

**§ 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-

bursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used—

“(A) solely for improving the health resources deficiency level of the Indian tribe, and

“(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act.

“(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) of this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

“(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a) of this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

“(4) Notwithstanding section 1880(c) of the Social Security Act or section 1642(a) of this title, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 1642(a) of this title, for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) of this section during the period of such participation.

“(c)(1) In order to be considered for participation in the demonstration program described in subsection (a) of this section, a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that—

“(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility;

“(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

“(C) the facility meets any requirements which apply to programs operated directly by the Service; and

“(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.

“(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a) of this section. The demonstration program described in subsection (a) of this section shall begin by no later than October 1, 1991, and end on September 30, 2000.

“(d)(1) On November 23, 1988, the Secretary, acting through the Service, shall commence an examination of—

“(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a) of this section, including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and

“(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

“(2) Prior to the commencement of the demonstration program described in subsection (a) of this section, the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

“(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) of this section would be required to report.

“(e) The Secretary shall submit a final report at the end of fiscal year 1996, on the activities carried out

under the demonstration program described in subsection (a) of this section which shall include an evaluation of whether such activities have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Service.

“(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) of this section and the Service under the authority of the Indian Self-Determination Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.”

Subsec. (c)(2). Pub. L. 105-277 substituted “2000” for “1998”.

1996—Subsec. (c)(2). Pub. L. 104-313 substituted “1998” for “1996”.

1992—Subsec. (b)(1). Pub. L. 102-573, §701(c)(3)(A), substituted “sections 1642(a)” for “sections 402(c)” and made technical amendment to reference to section 1680c(b)(2)(A) to reflect renumbering of corresponding section of original act.

Subsec. (b)(4). Pub. L. 102-573, §701(c)(3)(B), substituted “section 1642(a)” for “section 402(c)” in two places.

Subsec. (c)(2). Pub. L. 102-573, §404(1), substituted “1996” for “1995”.

Subsec. (e). Pub. L. 102-573, §404(2), substituted “1996” for “1995”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-417, §3(c), Nov. 1, 2000, 114 Stat. 1816, provided that: “The amendments made by this section [amending this section and sections 1395qq and 1396j of Title 42, The Public Health and Welfare] shall take effect on October 1, 2000.”

Pub. L. 106-417, §4(a), Nov. 1, 2000, 114 Stat. 1816, provided that the reenactment of this section by section 4(a) is effective Nov. 9, 1998.

Pub. L. 106-417, §4(b), Nov. 1, 2000, 114 Stat. 1816, provided that the amendment made by section 4(b) is effective Nov. 10, 1998.

##### FINDINGS

Pub. L. 106-417, §2, Nov. 1, 2000, 114 Stat. 1812, provided findings of Congress relating to amendment of this section by Pub. L. 106-417.

#### § 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.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement Act, which is classified principally to this chap-