

medical facilities and services between the Indian Health Service and the Department of Veterans Affairs and shall, in accordance with subsection (b), prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

(b) Nonimpairment of service quality, eligibility, or priority of access

The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38 which would impair—

- (1) the priority access of any Indian to health care services provided through the Indian Health Service;
- (2) the quality of health care services provided to any Indian through the Indian Health Service;
- (3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;
- (4) the quality of health care services provided to any veteran by the Department of Veterans Affairs;
- (5) the eligibility of any Indian to receive health services through the Indian Health Service; or
- (6) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

(c) Cross utilization of services

(1) Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall implement an agreement under which—

- (A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Department of Veterans Affairs could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and
- (B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the George E. Wahlen Department of Veterans Affairs Medical Center located in Salt Lake City, Utah.

(2) Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

(d) Right to health services

Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c).

(Pub. L. 94-437, title VIII, §816, formerly title VII, §716, as added Pub. L. 100-713, title VII, §710, Nov. 23, 1988, 102 Stat. 4832; amended Pub. L. 102-54, §13(j)(2), June 13, 1991, 105 Stat. 276; renumbered title VIII, §816, and amended Pub. L. 102-573, title VII, §701(a), (b), title IX, §902(9), Oct. 29, 1992, 106 Stat. 4572, 4592; Pub. L. 108-170, title II, §244, Dec. 6, 2003, 117 Stat. 2054.)

Editorial Notes

AMENDMENTS

2003—Subsec. (c)(1)(B). Pub. L. 108-170 substituted “George E. Wahlen Department of Veterans Affairs Medical Center” for “Department of Veterans Affairs medical center”.

1992—Pub. L. 102-573, §902(9), amended section catchline.

1991—Subsecs. (a), (b)(3), (4), (6). Pub. L. 102-54, §13(j)(2)(A), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (c)(1). Pub. L. 102-54, §13(j)(2)(B), substituted “Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall” for “Within 30 days after November 23, 1988, the Director of the Indian Health Service and the Administrator of Veterans’ Affairs are authorized and directed to”.

Subsec. (c)(1)(A), (B). Pub. L. 102-54, §13(j)(2)(A), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (c)(2). Pub. L. 102-54, §13(j)(2)(C), substituted “Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall” for “Not later than 2 years after November 23, 1988, the Secretary and the Administrator of Veterans’ Affairs shall”.

Statutory Notes and Related Subsidiaries

DESIGNATION OF GEORGE E. WAHLEN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Pub. L. 108-170, title II, §244, Dec. 6, 2003, 117 Stat. 2054, provided that: “The Department of Veterans Affairs Medical Center in Salt Lake City, Utah, shall after the date of the enactment of this Act [Dec. 6, 2003] be known and designated as the ‘George E. Wahlen Department of Veterans Affairs Medical Center’. Any references to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the George E. Wahlen Department of Veterans Affairs Medical Center.”

§ 1680g. Reallocation of base resources

(a) Report to Congress

Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

(b) Appropriated amounts

Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

(Pub. L. 94-437, title VIII, §817, formerly title VII, §717, as added Pub. L. 100-713, title VII, §711, Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, §817, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §805, Oct. 29, 1992, 106 Stat. 4572, 4585.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §805, substituted “Secretary has submitted to the President, for inclu-

sion in the report required to be transmitted to the Congress under section 1671 of this title," for "Secretary has submitted to the Congress".

§ 1680h. Demonstration projects for tribal management of health care services

(a) Establishment; grants

(1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources.

(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

(b) Health care contracts

During the period in which a demonstration project established under subsection (a) is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, and preventive health care contracts, to the Indian tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act [42 U.S.C. 300w et seq.] (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a)) shall apply.

(c) Waiver of procurement laws

The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a), but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

(d) Termination; evaluation and report

(1) The demonstration project established under subsection (a) shall terminate on September 30, 1993, or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made.

(2) By no later than September 30, 1996, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) and shall submit to the Congress a report on such evaluations and demonstration projects.

(e) Joint venture demonstration projects

(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service

to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.¹

(Pub. L. 94-437, title VIII, §818, formerly title VII, §718, as added Pub. L. 100-713, title VII, §713, Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, §818, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §808, Oct. 29, 1992, 106 Stat. 4572, 4586.)

Editorial Notes

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title XIX of the Public Health Service Act is classified generally to part A (§300w et seq.) of subchapter XVII of chapter 6A 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 201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (d)(1). Pub. L. 102-573, §808(1)(A), inserted before period at end “, or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made”.

Subsec. (d)(2). Pub. L. 102-573, §808(1)(B), substituted “1996” for “1994”.

Subsec. (e). Pub. L. 102-573, §808(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

§ 1680i. Child sexual abuse treatment programs

(a) Continuation of existing demonstration programs

The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assini-

¹So in original. The words “, shall be recoverable” probably should not appear.