

## 2. Patient Eligibility, Rights & Grievances

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## 2.1 Patient Eligibility Criteria

A person may be regarded as eligible for services of the IHS Program if he/she is not otherwise excluded by provision of law, and meets the criteria set forth below:

- Is of American Indian and/or Alaska Native descent as evidenced by one or more of the following factors:
  - Is regarded by the community in which he lives as an American Indian and/or Alaska Native;
  - Is a member, enrolled or otherwise, of an American Indian or Alaska Native Tribe or Group under Federal supervision;
  - Beneficiary resides on tax-exempt land or owns restricted property;
  - Actively participates in tribal affairs;
  - Any other reasonable factor indicative of Indian descent;
- Is a non-Indian member of an eligible Indian's household and the medical officer in charge determines that services are necessary to control a public health hazard or an acute infectious disease which constitutes a public health hazard (e.g., TB, HIV, Hepatitis).

Eligibility regulations are defined in the Code of Federal Regulations (CFR 42, 36 & 36A).

## 2.2 Other Eligible Categories of Patients

### 2.2.1 Commissioned Corp and Dependent Eligibility Criteria

The following identified Commissioned Corp groups may be provided direct care that is within the scope of services provided by that facility.

- Active commissioned officers
- Active commissioned officer dependents
- Retired commissioned officers
- Retired commissioned officer dependents

Any referrals to providers outside of the IHS must follow the referral policies of TRICARE, which provides coverage for Commission Officers and their dependents. The IHS will bill TRICARE for payment of services rendered to Commissioned Officers and their dependents.

**2.2.2 Non-Indian Federal Employees (PHS Field Employees)**

Non-Indian Federal employees are eligible for emergency treatment for on-the-job injuries.

At remote facilities Non-Indian Federal employees are eligible for medical services as defined in Public law 90-174 amended Section 324 of the Public Health Service Act, as follows:

“The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in section 8901(1) of title.5 of the United States 80 Stat. 600. Code) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. . . .”

The following facilities are designated as remote facilities.

**Remote Hospitals:**

PHS Alaska Native Hospital	Barrow, Alaska Kanakanak, Alaska Bethel, Alaska Kotzebue, Alaska Tanana, Alaska
Arizona, PHS Indian Hospital	Fort Defiance Keams Canyon Parker Sells Tuba City Whiteriver
New Mexico hospitals	Crownpoint Shiprock Zuni
Oklahoma hospitals	Talihina
Minnesota hospitals	Redlake
Montana hospitals	Browning Harlem

**Other Remote Medical Facilities:**

PHS Alaska Native Health Center	Fort Yukon Nome
Arizona, PHS Indian Health Center	Kayenta Peach Springs
Nevada	Owyhee
New Mexico	Dulce
Montana	Lame Deer Rocky Boy's
North Dakota	Fort Yates
South Dakota	Eagle Butte Rosebud
Washington	Neah Bay Taholah
Wyoming	Fort Washakie

At a remote medical facility the Service is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees and their dependents that reside or work within a 30-mile radius of the remote facility.

The remote facility may also provide such services to Federal employees and their dependents, who reside or work outside of the 30-mile radius of the remote facility, AND

- who would otherwise be required to travel a greater distance from their residence or place of employment to the remote facility, *or*
- for whom transportation for private care is greater than the distance from their residence or place of employment to the remote facility, *or*
- for whom transportation for private care from their place of residence or employment is unavailable, hazardous, protracted, or unreasonably expensive, due to unfavorable factors such as unpaved or mountainous winding road or toll bridges and roads or adverse weather conditions.

The applicant will establish his status as a Federal employee to the satisfaction of the Service Unit Director.

The Service Unit Director is authorized to establish limitations and priorities for furnishing medical care to Federal employees and their dependents, as dictated by the primary mission of circumstances related to the provision of medical care

The Service unit Director of a remote station or his designee may deny treatment of care to Federal employees and their dependents

- who cannot establish their status to the satisfaction of the Service Unit Director, OR
- who cannot establish that they must otherwise travel at least thirty miles for private health services, *or*
- for whom transportation for private care is unavailable, hazardous, protracted, or unreasonably expensive due to unfavorable factors such as unusual climatic conditions, un-surfaced or mountainous winding roads, or toll bridges and roads.

A written notice of such denial will be given and a copy of each notice of denial will be retained at the remote facility.

### **2.2.3 Other Eligibility Considerations**

An Indian is not required to be a citizen of the U.S. to be eligible for contract health services (CHS). The Indian (Canadian or Mexican) must

- Reside in the U.S. AND
- Be a member of a tribe whose traditional land is divided by the Canadian border (e.g., St. Regis Mohawk, Blackfeet) or Mexican border (e.g., Tohono O'Odham).

Section 709(b) of the Indian Health Care Improvement Act, until such time as any subsequent law may otherwise provide, states that the following California Indians shall be eligible for health services provided by the Service:

- (1) any member of a federally recognized Indian tribe;

For a list of eligible tribes, see the *Federal Register, Part II Department of the Interior, Bureau of Indian Affairs, Volume 70/No. 226/November 25, 2005/Notices: "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs."* To view this notice in text or PDF format, go to this website,

[http://www.access.gpo.gov/su\\_docs/fedreg/a051125c.html](http://www.access.gpo.gov/su_docs/fedreg/a051125c.html)

and scroll to "Separate Parts In This Issue."

- (2) any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant is
  - (A) living in California,
  - (B) a member of the Indian community served by a local program of the Service, and
  - (C) regarded as an Indian by the community in which the descendant lives;
- (3) any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California; and
- (4) any Indian in California who is listed on the plans for distribution of assets of California Rancherias and reservations under the Act of August 18, 1958 (72 STAT. 619), and any descendant of such an Indian. Section 709 (c) [which] states that nothing in this Section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

Indians adopted by non-Indian parents must meet all CHS requirements to be eligible for care, that is, reside in a Contract Health Services Delivery Area (CHSDA).

**Foster/Custodial Children** – Indian children who are placed in foster care outside a CHSDA by order of a court of competent jurisdiction and who were eligible for CHS at the time of the court order shall continue to be eligible for CHS while in foster care.

Section 813 of the Indian Health Care Improvement Act, P.L. 94-437, as amended, states in part:

- (a) (1) Any individual who
  - (A) has not attained 19 years of age,
  - (B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and
  - (C) is not otherwise eligible for the health services provided by the Service, shall be provided by the Service on the same basis and subject to the same rules that “apply to eligible Indians until such individual attains 19 years of age.

- (2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian."

A non-Indian woman pregnant with an eligible Indian's child, who resides within a CHSDA, is eligible for CHS during pregnancy through post partum (usually 6 weeks). If unmarried, such a woman is eligible for CHS, if the eligible Indian male states in writing that he is the father of the unborn child, or it is determined by order of a court of competent jurisdiction. This will ensure health services to the unborn.

A non-Indian member of an eligible Indian's household who resides within a CHSDA is eligible for CHS if the medical officer in charge determines that services are necessary to control a public health hazard or an acute infectious disease, which constitutes a public health hazard.

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**Note:** Indian people, who are eligible for tribal membership but who do not wish to exercise their membership eligibility for whatever personal reasons they may have, are free to make this choice. However, it is the responsibility of these individuals to provide the necessary eligibility information to receive ongoing services at IHS. The IHS can assist with this process by providing information on the requirements to document tribal enrollment or descendency.

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## 2.3 Determination of the Degree of Indian or Alaska Native Blood

A Certificate of Degree of Indian or Alaska Native Blood (CDIB), or proof of eligibility document, certifies that an individual possesses a specific degree of Indian blood of a federally recognized Indian tribe(s). A Tribe or Bureau of Indian Affairs official issues the CDIB. The Certificate is issued to establish the individual's eligibility for those programs and services based on their status as American Indians and Alaska Natives.

### 2.3.1 Computation of the Degree of Indian Blood

The degree of Indian blood is computed from lineal ancestors of Indian blood, who were enrolled with a federally recognized Indian tribe or whose names appear on the designated base rolls of a federally recognized Indian Tribe.

To calculate your total Indian blood degree, add together your blood degree obtained from your birth mother and your blood degree obtained from your proven birth father.

**Examples:**

- One-half of the Indian blood is obtained from each of your birth parents
- One-half of the Indian blood is from your birth mother.

If your grandmother was full blood, your mother obtained one-half Indian blood from your grandmother; and if your mother obtained no Indian blood through her father, you obtain only one-fourth Indian blood from your mother.

- One-half of the Indian blood is obtained from your birth father.

If you were born out of wedlock, then you obtain one-half of the Indian blood from your birth father only if his identity is proven.

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**Note:** An adoptive parent is not a lineal ancestor and blood degree cannot be derived from an adoptive parent.

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To determine a child's degree of Indian blood, see Part 2, Appendix B, Blood Quantum Formula (Excel spreadsheet), in which you enter the blood quantum of the parents, and it calculates the child's degree of Indian blood.

### 2.3.2 Obtaining a Certificate of Degree of Indian or Alaska Native Blood

Requirements include the following:

- The relationship to an enrolled member(s) of a federally recognized Indian tribe must be demonstrated.
- The maiden names of all women listed on the Request for CDIB must be documented.
- A certified copy of a Birth Certificate is required.

- If a parent is not enrolled with a federally recognized Indian tribe, a certified copy of that parent's Birth or Death Certificate is required.
- In the case of adoption, the degree of Indian blood of the natural (birth) parent must be proven.

Contact your local Tribal agency to obtain a Certificate of Degree of Indian Blood (CDIB) and specific requirements.

## **2.4 Patient Rights and Grievances**

### **2.4.1 IHS Policy**

Each Indian health Service Area will develop and promulgate a written statement of patient rights. Such statements of patient rights should be developed in cooperation with the Area Indian Health Boards and must have their concurrence.

At the minimum, these statements must include an affirmation of the patient's rights to:

- Services, within their availability or capability of being provided
- Considerate and respectful treatment
- Privacy and confidentiality of medical information
- Information on his or her condition, including the right to give or withhold consent for treatment, referral, or transfer
- Continuity of care and information regarding what health services are available, and where and how they may be obtained
- Knowledge of hospital rules and regulations applying to patient conduct
- Access to an established patient grievance procedure
- Selection of an interpreter when requested and available

Each Area will have in place a mechanism to insure that patient grievances are given full and fair consideration to the highest level of appeal. The Area's grievance procedure will include a provision that a designated grievance committee exist at each Service Unit. This committee may be the local Indian Health Board, or it may be another group or committee that includes Indian representatives and has been approved for this purpose by the local tribal government and Service Unit Administration.

Ultimate appeal at the local level will be to the Service Unit Director, who must initiate an investigation and provide a written reply, both within specified periods of time. Unresolved complaints may then be appealed to Area Health Board and/or the Area Director. Final decisions will be made by the Area Director.

The Area will insure that each Service Unit has a positive mechanism for disseminating information on patient rights and the grievance process. At the minimum, written explanations of the grievance process and patient rights must be

- Posted prominently in the waiting areas of all IHS facilities.
- Periodically distributed to the community.
- Included in the orientation process for all new IHS staff.

## 2.4.2 Example of Patients' Rights Statement

Each patient has a right to

- **Access to Care**

Individuals shall be accorded impartial access to treatment or accommodations that are available or medically indicated regardless of race, creed, sex, national origin, or sources for payment of care.

- **Respect and Dignity**

The patient has the right to considerate, respectful care at all times and under all circumstances, with recognition of his or her personal dignity.

- **Privacy and Confidentiality**

The patient has the right, within the law, to personal and informational privacy, as follows:

- To refuse to talk with or see anyone not officially connected with the hospital/clinic, including visitor or persons officially connected with the hospital/clinic but not directly involved in his or her care
- To wear appropriate personal clothing and symbolic items, as long as they do not interfere with diagnostic procedures or treatment
- To be interviewed and examined in surroundings designed to ensure reasonable visual and auditory physical examination, treatment, or procedure performed by a health professional of the opposite sex, and the right not to remain disrobed any longer than is required for accomplishing the medical purpose for which the patient was asked to disrobe.

- To expect that any discussion or consultation involving his or her case will be conducted discreetly and that individuals not directly involved in his or her care will not be present without the patient's permission.
- To have his or her medical record read only by individuals directly involved in his or her treatment, or in the monitoring of its quality. Other individuals can only read the patient's medical record on his or her written authorization or that of his or her legally authorized representative.
- To expect all communications and other records pertaining to his or her care, including the source of payment for any treatment, to be treated as confidential.
- To request a transfer to another room if another patient or a visitor in the room is unreasonably disturbing the patient by any actions.
- To be placed in protective privacy when considered necessary for personal safety.

- **Personal Safety**

The patient has the right to expect reasonable safety insofar as the hospital practices and environment are concerned.

- **Identity**

The patient has the right to know the identity and professional status of individuals providing service to him or her and to know which provider or other practitioner is primarily responsible for his or her care. This includes the patient's right to know the existence of any professional relationship among individuals who are treating him or her, as well as the relationship to any other health care or educational institutions involved in the patient's care. Participation by patients in clinical training programs or in the gathering of data for research purposes should be voluntary.

- **Information**

The patient has the right to obtain from the practitioner responsible for coordinating his or her care, complete and current information concerning the patient's diagnosis (to the degree known), treatment, and any known prognosis. This information should be communicated in terms that the patient can reasonably be expected to understand. When it is not medically advisable to give such information to the patient, the information should be made available to a legally authorized individual.

- **Communication**

The patient has the right of access to people outside the hospital by means of visitors and by oral and written communication. When the patient does not speak or understand the language of the community, he or she should have access to an interpreter