

**(5) Termination for failure to comply with requirements**

The Secretary may terminate the participation of a tribal health program or<sup>3</sup> in the direct billing program established under this subsection if the Secretary determines that the program has failed to comply with the requirements of paragraph (2). The Secretary shall provide a tribal health program with notice of a determination that the program has failed to comply with any such requirement and a reasonable opportunity to correct such noncompliance prior to terminating the program's participation in the direct billing program established under this subsection.

**(e) Related provisions under the Social Security Act**

For provisions related to subsections (c) and (d), see sections 1880, 1911, and 2107(e)(1)(D)<sup>2</sup> of the Social Security Act [42 U.S.C. 1395qq, 1396j, 1397gg(e)(1)(D)].

(Pub. L. 94-437, title IV, §401, Sept. 30, 1976, 90 Stat. 1408; Pub. L. 102-573, title IV, §401(a), Oct. 29, 1992, 106 Stat. 4565; Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsections (a) to (d), 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. 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. Section 2107(e)(1)(D) of the Social Security Act, referred to in subsec. (e), is section 2107(e)(1)(D) of act Aug. 14, 1935, ch. 531, as added by Pub. L. 111-148, which was redesignated section 2107(e)(1)(F) of act Aug. 14, 1935, ch. 531, by Pub. L. 114-255, div. A, title V, §5005(c)(1)(A), Dec. 13, 2016, 130 Stat. 1194, and which was redesignated section 2107(e)(1)(G) of act Aug. 14, 1935, ch. 531, by Pub. L. 115-123, div. E, title XII, §53102(d)(1)(A), Feb. 9, 2018, 132 Stat. 299. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This chapter, referred to in subsec. (b), 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.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (d)(4), 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 151 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 401 of Pub. L. 94-437, in subsec. (a) amended sections 1395f and 1395n of Title 42, The Public Health and Welfare, in subsec. (b) enacted section 1395qq of Title

42, and in subsections (c) and (d) enacted provisions set out as notes under section 1395qq of Title 42 which were restated in this section.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section related to treatment of payments received by a hospital or skilled nursing facility of the Service for services to Indians under medicare program in determining appropriations for health care and services to Indians.

1992—Pub. L. 102-573 amended section generally, substituting subsections (a) and (b) for former subsections (a) to (d). See Codification note above.

**§ 1642. Purchasing health care coverage**

**(a) In general**

Insofar as amounts are made available under law (including a provision of the Social Security Act [42 U.S.C. 301 et seq.], the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),<sup>1</sup> or other law, other than under section 1644 of this title) to Indian tribes, tribal organizations, and urban Indian organizations for health benefits for Service beneficiaries, Indian tribes, tribal organizations, and urban Indian organizations may use such amounts to purchase health benefits coverage (including coverage for a service, or service within a contract health service delivery area, or any portion of a contract health service delivery area that would otherwise be provided as a contract health service) for such beneficiaries in any manner, including through—

- (1) a tribally owned and operated health care plan;
- (2) a State or locally authorized or licensed health care plan;
- (3) a health insurance provider or managed care organization;
- (4) a self-insured plan; or
- (5) a high deductible or health savings account plan.

**(b) Financial need**

The purchase of coverage under subsection (a) by an Indian tribe, tribal organization, or urban Indian organization may be based on the financial needs of such beneficiaries (as determined by the 1 or more Indian tribes being served based on a schedule of income levels developed or implemented by such 1 or<sup>2</sup> more Indian tribes).

**(c) Expenses for self-insured plan**

In the case of a self-insured plan under subsection (a)(4), the amounts may be used for expenses of operating the plan, including administration and insurance to limit the financial risks to the entity offering the plan.

**(d) Construction**

Nothing in this section shall be construed as affecting the use of any amounts not referred to in subsection (a).

(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.

<sup>3</sup> So in original. The word "or" probably should not appear.

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

<sup>2</sup> So in original. Probably should be "or".

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

## 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”.

## 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 percent) 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.)

## REFERENCES IN TEXT

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