

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

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) 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 and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (a), 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.

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 152 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 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

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section related to treatment of payments under medicaid program.

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”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-573, title IV, §401(b)(2), Oct. 29, 1992, 106 Stat. 4565, provided that: “The increase (from 50 per-

cent) 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

Pub. L. 100-713, title IV, §401(c), Nov. 23, 1988, 102 Stat. 4818, 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].”

§ 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.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. 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”.

§ 1644. Grants to and contracts with the Service, Indian tribes, tribal organizations, and urban Indian organizations to facilitate outreach, enrollment, and coverage of Indians under Social Security Act health benefit programs and other health benefits programs

(a) Indian tribes and tribal organizations

The Secretary, acting through the Service, shall make grants to or enter into contracts with Indian tribes and tribal organizations to assist such tribes and tribal organizations in establishing and administering programs on or near reservations and trust lands, including programs to provide outreach and enrollment through video, electronic delivery methods, or telecommunication devices that allow real-time or time-delayed communication between individual Indians and the benefit program, to assist individual Indians—

(1) to enroll for benefits under a program established under title XVIII, XIX, or XXI of the

Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.] and other health benefits programs; and

(2) with respect to such programs for which the charging of premiums and cost sharing is not prohibited under such programs, to pay premiums or cost sharing for coverage for such benefits, which may be based on financial need (as determined by the Indian tribe or tribes or tribal organizations being served based on a schedule of income levels developed or implemented by such tribe, tribes, or tribal organizations).

(b) Conditions

The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any grant or contract which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include requirements that the Indian tribe or tribal organization successfully undertake—

(1) to determine the population of Indians eligible for the benefits described in subsection (a);

(2) to educate Indians with respect to the benefits available under the respective programs;

(3) to provide transportation for such individual Indians to the appropriate offices for enrollment or applications for such benefits; and

(4) to develop and implement methods of improving the participation of Indians in receiving benefits under such programs.

(c) Application to urban Indian organizations

(1) In general

The provisions of subsection (a) shall apply with respect to grants and other funding to urban Indian organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian tribes and tribal organizations with respect to programs on or near reservations.

(2) Requirements

The Secretary shall include in the grants or contracts made or provided under paragraph (1) requirements that are—

(A) consistent with the requirements imposed by the Secretary under subsection (b);

(B) appropriate to urban Indian organizations and urban Indians; and

(C) necessary to effect the purposes of this section.

(d) Facilitating cooperation

The Secretary, acting through the Centers for Medicare & Medicaid Services, shall develop and disseminate best practices that will serve to facilitate cooperation with, and agreements between, States and the Service, Indian tribes, tribal organizations, or urban Indian organizations with respect to the provision of health care items and services to Indians under the programs established under title XVIII, XIX, or XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.].

(e) Agreements relating to improving enrollment of Indians under Social Security Act health benefits programs

For provisions relating to agreements of the Secretary, acting through the Service, for the collection, preparation, and submission of applications by Indians for assistance under the Medicaid and children's health insurance programs established under titles XIX and XXI of the Social Security Act [42 U.S.C. 1396 et seq., 1397aa et seq.], and benefits under the Medicare program established under title XVIII of such Act [42 U.S.C. 1395 et seq.], see subsections (a) and (b) of section 1139 of the Social Security Act [42 U.S.C. 1320b-9].

(f) Definition of premiums and cost sharing

In this section:

(1) Premium

The term "premium" includes any enrollment fee or similar charge.

(2) Cost sharing

The term "cost sharing" includes any deduction, deductible, copayment, coinsurance, or similar charge.

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

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (d), and (e), 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 153 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.

Section was formerly classified to section 1622 of this title.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section related to grants to and contracts with tribal organizations.

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. Sharing arrangements with Federal agencies

(a) Authority

(1) In general

The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian tribes, urban Indian organizations, and tribal organizations and the Department of Veterans Affairs and the Department of Defense.

(2) Consultation by Secretary required

The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian tribes which will be significantly affected by the arrangement.

(b) Limitations

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 Service and the eligibility of any Indian to receive health services through the Service;
- (2) the quality of health care services provided to any Indian through the 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 by the Department of Veterans Affairs or the Department of Defense; or
- (5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

(c) Reimbursement

The Service, Indian tribe, urban Indian organization, or tribal organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian tribe, an urban Indian organization, or a tribal organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law, regardless of whether such services are provided directly by the Service, an Indian tribe, or tribal organization, through purchased/referred care, or through a contract for travel described in section 1621(b) of this title.

(d) Construction

Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

(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; Pub. L. 105-362, title VI, § 601(a)(2)(B), Nov. 10, 1998, 112 Stat. 3285; Pub. L. 106-417, §§ 3(a), 4, Nov. 1, 2000, 114 Stat. 1813, 1816; Pub. L. 108-173, title IX, § 900(e)(6)(B), Dec. 8, 2003, 117 Stat. 2373; Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935; Pub. L. 116-260, div. FF, title XI, § 1113, Dec.

27, 2020, 134 Stat. 3251; Pub. L. 116-311, § 2, Jan. 5, 2021, 134 Stat. 4927.)

Editorial Notes

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 154 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.

Section was formerly set out as a note under section 1395qq of Title 42, The Public Health and Welfare.

AMENDMENTS

2021—Subsec. (c). Pub. L. 116-311 inserted “, regardless of whether such services are provided directly by the Service, an Indian tribe, or tribal organization, through purchased/referred care, or through a contract for travel described in section 1621(b) of this title” before period at end.

2020—Subsec. (a)(1). Pub. L. 116-260, § 1113(1), inserted “urban Indian organizations,” before “and tribal organizations”.

Subsec. (c). Pub. L. 116-260, § 1113(2), inserted “urban Indian organization,” before “or tribal organization” and “an urban Indian organization,” before “or a tribal organization”.

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section related to establishment of program for direct billing of medicare, medicaid, and other third party payors by Indian tribes, tribal organizations, and Alaska Native health organizations.

2003—Subsec. (d)(1). Pub. L. 108-173 substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” in introductory provisions.

2000—Pub. L. 106-417, § 4(a), reenacted section as in effect on Nov. 9, 1998. For text of section as reenacted, see 1998 Amendment note below.

Pub. L. 106-417, § 3(a), amended section generally. For text of section prior to amendment, see subsecs. (a) to (d) of section as set out in 1998 Amendment note below.

Subsec. (e). Pub. L. 106-417, § 4(b), struck out subsec. (e). For text of subsec. (e) prior to amendment, see subsec. (e) of section as set out in 1998 Amendment note below.

1998—Pub. L. 105-362 repealed section. Prior to repeal, section read as follows:

“§1645. Demonstration program for direct billing of medicare, medicaid, and other third party payors

“(a) The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Service under the authority of the Indian Self-Determination Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act shall apply for purposes of the demonstration program.

“(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) of this section shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act and sections 1642(a) and 1680c(b)(2)(A) of this title, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reim-