

(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 appropriate 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.)

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.

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

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 same basis as any other provider qualified to participate as a provider of health care services under the program if the entity meets generally applicable State or other requirements for participation as a provider of health care services under the program.

**(2) Satisfaction of State or local licensure or recognition requirements**

Any requirement for participation as a provider of health care services under a Federal health care program that an entity be licensed or recognized under the State or local law where the entity is located to furnish health care services shall be deemed to have been met in the case of an entity operated by the Service, an Indian tribe, tribal organization, or urban Indian organization if the entity meets all the applicable standards for such licensure or recognition, regardless of whether the entity obtains a license or other documentation under such State or local law. In accordance with section 1621t of this title, the absence of the licensure of a health professional employed by such an entity under the State or local law where the entity is located shall not be taken into account for purposes of determining whether the entity meets such standards, if the professional is licensed in another State.

**(b) Application of exclusion from participation in Federal health care programs**

**(1) Excluded entities**

No entity operated by the Service, an Indian tribe, tribal organization, or urban Indian organization that has been excluded from participation in any Federal health care program or for which a license is under suspension or has been revoked by the State where the entity is located shall be eligible to receive pay-

ment or reimbursement under any such program for health care services furnished to an Indian.

**(2) Excluded individuals**

No individual who has been excluded from participation in any Federal health care program or whose State license is under suspension shall be eligible to receive payment or reimbursement under any such program for health care services furnished by that individual, directly or through an entity that is otherwise eligible to receive payment for health care services, to an Indian.

**(3) Federal health care program defined**

In this subsection, the term,<sup>1</sup> “Federal health care program” has the meaning given that term in section 1320a–7b(f) of title 42, except that, for purposes of this subsection, such term shall include the health insurance program under chapter 89 of title 5.

**(c) Related provisions**

For provisions related to nondiscrimination against providers operated by the Service, an Indian tribe, tribal organization, or urban Indian organization, see section 1320b–9(c)<sup>2</sup> of title 42.

(Pub. L. 94–437, title IV, § 408, as added Pub. L. 111–148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

REFERENCES IN TEXT

Section 1320b–9 of title 42, referred to in subsec. (c), relates to improved access to, and delivery of, health care for Indians under subchapters XIX and XXI of chapter 7 of Title 42, The Public Health and Welfare. Subsec. (c) of section 1320b–9 of Title 42 contains definitions of terms.

CODIFICATION

Section 408 of Pub. L. 94–437 is based on section 156 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.

**§ 1647b. Access to Federal insurance**

Notwithstanding the provisions of title 5, Executive order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)<sup>1</sup> or an urban Indian organization carrying out programs under subchapter IV of this chapter shall be entitled to purchase coverage, rights, and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5 and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee’s Fund under such title.

(Pub. L. 94–437, title IV, § 409, as added Pub. L. 111–148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

<sup>1</sup> So in original. The comma probably should not appear.

<sup>2</sup> See References in Text note below.

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

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in text, 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 409 of Pub. L. 94–437 is based on section 157 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.

**§ 1647c. General exceptions**

The requirements of this subchapter shall not apply to any excepted benefits described in paragraph (1)(A) or (3) of section 300gg–91(c) of title 42.

(Pub. L. 94–437, title IV, § 410, as added Pub. L. 111–148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

CODIFICATION

Section 410 of Pub. L. 94–437 is based on section 158 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.

**§ 1647d. Navajo Nation medicaid agency feasibility study**

**(a) Study**

The Secretary shall conduct a study to determine the feasibility of treating the Navajo Nation as a State for the purposes of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], to provide services to Indians living within the boundaries of the Navajo Nation through an entity established having the same authority and performing the same functions as single-State medicaid agencies responsible for the administration of the State plan under title XIX of the Social Security Act.

**(b) Considerations**

In conducting the study, the Secretary shall consider the feasibility of—

(1) assigning and paying all expenditures for the provision of services and related administration funds, under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], to Indians living within the boundaries of the Navajo Nation that are currently paid to or would otherwise be paid to the State of Arizona, New Mexico, or Utah;

(2) providing assistance to the Navajo Nation in the development and implementation of such entity for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act;

(3) providing an appropriate level of matching funds for Federal medical assistance with respect to amounts such entity expends for medical assistance for services and related administrative costs; and

(4) authorizing the Secretary, at the option of the Navajo Nation, to treat the Navajo Na-