thorized appropriations to carry out this subchapter through fiscal year 2000.

The repeal is based on section 101(b)(5) 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.

§ 1621x. Limitation on use of funds

Amounts appropriated to carry out this subchapter may not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(Pub. L. 94–437, title II, § 225, as added Pub. L. 105–12, § 9(f), Apr. 30, 1997, 111 Stat. 27.)

REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in text, is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§ 14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42 and Tables.

EFFECTIVE DATE

Section effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as a note under section 14401 of Title 42, The Public Health and Welfare.

§ 1621y. Contract health service administration and disbursement formula

(a) Submission of report

As soon as practicable after March 23, 2010, the Comptroller General of the United States shall submit to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives, and make available to each Indian tribe, a report describing the results of the study of the Comptroller General regarding the funding of the contract health service program (including historic funding levels and a recommendation of the funding level needed for the program) and the administration of the contract health service program (including the distribution of funds pursuant to the program), as requested by Congress in March 2009, or pursuant to section 1680t of this title.

(b) Consultation with tribes

On receipt of the report under subsection (a), the Secretary shall consult with Indian tribes regarding the contract health service program, including the distribution of funds pursuant to the program—

(1) to determine whether the current distribution formula would require modification if the contract health service program were funded at the level recommended by the Comptroller General;

(2) to identify any inequities in the current distribution formula under the current funding level or inequitable results for any Indian tribe under the funding level recommended by the Comptroller General;

(3) to identify any areas of program administration that may result in the inefficient or ineffective management of the program; and

(4) to identify any other issues and recommendations to improve the administration of the contract health services program and correct any unfair results or funding disparities identified under paragraph (2).

(c) Subsequent action by Secretary

If, after consultation with Indian tribes under subsection (b), the Secretary determines that any issue described in subsection (b)(2) exists, the Secretary may initiate procedures under subchapter III of chapter 5 of title 5 to negotiate or promulgate regulations to establish a disbursement formula for the contract health service program funding.

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

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

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.)

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 ap-

propriated 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 characteristics 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.

(B) Needs of facilities under ISDEAA agreements

The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

(C) Criteria for evaluating needs

For purposes of this subsection, the Secretary, in evaluating the needs of facilities operated under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), shall use the criteria used by the Secretary in evaluating the needs of facilities operated directly by the Service.

(D) Priority of certain projects protected

The priority of any project established under the construction priority system in effect on March 23, 2010, shall not be affected by any change in the construction priority system taking place after that date if the project—

(i) was identified in the fiscal year 2008 Service budget justification as—

(I) 1 of the 10 top-priority inpatient projects;

(II) 1 of the 10 top-priority outpatient projects;

(III) 1 of the 10 top-priority staff quarters developments; or

(IV) 1 of the 10 top-priority Youth Regional Treatment Centers;

(ii) had completed both Phase I and Phase II of the construction priority system in effect on March 23, 2010; or

(iii) is not included in clause (i) or (ii) and is selected, as determined by the Secretary—

(I) on the initiative of the Secretary; or

(II) pursuant to a request of an Indian tribe or tribal organization.

(2) Report; contents

(A) Initial comprehensive report

(i) Definitions

In this subparagraph:

(I) Facilities Appropriation Advisory Board

The term ''Facilities Appropriation Advisory Board'' means the advisory board, comprised of 12 members representing Indian tribes and 2 members representing the Service, established at the discretion of the Director—

(aa) to provide advice and recommendations for policies and procedures

of the programs funded pursuant to facilities appropriations; and

(bb) to address other facilities issues.

(II) Facilities Needs Assessment Workgroup

The term ''Facilities Needs Assessment Workgroup'' means the workgroup established at the discretion of the Director—

(aa) to review the health care facilities construction priority system; and

(bb) to make recommendations to the Facilities Appropriation Advisory Board for revising the priority system.

(ii) Initial report

(I) In general

Not later than 1 year after March 23, 2010, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the comprehensive, national, ranked list of all health care facilities needs for the Service, Indian tribes, and tribal organizations (including inpatient health care facilities, outpatient health care facilities, specialized health care facilities (such as for long-term care and alcohol and drug abuse treatment), wellness centers, and staff quarters, and the renovation and expansion needs, if any, of such facilities) developed by the Service, Indian tribes, and tribal organizations for the Facilities Needs Assessment Workgroup and the Facilities Appropriation Advisory Board.

(II) Inclusions

The initial report shall include—

(aa) the methodology and criteria used by the Service in determining the needs and establishing the ranking of the facilities needs; and

(bb) such other information as the Secretary determines to be appropriate.

(iii) Updates of report

Beginning in calendar year 2011, the Secretary shall—

(I) update the report under clause (ii) not less frequently that once every 5 years; and

(II) include the updated report in the appropriate annual report under subparagraph (B) for submission to Congress under section 1671 of this title.

(B) Annual reports

The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 1671 of this title, a report which sets forth the following:

(i) A description of the health care facility priority system of the Service established under paragraph (1).

(ii) Health care facilities lists, which may include—

(I) the 10 top-priority inpatient health care facilities;

(II) the 10 top-priority outpatient health care facilities;

(III) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment); and

(IV) the 10 top-priority staff quarters developments associated with health care facilities.

(iii) The justification for such order of priority.

(iv) The projected cost of such projects.

(v) The methodology adopted by the Service in establishing priorities under its health care facility priority system.

(3) Requirements for preparation of reports

In preparing the report required under paragraph (2), the Secretary shall—

(A) consult with and obtain information on all health care facilities needs from Indian tribes and tribal organizations; and

(B) review the total unmet needs of all Indian tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

(d) Review of methodology used for health facilities construction priority system

(1) In general

Not later than 1 year after the establishment of the priority system under subsection (c)(1)(A), the Comptroller General of the United States shall prepare and finalize a report reviewing the methodologies applied, and the processes followed, by the Service in making each assessment of needs for the list under subsection (c)(2)(A)(ii) and developing the priority system under subsection (c)(1), including a review of—

(A) the recommendations of the Facilities Appropriation Advisory Board and the Facilities Needs Assessment Workgroup (as those terms are defined in subsection (c)(2)(A)(i)); and

(B) the relevant criteria used in ranking or prioritizing facilities other than hospitals or clinics.

(2) Submission to Congress

The Comptroller General of the United States shall submit the report under paragraph (1) to—

(A) the Committees on Indian Affairs and Appropriations of the Senate;

(B) the Committees on Natural Resources and Appropriations of the House of Representatives; and

(C) the Secretary.

(e) Funding condition

All funds appropriated under section 13 of this title, for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or sections 504 and 505 of that Act (25 U.S.C. 458aaa–3, 458aaa–4).

(f) Development of innovative approaches

The Secretary shall consult and cooperate with Indian tribes and tribal organizations, and confer with urban Indian organizations, in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, that may include—

(1) the establishment of an area distribution fund in which a portion of health facility construction funding could be devoted to all Service areas;

(2) approaches provided for in other provisions of this subchapter; and

(3) other approaches, as the Secretary determines to be appropriate.

(h)[1] Funds appropriated subject to section 450f of this title

All funds appropriated under section 13 of this title for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f].

(g)[2] Priority of certain projects protected

The priority of any project established under the construction priority system in effect on March 23, 2010, shall not be affected by any change in the construction priority system taking place after that date if the project—

(1) was identified in the fiscal year 2008 Service budget justification as—

(A) 1 of the 10 top-priority inpatient projects;

(B) 1 of the 10 top-priority outpatient projects;

(C) 1 of the 10 top-priority staff quarters developments; or

(D) 1 of the 10 top-priority Youth Regional Treatment Centers;

(2) had completed both Phase I and Phase II of the construction priority system in effect on March 23, 2010; or

(3) is not included in clause (i) or (ii)[3] and is selected, as determined by the Secretary—

(A) on the initiative of the Secretary; or

(B) pursuant to a request of an Indian tribe or tribal organization.

(Pub. L. 94–437, title III, §301, Sept. 30, 1976, 90 Stat. 1406; Pub. L. 100–713, title III, §301, Nov. 23, 1988, 102 Stat. 4812; Pub. L. 102–573, title III, §301, title IX, §902(4)(B), Oct. 29, 1992, 106 Stat. 4560, 4591; Pub. L. 111–148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(1)(B), (C), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 111–148 is based on sections 141 and 142 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 were enacted into law by section 10221(a) of Pub. L. 111–148.

AMENDMENTS

2010—Pub. L. 111–148 added subsecs. (c) to (f), redesignated former subsec. (d) as (h), added subsec. (g) at end, and struck out former subsec. (c) which related to annual report on health facility priority system.

1992—Subsec. (a)(2). Pub. L. 102–573, §301(1), substituted ''Health Care Organizations'' for ''Hospitals''.

Subsec. (b)(1). Pub. L. 102–573, §301(2), struck out ''other'' before ''outpatient health care facility'' in introductory provisions and added subpars. (F) and (G).

Subsec. (c). Pub. L. 102–573, §301(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''The President shall include with the budget submitted under section 1105 of title 31, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which—

''(1) comply with applicable construction standards, and

''(2) have been approved by the Secretary.''

Subsec. (c)(1). Pub. L. 102–573, §301(4), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''The Secretary shall submit to the Congress an annual report which sets forth—''.

Subsec. (c)(2) to (5). Pub. L. 102–573, §301(5), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: ''The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after November 23, 1988, and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31.''

Subsecs. (d), (e). Pub. L. 102–573, §§301(3), 902(4)(B), redesignated subsec. (e) as (d) and substituted ''section 102 of the Indian Self-Determination Act'' for ''sections 102 and 103(b) of the Indian Self-Determination Act''. Former subsec. (d) redesignated (c).

1988—Pub. L. 100–713 amended section generally, substituting subsecs. (a) to (e) relating to consultation, closure of facilities, and reports for former subsecs. (a) to (c) relating to construction and renovation of Service facilities.

§1632. Safe water and sanitary waste disposal facilities

(a) Congressional findings

The Congress hereby finds and declares that—

(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

[1] So in original. Subsec. (g) is set out below.

[2] So in original. Subsec. (h) is set out above.

[3] So in original. Probably should be ''paragraph (1) or (2)''.