

Public Health Service, HHS

§ 136a.33

Director's designee for the Indian Health Service decision. The decision of the Indian Health Service Director or the Director's designee shall constitute final agency action on the tribe's request. Changes in the boundaries of Health Service Delivery Areas will be published in the FEDERAL REGISTER.

(Approved by the Office of Management and Budget under control number 0915-0107)

[52 FR 35049, Sept. 16, 1987, as amended at 65 FR 53914, Sept. 6, 2000]

§ 136a.16 Beneficiary Identification Cards and verification of tribal membership.

(a) The Indian Health Service will issue Beneficiary Identification Cards as evidence of beneficiary status to persons who are currently eligible for services under § 36a.12(a). Persons requesting Beneficiary Identification Cards must submit or have on file evidence satisfactory to the Indian Health Service of tribal membership and residence within a Health Service Delivery Area. The absence of a Beneficiary Identification Card will not preclude an otherwise eligible Indian from obtaining services though it may delay the administrative determination that an individual is eligible for services on a no charge basis.

(b) For establishing eligibility or obtaining a Beneficiary Identification Card, applicants must demonstrate that they are members of a federally recognized tribe. Membership in a federally recognized tribe is to be determined by the individual tribe or the Bureau of Indian Affairs. Therefore, the Indian Health Service will recognize two methods of demonstrating tribal membership:

(1) Documentation that the applicant meets the requirements of tribal membership as prescribed by the charter, articles of incorporation, or other legal instruments or traditional processes of the tribe and has been officially designated a tribal member by an authorized tribal official or body; or

(2) Certification of tribal enrollment or membership by the Secretary of the Interior acting through the Bureau of Indian Affairs.

(c) Demonstrating membership in a federally recognized tribe is the re-

sponsibility of the applicant. However, the Indian Health Service may consult with the appropriate tribe or the Bureau of Indian Affairs on outstanding questions regarding an applicant's tribal membership if the Indian Health Service has some documentation that it believes may be helpful to the tribe or the Bureau of Indian Affairs in making their determination.

(Approved by the Office of Management and Budget under control number 0915-0107)

[50 FR 35050, Sept. 16, 1987, as amended at 65 FR 53914, Sept. 6, 2000]

Subpart C [Reserved]

Subpart D—Transition Provisions

SOURCE: 52 FR 35050, Sept. 16, 1987, unless otherwise noted.

§ 136a.31 Transition period.

(a) The transition period for full implementation of the new eligibility regulations consists of three parts;

(1) A six month delayed implementation;

(2) A six month grace period; and

(3) A health care continuity period determined by medical factors.

§ 136a.32 Delayed implementation.

(a) The eligibility requirements in subparts A and B of this part become effective March 16, 1988.

(b) During the six month delayed implementation period the former eligibility regulations will apply.

§ 136a.33 Grace period.

(a) Upon the effective date referred to in § 36a.32(a), individuals who would lose their eligibility under the new eligibility regulations published on September 16, 1987, and who have made use of an Indian Health Service of Indian Health Service funded service within three years prior to September 16, 1987 (date of publication of the new eligibility regulations) shall retain their eligibility for a six month grace period ending September 16, 1988. During this grace period such individual's eligibility will continue to be determined under the former regulations except that the new residency requirements established by subparts A and B

§ 136a.34

must be met for the individual to be eligible.

(b) All individuals who receive services during the grace period based on paragraph (a) of this section and whose eligibility will terminate on September 16, 1988, shall be notified in writing that after September 16, 1988 they will no longer be eligible for services as Indian Health Service beneficiaries. Such written notice should include an explanation of their appeal rights as provided in §36a.14 of the part. These patients shall be offered assistance in locating other health care providers and medical assistance programs.

[52 FR 35050, Sept. 16, 1987, as amended at 65 FR 53914, Sept. 6, 2000]

§ 136a.34 Care and treatment of people losing eligibility.

(a) Individuals who lose their eligibility on September 16, 1988, (end of the grace period) and on that date are actively undergoing treatment may still be provided services for a limited period in the following circumstances;

(1) Inpatients in IHS and IHS funded facilities and those receiving inpatient care under contract, including contract health services, may continue to receive such care and necessary follow-up services at Indian Health Service expense until the need for hospitalization and follow-up services has ended as determined by the responsible Indian Health Service or tribal physician, all other conditions being met including medical priorities;

(2) Those actively undergoing a course of outpatient treatment either in Indian Health Service and Indian Health Service funded facilities or through contract health services, termination of which would impair the health of the individual patient, may continue to receive the treatment at Indian Health Service expense for a reasonable length of time, until the course of treatment reaches a point where it may safely be terminated or the patient transferred to other providers as determined by the responsible Indian Health Service or tribal physician, all other conditions being met including medical priorities.

(3) Those under treatment for chronic degenerative conditions may be provided additional treatment at Indian

42 CFR Ch. I (10-1-06 Edition)

Health Service expense for no longer than 1 year beyond the end of the grace period notwithstanding any determination that it was otherwise safe to transfer treatment to other providers, all other conditions being met including medical priorities.

(b) All patients receiving care under paragraph (a) of this section shall be notified in writing that, after discharge from care provided under any of the above circumstances, they will no longer be eligible for services as Indian Health Service beneficiaries. Such notice shall include an explanation of their appeal rights as provided in §36a.14 of this part. These patients shall be offered assistance in locating other health care providers and medical assistance programs.

[52 FR 35050, Sept. 16, 1987, as amended at 65 FR 53914, Sept. 6, 2000]

Subpart E—Preference in Employment

AUTHORITY: 25 U.S.C. 44, 45, 46 and 472; Pub. L. 83-568, 42 U.S.C. 2003.

§ 136a.41 Definitions.

For purposes of making appointments to vacancies in all positions in the Indian Health Service a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; or

(e) Until January 4, 1990 or until the Osage Tribe has formally organized, whichever comes first, a person of at least one-quarter degree Indian ancestry of the Osage Tribe of Indians, whose rolls were closed by an act of Congress.

[43 FR 29783, July 11, 1978, as amended at 54 FR 48246, Nov. 22, 1989]