a tribal organization, to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if—

(1) such services had been provided by a nongovernmental provider, and

(2) such individual had been required to pay such expenses and did pay such expenses.

(b) Recovery against State with workers' compensation laws or no-fault automobile accident insurance program

Subsection (a) of this section shall provide a right of recovery against any State only if the injury, illness, or disability for which health services were provided is covered under—

(1) workers' compensation laws, or

(2) a no-fault automobile accident insurance plan or program.

(c) Prohibition of State law or contract provision impeding right of recovery

No law of any State, or of any political subdivision of a State, and no provision of any contract entered into or renewed after November 23, 1988, shall prevent or hinder the right of recovery of the United States, an Indian tribe, or a tribal organization under subsection (a) of this section.

(d) Right to damages

No action taken by the United States, an Indian tribe, or a tribal organization to enforce the right of recovery provided under subsection (a) of this section shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

(e) Intervention or separate civil action

The United States, an Indian tribe, or a tribal organization may enforce the right of recovery provided under subsection (a) of this section by—

(1) intervening or joining in any civil action or proceeding brought—

(A) by the individual for whom health services were provided by the Secretary, an Indian tribe, or a tribal organization, or

(B) by any representative or heirs of such individual, or

(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States, an Indian tribe, or a tribal organization to institute a separate civil action.

(f) Right of recovery for services when self-insurance plan provides coverage

The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.

(Pub. L. 94–437, title II, § 206, as added Pub. L. 100–713, title II, § 204, Nov. 23, 1988, 102 Stat. 4811; amended Pub. L. 102–573, title II, § 209, Oct. 29, 1992, 106 Stat. 4551.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 209(b)(1), substituted ''Except as provided in subsection (f) of this section, the'' for ''The''.

Pub. L. 102–573, § 209(a)(1)–(3), inserted '', an Indian tribe, or a tribal organization'' after ''United States'', after ''Service'', and after ''Secretary''.

Subsec. (b). Pub. L. 102–573, § 209(a)(4), struck out ‘‘, or any political subdivision of a State,’’ after ‘‘against any State’’.

Subsecs. (c), (d). Pub. L. 102–573, § 209(a)(1), inserted ‘‘, an Indian tribe, or a tribal organization’’ after ‘‘United States’’.

Subsec. (e). Pub. L. 102–573, § 209(a)(1), (3), inserted ‘‘, an Indian tribe, or a tribal organization’’ after ‘‘United States’’ in two places and after ‘‘Secretary’’.

Subsec. (f). Pub. L. 102–573, § 209(b)(2), added subsec. (f).

§ 1621f. Crediting of reimbursements

(a) Except as provided in section 1621a(d) of this title, subchapter III–A of this chapter, and section 1680c of this title, all reimbursements received or recovered, under authority of this chapter, Public Law 87–693 (42 U.S.C. 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

(b) The Service may not offset or limit the amount of funds obligated to any service unit or any entity under contract with the Service because of the receipt of reimbursements under subsection (a) of this section.

(Pub. L. 94–437, title II, § 207, as added Pub. L. 100–713, title II, § 204, Nov. 23, 1988, 102 Stat. 4812; amended Pub. L. 102–573, title VII, § 701(c)(1), Oct. 29, 1992, 106 Stat. 4572.)

REFERENCES IN TEXT

Public Law 87–693, referred to in subsec. (a), is Pub. L. 87–693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§ 2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573 made technical amendment to reference to section 1680c of this title to reflect renumbering of corresponding section of original act.

§ 1621g. Health services research

Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than $200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations contracting with the Service under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity to compete for, and receive, research funds under this section.

(Pub. L. 94–437, title II, § 208, as added Pub. L. 100–713, title II, § 204, Nov. 23, 1988, 102 Stat. 4812.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1621h. Mental health prevention and treatment services

(a) National plan for Indian Mental Health Services

(1) Not later than 120 days after November 28, 1990, the Secretary, acting through the Service, shall develop and publish in the Federal Register a final national plan for Indian Mental Health Services. The plan shall include—

(A) an assessment of the scope of the problem of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians, including—

(i) the number of Indians served by the Service who are directly or indirectly affected by such illness or behavior, and

(ii) an estimate of the financial and human cost attributable to such illness or behavior;

(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior; and

(C) an estimate of the additional funding needed by the Service to meet its responsibilities under the plan.

(2) The Secretary shall submit a copy of the national plan to the Congress.

(b) Memorandum of agreement

Not later than 180 days after November 28, 1990, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement under which the Secretaries shall, among other things—

(1) determine and define the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

(2) make an assessment of the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

(3) make an initial determination of the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

(4)(A) ensure that Indians, as citizens of the United States and of the States in which they reside, have access to mental health services to which all citizens have access;

(B) determine the right of Indians to participate in, and receive the benefit of, such services; and

(C) take actions necessary to protect the exercise of such right;

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary

resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

(6) provide a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 [25 U.S.C. 2401 et seq.]) with the mental health initiatives pursuant to this chapter, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to subsection (d) of this section; and

(8) provide for an annual review of such agreement by the two Secretaries.

(c) Community mental health plan

(1) The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a community mental health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members.

(2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the tribe in the development of such plan. Upon the establishment of such a plan and at the request of the tribe, such officials, as directed by the memorandum of agreement developed pursuant to subsection (c) of this section, shall cooperate with the tribe in the implementation of such plan.

(3) Two or more Indian tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community mental health plan under this subsection.

(4) The Secretary, acting through the Service, may make grants to Indian tribes adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide administrative support in the implementation of such plan.

(d) Mental health training and community education programs

(1) The Secretary and the Secretary of the Interior, in consultation with representatives of Indian tribes, shall conduct a study and compile a list, of the types of staff positions specified in paragraph (2) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness or dysfunctional and self-destructive behavior.

(2) The positions referred to in paragraph (1) are—

(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

(i) elementary and secondary education;

(ii) social services and family and child welfare;

(iii) law enforcement and judicial services; and

(iv) alcohol and substance abuse;

(B) staff positions with the Service; and

(C) staff positions similar to those identified in subparagraphs (A) and (B) established and maintained by Indian tribes, including positions established in contracts entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in paragraph (2)(A) and ensure that appropriate training has been, or will be, provided to any individual in any such position. With respect to any such individual in a position identified pursuant to paragraph (2)(C), the respective Secretaries shall provide appropriate training to, or provide funds to an Indian tribe for the training of, such individual. In the case of positions funded under a contract entered into under the Indian Self-Determination Act, the appropriate Secretary shall ensure that such training costs are included in the contract, if necessary.

(B) Funds authorized to be appropriated pursuant to this section may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d) of this section identifies individuals or employment categories, other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable.

(4) Position-specific training criteria described in paragraph (3) shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional Indian healing and treatment practices is provided.

(5) The Service shall develop and implement or, upon the request of an Indian tribe, assist such tribe to develop and implement, a program of community education on mental illness and dysfunctional and self-destructive behavior for individuals, as determined in a plan adopted pursuant to subsection (d) of this section. In carrying out this paragraph, the Service shall provide, upon the request of an Indian tribe, technical assistance to the Indian tribe to obtain or develop community education and training materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

(e) Staffing

(1) Within 90 days after November 28, 1990, the Secretary shall develop a plan under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after November 28, 1990, with at least 200 of such positions devoted to child, adolescent, and family services. Such additional staff shall be primarily assigned to the service unit level for services which shall include outpatient, emergency, aftercare and follow-up, and prevention and education services.

(2) The plan developed under paragraph (1) shall be implemented under section 13 of this title.

(f) Staff recruitment and retention

(1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) of this section and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.

(2) In carrying out paragraph (1), the Secretary shall develop a program providing for—

(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 1616i and 1616j of this title) for service in hardship posts;

(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 1616a of this title) for health professions education as a recruitment incentive; and

(C) a system of postgraduate rotations as a retention incentive.

(3) This subsection shall be carried out in coordination with the recruitment and retention programs under subchapter I of this chapter.

(g) Mental Health Technician program

(1) Under the authority of section 13 of this title, the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

(A) provides for the training of Indians as mental health technicians; and

(B) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

(2) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

(3) The Secretary shall supervise and evaluate the mental health technicians in the training program.

(4) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

(h) Mental health research

The Secretary, acting through the Service and in consultation with the National Institute of Mental Health, shall enter into contracts with, or make grants to, appropriate institutions for the conduct of research on the incidence and prevalence of mental disorders among Indians on Indian reservations and in urban areas. Research priorities under this subsection shall include—

(1) the inter-relationship and inter-dependence of mental disorders with alcoholism, suicide, homicides, accidents, and the incidence of family violence, and

(2) the development of models of prevention techniques.

The effect of the inter-relationships and interdependencies referred to in paragraph (1) on children, and the development of prevention techniques under paragraph (2) applicable to children, shall be emphasized.

(i) Facilities assessment

Within one year after November 28, 1990, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

(j) Annual report

The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the mental health status of Indians which shall describe the progress being made to address mental health problems of Indian communities.

(k) Mental health demonstration grant program

(1) The Secretary, acting through the Service, is authorized to make grants to Indian tribes and inter-tribal consortia to pay 75 percent of the cost of planning, developing, and implementing programs to deliver innovative community-based mental health services to Indians. The 25 percent tribal share of such cost may be provided in cash or through the provision of property or services.

(2) The Secretary may award a grant for a project under paragraph (1) to an Indian tribe or inter-tribal consortium which meets the following criteria:

(A) The project will address significant unmet mental health needs among Indians.

(B) The project will serve a significant number of Indians.

(C) The project has the potential to deliver services in an efficient and effective manner.

(D) The tribe or consortium has the administrative and financial capability to administer the project.

(E) The project will deliver services in a manner consistent with traditional Indian healing and treatment practices.

(F) The project is coordinated with, and avoids duplication of, existing services.

(3) For purposes of this subsection, the Secretary shall, in evaluating applications for grants for projects to be operated under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], use the same criteria that the Secretary uses in evaluating any other application for such a grant.

(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).

(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health services to Indians.

(6) Grants made pursuant to this section may be expended over a period of three years and no grant may exceed $1,000,000 for the fiscal years involved.

(*l*) Licensing requirement for mental health care workers

Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this chapter or through a contract pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall—

(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

(m) Intermediate adolescent mental health services

(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

(A) inpatient and outpatient services;

(B) emergency care;

(C) suicide prevention and crisis intervention; and

(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

(2) Funds provided under this subsection may be used—

(A) to construct or renovate an existing health facility to provide intermediate mental health services;

(B) to hire mental health professionals;

(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

(3) Funds provided under this subsection may not be used for the purposes described in section 1621*o*(b)(1) of this title.

(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

(6) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94–437, title II, § 209, as added Pub. L. 101–630, title V, § 503(b), Nov. 28, 1990, 104 Stat. 4557; amended Pub. L. 102–573, title II, §§ 205, 217(b)(4), title IX, § 902(3), Oct. 29, 1992, 106 Stat. 4547, 4559, 4591.)

REFERENCES IN TEXT

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, referred to in subsec. (b)(6)(A), is subtitle C of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–137, which is classified generally to chapter 26 (§ 2401 et seq.) of this title. For complete classification of subtitle C to the Code, see Short Title note set out under section 2401 of this title and Tables.

The Indian Self-Determination Act, referred to in subsecs. (d)(2)(C), (3)(A), (k)(3), and (*l*), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573, § 902(3)(A), made technical amendment to section catchline.

Subsec. (b). Pub. L. 102–573, § 902(3)(B), redesignated subsec. (c) as (b). Prior to amendment, no subsec. (b) had been enacted.

Subsec. (c). Pub. L. 102–573, §§ 217(b)(4)(A), 902(3)(B), redesignated subsec. (d) as (c) and struck out par. (5) which authorized appropriations of $500,000 for fiscal year 1991 and $1,000,000 for fiscal year 1992 to carry out this subsec. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102–573, §§ 217(b)(4)(A), (D), 902(3)(B), redesignated subsec. (e) as (d), substituted ''this section'' for ''this subsection'' in par. (3)(B), and struck out par. (6) which authorized appropriations of $500,000 for fiscal year 1991 and $5,000,000 for fiscal year 1992 to carry out this subsec., with certain amounts to be allocated for community education. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 102–573, § 902(3)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 102–573, §§ 217(b)(4)(A), 902(3)(B), redesignated subsec. (g) as (f) and struck out par. (4) which appropriated $1,200,000 for fiscal year 1992 to carry out this subsec. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 102–573, §§ 217(b)(4)(A), 902(3)(B), redesignated subsec. (h) as (g) and struck out par. (5) which authorized appropriation of $1,000,000 for fiscal year 1992 for purposes of providing training required under this subsec. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 102–573, §§ 217(b)(4)(B), 902(3)(B), redesignated subsec. (i) as (h), struck out par. (1) designation before ''The Secretary, acting'', redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, substituted ''paragraph (1)'' and ''paragraph (2)'' for ''subparagraph (A)'' and ''subparagraph (B)'', respectively, in closing provisions, and struck out former par. (2) which authorized appropriation of $2,000,000 for fiscal year 1992 to carry out this subsec., to remain available until expended. Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 102–573, §§ 217(b)(4)(C), 902(3)(B), redesignated subsec. (j) as (i), struck out par. (1) designation before ''Within one year'', and struck out par. (2) which authorized appropriation of $500,000 for fiscal year 1992 to make the assessment required by this subsec. Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 102–573, §§ 205(1), 902(3)(B), redesignated subsec. (k) as (j) and substituted ''submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report'' for ''submit to the Congress an annual report''. Former subsec. (j) redesignated (i).

Subsec. (k). Pub. L. 102–573, §§ 217(b)(4)(E), 902(3)(B), redesignated subsec. (*l*) as (k), and in par. (6) substituted ''section'' for ''subsection'' in second sentence and struck out first sentence which authorized appropriations of $2,000,000 for fiscal year 1991 and $3,000,000 for fiscal year 1992 to carry out purposes of this subsec. Former subsec. (k) redesignated (j).

Subsecs. (*l*), (m). Pub. L. 102–573, § 205(2), added subsecs. (*l*) and (m). Former subsec. (*l*) redesignated (k).

STATEMENT OF PURPOSES

Section 503(a) of Pub. L. 101–630 provided that: ''The purposes of this section [enacting this section] are to—

''(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;

''(2) provide direction and guidance relating to mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services;

''(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

''(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based mental health programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams;

''(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to mental health services to which all such citizens have access; and

''(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621*o*, 1621w, 1671 of this title.

§ 1621i. Managed care feasibility study

(a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from—

(1) a tribally owned and operated managed care plan; or

(2) a State licensed managed care plan.

(b) Not later than the date which is 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report containing—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

(Pub. L. 94–437, title II, § 210, as added Pub. L. 102–573, title II, § 206(b), Oct. 29, 1992, 106 Stat. 4549.)

§ 1621j. California contract health services demonstration program

(a) Establishment

The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

(b) Agreement with California Rural Indian Health Board

(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 1679(b) of this title throughout the California contract health services delivery area described in section 1680 of this title with respect to high-cost contract care cases.

(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 1621a of this title or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

(c) Advisory board

There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

(d) Commencement and termination dates

The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

(e) Report

Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

(1) access to needed health services;

(2) waiting periods for receiving such services; and

(3) the efficient management of high-cost contract care cases.

(f) "High-cost contract care cases" defined

For the purposes of this section, the term ''high-cost contract care cases'' means those cases in which the cost of the medical treatment provided to an individual—

(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 1621a of this title, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 1621a(b)(2) of this title; and

(2) exceeds $1,000.

(g) Authorization of appropriations

There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 94–437, title II, § 211, as added Pub. L. 102–573, title II, § 206(c), Oct. 29, 1992, 106 Stat. 4549; amended Pub. L. 104–313, § 2(c), Oct. 19, 1996, 110 Stat. 3822.)

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–313 substituted ''1996 through 2000'' for ''1993, 1994, 1995, 1996, and 1997''.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

§ 1621k. Coverage of screening mammography

The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act [42 U.S.C. 1395x(jj)]) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.].

(Pub. L. 94–437, title II, § 212, as added Pub. L. 102–573, title II, § 207(a), Oct. 29, 1992, 106 Stat. 4550.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XVIII of the Act is classified generally to part B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621 of this title.

§ 1621*l*. Patient travel costs

(a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) under this chapter—

(1) emergency air transportation; and

(2) nonemergency air transportation where ground transportation is infeasible.

(b) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94–437, title II, § 213, as added Pub. L. 102–573, title II, § 208, Oct. 29, 1992, 106 Stat. 4551.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

§ 1621m. Epidemiology centers

(a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

(A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 1602(b) of this title. Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 1602(b) of this title.

(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 1602(b) of this title using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

(A) it is incorporated for the primary purpose of improving Indian health; and

(B) it is representative of the tribes or urban Indian communities in which it is located.

(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

(4) Applicants for grants under this subsection shall—

(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

(5) A grant awarded under paragraph (1) may be used to—

(A) carry out the functions described in subsection (a)(3) of this section;

(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94–437, title II, § 214, as added Pub. L. 102–573, title II, § 210, Oct. 29, 1992, 106 Stat. 4551.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(4), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

§ 1621n. Comprehensive school health education programs

(a) Award of grants

The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

(b) Use of grants

Grants awarded under this section may be used to—

(1) develop health education curricula;

(2) train teachers in comprehensive school health education curricula;

(3) integrate school-based, community-based, and other public and private health promotion efforts;

(4) encourage healthy, tobacco-free school environments;

(5) coordinate school-based health programs with existing services and programs available in the community;

(6) develop school programs on nutrition education, personal health, and fitness;

(7) develop mental health wellness programs;

(8) develop chronic disease prevention programs;

(9) develop substance abuse prevention programs;

(10) develop accident prevention and safety education programs;

(11) develop activities for the prevention and control of communicable diseases; and

(12) develop community and environmental health education programs.

(c) Assistance

The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

(d) Criteria for review and approval of applications

The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

(e) Report of recipient

Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

(1) the number of preschools, elementary schools, and secondary schools served;

(2) the number of students served;

(3) any new curricula established with funds provided under this section;

(4) the number of teachers trained in the health curricula; and

(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

(f) Program development

(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

(2) Such program shall include—

(A) school programs on nutrition education, personal health, and fitness;

(B) mental health wellness programs;

(C) chronic disease prevention programs;

(D) substance abuse prevention programs;

(E) accident prevention and safety education programs; and

(F) activities for the prevention and control of communicable diseases.

(3) The Secretary of the Interior shall—

(A) provide training to teachers in comprehensive school health education curricula;

(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

(C) encourage healthy, tobacco-free school environments.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94–437, title II, § 215, as added Pub. L. 102–573, title II, § 211, Oct. 29, 1992, 106 Stat. 4553.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

§ 1621*o*. Indian youth grant program

(a) Grants

The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

(b) Use of funds

(1) Funds made available under this section may be used to—

(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

(B) develop and provide community training and education.

(2) Funds made available under this section may not be used to provide services described in section 1621h(m) of this title.

(c) Models for delivery of comprehensive health care services

The Secretary shall—

(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

(2) encourage the implementation of such models; and

(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

(d) Criteria for review and approval of applications

The Secretary shall establish criteria for the review and approval of applications under this section.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94–437, title II, § 216, as added Pub. L. 102–573, title II, § 212, Oct. 29, 1992, 106 Stat. 4554.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621h, 1621w of this title.

§ 1621p. American Indians Into Psychology Program

(a) Grants

The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

(b) Quentin N. Burdick American Indians Into Psychology Program

The Secretary shall provide one of the grants authorized under subsection (a) of this section

to develop and maintain a program at the University of North Dakota to be known as the ''Quentin N. Burdick American Indians Into Psychology Program''. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 1616g(b) of this title, the Quentin N. Burdick American Indians Into Nursing Program authorized under section 1616e(e) of this title, and existing university research and communications networks.

(c) Issuance of regulations

(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program;

(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

(G) to the maximum extent feasible, employs qualified Indians in the program.

(d) Active duty service obligation

The active duty service obligation prescribed under section 254m of title 42 shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) of this section that is funded by a grant provided under this section. Such obligation shall be met by service—

(1) in the Indian Health Service;

(2) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(3) in a program assisted under subchapter IV of this chapter; or

(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(Pub. L. 94–437, title II, § 217, as added Pub. L. 102–573, title II, § 213, Oct. 29, 1992, 106 Stat. 4555.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616e, 1616g of this title.

§ 1621q. Prevention, control, and elimination of tuberculosis

(a) Grants

The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

(1) projects for the prevention, control, and elimination of tuberculosis;

(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

(b) Application for grant

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) of this section and such other agreements, assurances, and information as the Secretary may require.

(c) Eligibility for grant

To be eligible for a grant under subsection (a) of this section, an applicant must provide assurances satisfactory to the Secretary that—

(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.

(d) Duties of Secretary

In carrying out this section, the Secretary—

(1) shall establish criteria for the review and approval of applications for grants under subsection (a) of this section, including requirement of public health qualifications of applicants;

(2) shall, subject to available appropriations, make at least one grant under subsection (a) of this section within each area office;

(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Natural Resources of the House and the Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward

the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations.

(e) Reduction of amount of grant

The Secretary may, at the request of a recipient of a grant under subsection (a) of this section, reduce the amount of such grant by—

(1) the fair market value of any supplies or equipment furnished the grant recipient; and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(Pub. L. 94–437, title II, § 218, as added Pub. L. 102–573, title II, § 214, Oct. 29, 1992, 106 Stat. 4556; amended Pub. L. 103–437, § 10(e)(1), (2)(B), Nov. 2, 1994, 108 Stat. 4589.)

AMENDMENTS

1994—Subsec. (d)(4). Pub. L. 103–437 substituted ''Committee on Indian'' for ''Select Committee on Indian'' and ''Natural Resources'' for ''Interior and Insular Affairs''.

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives and Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1621r. Contract health services payment study

(a) Duty of Secretary

The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study—

(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

(b) Functions of study

The study required by subsection (a) of this section shall—

(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

(c) Report to Congress

Not later than 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report that includes—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

(Pub. L. 94–437, title II, § 219, as added Pub. L. 102–573, title II, § 215, Oct. 29, 1992, 106 Stat. 4557.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1621s. Prompt action on payment of claims

(a) Time of response

The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

(b) Failure to timely respond

If the Service fails to respond to a notification of a claim in accordance with subsection (a) of this section, the Service shall accept as valid the claim submitted by the provider of a contract care service.

(c) Time of payment

The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

(Pub. L. 94–437, title II, § 220, as added Pub. L. 102–573, title II, § 215, Oct. 29, 1992, 106 Stat. 4558.)

§ 1621t. Demonstration of electronic claims processing

(a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.

(b) The Secretary shall conduct one of the projects authorized in subsection (a) of this section in the Service area served by the area office located in Phoenix, Arizona.

(Pub. L. 94–437, title II, § 221, as added Pub. L. 102–573, title II, § 215, Oct. 29, 1992, 106 Stat. 4559.)

§ 1621u. Liability for payment

(a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

(Pub. L. 94–437, title II, § 222, as added Pub. L. 102–573, title II, § 215, Oct. 29, 1992, 106 Stat. 4559.)

§ 1621v. Office of Indian Women's Health Care

There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

(Pub. L. 94–437, title II, § 223, as added Pub. L. 102–573, title II, § 216, Oct. 29, 1992, 106 Stat. 4559.)

§ 1621w. Authorization of appropriations

Except as provided in sections 1621h(m), 1621j, 1621*l*, 1621m(b)(5), 1621n, and 1621*o* of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title II, § 224, as added Pub. L. 102–573, title II, § 217(a), Oct. 29, 1992, 106 Stat. 4559.)

§ 1621x. Limitation on use of funds

Amounts appropriated to carry out this subchapter may not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(Pub. L. 94–437, title II, § 225, as added Pub. L. 105–12, § 9(f), Apr. 30, 1997, 111 Stat. 27.)

REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in text, is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§ 14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42 and Tables.

EFFECTIVE DATE

Section effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as a note under section 14401 of Title 42, The Public Health and Welfare.

§ 1622. Transferred

CODIFICATION

Section, Pub. L. 94–437, title IV, § 404, as added Pub. L. 96–537, § 6, Dec. 17, 1980, 94 Stat. 3176, which related to grants to and contracts with tribal organizations, was transferred to section 1644 of this title.

SUBCHAPTER III—HEALTH FACILITIES

§ 1631. Consultation; closure of facilities; reports

(a) Consultation; standards for accreditation

Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to section 13 of this title, the Secretary, acting through the Service, shall—

(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of Health Care Organizations by not later than 1 year after the date on which the construction or renovation of such facility is completed.

(b) Closure; report on proposed closure

(1) Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is proposed to be closed an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

(B) the cost effectiveness of such closure;

(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

(D) the availability of contract health care funds to maintain existing levels of service;

(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

(F) the level of utilization of such hospital or facility by all eligible Indians; and

(G) the distance between such hospital or facility and the nearest operating Service hospital.

(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

(c) Annual report on health facility priority system

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report which sets forth—

(A) the current health facility priority system of the Service,

(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

(C) the justification for such order of priority,

(D) the projected cost of such projects, and

(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

(2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—

(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], and

(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

(3) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

(4) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.

(d) Funds appropriated subject to section 450f of this title

All funds appropriated under section 13 of this title for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f].

(Pub. L. 94–437, title III, § 301, Sept. 30, 1976, 90 Stat. 1406; Pub. L. 100–713, title III, § 301, Nov. 23, 1988, 102 Stat. 4812; Pub. L. 102–573, title III, § 301, title IX, § 902(4)(B), Oct. 29, 1992, 106 Stat. 4560, 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c)(2) to (4), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–573, § 301(1), substituted ''Health Care Organizations'' for ''Hospitals''.

Subsec. (b)(1). Pub. L. 102–573, § 301(2), struck out ''other'' before ''outpatient health care facility'' in introductory provisions and added subpars. (F) and (G).

Subsec. (c). Pub. L. 102–573, § 301(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''The President shall include with the budget submitted under section 1105 of title 31, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which—

''(1) comply with applicable construction standards, and

''(2) have been approved by the Secretary.''

Subsec. (c)(1). Pub. L. 102–573, § 301(4), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''The Secretary shall submit to the Congress an annual report which sets forth—''.

Subsec. (c)(2) to (5). Pub. L. 102–573, § 301(5), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: ''The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after November 23, 1988, and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31.''

Subsecs. (d), (e). Pub. L. 102–573, §§ 301(3), 902(4)(B), redesignated subsec. (e) as (d) and substituted ''section 102 of the Indian Self-Determination Act'' for ''sections 102 and 103(b) of the Indian Self-Determination Act''. Former subsec. (d) redesignated (c).

1988—Pub. L. 100–713 amended section generally, substituting subsecs. (a) to (e) relating to consultation, closure of facilities, and reports for former subsecs. (a) to (c) relating to construction and renovation of Service facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1636, 1671 of this title.

§ 1632. Safe water and sanitary waste disposal facilities

(a) Congressional findings

The Congress hereby finds and declares that—

(1) the provision of safe water supply systems and sanitary sewage and solid waste dis-

posal systems is primarily a health consideration and function;

(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

(b) Authority; assistance; transfer of funds

(1) In furtherance of the findings and declarations made in subsection (a) of this section, Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 2004a of title 42.

(2) The Secretary, acting through the Service, is authorized to provide under section 2004a of title 42—

(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

(3) Notwithstanding any other provision of law—

(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.) to the Secretary of Health and Human Services, and

(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 2004a of title 42.

(c) 10-year plan

Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

(d) Tribal capability

The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

(e) Amount of assistance

(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c) of this section.

(2) For the purposes of paragraph (1), the term ''Federal share'' means 80 percent of the costs described in paragraph (1).

(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.

(f) Eligibility of programs administered by Indian tribes

Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be eligible for—

(1) any funds appropriated pursuant to this section, and

(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Service.

(g) Annual report; sanitation deficiency levels

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report which sets forth—

(A) the current Indian sanitation facility priority system of the Service;

(B) the methodology for determining sanitation deficiencies;

(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and

(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

(2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) to determine the sanitation needs of each tribe.

(3) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

(4) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:

(A) level I is an Indian tribe or community with a sanitation system—

(i) which complies with all applicable water supply and pollution control laws, and

(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;

(B) level II is an Indian tribe or community with a sanitation system—

(i) which complies with all applicable water supply and pollution control laws, and

(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;

(C) level III is an Indian tribe or community with a sanitation system which—

(i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or

(ii) has no solid waste disposal facility;

(D) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

(E) level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

(5) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

(Pub. L. 94–437, title III, § 302, Sept. 30, 1976, 90 Stat. 1407; Pub. L. 100–713, title III, § 302, Nov. 23, 1988, 102 Stat. 4814; Pub. L. 102–573, title III, §§ 302, 307(b)(1), Oct. 29, 1992, 106 Stat. 4560, 4564.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(A), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

The Indian Self-Determination Act, referred to in subsecs. (f) and (g)(2), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–573, § 302(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.''

Subsec. (f)(1). Pub. L. 102–573, § 302(2), substituted ''this section'' for ''subsection (h) of this section''.

Subsec. (g)(1). Pub. L. 102–573, § 302(3)(A), substituted ''The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report'' for ''The Secretary shall submit to the Congress an annual report''.

Subsec. (g)(2) to (6). Pub. L. 102–573, § 302(3)(B), redesignated pars. (3) to (6) as (2) to (5), respectively, and struck out former par. (2) which read as follows: ''The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after November 23, 1988, and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31.''

Subsec. (h). Pub. L. 102–573, § 307(b)(1), struck out subsec. (h) which authorized appropriations to carry out subsec. (b)(2) for fiscal years 1990 to 1992.

1988—Pub. L. 100–713 amended section generally, substituting subsecs. (a) to (h) relating to safe water and sanitary waste disposal facilities for former subsecs. (a) to (c) relating to construction of safe water and sanitary waste disposal facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1671, 3905, 3908 of this title.

§ 1633. Preferences to Indians and Indian firms

(a) Discretionary authority; covered activities

The Secretary, acting through the Service, may utilize the negotiating authority of section 47 of this title, to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an ''Indian firm'') in the construction and renovation of Service facilities pursuant to section 1631 of this title and in the construction of safe water and sanitary waste disposal facilities pursuant to section 1632 of this title. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) Pay rates

For the purpose of implementing the provisions of this subchapter, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this subchapter are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a to 276a–5, known as the Davis-Bacon Act).

(Pub. L. 94–437, title III, § 303, Sept. 30, 1976, 90 Stat. 1407.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (b), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

§ 1634. Expenditure of non-Service funds for renovation

(a) Authority of Secretary

(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], including—

(A) any plans or designs for such renovation or modernization; and

(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) of this section are met.

(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, the priority list maintained pursuant to paragraph (2).

(b) Requirements

The requirements of this subsection are met with respect to any renovation or modernization if—

(1) the tribe or tribal organization—

(A) provides notice to the Secretary of its intent to renovate or modernize; and

(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

(2) the renovation or modernization—

(A) is approved by the appropriate area director of the Service; and

(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

(c) Recovery for non-use as Service facility

If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.

(Pub. L. 94–437, title III, § 305, as added Pub. L. 96–537, § 5, Dec. 17, 1980, 94 Stat. 3175; amended Pub. L. 100–713, title III, § 303(a), Nov. 23, 1988, 102 Stat. 4816; Pub. L. 102–573, title III, § 305, Oct. 29, 1992, 106 Stat. 4563.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(1), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a), authority of Secretary; in subsec. (b), requirements; in subsec. (c), higher priority project; and in subsec. (d), recovery for non-use as Service facility.

1988—Pub. L. 100–713 amended section generally, substituting ''Expenditure of non-Service funds for renovation'' for ''Authorization of appropriations'' in section catchline and subsecs. (a) to (d) for former single unlettered par.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1635. Repealed. Pub. L. 100–713, title III, § 303(b), Nov. 23, 1988, 102 Stat. 4817

Section, Pub. L. 98–473, title I, § 101(c) [title II, § 201], Oct. 12, 1984, 98 Stat. 1837, 1865, related to renovation and modernization of facilities.

§ 1636. Grant program for construction, expansion, and modernization of small ambulatory care facilities

(a) Authorization

(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C) of this section). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term ''construction'' includes the replacement of an existing facility.

(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(b) Use of grant

(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

(A) located apart from a hospital;

(B) not funded under section 1631 of this title or section 1637 of this title; and

(C) which, upon completion of such construction, expansion, or modernization will—

(i) have a total capacity appropriate to its projected service population;

(ii) serve no less than 500 eligible Indians annually; and

(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act [25

U.S.C. 450f et seq.]) with a population of not less than 2,000 eligible Indians.

(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

(c) Application for grant

(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

(A) adequate financial support will be available for the provision of services at such facility;

(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

(A) a need for increased ambulatory care services; and

(B) insufficient capacity to deliver such services.

(d) Transfer of interest to United States upon cessation of facility

If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.

(Pub. L. 94–437, title III, § 306, as added Pub. L. 100–713, title III, § 304, Nov. 23, 1988, 102 Stat. 4817; amended Pub. L. 102–573, title III, § 303, Oct. 29, 1992, 106 Stat. 4561.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (a)(2) and (b)(1)(C)(iii), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573 amended section generally, substituting provisions relating to grant program for construction, expansion, and modernization of small ambulatory care facilities for provisions relating to conveyance of certain real property under Alaska Native Claims Settlement Act.

§ 1637. Indian health care delivery demonstration project

(a) Health care delivery demonstration projects

The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities to Indians.

(b) Use of funds

The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

(1) waive any leasing prohibition;

(2) permit carryover of funds appropriated for the provision of health care services;

(3) permit the use of non-Service Federal funds and non-Federal funds;

(4) permit the use of funds or property donated from any source for project purposes; and

(5) provide for the reversion of donated real or personal property to the donor.

(c) Criteria

(1) Within 180 days after November 28, 1990, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and publish in the Federal Register criteria for the review and approval of applications submitted under this section. The Secretary may enter into a contract or award a grant under this section for projects which meet the following criteria:

(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

(B) A significant number of Indians, including those with low health status, will be served by the project.

(C) The project has the potential to address the health needs of Indians in an innovative manner.

(D) The project has the potential to deliver services in an efficient and effective manner.

(E) The project is economically viable.

(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

(2) The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

(3)(A) On or before September 30, 1995, the Secretary shall enter into contracts or award grants under this section for a demonstration project in each of the following service units which meets the criteria specified in paragraph (1) and for which a completed application has been received by the Secretary:

(i) Cass Lake, Minnesota.
(ii) Clinton, Oklahoma.
(iii) Harlem, Montana.
(iv) Mescalero, New Mexico.
(v) Owyhee, Nevada.
(vi) Parker, Arizona.
(vii) Schurz, Nevada.
(viii) Winnebago, Nebraska.
(ix) Ft. Yuma, California.

(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).

(d) Technical assistance

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(e) Service to ineligible persons

The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in service facilities to non-Service health care practitioners as provided in section 1680c of this title may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

(f) Equitable treatment

For purposes of subsection (c)(1)(A) of this section, the Secretary shall, in evaluating facilities operated under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

(g) Equitable integration of facilities

The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

(h) Report to Congress

(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 1671 of this title for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 1671 of this title for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.

(Pub. L. 94–437, title III, § 307, as added Pub. L. 101–630, title V, § 504, Nov. 28, 1990, 104 Stat. 4562; amended Pub. L. 102–573, title III, §§ 304, 307(b)(2), title VII, § 701(c)(2), title IX, § 902(4)(A), Oct. 29, 1992, 106 Stat. 4562, 4564, 4572, 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (f) and (g), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573, § 902(4)(A), made technical amendment to section catchline.

Subsec. (c)(1)(A). Pub. L. 102–573, § 304(a)(1), inserted ''or program'' after ''facility'' in two places.

Subsec. (c)(3)(A). Pub. L. 102–573, § 304(a)(2), substituted ''On or before September 30, 1995, the'' for ''The'' and inserted ''and for which a completed application has been received by the Secretary'' after ''paragraph (1)''.

Subsec. (c)(3)(B). Pub. L. 102–573, § 304(a)(3), which directed amendment of subsec. (c) by striking subpar. (B) and inserting a new subpar. (B), was executed by making the amendment in par. (3) of subsec. (c) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: ''After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).''

Subsec. (e). Pub. L. 102–573, § 701(c)(2), made technical amendment to the reference to section 1680c of this title to reflect renumbering of corresponding section of original act.

Subsec. (h). Pub. L. 102–573, § 304(b), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''Within 90 days after the end of the period set out in subsection (a) of this section, the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.''

Subsec. (i). Pub. L. 102–573, § 307(b)(2), struck out subsec. (i) which authorized appropriation of such sums as necessary for fiscal years 1991 and 1992 for purpose of carrying out this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1636, 1671 of this title.

§ 1638. Land transfer

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

(Pub. L. 94–437, title III, § 308, as added Pub. L. 102–573, title III, § 306, Oct. 29, 1992, 106 Stat. 4564.)

§ 1638a. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title III, § 309, as added Pub. L. 102–573, title III, § 307(a), Oct. 29, 1992, 106 Stat. 4564.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1638b of this title.

§ 1638b. Applicability of Buy American requirement

(a) Duty of Secretary

The Secretary shall ensure that the requirements of the Buy American Act [41 U.S.C. 10a et seq.] apply to all procurements made with funds provided pursuant to the authorization contained in section 1638a of this title.

(b) Report to Congress

The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 1638a of this title. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act [41 U.S.C. 10a et seq.] was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

(c) Fraudulent use of Made-in-America label

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 1638a of this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) "Buy American Act" defined

For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(Pub. L. 94–437, title III, § 310, as added Pub. L. 102–573, title III, § 308, Oct. 29, 1992, 106 Stat. 4564.)

REFERENCES IN TEXT

The Buy American Act, referred to in subsecs. (a), (b), and (d), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

The Trade Agreement Act of 1979, referred to in subsec. (b), probably means the Trade Agreements Act of 1979, Pub. L. 96–39, July 26, 1979, 93 Stat. 144, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19, Customs Duties, and Tables.

§ 1638c. Contracts for personal services in Indian Health Service facilities

In fiscal year 1995 and thereafter (a) the Secretary may enter into personal services contracts with entities, either individuals or organizations, for the provision of services in facilities owned, operated or constructed under the jurisdiction of the Indian Health Service; (b) the Secretary may exempt such a contract from competitive contracting requirements upon adequate notice of contracting opportunities to individuals and organizations residing in the geographic vicinity of the health facility; (c) consideration of individuals and organizations shall be based solely on the qualifications established for the contract and the proposed contract price; and (d) individuals providing health care services pursuant to these contracts are covered by the Federal Tort Claims Act.

(Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2530.)

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in text, is classified generally to section 1346(b) and chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1995, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

§ 1638d. Credit to appropriations of money collected for meals at Indian Health Service facilities

Money before, on, and after September 30, 1994, collected for meals served at Indian Health Service facilities will be credited to the appropriations from which the services were furnished and shall be credited to the appropriation when received.

(Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2530.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1995, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

SUBCHAPTER III–A—ACCESS TO HEALTH SERVICES

CODIFICATION

This subchapter was in the original title IV of Pub. L. 94–437, as amended. Prior to amendment by Pub. L. 102–573, title IV enacted section 1622 of this title and sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under section 1671 of this title and sections 1395qq and 1396j of Title 42.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1621f of this title.

§ 1641. Treatment of payments under medicare program

(a) Determination of appropriations

Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] shall not be considered in determining appropriations for health care and services to Indians.

(b) Preferences

Nothing in this chapter authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], as amended, in preference to an Indian beneficiary without such coverage.

(Pub. L. 94–437, title IV, § 401, Sept. 30, 1976, 90 Stat. 1408; Pub. L. 102–573, title IV, § 401(a), Oct. 29, 1992, 106 Stat. 4565.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Social Security Act, referred to in subsecs. (a) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Prior to general amendment by Pub. L. 102–573, section 401 of Pub. L. 94–437, in subsec. (a) amended sections 1395f and 1395n of Title 42, The Public Health and Welfare, in subsec. (b) enacted section 1395qq of Title 42, and in subsecs. (c) and (d) enacted provisions set out as notes under section 1395qq of Title 42 which were restated in this section.

AMENDMENTS

1992—Pub. L. 102–573 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (d). See Codification note above.

§ 1642. Treatment of payments under medicaid program

(a) Payments to special fund

Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) is entitled under a State plan by reason of section 1911 of such Act [42 U.S.C. 1396j] shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

(b) Determination of appropriations

Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] shall not be considered in determining appropriations for the provision of health care and services to Indians.

(Pub. L. 94–437, title IV, § 402, Sept. 30, 1976, 90 Stat. 1409; Pub. L. 100–713, title IV, § 401(a), (b), Nov. 23, 1988, 102 Stat. 4818; Pub. L. 102–573, title IV, § 401(b)(1), Oct. 29, 1992, 106 Stat. 4565.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Prior to general amendment by Pub. L. 102–573, section 402 of Pub. L. 94–437, in subsec. (a) enacted section 1396j of Title 42, The Public Health and Welfare, in subsecs. (b) to (d) enacted provisions set out as notes under section 1396j of Title 42 (of which subsecs. (c) and (d) were restated in this section), and in subsec. (e) amended section 1396d of Title 42.

AMENDMENTS

1992—Pub. L. 102–573 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (e). See Codification note above.

1988—Subsec. (b). Pub. L. 100–713, § 401(b), struck out subsec. (b) which authorized Secretary of Health and Human Services to enter into agreements to reimburse State agencies for health care and services provided in Indian Health Service facilities to Indians eligible for medical assistance under title XIX of the Social Security Act.

Subsec. (c). Pub. L. 100–713, § 401(a), substituted "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act" for "or skilled nursing facility", "such a State plan" for "a State plan approved under title XIX of the Social Security Act", and "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall" for "The preceding sentence shall".

EFFECTIVE DATE OF 1992 AMENDMENT

Section 401(b)(2) of Pub. L. 102–573 provided that: "The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) [amending this section] shall take effect beginning with payments made on January 1, 1993."

EFFECTIVE DATE OF 1988 AMENDMENT

Section 401(c) of Pub. L. 100–713 provided that: ''The amendments made by this section [amending this section] shall apply to services performed on or after the date of the enactment of this Act [Nov. 23, 1988].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1680c of this title.

§ 1643. Amount and use of funds reimbursed through medicare and medicaid available to Indian Health Service

The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, an accounting on the amount and use of funds made available to the Service pursuant to this subchapter as a result of reimbursements through titles XVIII and XIX of the Social Security Act, as amended [42 U.S.C. 1395 et seq., 1396 et seq.].

(Pub. L. 94–437, title IV, § 403, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 102–573, title IV, § 402, Oct. 29, 1992, 106 Stat. 4566.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was formerly set out as a note under section 1671 of this title.

AMENDMENTS

1992—Pub. L. 102–573 substituted ''The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title,'' for ''The Secretary shall include in his annual report required by section 1671 of this title''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title; title 42 section 1395qq.

§ 1644. Grants to and contracts with tribal organizations

(a) Access to health services

The Secretary, acting through the Service, shall make grants to or enter into contracts with tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

(1) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII of the Social Security Act [42 U.S.C. 1395i–2, 1395*o*, 1395p];

(2) pay monthly premiums for coverage due to financial need of such individual; and

(3) apply for medical assistance provided pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(b) Terms and conditions

The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any contract or grant which the Secretary makes with any tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

(1) determine the population of Indians to be served that are or could be recipients of benefits under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.];

(2) assist individual Indians in becoming familiar with and utilizing such benefits;

(3) provide transportation to such individual Indians to the appropriate offices for enrollment or application for medical assistance;

(4) develop and implement—

(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

(c) Application for medical assistance

The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] at a Service facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(Pub. L. 94–437, title IV, § 404, as added Pub. L. 96–537, § 6, Dec. 17, 1980, 94 Stat. 3176; amended Pub. L. 102–573, title IV, § 403, Oct. 29, 1992, 106 Stat. 4566.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (3), (b)(1), (4)(B), and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination Act, referred to in subsec. (c), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1622 of this title.

AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102–573, § 403(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''develop and implement a schedule of income levels to determine the extent of payment of premiums by such organization for coverage of needy individuals; and methods of improving the participation of Indians

in receiving the benefits provided pursuant to titles XVIII and XIX of the Social Security Act.''

Subsec. (c). Pub. L. 102–573, § 403(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1981, $5,750,000 for the fiscal year ending September 30, 1982, $6,615,000 for the fiscal year ending September 30, 1983, and $7,610,000 for the fiscal year ending September 30, 1984.''

§ 1645. Repealed. Pub. L. 105–362, title VI, § 601(a)(2)(B), Nov. 10, 1998, 112 Stat. 3285

Section, Pub. L. 94–437, title IV, § 405, as added Pub. L. 100–713, title IV, § 402, Nov. 23, 1988, 102 Stat. 4818; amended Pub. L. 102–573, title IV, § 404, title VII, § 701(c)(3), Oct. 29, 1992, 106 Stat. 4566, 4572; Pub. L. 104–313, § 2(d), Oct. 19, 1996, 110 Stat. 3822; Pub. L. 105–277, div. A, § 101(e) [title III, § 336], Oct. 21, 1998, 112 Stat. 2681–231, 2681–295, related to demonstration program for direct billing of medicare, medicaid, and other third party payors.

§ 1646. Authorization for emergency contract health services

With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this chapter, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

(Pub. L. 94–437, title IV, § 406, as added Pub. L. 102–573, title IV, § 405, Oct. 29, 1992, 106 Stat. 4566.)

§ 1647. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title IV, § 407, as added Pub. L. 102–573, title IV, § 406, Oct. 29, 1992, 106 Stat. 4566.)

SUBCHAPTER IV—HEALTH SERVICES FOR URBAN INDIANS

CODIFICATION

This subchapter was in the original title V of Pub. L. 94–437. Title IV of Pub. L. 94–437 is classified to subchapter III–A of this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1603, 1613a, 1616a, 1616e, 1621p, 1665b, 1665g of this title; title 42 sections 254c–3, 256b, 1395x, 1396d, 1396r–1, 1396s, 1396u–2.

§ 1651. Purpose

The purpose of this subchapter is to establish programs in urban centers to make health services more accessible to urban Indians.

(Pub. L. 94–437, title V, § 501, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4820.)

PRIOR PROVISIONS

A prior section 1651, Pub. L. 94–437, title V, § 501, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3176, related to Congressional statement of purpose, prior to the general revision of this subchapter by Pub. L. 100–713.

§ 1652. Contracts with, and grants to, urban Indian organizations

Under authority of section 13 of this title, the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this subchapter. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this subchapter in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this subchapter.

(Pub. L. 94–437, title V, § 502, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4820; amended Pub. L. 102–573, title V, § 501(a), Oct. 29, 1992, 106 Stat. 4567.)

PRIOR PROVISIONS

A prior section 1652, Pub. L. 94–437, title V, § 502, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3177, related to contracts with urban and rural Indian organizations, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Pub. L. 102–573 substituted ''Contracts with, and grants to, urban Indian organizations'' for ''Contracts with urban Indian organizations'' in section catchline, and in text substituted ''contracts with, or make grants to,'' for ''contracts with'' and inserted '', or in any grant the Secretary makes to,'' after ''enters into with''.

§ 1653. Contracts and grants for provision of health care and referral services

(a) Requirements

Under authority of section 13 of this title, the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

(2) estimate the current health status of urban Indians residing in such urban center;

(3) estimate the current health care needs of urban Indians residing in such urban center;

(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

(6) assist such health services resources in providing services to urban Indians;

(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

(8) provide basic health education, including health promotion and disease prevention education, to urban Indians;

(9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;

(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

(b) Criteria for selection of organizations to enter into contracts or receive grants

The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

(1) the extent of unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population in the urban center involved;

(3) the accessibility to, and utilization of, health care services (other than services provided under this subchapter) by urban Indians in the urban center involved;

(4) the extent, if any, to which the activities set forth in subsection (a) of this section would duplicate—

(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this subchapter; or

(B) any project funded under this subchapter;

(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) of this section and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this subchapter;

(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) of this section in an urban center; and

(8) the extent of existing or likely future participation in the activities set forth in subsection (a) of this section by appropriate health and health-related Federal, State, local, and other agencies.

(c) Grants for health promotion and disease prevention services

The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

(d) Grants for immunization services

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

(2) In making any grant to carry out this subsection, the Secretary shall take into consideration—

(A) the size of the urban Indian population to be served;

(B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;

(C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population; and

(D) the capability of the urban Indian organization to carry out services pursuant to this subsection.

(3) For purposes of this subsection, the term ''immunization services'' means services to provide without charge immunizations against vaccine-preventable diseases.

(e) Grants for mental health services

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

(3) Grants may be made under this subsection—

(A) to prepare assessments required under paragraph (2);

(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct mental health services, to educate urban Indians about mental health issues and services, and effect coordination with existing mental health providers in order to improve services to urban Indians;

(C) to provide outpatient mental health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

(D) to develop innovative mental health service delivery models which incorporate Indian cultural support systems and resources.

(f) Grants for prevention and treatment of child abuse

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants

under subsection (a) of this section to prevent and treat child abuse (including sexual abuse) among urban Indians.

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

(3) Grants may be made under this subsection—

(A) to prepare assessments required under paragraph (2);

(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

(4) In making grants to carry out this subsection, the Secretary shall take into consideration—

(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

(C) the assessment required under paragraph (2).

(Pub. L. 94–437, title V, § 503, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4821; amended Pub. L. 101–630, title V, § 505, Nov. 28, 1990, 104 Stat. 4564; Pub. L. 102–573, title V, §§ 501(b)(1), 505(b)(1), Oct. 29, 1992, 106 Stat. 4567, 4570.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in subsec. (f)(4)(A), is Pub. L. 95–608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

PRIOR PROVISIONS

A prior section 1653, Pub. L. 94–437, title V, § 503, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3177, related to contract eligibility, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Pub. L. 102–573, § 501(b)(1)(G), inserted ''and grants'' in section catchline.

Subsec. (a). Pub. L. 102–573, § 501(b)(1)(A), inserted '', or make grants to,'' after ''contracts with'' and ''or grant'' after ''such contract''.

Subsec. (b). Pub. L. 102–573, § 501(b)(1)(B), inserted ''or receive grants'' after ''enter into contracts'' in introductory provisions and ''or to meet the requirements for receiving a grant'' after ''Secretary'' in par. (5).

Subsec. (c). Pub. L. 102–573, § 505(b)(1)(A), struck out par. (1) designation before ''The Secretary, acting'' and struck out par. (2) which authorized appropriation of $1,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (c)(1). Pub. L. 102–573, § 501(b)(1)(C), inserted before period at end ''or receiving grants under subsection (a) of this section''.

Subsec. (d)(1). Pub. L. 102–573, § 501(b)(1)(D), inserted before period at end ''or receiving grants under subsection (a) of this section''.

Subsec. (d)(4). Pub. L. 102–573, § 505(b)(1)(B), struck out par. (4) which authorized appropriation of $1,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (e)(1). Pub. L. 102–573, § 501(b)(1)(E), inserted before period at end ''or receiving grants under subsection (a) of this section''.

Subsec. (e)(4). Pub. L. 102–573, § 505(b)(1)(C), struck out par. (4) which authorized appropriations of $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (f)(1). Pub. L. 102–573, § 501(b)(1)(F), inserted ''or receiving grants under subsection (a) of this section'' after ''pursuant to this section''.

Subsec. (f)(5). Pub. L. 102–573, § 505(b)(1)(D), struck out par. (5) which authorized appropriations of $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsec.

1990—Subsecs. (c) to (f). Pub. L. 101–630 added subsecs. (c) to (f).

FACILITIES ASSESSMENT

Section 506(a), (b) of Pub. L. 101–630 provided that:

''(a) SURVEY.—The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.] and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act [Nov. 28, 1990]. The report shall, at a minimum, contain the following information for each location:

''(1) The extent to which the facility meets safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

''(2) The extent to which improvements, expansion, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.

''(3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.

''(4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.

''(5) An assessment of the deficiencies of the facility.

''(b) REPORT.—The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.] are located and shall propose specific policies for accomplishing those recommendations.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1654, 1655, 1657 of this title.

§ 1654. Contracts and grants for determination of unmet health care needs

(a) Authority

Under authority of section 13 of this title, the Secretary, through the Service, may enter into

contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 1653 of this title. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) of this section in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 1653 of this title with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

(b) Requirements

Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

(1) the urban Indian organization successfully undertake to—

(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 1653(b) of this title; and

(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.

(c) Renewal

The Secretary may not renew any contract entered into, or grant made, under this section.

(Pub. L. 94–437, title V, § 504, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4822; amended Pub. L. 102–573, title V, § 501(b)(2), Oct. 29, 1992, 106 Stat. 4567.)

PRIOR PROVISIONS

A prior section 1654, Pub. L. 94–437, title V, § 504, Sept. 30, 1976, 90 Stat. 1411; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3178, related to other contract requirements, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Pub. L. 102–573, § 501(b)(2)(D), inserted ''and grants'' in section catchline.

Subsec. (a). Pub. L. 102–573, § 501(b)(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Under authority of section 13 of this title, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 1653 of this title. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) of this section in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 1653 of this title with the urban Indian organization with which the Secretary has entered into a contract under this section.''

Subsec. (b). Pub. L. 102–573, § 501(b)(2)(B), inserted '', or grant made,'' after ''contract entered into'' in introductory provisions and substituted '', or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.'' for ''within one year after the date on which the Secretary and such organization enter into such contract.'' in par. (2).

Subsec. (c). Pub. L. 102–573, § 501(b)(2)(C), inserted '', or grant made,'' after ''entered into''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1655. Evaluations; renewals

(a) Contract compliance and performance

The Secretary, through the Service, shall develop procedures to evaluate compliance with grant requirements under this subchapter and compliance with, and performance of contracts entered into by urban Indian organizations under this subchapter. Such procedures shall include provisions for carrying out the requirements of this section.

(b) Annual onsite evaluation

The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract or received a grant under section 1653 of this title for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract or the terms of such grant.

(c) Noncompliance or unsatisfactory performance

If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 1653 of this title, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 1653 of this title with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

(d) Contract and grant renewals

In determining whether to renew a contract or grant with an urban Indian organization under section 1653 of this title which has completed performance of a contract or grant under section 1654 of this title, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 1657 of this title, and, in the case of a renewal of a contract or grant under section 1653 of this title, shall consider the results of the onsite evaluations conducted under subsection (b) of this section.

(Pub. L. 94–437, title V, § 505, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4822;

amended Pub. L. 102–573, title V, § 501(b)(3), Oct. 29, 1992, 106 Stat. 4568.)

PRIOR PROVISIONS

A prior section 1655, Pub. L. 94–437, title V, § 505, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3179, related to reports by urban Indian organizations and rural Indian organizations to Secretary, contents, audit of reports and records, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Pub. L. 102–573, § 501(b)(3)(E), substituted ''renewals'' for ''contract renewals'' in section catchline.

Subsec. (a). Pub. L. 102–573, § 501(b)(3)(A), inserted ''compliance with grant requirements under this subchapter and'' before ''compliance with, and''.

Subsec. (b). Pub. L. 102–573, § 501(b)(3)(B), inserted ''or received a grant'' after ''entered into a contract'' and ''or the terms of such grant'' before period at end.

Subsec. (c). Pub. L. 102–573, § 501(b)(3)(C), inserted ''the requirements of a grant or complied with'' after ''has not complied with'', ''or grant'' after ''such contract'' wherever appearing, ''or make a grant'' after ''enter into a contract'', and ''or grant'' after ''whose contract''.

Subsec. (d). Pub. L. 102–573, § 501(b)(3)(D), inserted ''or grant'' after ''a contract'' wherever appearing.

§ 1656. Other contract and grant requirements

(a) Federal regulations; exceptions

Contracts with urban Indian organizations entered into pursuant to this subchapter shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 270a to 270d–1 of title 40.

(b) Payment

Payments under any contracts or grants pursuant to this subchapter may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this subchapter.

(c) Revision or amendment

Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this subchapter as necessary to carry out the purposes of this subchapter.

(d) Existing Government facilities

In connection with any contract or grant entered into pursuant to this subchapter, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract or grant, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

(e) Uniform provision of services and assistance

Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this subchapter shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

(f) Eligibility for health care or referral services

Urban Indians, as defined in section 1603(f) of this title, shall be eligible for health care or referral services provided pursuant to this subchapter.

(Pub. L. 94–437, title V, § 506, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4823; amended Pub. L. 102–573, title V, § 501(b)(4), Oct. 29, 1992, 106 Stat. 4568.)

PRIOR PROVISIONS

A prior section 1656, Pub. L. 94–437, title V, § 506, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3179, authorized appropriations, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Pub. L. 102–573, § 501(b)(4)(D), inserted ''and grant'' in section catchline.

Subsec. (b). Pub. L. 102–573, § 501(b)(4)(A), inserted ''or grants'' after ''any contracts''.

Subsec. (d). Pub. L. 102–573, § 501(b)(4)(B), inserted ''or grant'' after ''contract'' in two places.

Subsec. (e). Pub. L. 102–573, § 501(b)(4)(C), inserted '', or grants to,'' after ''Contracts with'' and ''or grants'' after ''such contracts''.

§ 1657. Reports and records

(a) Quarterly reports

For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this subchapter, such organization shall submit to the Secretary a quarterly report including—

(1) in the case of a contract or grant under section 1653 of this title, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

(2) information on activities conducted by the organization pursuant to the contract or grant;

(3) an accounting of the amounts and purposes for which Federal funds were expended; and

(4) such other information as the Secretary may request.

(b) Audit by Secretary and Comptroller General

The reports and records of the urban Indian organization with respect to a contract or grant under this subchapter shall be subject to audit by the Secretary and the Comptroller General of the United States.

(c) Cost of annual private audit

The Secretary shall allow as a cost of any contract or grant entered into under section 1653 of this title the cost of an annual private audit conducted by a certified public accountant.

(d) Health status, services, and areas of unmet needs; child welfare

(1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating—

(A) the health status of urban Indians;

(B) the services provided to Indians through this subchapter;

(C) areas of unmet needs in urban areas served under this subchapter; and

(D) areas of unmet needs in urban areas not served under this subchapter.

(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.

(3) The Secretary and the Secretary of the Interior shall—

(A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and

(B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.

(Pub. L. 94–437, title V, § 507, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4823; amended Pub. L. 101–630, title V, § 507, Nov. 28, 1990, 104 Stat. 4566; Pub. L. 102–573, title V, § 501(b)(5), Oct. 29, 1992, 106 Stat. 4568.)

PRIOR PROVISIONS

A prior section 1657, Pub. L. 94–437, title V, § 507, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3179, related to review of program by Secretary and report to Congress, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 501(b)(5)(A), inserted ", or a grant received," after "entered into" in introductory provisions and "or grant" after "contract" in pars. (1) and (2).

Subsecs. (b), (c). Pub. L. 102–573, § 501(b)(5)(B), inserted "or grant" after "contract".

1990—Subsec. (d). Pub. L. 101–630 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

§ 1658. Limitation on contract authority

The authority of the Secretary to enter into contracts under this subchapter shall be to the extent, and in an amount, provided for in appropriation Acts.

(Pub. L. 94–437, title V, § 508, as added Pub. L. 100–713, title V, § 501, Nov. 23, 1988, 102 Stat. 4824.)

PRIOR PROVISIONS

A prior section 1658, Pub. L. 94–437, title V, § 508, Sept. 30, 1976, 90 Stat. 1412, provided that not to exceed 1 per centum of the amounts authorized by section 1656 of this title be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations, prior to the general revision of this subchapter by Pub. L. 96–537, § 7, Dec. 17, 1980, 94 Stat. 3176.

§ 1659. Facilities renovation

The Secretary may make funds available to contractors or grant recipients under this subchapter for minor renovations to facilities, including leased facilities, to assist such contractors or grant recipients in meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

(Pub. L. 94–437, title V, § 509, formerly § 409, as added Pub. L. 101–630, title V, § 506(c), Nov. 28, 1990, 104 Stat. 4566; renumbered § 509 and amended Pub. L. 102–573, title V, §§ 501(b)(6), 505(b)(2), title IX, § 902(5)(A), Oct. 29, 1992, 106 Stat. 4569, 4571, 4591.)

AMENDMENTS

1992—Pub. L. 102–573, § 902(5)(A), made technical amendment to section catchline.

Pub. L. 102–573, § 505(b)(2), struck out last sentence which authorized appropriation of $1,000,000 for fiscal year 1992 to carry out this section.

Pub. L. 102–573, § 501(b)(6), inserted "or grant recipients" after "contractors" in two places.

§ 1660. Urban Health Programs Branch

(a) Establishment

There is hereby established within the Service a Branch of Urban Health Programs which shall be responsible for carrying out the provisions of this subchapter and for providing central oversight of the programs and services authorized under this subchapter.

(b) Staff, services, and equipment

The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.

(Pub. L. 94–437, title V, § 510, formerly § 511, as added Pub. L. 101–630, title V, § 508, Nov. 28, 1990, 104 Stat. 4567; renumbered § 510 and amended Pub. L. 102–573, title V, § 501(b)(7), title IX, § 902(5)(B), Oct. 29, 1992, 106 Stat. 4569, 4591.)

AMENDMENTS

1992—Pub. L. 102–573, § 902(5)(B), made technical amendment to section catchline.

Subsec. (a). Pub. L. 102–573, § 501(b)(7), inserted "and for providing central oversight of the programs and services authorized under this subchapter" before period at end.

§ 1660a. Grants for alcohol and substance abuse related services

(a) Grants

The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this subchapter or under section 1621 of this title.

(b) Goals of grant

Each grant made pursuant to subsection (a) of this section shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

(c) Criteria

The Secretary shall establish criteria for the grants made under subsection (a) of this section, including criteria relating to the—

(1) size of the urban Indian population;

(2) accessibility to, and utilization of, other health resources available to such population;

(3) duplication of existing Service or other Federal grants or contracts;

(4) capability of the organization to adequately perform the activities required under the grant;

(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

(d) Treatment of funds received by urban Indian organizations

Any funds received by an urban Indian organization under this chapter for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c) of this section.

(Pub. L. 94–437, title V, § 511, as added Pub. L. 102–573, title V, § 502, Oct. 29, 1992, 106 Stat. 4569.)

PRIOR PROVISIONS

A prior section 511 of Pub. L. 94–437 was renumbered section 510 and is classified to section 1660 of this title.

§ 1660b. Treatment of certain demonstration projects

(a) In general

Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

(b) Report

The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a) of this section.

(c) Appropriations

In addition to the amounts made available under section 1660d of this title to carry out this section through fiscal year 2000, there are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2001 and 2002.

(Pub. L. 94–437, title V, § 512, as added Pub. L. 102–573, title V, § 503, Oct. 29, 1992, 106 Stat. 4569; amended Pub. L. 105–256, § 4(b), Oct. 14, 1998, 112 Stat. 1897.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–256 added subsec. (c).

EXTENSION OF TERMS OF PROJECTS

Pub. L. 105–256, § 4(a), Oct. 14, 1998, 112 Stat. 1897, provided that: ''The Secretary of the Interior shall take such action as may be necessary to extend the terms of the projects referred to in section 512 of the Indian Health Care Improvement Act (25 U.S.C. 1660b) so that the term of each such project expires on October 1, 2002.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1660c. Urban NIAAA transferred programs

(a) Duty of Secretary

The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as ''NIAAA'') and transferred to the Service.

(b) Use of grants

Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

(c) Eligibility for grants

Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

(d) Combination of funds

For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

(e) Evaluation and report to Congress

The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

(Pub. L. 94–437, title V, § 513, as added Pub. L. 102–573, title V, § 504, Oct. 29, 1992, 106 Stat. 4570; amended Pub. L. 105–362, title VI, § 602(a), Nov. 10, 1998, 112 Stat. 3286.)

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–362 substituted ''every 5 years'' for ''every two years''.

§ 1660d. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title V, § 514, as added Pub. L. 102–573, title V, § 505(a), Oct. 29, 1992, 106 Stat. 4570.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1660b of this title.

SUBCHAPTER V—ORGANIZATIONAL IMPROVEMENTS

CODIFICATION

This subchapter was in the original title VI of Pub. L. 94–437. Titles IV and V of Pub. L. 94–437 are classified to subchapters III–A and IV of this chapter, respectively.

§ 1661. Establishment of Indian Health Service as an agency of Public Health Service

(a) Establishment

In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

(b) Agency status

The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

(c) Duties

The Secretary shall carry out through the Director of the Indian Health Service—

(1) all functions which were, on the day before November 23, 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

(A) this chapter;

(B) section 13 of this title;

(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

(4) all scholarship and loan functions carried out under subchapter I of this chapter.

(d) Authority of Secretary

(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority—

(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Notwithstanding any other law, the provisions of section 472 of this title shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a) of this section.

(Pub. L. 94–437, title VI, § 601, as added Pub. L. 100–713, title VI, § 601(a), Nov. 23, 1988, 102 Stat. 4824; amended Pub. L. 102–573, title VI, §§ 601, 602(a)(1), (c), title IX, § 902(6), (7), Oct. 29, 1992, 106 Stat. 4571, 4592.)

REFERENCES IN TEXT

Act of August 5, 1954, referred to in subsec. (c)(3)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

Act of August 16, 1957, referred to in subsec. (c)(3)(D), is Pub. L. 85–151, Aug. 16, 1957, 71 Stat. 370, which is classified generally to subchapter II (§ 2005 et seq.) of chapter 22 of Title 42. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act, referred to in subsec. (c)(3)(E), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

PRIOR PROVISIONS

A prior section 1661, Pub. L. 94–437, title VI, § 601, Sept. 30, 1976, 90 Stat. 1412, related to feasibility study and report to Congress, prior to the general revision of this subchapter by Pub. L. 100–713.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 602(c), inserted at end ''Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.''

Pub. L. 102–573, § 602(a)(1), substituted ''President, by and with the advice and consent of the Senate'' for ''Secretary'' in second sentence.

Subsec. (c)(3)(D). Pub. L. 102–573, § 902(6), substituted ''(42 U.S.C. 2005 et seq.)'' for ''(25 U.S.C. 2005, et seq.)''.

Subsec. (c)(4). Pub. L. 102–573, § 601, added par. (4).

Subsec. (d)(1)(C). Pub. L. 102–573, § 902(7), substituted ''appropriated'' for ''appropriate''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 602(a)(2) of Pub. L. 102–573 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1993.''

EFFECTIVE DATE

Section 601(c) of Pub. L. 100–713 provided that:

''(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act [this section] added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section [Nov. 23, 1988].

''(2) Notwithstanding subsections (b) [set out below] and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.''

INTERIM APPOINTMENT

Section 602(b) of Pub. L. 102–573 provided that: ''The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) [25 U.S.C. 1661(a)] (as amended by subsection (a) of this section).''

TRANSFER OF PERSONNEL, RECORDS, EQUIPMENT, ETC., TO INDIAN HEALTH SERVICE

Section 601(b) of Pub. L. 100–713 provided that: ''All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect [see Effective Date note above] shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section [enacting this section and section 1662 of this title]. All transfers must be accomplished within 9 months of the date of enactment of this section [Nov. 23, 1988]. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.''

§ 1662. Automated management information system

(a) Establishment

(1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include—

(A) a financial management system,

(B) a patient care information system for each area served by the Service,

(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

(b) Provision to Indian tribes and organizations; reimbursement

(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] automated management information systems which—

(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and

(B) meet the management information needs of the Service.

(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

(c) Access to records

Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

(Pub. L. 94–437, title VI, § 602, as added Pub. L. 100–713, title VI, § 601(a), Nov. 23, 1988, 102 Stat. 4825; amended Pub. L. 102–573, title IX, § 901(3), Oct. 29, 1992, 106 Stat. 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(1), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–573 struck out par. (3) which directed Secretary to submit report to Congress no later than Sept. 30, 1989.

§ 1663. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title VI, § 603, as added Pub. L. 102–573, title VI, § 603, Oct. 29, 1992, 106 Stat. 4571.)

SUBCHAPTER V–A—SUBSTANCE ABUSE PROGRAMS

CODIFICATION

This subchapter was in the original title VII of Pub. L. 94–437, as added by Pub. L. 102–573. Former title VII was renumbered VIII by Pub. L. 102–573 and is classified to subchapter VI of this chapter. Titles IV, V, and VI of Pub. L. 102–437 are classified to subchapters III–A, IV, and V of this chapter, respectively.

§ 1665. Indian Health Service responsibilities

The Memorandum of Agreement entered into pursuant to section 2411 of this title shall include specific provisions pursuant to which the Service shall assume responsibility for—

(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

(Pub. L. 94–437, title VII, § 701, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4572.)

§ 1665a. Indian Health Service program

(a) Comprehensive prevention and treatment program

(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

(A) prevention, through educational intervention, in Indian communities;

(B) acute detoxification and treatment;

(C) community-based rehabilitation;

(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

(E) residential treatment programs for pregnant and post partum women and their children.

(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

(b) Contract health services

(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a) of this section.

(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 2411(a)(3) of this title.

(c) Grants for model program

(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

(2) Funds shall be used by the Tribe to—

(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

(B) develop prevention and intervention models for Indian families;

(C) conduct community education on alcohol and substance abuse; and

(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 1671 of this title for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

(Pub. L. 94–437, title VII, § 702, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4573.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1665b. Indian women treatment programs

(a) Grants

The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

(b) Use of grants

Grants made pursuant to this section may be used to—

(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

(c) Criteria for review and approval of grant applications

The Secretary shall establish criteria for the review and approval of applications for grants under this section.

(d) Authorization of appropriations

(1) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under subchapter IV of this chapter.

(Pub. L. 94–437, title VII, § 703, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4573.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1665m of this title.

§ 1665c. Indian Health Service youth program

(a) Detoxification and rehabilitation

The Secretary shall develop and implement a program for acute detoxification and treatment

for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

(b) Treatment centers or facilities

(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to section 13 of this title.

(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

(4)(A) Notwithstanding any other provision of this subchapter, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 450b(*l*) of this title.

(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

(c) Federally owned structures

(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

(d) Rehabilitation and aftercare services

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and non-alcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

(e) Inclusion of family in youth treatment program

In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) of this section shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

(f) Multidrug abuse study

(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after October 29, 1992.

(Pub. L. 94–437, title VII, § 704, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4574.)

§ 1665d. Training and community education

(a) Community education

The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

(b) Training

The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth

alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 2433 of this title.

(c) Community-based training models

In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

(Pub. L. 94–437, title VII, § 705, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4576.)

§ 1665e. Gallup alcohol and substance abuse treatment center

(a) Grants for residential treatment

The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

(b) Purposes of grants

Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

(c) Contract for residential treatment

The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b) of this section.

(d) Authorization of appropriations

There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b) of this section.

(Pub. L. 94–437, title VII, § 706, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4576; amended Pub. L. 104–313, § 2(e), Oct. 19, 1996, 110 Stat. 3822.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–313 amended heading and text of subsec. (d) generally, extending appropriation authorization for programs under subsection (b) of this section through fiscal year 2000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1665m of this title.

§ 1665f. Reports

(a) Compilation of data

The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

(b) Referral of data

The data compiled under subsection (a) of this section shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 2412 of this title.

(c) Comprehensive report

Each service unit director shall be responsible for assembling the data compiled under this section and section 2434 of this title into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

(Pub. L. 94–437, title VII, § 707, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4577.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88

Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1665g. Fetal alcohol syndrome and fetal alcohol effect grants

(a) Award; use; review criteria

(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 1602(b) of this title.

(2) Grants made pursuant to this section shall be used to—

(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

(B) identify and provide alcohol and substance abuse treatment to high-risk women;

(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

(b) Plan; study; national clearinghouse

The Secretary, acting through the Service, shall—

(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

(c) Task force

The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b) of this section. Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

(d) Cooperative projects; research projects

The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

(e) Report

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section 1602(d) of this title with respect to the health status objective specified in section 1602(b)(27) of this title, the following:

(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

(D) The level of support received from the entities specified in subsection (c) of this section in the area of FAS and FAE.

(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

(f) Authorization of appropriations

(1) There are authorized to be appropriated to carry out this section $22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Ten percent of the funds appropriated pursuant to this section shall be used to make

grants to urban Indian organizations funded under subchapter IV of this chapter.

(Pub. L. 94–437, title VII, § 708, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4578.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1665m, 1671 of this title.

§ 1665h. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico

The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

(Pub. L. 94–437, title VII, § 709, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4579.)

§ 1665i. Thunder Child Treatment Center

(a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

(b) For the purposes of carrying out subsection (a) of this section, there are authorized to be appropriated $2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) of this section shall be used for administrative purposes.

(Pub. L. 94–437, title VII, § 710, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4580.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1665m of this title.

§ 1665j. Substance abuse counselor education demonstration project

(a) Contracts and grants

The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

(b) Use of funds

Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

(c) Effective period of contract or grant; renewal

A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

(d) Criteria for review and approval of applications

Not later than 180 days after October 29, 1992, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

(e) Assistance to recipients

The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

(f) Report

The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

(g) Definitions

For the purposes of this section, the following definitions apply:

(1) The term ''educational curriculum'' means one or more of the following:

(A) Classroom education.

(B) Clinical work experience.

(C) Continuing education workshops.

(2) The term ''eligible community college'' means an accredited community college that—

(i) is located on or near an Indian reservation;

(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and

(iii) has a student enrollment of not less than 10 percent Indian.

(3) The term ''tribally controlled community college'' has the meaning given such term in section 1801(a)(4)[1] of this title.

(4) The term ''tribally controlled postsecondary vocational institution'' has the meaning given such term in section 2397h(2)[1] of title 20.

(h) Authorization of appropriations

There are authorized to be appropriated for each of fiscal years 1996 through 2000,[2] such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

(Pub. L. 94–437, title VII, § 711, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4580; amended Pub. L. 104–313, § 2(f), Oct. 19, 1996,

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

110 Stat. 3822; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 105–256, § 13(a), Oct. 14, 1998, 112 Stat. 1900.)

REFERENCES IN TEXT

Section 1801(a)(4) of this title, referred to in subsec. (g)(3), was amended by Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828, and, as so amended, no longer defines the term ''tribally controlled community college''.

Section 2397h of title 20, referred to in subsec. (g)(4), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of Title 20, Education, by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

AMENDMENTS

1998—Subsec. (g)(3). Pub. L. 105–244 made technical amendment to reference in original act which appears in text as reference to section 1801(a)(4) of this title.

Subsec. (h). Pub. L. 105–256 substituted ''of fiscal years'' for ''of the fiscal years'' in first sentence.

1996—Subsec. (h). Pub. L. 104–313 substituted ''1996 through 2000'' for ''1993, 1994, 1995, 1996, and 1997''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1665m, 1671 of this title.

§ 1665k. Gila River alcohol and substance abuse treatment facility

(a) Regional center

The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

(b) Name of regional center

The center established pursuant to this section shall be known as the ''Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center''.

(c) Unit of regional center

The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

(Pub. L. 94–437, title VII, § 712, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4581.)

§ 1665*l*. Alaska Native drug and alcohol abuse demonstration project

(a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 1671 of this title for fiscal year 1995 an evaluation of the demonstration project established under subsection (a) of this section.

(Pub. L. 94–437, title VII, § 713, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4581.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1665m. Authorization of appropriations

Except as provided in sections 1665b, 1665e, 1665g, 1665i, and 1665j of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this subchapter.

(Pub. L. 94–437, title VII, § 714, as added Pub. L. 102–573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4581.)

SUBCHAPTER VI—MISCELLANEOUS

CODIFICATION

This subchapter was in the original title VIII, formerly VII, of Pub. L. 94–437, as renumbered by Pub. L. 102–573. Titles IV, V, VI, and VII of Pub. L. 94–437 are classified to subchapters III–A, IV, V, and V–A of this chapter, respectively.

§ 1671. Reports

The President shall, at the time the budget is submitted under section 1105 of title 31, for each fiscal year transmit to the Congress a report containing—

(1) a report on the progress made in meeting the objectives of this chapter, including a review of programs established or assisted pursuant to this chapter and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this chapter and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

(3) a report on the use of health services by Indians—

(A) on a national and area or other relevant geographical basis;

(B) by gender and age;

(C) by source of payment and type of service; and

(D) comparing such rates of use with rates of use among comparable non-Indian populations.[1]

(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 1621 of this title;

(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 1680d of this title, relating to infant and maternal mortality and fetal alcohol syndrome;

(6) the reports required by sections 1602(d), 1616a(n), 1621b(b), 1621h(j), 1631(c), 1632(g), 1634(a)(3), 1643, 1665g(e), and 1680g(a), and 1680*l*(f) of this title;

(7) for fiscal year 1995, the report required by sections 1665a(c)(3) and 1665*l*(b) of this title;

(8) for fiscal year 1997, the interim report required by section 1637(h)(1) of this title; and

(9) for fiscal year 1999, the reports required by sections 1637(h)(2), 1660b(b), 1665j(f), and 1680k(g) of this title.

(Pub. L. 94–437, title VIII, § 801, formerly title VII, § 701, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 801, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 801, Oct. 29, 1992, 106 Stat. 4572, 4584.)

AMENDMENTS

1992—Pub. L. 102–573, § 801, amended section generally. Prior to amendment, section read as follows: ''The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this chapter. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this chapter and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this chapter which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this chapter for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this chapter and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.''

REFERENCES TO SECTIONS 701 TO 720 OF PUBLIC LAW 94–437

Section 701(d) of Pub. L. 102–573 provided that: ''Any reference in a provision of law other than the Indian Health Care Improvement Act [25 U.S.C. 1601 et seq.] to sections redesignated by subsection (b) [renumbering sections 701 to 720 of Pub. L. 94–437 as sections 801 to 820 of Pub. L. 94–437, which are classified to sections 1671 to 1680j of this title] shall be deemed to refer to the section as so redesignated.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1616a, 1621b, 1621h, 1631, 1632, 1634, 1637, 1643, 1660b, 1665a, 1665g, 1665j, 1665*l*, 1680g, 1680k, 1680*l* of this title; title 42 section 1395qq.

§ 1672. Regulations

Prior to any revision of or amendment to rules or regulations promulgated pursuant to this chapter, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

(Pub. L. 94–437, title VIII, § 802, formerly title VII, § 702, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 802, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 802, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Pub. L. 102–573, § 802, amended section generally, substituting present provisions for former provisions relating in subsec. (a) to consideration, formulation, proposal, and promulgation of regulations and in subsec. (b) to revision and amendment of regulations.

§ 1673. Repealed. Pub. L. 102–573, title IX, § 901(4), Oct. 29, 1992, 106 Stat. 4591

Section, Pub. L. 94–437, title VIII, § 803, formerly title VII, § 703, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 803, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572, related to submission by Secretary to Congress of plan to implement provisions of this chapter.

§ 1674. Leases with Indian tribes

(a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this chapter, to enter into leases with Indian tribes for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

(1) title to;

(2) a leasehold interest in; or

(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.

(Pub. L. 94–437, title VIII, § 804, formerly title VII, § 704, Sept. 30, 1976, 90 Stat. 1414; Pub. L. 96–537, § 8(a), Dec. 17, 1980, 94 Stat. 3179; Pub. L. 100–713, title VII, § 701, Nov. 23, 1988, 102 Stat. 4826; renumbered title VIII, § 804, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

AMENDMENTS

1988—Pub. L. 100–713 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96–537 inserted provision that property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

[1] So in original. The period probably should be a semicolon.

§ 1675. Availability of funds

The funds appropriated pursuant to this chapter shall remain available until expended.

(Pub. L. 94–437, title VIII, § 805, formerly title VII, § 705, Sept. 30, 1976, 90 Stat. 1414; renumbered title VIII, § 805, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

§ 1676. Limitation on use of funds appropriated to Indian Health Service

Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.

(Pub. L. 94–437, title VIII, § 806, formerly title VII, § 706, as added Pub. L. 96–537, § 8(b), Dec. 17, 1980, 94 Stat. 3179; amended Pub. L. 100–713, title VII, § 718, Nov. 23, 1988, 102 Stat. 4837; renumbered title VIII, § 806, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

AMENDMENTS

1988—Pub. L. 100–713 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''Within one year from December 17, 1980, the Secretary shall submit to the Congress a resource allocation plan. Such plan shall explain the future allocation of services and funds among the service population of the Service and shall provide a schedule for reducing deficiencies in resources of tribes and nontribal specific entities.''

§ 1677. Nuclear resource development health hazards

(a) Study

The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and organizations, a study of the health hazards to Indian miners and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. Such study shall include—

(1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;

(2) an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities;

(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal;

(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the five years prior to December 17, 1980, that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

(5) the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such nuclear resource development.

(b) Health care plan; development

Upon completion of such study the Secretary and the Service shall take into account the results of such study and develop a health care plan to address the health problems studied under subsection (a) of this section. The plan shall include—

(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

(2) preventive care for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other nuclear development activities that have had or could have a serious impact upon the health of such individuals; and

(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear development activities, may experience health problems.

(c) Reports to Congress

The Secretary and the Service shall submit to Congress the study prepared under subsection (a) of this section no later than the date eighteen months after December 17, 1980. The health care plan prepared under subsection (b) of this section shall be submitted in a report no later than the date one year after the date that the study prepared under subsection (a) of this section is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

(d) Intergovernmental Task Force; establishment and functions

(1) There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees): the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the United States Bureau of Mines, the Assistant Secretary for Occupational Safety and Health, and the Secretary of the Interior.

(2) The Task Force shall identify existing and potential operations related to nuclear resource development that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community and enter into activities to correct existing health hazards and insure that current and future health problems resulting from nuclear resource development activities are minimized or reduced.

(3) The Secretary shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

(e) Medical care

In the case of any Indian who—

(1) as a result of employment in or near a uranium mine or mill, suffers from a work related illness or condition;

(2) is eligible to receive diagnosis and treatment services from a Service facility; and

(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator from such operator. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

(Pub. L. 94–437, title VIII, § 807, formerly title VII, § 707, as added Pub. L. 96–537, § 8(b), Dec. 17, 1980, 94 Stat. 3179; amended Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172; renumbered title VIII, § 807, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 813(b), Oct. 29, 1992, 106 Stat. 4572, 4590.)

AMENDMENTS

1992—Subsec. (f). Pub. L. 102–573, § 813(b), struck out subsec. (f) which authorized appropriation of $300,000 to carry out the study as provided in subsec. (a), such amount to be expended by the date eighteen months after Dec. 17, 1980.

CHANGE OF NAME

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (d)(1) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS; STUDY AND REPORT

Pub. L. 100–713, title VII, § 717, Nov. 23, 1988, 102 Stat. 4837, provided that:

"(a) The Secretary of Health and Human Services (acting through the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining—

"(1) the number of active nuclear resource development sites on Indian lands in the United States;

"(2) the Federal agencies that carry out Federal responsibilities with respect to each such site;

"(3) the health hazards that exist as a result of such sites;

"(4) the remedial actions which have been undertaken with respect to such health hazards;

"(5) remedial actions that are needed with respect to such health hazards; and

"(6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.

"(b) By no later than the date that is 2 years after the date of enactment of this Act [Nov. 23, 1988], a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a)."

§ 1678. Arizona as a contract health service delivery area

(a) Designation

For the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 2000, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian tribes of Arizona.

(b) Curtailment of health services prohibited

The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a) of this section.

(Pub. L. 94–437, title VIII, § 808, formerly title VII, § 708, as added Pub. L. 96–537, § 8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100–713, title VII, § 702, Nov. 23, 1988, 102 Stat. 4827; renumbered title VIII, § 808, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 803, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 803, substituted "2000" for "1991".

1988—Subsec. (a). Pub. L. 100–713, § 702(a), substituted "1991" for "1984" and "members of federally recognized Indian tribes of Arizona" for "Indians in such State".

Subsec. (c). Pub. L. 100–713, § 702(b), struck out subsec. (c) which authorized appropriations for fiscal years 1982 to 1984.

§ 1679. Eligibility of California Indians

(a) Report to Congress

(1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after November 23, 1988, prepare and submit to the Congress a report which sets forth—

(A) a determination by the Secretary of the number of Indians described in subsection (b)(2) of this section, and the number of Indians described in subsection (b)(3) of this section, who are not members of an Indian tribe recognized by the Federal Government,

(B) the geographic location of such Indians,

(C) the Indian tribes of which such Indians are members,

(D) an assessment of the current health status, and health care needs, of such Indians, and

(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

(2) The report required under paragraph (1) shall be prepared by the Secretary—

(A) in consultation with the Secretary of the Interior, and

(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) of this section who are not members of any Indian tribe recognized by the Federal Government.

(b) Eligible Indians

Until such time as any subsequent law may otherwise provide, the following California Indi-

ans shall be eligible for health services provided by the Service:

(1) Any member of a federally recognized Indian tribe.

(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

(A) is living in California,

(B) is a member of the Indian community served by a local program of the Service, and

(C) is regarded as an Indian by the community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

(c) Scope of eligibility

Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

(Pub. L. 94–437, title VIII, § 809, formerly title VII, § 709, as added Pub. L. 96–537, § 8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100–713, title VII, § 703, Nov. 23, 1988, 102 Stat. 4827; renumbered title VIII, § 809, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

REFERENCES IN TEXT

Act of August 18, 1958, referred to in subsec. (b)(4), is Pub. L. 85–671, Aug. 18, 1958, 72 Stat. 619, which was not classified to the Code.

AMENDMENTS

1988—Pub. L. 100–713 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''Indians in the State of California who are members or descendants of members of former federally recognized tribes of the State of California shall be eligible for services from the Service in the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 1984.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621j of this title.

§ 1680. California as a contract health service delivery area

The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.

(Pub. L. 94–437, title VIII, § 810, formerly title VII, § 710, as added Pub. L. 96–537, § 8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100–713, title VII, § 704, Nov. 23, 1988, 102 Stat. 4828; renumbered title VIII, § 810, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

AMENDMENTS

1988—Pub. L. 100–713 inserted section catchline and amended text generally, substituting provisions designating parts of California as a contract health service delivery area for former provisions which authorized a demonstration project for lifting personnel ceilings for the Indian Health Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621j of this title.

§ 1680a. Contract health facilities

The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]—

(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

(2) for employee training,

(3) for cost-of-living increases for employees, and

(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.

(Pub. L. 94–437, title VIII, § 811, formerly title VII, § 711, as added Pub. L. 100–713, title VII, § 705, Nov. 23, 1988, 102 Stat. 4828; renumbered title VIII, § 811, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1680b. National Health Service Corps

The Secretary of Health and Human Services shall not—

(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], or

(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

(Pub. L. 94–437, title VIII, § 812, formerly title VII, § 712, as added Pub. L. 100–713, title VII, § 706, Nov. 23, 1988, 102 Stat. 4828; renumbered title VIII, § 812, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in par. (1), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this

title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 1680c. Health services for ineligible persons

(a) Individuals not otherwise eligible

(1) Any individual who—

(A) has not attained 19 years of age,

(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian, and

(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

(2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

(b) Health facilities providing health service

(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

(2)(A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act [42 U.S.C. 1395qq(c)], section 1642(a) of this title, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.], shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

(c) Purposes served in providing health services to otherwise ineligible individuals

The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

(1) achieve stability in a medical emergency,

(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,

(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or

(4) provide care to immediate family members of an eligible person if such care is di-

rectly related to the treatment of the eligible person.

(d) Extension of hospital privileges to non-Service health care practitioners

Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b) of this section. Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28 (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

(e) "Eligible Indian" defined

For purposes of this section, the term "eligible Indian" means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

(Pub. L. 94–437, title VIII, § 813, formerly title VII, § 713, as added Pub. L. 100–713, title VII, § 707(a), Nov. 23, 1988, 102 Stat. 4829; renumbered title VIII, § 813, and amended Pub. L. 102–573, title VII, § 701(a), (b), title IX, § 902(8), Oct. 29, 1992, 106 Stat. 4572, 4592.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (b)(1)(B) and (d), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (b)(2)(A). Pub. L. 102–573, § 902(8), substituted "section 1642(a) of this title" for "section 402(c) of this Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621f, 1637 of this title.

§ 1680d. Infant and maternal mortality; fetal alcohol syndrome

By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994:

(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of—

(A) twelve deaths per one thousand live births, or

(B) the rate of infant mortality applicable to the United States population as a whole;

(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of—

(A) five deaths per one hundred thousand live births, or

(B) the rate of maternal mortality applicable to the United States population as a whole; and

(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.

(Pub. L. 94–437, title VIII, § 814, formerly title VII, § 714, as added Pub. L. 100–713, title VII, § 708, Nov. 23, 1988, 102 Stat. 4831; renumbered title VIII, § 814, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 804, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Pub. L. 102–573, § 804, struck out subsec. (a) designation before "By no later" and struck out subsec. (b) which read as follows: "The President shall include with the budget submitted under section 1105 of title 31 for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a) of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1680e. Contract health services for the Trenton Service Area

(a) Service to Turtle Mountain Band

The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

(b) Band member eligibility not expanded

Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

(Pub. L. 94–437, title VIII, § 815, formerly title VII, § 715, as added Pub. L. 100–713, title VII, § 709, Nov. 23, 1988, 102 Stat. 4831; renumbered title VIII, § 815, Pub. L. 102–573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

§ 1680f. Indian Health Service and Department of Veterans Affairs health facilities and services sharing

(a) Feasibility study and report

The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Department of Veterans Affairs and shall, in accordance with subsection (b) of this section, prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

(b) Nonimpairment of service quality, eligibility, or priority of access

The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38 which would impair—

(1) the priority access of any Indian to health care services provided through the Indian Health Service;

(2) the quality of health care services provided to any Indian through the Indian Health Service;

(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

(4) the quality of health care services provided to any veteran by the Department of Veterans Affairs;

(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

(6) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

(c) Cross utilization of services

(1) Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall implement an agreement under which—

(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Department of Veterans Affairs could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Department of Veterans Affairs medical center located in Salt Lake City, Utah.

(2) Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

(d) Right to health services

Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c) of this section.

(Pub. L. 94–437, title VIII, § 816, formerly title VII, § 716, as added Pub. L. 100–713, title VII, § 710, Nov. 23, 1988, 102 Stat. 4832; amended Pub. L. 102–54, § 13(j)(2), June 13, 1991, 105 Stat. 276; renumbered title VIII, § 816, and amended Pub. L. 102–573, title VII, § 701(a), (b), title IX, § 902(9), Oct. 29, 1992, 106 Stat. 4572, 4592.)

AMENDMENTS

1992—Pub. L. 102–573, § 902(9), amended section catchline.

1991—Subsecs. (a), (b)(3), (4), (6). Pub. L. 102–54, § 13(j)(2)(A), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (c)(1). Pub. L. 102–54, § 13(j)(2)(B), substituted ''Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall'' for ''Within 30 days after November 23, 1988, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to''.

Subsec. (c)(1)(A), (B). Pub. L. 102–54, § 13(j)(2)(A), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (c)(2). Pub. L. 102–54, § 13(j)(2)(C), substituted ''Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall'' for ''Not later than 2 years after November 23, 1988, the Secretary and the Administrator of Veterans' Affairs shall''.

§ 1680g. Reallocation of base resources

(a) Report to Congress

Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

(b) Appropriated amounts

Subsection (a) of this section shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

(Pub. L. 94–437, title VIII, § 817, formerly title VII, § 717, as added Pub. L. 100–713, title VII, § 711, Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, § 817, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 805, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–573, § 805, substituted ''Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title,'' for ''Secretary has submitted to the Congress''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1680h. Demonstration projects for tribal management of health care services

(a) Establishment; grants

(1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources.

(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

(b) Health care contracts

During the period in which a demonstration project established under subsection (a) of this section is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, and

preventive health care contracts, to the Indian tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act [42 U.S.C. 300w et seq.] (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a) of this section) shall apply.

(c) Waiver of procurement laws

The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a) of this section, but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

(d) Termination; evaluation and report

(1) The demonstration project established under subsection (a) of this section shall terminate on September 30, 1993, or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made.

(2) By no later than September 30, 1996, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) of this section and shall submit to the Congress a report on such evaluations and demonstration projects.

(e) Joint venture demonstration projects

(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.[1]

(Pub. L. 94–437, title VIII, § 818, formerly title VII, § 718, as added Pub. L. 100–713, title VII, § 713, Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, § 818, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 808, Oct. 29, 1992, 106 Stat. 4572, 4586.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title XIX of the Public Health Service Act is classified generally to part A (§ 300w et seq.) of subchapter XVII of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (d)(1). Pub. L. 102–573, § 808(1)(A), inserted before period at end ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made".

Subsec. (d)(2). Pub. L. 102–573, § 808(1)(B), substituted "1996" for "1994".

Subsec. (e). Pub. L. 102–573, § 808(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section."

§ 1680i. Child sexual abuse treatment programs

(a) Continuation of existing demonstration programs

The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(b) Establishment of new demonstration programs

Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).

(Pub. L. 94–437, title VIII, § 819, formerly title VII, § 719, as added Pub. L. 100–713, title VII, § 715, Nov. 23, 1988, 102 Stat. 4836; renumbered title VIII, § 819, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 806, Oct. 29, 1992, 106 Stat. 4572, 4586.)

AMENDMENTS

1992—Pub. L. 102–573, § 806, amended section generally. Prior to amendment, section read as follows:

"(a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991,

[1] So in original. The words ", shall be recoverable" probably should not appear.

continue to provide through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes.

''(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.''

§ 1680j. Tribal leasing

Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

(Pub. L. 94–437, title VIII, § 820, formerly title VII, § 720, as added Pub. L. 100–713, title VII, § 716, Nov. 23, 1988, 102 Stat. 4837; renumbered title VIII, § 820, and amended Pub. L. 102–573, title VII, § 701(a), (b), title VIII, § 807, Oct. 29, 1992, 106 Stat. 4572, 4586.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–573, § 807, amended section generally. Prior to amendment, section read as follows:

''(a) The Secretary, through the Service, shall make grants to the Eight Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

''(b) There are authorized to be appropriated to carry out this section $250,000 for each of the fiscal years 1990 and 1991.''

§ 1680k. Home- and community-based care demonstration project

(a) Authority of Secretary

The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

(b) Use of funds

(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

(2) Such funds may not be used—

(A) to make cash payments to functionally disabled Indians;

(B) to provide room and board for functionally disabled Indians;

(C) for the construction or renovation of facilities or the purchase of medical equipment; or

(D) for the provision of nursing facility services.

(c) Criteria for approval of applications

Not later than 180 days after October 29, 1992, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;[1]

(d) Assistance to applicants

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(e) Services to ineligible persons

At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

(f) Maximum number of demonstration projects

The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c) of this section.

(g) Report

The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

(h) Definitions

For the purposes of this section, the following definitions shall apply:

(1) The term ''home- and community-based services'' means one or more of the following:

(A) Homemaker/home health aide services.

(B) Chore services.

(C) Personal care services.

(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

(E) Respite care.

(F) Training for family members in managing a functionally disabled individual.

(G) Adult day care.

(H) Such other home- and community-based services as the Secretary may approve.

[1] So in original. The semicolon probably should be a period.

(2) The term ''functionally disabled'' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

(i) Authorization of appropriations

There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

(Pub. L. 94–437, title VIII, § 821, as added Pub. L. 102–573, title VIII, § 809, Oct. 29, 1992, 106 Stat. 4587; amended Pub. L. 104–313, § 2(g), Oct. 19, 1996, 110 Stat. 3822.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (i). Pub. L. 104–313 substituted ''1996 through 2000'' for ''1993, 1994, 1995, 1996, and 1997''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1671, 1680*o* of this title.

§ 1680*l*. Shared services demonstration project

(a) Authority of Secretary

The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

(b) Contract requirements

A contract entered into pursuant to subsection (a) of this section—

(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

(c) Eligibility

To be eligible for a contract under this section, a tribe or tribal organization, shall, as of October 29, 1992—

(1) own and operate (directly or by contract) a nursing facility;

(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

(3) have adopted a tribal resolution providing for the construction of a nursing facility.

(d) Nursing facilities

Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1396r of title 42.

(e) Assistance to applicants

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

(f) Report

The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

(Pub. L. 94–437, title VIII, § 822, as added Pub. L. 102–573, title VIII, § 810, Oct. 29, 1992, 106 Stat. 4588.)

CODIFICATION

October 29, 1992, referred to in subsec. (c), was in the original ''the date of the enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–573, which enacted this section, to reflect the probable intent of Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

§ 1680m. Results of demonstration projects

The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this chapter.

(Pub. L. 94–437, title VIII, § 823, as added Pub. L. 102–573, title VIII, § 811, Oct. 29, 1992, 106 Stat. 4589.)

§ 1680n. Priority for Indian reservations

(a) Facilities and projects

Beginning on October 29, 1992, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands.

(b) "Indian lands" defined

For purposes of this section, the term ''Indian lands'' means—

(1) all lands within the limits of any Indian reservation; and

(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(Pub. L. 94–437, title VIII, § 824, as added Pub. L. 102–573, title VIII, § 812, Oct. 29, 1992, 106 Stat. 4589.)

§ 1680*o*. Authorization of appropriations

Except as provided in section 1680k of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94–437, title VIII, § 825, as added Pub. L. 102–573, title VIII, § 813(a), Oct. 29, 1992, 106 Stat. 4590.)

§ 1681. Omitted

CODIFICATION

Section, Pub. L. 104–134, title I, § 101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–190; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, which provided that the Indian Health Service was to neither bill nor charge those Indians who may have economic means to pay unless and until Congress directs Service to implement policy to do so, was from the Department of the Interior and Related Agencies Appropriations Act, 1996, and was not repeated in subsequent appropriations acts. Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2529.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1409.

Pub. L. 102–381, title II, Oct. 5, 1992, 106 Stat. 1409.

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1027.

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1952.

Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 734.

Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1816.

Pub. L. 100–202, § 101(g) [title II], Dec. 22, 1987, 101 Stat. 1329–213, 1329–245.

Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–277, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–277.

Pub. L. 99–190, § 101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1256.

Pub. L. 98–473, title I, § 101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1682 of this title.

§ 1682. Subrogation of claims by Indian Health Service

On and after October 18, 1986, the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402[1] of the Indian Health Care Improvement Act.

(Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–277, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–277.)

REFERENCES IN TEXT

Sections 401 and 402 of the Indian Health Care Improvement Act, referred to in text, probably means former sections 401 and 402 of Pub. L. 94–437, title IV, Sept. 30, 1976, 90 Stat. 1408, 1409, which enacted sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under sections 1395qq and 1396j of Title 42. Sections 401 and 402 of the Act were amended generally by section 401(a), (b)(1) of Pub. L. 102–573, title IV, Oct. 29, 1992, 106 Stat. 4565, and are classified to sections 1641 and 1642 of this title, respectively.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99–500 and Pub. L. 99–591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

PRIOR PROVISIONS

A prior section 1682, Pub. L. 98–473, title I, § 101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865, which related to subrogation of claims by Indian Health Service, was omitted as superseded by section 101(h) [title II] of Pub. L. 99–500 and Pub. L. 99–591.

§ 1683. Indian Catastrophic Health Emergency Fund

$10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the ''Fund''). On and after October 18, 1986, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 450 et seq.]. There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation.

(Pub. L. 99–500, § 101(h) [title II], Oct. 18, 1986, 100 Stat. 1783–242, 1783–276, and Pub. L. 99–591, § 101(h) [title II], Oct. 30, 1986, 100 Stat. 3341–242, 3341–276.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93–638), referred to in text, is Pub.

[1] See References in Text note below.

L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), referred to in text, probably means Pub. L. 87–693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§ 2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500. Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99–500 and Pub. L. 99–591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

CHAPTER 19—INDIAN LAND CLAIMS SETTLEMENTS

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