

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-

ter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

### § 1647. Eligible Indian veteran services

#### (a) Findings; purpose

##### (1) Findings

Congress finds that—

(A) collaborations between the Secretary and the Secretary of Veterans Affairs regarding the treatment of Indian veterans at facilities of the Service should be encouraged to the maximum extent practicable; and

(B) increased enrollment for services of the Department of Veterans Affairs by veterans who are members of Indian tribes should be encouraged to the maximum extent practicable.

##### (2) Purpose

The purpose of this section is to reaffirm the goals stated in the document entitled “Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service” and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Service).

#### (b) Definitions

In this section:

##### (1) Eligible Indian veteran

The term “eligible Indian veteran” means an Indian or Alaska Native veteran who receives any medical service that is—

(A) authorized under the laws administered by the Secretary of Veterans Affairs; and

(B) administered at a facility of the Service (including a facility operated by an Indian tribe or tribal organization through a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.))<sup>1</sup> pursuant to a local memorandum of understanding.

##### (2) Local memorandum of understanding

The term “local memorandum of understanding” means a memorandum of understanding between the Secretary (or a designee, including the director of any area office of the Service) and the Secretary of Veterans Affairs (or a designee) to implement the document entitled “Memorandum of Understanding Between the VA/Veterans Health Administration And HHS/Indian Health Service” and dated February 25, 2003 (relating to cooperation and resource sharing between the Veterans Health Administration and Indian Health Service).

#### (c) Eligible Indian veterans expenses

##### (1) In general

Notwithstanding any other provision of law, the Secretary shall provide for veteran-related expenses incurred by eligible Indian veterans as described in subsection (b)(1)(B).

##### (2) Method of payment

The Secretary shall establish such guidelines as the Secretary determines to be appro-

priate regarding the method of payments to the Secretary of Veterans Affairs under paragraph (1).

#### (d) Tribal approval of memoranda

In negotiating a local memorandum of understanding with the Secretary of Veterans Affairs regarding the provision of services to eligible Indian veterans, the Secretary shall consult with each Indian tribe that would be affected by the local memorandum of understanding.

#### (e) Funding

##### (1) Treatment

Expenses incurred by the Secretary in carrying out subsection (c)(1) shall not be considered to be Contract Health Service expenses.

##### (2) Use of funds

Of funds made available to the Secretary in appropriations Acts for the Service (excluding funds made available for facilities, Contract Health Services, or contract support costs), the Secretary shall use such sums as are necessary to carry out this section.

(Pub. L. 94-437, title IV, § 407, as added 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 subsec. (b)(1)(B), 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

Section 407 of Pub. L. 94-437 is based on section 155 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 1647, Pub. L. 94-437, title IV, § 407, as added Pub. L. 102-573, title IV, § 406, Oct. 29, 1992, 106 Stat. 4566, authorized appropriations through fiscal year 2000 to carry out this subchapter, prior to repeal by Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 101(b)(7) 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.

### § 1647a. Nondiscrimination under Federal health care programs in qualifications for reimbursement for services

#### (a) Requirement to satisfy generally applicable participation requirements

##### (1) In general

A Federal health care program must accept an entity that is operated by the Service, an Indian tribe, tribal organization, or urban Indian organization as a provider eligible to receive payment under the program for health care services furnished to an Indian on the

<sup>1</sup> See References in Text note below.