

Editorial Notes

REFERENCES IN TEXT

Act of August 18, 1958, referred to in subsec. (a)(4), is Pub. L. 85-671, Aug. 18, 1958, 72 Stat. 619, which is not classified to the Code.

CODIFICATION

Section 809 of Pub. L. 94-437 is based on section 192(3) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

PRIOR PROVISIONS

A prior section 1679, 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, related to report to Congress containing sufficient data to determine eligibility of California Indians for health services provided by the Service and preliminary eligibility criteria, prior to repeal by Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 192(3) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 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.)

Editorial Notes

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.

§ 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. 5321 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.)

Editorial Notes

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, which is classified principally to subchapter I (§5321 et seq.) of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 1680b. National Health Service Corps**(a) No reduction in services**

The Secretary shall not remove a member of the National Health Service Corps from an Indian health program or urban Indian organization or withdraw funding used to support such a member, unless the Secretary, acting through the Service, has ensured that the Indians receiving services from the member will experience no reduction in services.

(b) Treatment of Indian health programs

At the request of an Indian health program, the services of a member of the National Health Service Corps assigned to the Indian health program may be limited to the individuals who are eligible for services from that Indian health program.

(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; amended Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 193 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally, revising and restating former provisions as subsec. (a) and adding subsec. (b).

§ 1680c. Health services for ineligible persons**(a) Children**

Any individual who—

- (1) has not attained 19 years of age;
- (2) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian; and
- (3) is not otherwise eligible for 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 1 year after the date of a determination of competency.

(b) Spouses

Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of each Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. 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.

(c) Health facilities providing health services

(1) In general

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 unit and who are not otherwise eligible for such health services if—

(A) the Indian tribes served by such Service unit requests such provision of health services to such individuals, and

(B) the Secretary and the served Indian tribes have jointly determined that the provision of such health services will not result in a denial or diminution of health services to eligible Indians.

(2) ISDEAA programs

In the case of health facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),¹ the governing body of the Indian tribe or tribal organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract or compact 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 consideration described in paragraph (1)(B). Any services provided by the Indian tribe or tribal organization pursuant to a determination made under this subparagraph shall be deemed to be provided under the agreement entered into by the Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act. The provisions of section 314 of Public Law 101-512 (104 Stat. 1959), as

amended by section 308 of Public Law 103-138 (107 Stat. 1416), shall apply to any services provided by the Indian tribe or tribal organization pursuant to a determination made under this subparagraph.

(3) Payment for services

(A) In general

Persons receiving health services provided by the Service under 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 1621f of this title or any other provision of law, amounts collected under this subsection, including Medicare, Medicaid, or children's health insurance program reimbursements under titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.], shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 1641(d)(2) of this title and amounts collected under this subsection shall be available for expenditure within such program.

(B) Indigent people

Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise 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 individual.

(4) Revocation of consent for services

(A) Single tribe service area

In the case of a Service Area which serves only 1 Indian tribe, the authority of the Secretary to provide health services under paragraph (1) 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) Multitribal service area

In the case of a multitribal Service Area, the authority of the Secretary to provide health services under paragraph (1) 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 provisions of such health services.

(d) Other services

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 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;

¹ See References in Text note below.

(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through postpartum; or

(4) provide care to immediate family members of an eligible individual if such care is directly related to the treatment of the eligible individual.

(e) Hospital privileges for practitioners

(1) In general

Hospital privileges in health facilities operated and maintained by the Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of the privileging process, be designated 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 individuals as a part of the conditions under which such hospital privileges are extended.

(2) Definition

For purposes of this subsection, the term “non-Service health care practitioner” means a practitioner who is not—

(A) an employee of the Service; or

(B) an employee of an Indian tribe or tribal organization operating a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ or an individual who provides health care services pursuant to a personal services contract with such Indian tribe or tribal organization.

(f) Eligible Indian

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; Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsecs. (c)(2) and (e), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 314 of Public Law 101-512, referred to in subsec. (c)(2), is set out as a note under section 5321 of this title.

The Social Security Act, referred to in subsec. (c)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles

XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, 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

Amendment by Pub. L. 111-148 is based on section 194 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section related to health services for ineligible persons and consisted of subsecs. (a) to (e).

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”.

§ 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.)

Editorial Notes

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.”

§ 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