

§ 1661. Establishment of the Indian Health Service as an agency of the Public Health Service

(a) Establishment

(1) In general

In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

(2) Director

The Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2008, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

(3) Incumbent

The individual serving in the position of Director of the Service on the day before March 23, 2010, shall serve as Director.

(4) Advocacy and consultation

The position of Director is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(b) Agency

The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

(c) Duties

The Director shall—

(1) perform all functions that were, on the day before March 23, 2010, carried out by or under the direction of the individual serving as Director of the Service on that day;

(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians, including by ensuring that all agency directors, managers, and chief executive officers have appropriate and adequate training, experience, skill levels, knowledge, abilities, and education (including continuing training requirements) to competently fulfill the duties of the positions and the mission of the Service;

(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

(A) this chapter;

(B) section 13 of this title;

(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(4) administer all scholarship and loan functions carried out under subchapter I;

(5) directly advise the Secretary concerning the development of all policy- and budget-related matters affecting Indian health;

(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(9) coordinate the activities of the Department concerning matters of Indian health; and

(10) perform such other functions as the Secretary may designate.

(d) Authority

(1) In general

The Secretary, acting through the Director, shall have the authority—

(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Personnel actions

Notwithstanding any other provision of law, the provisions of section 472 of this title,¹ shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

(Pub. L. 94-437, title VI, § 601, as added Pub. L. 100-713, title VI, § 601(a), Nov. 23, 1988, 102 Stat. 4824; amended Pub. L. 102-573, title VI, §§ 601, 602(a)(1), (c), title IX, § 902(6), (7), Oct. 29, 1992, 106 Stat. 4571, 4592; Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(A), 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (c)(3)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, which is classi-

¹ So in original. The comma probably should not appear.

fied generally to subchapter I (§2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

Act of August 16, 1957, referred to in subsec. (c)(3)(D), is Pub. L. 85-151, Aug. 16, 1957, 71 Stat. 370, which is classified generally to subchapter II (§2005 et seq.) of chapter 22 of Title 42. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(3)(E), 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 section 171 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.

“On and after November 23, 1988,” referred to in subsec. (a)(1), was in the original “hereafter” and was translated as meaning the date of enactment of Pub. L. 100-713 which added this section rather than the date of enactment of Pub. L. 111-148, which amended this section generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1661, Pub. L. 94-437, title VI, §601, Sept. 30, 1976, 90 Stat. 1412, related to feasibility study and report to Congress, prior to the general revision of this subchapter by Pub. L. 100-713.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally, revising and restating provisions relating to establishment of the Indian Health Service as an agency of the Public Health Service and inserting additional provisions relating to responsibilities of the Director.

1992—Subsec. (a). Pub. L. 102-573, §602(c), inserted at end “Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.”

Pub. L. 102-573, §602(a)(1), substituted “President, by and with the advice and consent of the Senate” for “Secretary” in second sentence.

Subsec. (c)(3)(D). Pub. L. 102-573, §902(6), substituted “(42 U.S.C. 2005 et seq.)” for “(25 U.S.C. 2005, et seq.)”.

Subsec. (c)(4). Pub. L. 102-573, §601, added par. (4).

Subsec. (d)(1)(C). Pub. L. 102-573, §902(7), substituted “appropriated” for “appropriate”.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-573, title VI, §602(a)(2), Oct. 29, 1992, 106 Stat. 4571, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1993.”

EFFECTIVE DATE

Pub. L. 100-713, title VI, §601(c), Nov. 23, 1988, 102 Stat. 4826, provided that:

“(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act [this section] added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section [Nov. 23, 1988].

“(2) Notwithstanding subsections (b) [set out below] and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.”

INTERIM APPOINTMENT

Pub. L. 102-573, title VI, §602(b), Oct. 29, 1992, 106 Stat. 4571, authorized the President to appoint an individual

to serve as Interim Director of the Service from Jan. 1, 1993, until confirmation of a Director.

TRANSFER OF PERSONNEL, RECORDS, EQUIPMENT, ETC., TO INDIAN HEALTH SERVICE

Pub. L. 100-713, title VI, §601(b), Nov. 23, 1988, 102 Stat. 4826, provided for the transfer within 9 months of Nov. 23, 1988, of personnel, records, equipment, facilities, and interests in property of the Indian Health Service to the Indian Health Service established by Pub. L. 100-713.

§ 1662. Automated management information system

(a) Establishment

(1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include—

(A) a financial management system,

(B) a patient care information system for each area served by the Service,

(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

(b) Provision to Indian tribes and organizations; reimbursement

(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] automated management information systems which—

(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and

(B) meet the management information needs of the Service.

(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

(c) Access to records

Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

(Pub. L. 94-437, title VI, §602, as added Pub. L. 100-713, title VI, §601(a), Nov. 23, 1988, 102 Stat. 4825; amended Pub. L. 102-573, title IX, §901(3), Oct. 29, 1992, 106 Stat. 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88