DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Indian Health Service
Rockville MD 20857

FEB 23 1993

TO: Area Directors

FROM: Deputy Director

SUBJECT: Use of Contract Health Services Funds for Direct Services

The Contract Health Services (CHS) Branch has been presented with several requests to allow the use of CHS funds to pay non-IHS providers for direct care services delivered at Indian Health Service (IHS) facilities. These requests are usually for services provided through contracts with private physician groups or individual physicians.

The IHS/CHS policy is to pay for those services with hospital and clinic funds. However, there may be certain situations where this is not possible, and the use of CHS funds is required. In these situations, CHS funds may be used as long as persons dependent on CHS funds receive a level of services comparable to that of patients served directly by an IHS facility. The following paragraphs provide guidance as to when and how CHS funds may be used to support direct care services.

The Code of Federal Regulations (CFR), Title 43, Section 36.21 (e) (1986), defines CHS as follows:

> "Contract health services" means health services provided at the expense of the Indian Health Service from public or private medical or hospital facilities other than those of the Service. (emphasis added)

The only restricting language requires that all medical care be purchased from private medical or hospital facilities that are not operated/managed by the IHS. Since the published regulations cited above do not indicate where the CHS "provided at the expense of the Indian Health Service," will be received by the patient, the regulations have left the site of the services open for interpretation by the IHS.

The IHS Manual, Chapter 3, CHS, signed January 5, 1993, by the Director, IHS, under Contract Health Services to Support Direct Care, 2-3.3, C., p.3, constructs the IHS' interpretation of the CFR cited above. Simply stated, CHS funds can be used in support of IHS direct care services. However, this statement implies that before CHS funds can be used for providing health care in our facilities, the IHS must have an ongoing activity that requires additional medical support that the IHS is not capable of providing through its normal direct care operations and normal course of business. This does not include the establishment of new services, or the re-establishment of discontinued services.

An example of contract to support direct is payment for private physicians who support specialty clinics in our facilities. The specialty clinic physicians must function as independent contractors, and must possess qualifications in a sub-specialty that the IHS cannot or does not ordinarily retain. As a result, the relationship with private providers who operate our specialty clinics must always be under a contract negotiated by the Area contracting officer. These contracts are in place to increase the efficient use of CHS funds, as opposed to conserving hospital and clinic funds, and human resources. This policy is consistent with the CHS' managed care efforts. Using CHS funds is not permissible for retaining any other private professional or non-professional staff in the service unit setting. It is not permissible since the private non-physician staff, retained with CHS funds, does not function as an independent contractor because of required supervision by IHS service unit management.

To expend CHS funds for *locum tenens*, Area Directors must submit individual service unit requests to the Headquarters (HQ) CHS Branch Chief and obtain prior approval. An Area Director must submit an additional request for each service unit when CHS funds are to be expended for *locum tenens* for more than 9 months. In addition, to meet this directive, Area Directors must submit quarterly recruitment and CHS cost reports to the HQ CHS Branch to ensure that effective physician recruitment efforts are made by their respective Areas. The report format is attached.

To summarize, whenever services are provided within IHS facilities by personnel who are not physicians functioning as independent contractors, the IHS must expend hospital and clinic funds for those personnel who are providing such services. Whenever medical services are provided by non-IHS physicians serving as *locum tenens*, or staffing specialty clinics in IHS facilities, then it is permissible to expend CHS funds for the payment of these services after the Area Director has obtained prior approval.

Please take corrective action to ensure that your Area CHS program is in compliance with these regulations.

I trust this information is helpful.

/ Michel E. Lincoln /
Michel E. Lincoln

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Indian Health Service
Rockville MD 20857

FEB -2 1994

TO: Area Directors
Area Contract Health Services Officers

FROM: Acting Director

SUBJECT: Use of Contract Health Services Funds for Direct Care Services

In order to allow Area Directors and service unit directors maximum flexibility in managing increasingly scarce resources, I am revising my February 23, 1993, memorandum that restricted the use of contract health services (CHS) funds for direct care services. If hospital and clinic funds or Medicare/Medicaid funds are not available, CHS funds may be considered as an optional source of funding to procure non-physician medical care provider services that are required to maintain direct care services (e.g., nurse anesthetists, nurse midwives). The required service must be an existing ongoing direct care activity that the service unit has been unable to provide through direct hire. Hospital and clinic funds should still be considered as the preferred source of funding for these types of contracts whenever possible.

In addition, it will no longer be necessary to seek Headquarters approvals in order to use CHS funds to procure physician provider services in support of direct care (e.g., locum tenens). The Area Directors and service unit directors will continue to be responsible for ensuring that adequate CHS funding remains available to guarantee equal access to services for patients dependent upon CHS. I have requested that the Headquarters CHS Branch monitor service unit expenditures of CHS funds for direct care services when they perform their CHS management reviews of the Areas and service units.

for Michel E. Lincoln