

(Pub. L. 94-437, title II, § 226, as added Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

#### Editorial Notes

##### CODIFICATION

Section 226 of Pub. L. 94-437 is based on section 137 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.

#### § 1622. Transferred

#### Editorial Notes

##### 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.

#### § 1623. Special rules relating to Indians

##### (a) No Cost-sharing for Indians with income at or below 300 percent of poverty enrolled in coverage through a State Exchange

For provisions prohibiting cost sharing for Indians enrolled in any qualified health plan in the individual market through an Exchange, see section 18071(d) of title 42.

##### (b) Payer of last resort

Health programs operated by the Indian Health Service, Indian tribes, tribal organizations, and Urban Indian organizations (as those terms are defined in section 1603 of this title) shall be the payer of last resort for services provided by such Service, tribes, or organizations to individuals eligible for services through such programs, notwithstanding any Federal, State, or local law to the contrary.

(Pub. L. 111-148, title II, § 2901(a), (b), Mar. 23, 2010, 124 Stat. 333.)

#### Editorial Notes

##### CODIFICATION

Section is comprised of subsecs. (a) and (b) of section 2901 of Pub. L. 111-148. Subsections (c) and (d) of section 2901 amended sections 1396a and 1320b-9, respectively, of Title 42, The Public Health and Welfare.

Section was enacted as part of the Patient Protection and Affordable Care Act, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

### 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 charac-

teristics 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) Health care facility priority system

##### (1) In general

##### (A) Priority system

The Secretary, acting through the Service, shall maintain a health care facility priority system, which—

(i) shall be developed in consultation with Indian tribes and tribal organizations;

(ii) shall give Indian tribes' needs the highest priority;

(iii)(I) may include the lists required in paragraph (2)(B)(ii); and

(II) shall include the methodology required in paragraph (2)(B)(v); and

(III) may include such health care facilities, and such renovation or expansion needs of any health care facility, as the Service may identify; and

(iv) shall provide an opportunity for the nomination of planning, design, and construction projects by the Service, Indian tribes, and tribal organizations for consideration under the priority system at least once every 3 years, or more frequently as the Secretary determines to be appropriate.