

(5) Fetal alcohol spectrum disorders**(A) In general**

The term “fetal alcohol spectrum disorders” includes a range of effects that can occur in an individual whose mother drank alcohol during pregnancy, including physical, mental, behavioral, and/or learning disabilities with possible lifelong implications.

(B) Inclusions

The term “fetal alcohol spectrum disorders” may include—

- (i) fetal alcohol syndrome (FAS);
- (ii) partial fetal alcohol syndrome (partial FAS);
- (iii) alcohol-related birth defects (ARBD); and
- (iv) alcohol-related neurodevelopmental disorders (ARND).

(6) FAS or fetal alcohol syndrome

The term “FAS” or “fetal alcohol syndrome” means a syndrome in which, with a history of maternal alcohol consumption during pregnancy, the following criteria are met:

- (A) Central nervous system involvement, such as mental retardation, developmental delay, intellectual deficit, microencephaly, or neurological abnormalities.
- (B) Craniofacial abnormalities with at least 2 of the following:
 - (i) Microphthalmia.
 - (ii) Short palpebral fissures.
 - (iii) Poorly developed philtrum.
 - (iv) Thin upper lip.
 - (v) Flat nasal bridge.
 - (vi) Short upturned nose.
- (C) Prenatal or postnatal growth delay.

(7) Rehabilitation

The term “rehabilitation” means medical and health care services that—

- (A) are recommended by a physician or licensed practitioner of the healing arts within the scope of their practice under applicable law;
- (B) are furnished in a facility, home, or other setting in accordance with applicable standards; and
- (C) have as their purpose any of the following:
 - (i) The maximum attainment of physical, mental, and developmental functioning.
 - (ii) Averting deterioration in physical or mental functional status.
 - (iii) The maintenance of physical or mental health functional status.

(8) Substance abuse

The term “substance abuse” includes inhalant abuse.

(Pub. L. 94-437, title VII, §701, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

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Section 701 of Pub. L. 94-437 is based on section 181 of title I of S. 1790, One Hundred Eleventh Congress, as re-

ported 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 1665, Pub. L. 94-437, title VII, §701, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4572, related to responsibilities of Indian Health Service for alcohol and substance abuse prevention and treatment, prior to the general amendment of this subchapter by Pub. L. 111-148.

§ 1665a. Behavioral health prevention and treatment services**(a) Purposes**

The purposes of this section are as follows:

(1) To authorize and direct the Secretary, acting through the Service, Indian tribes, and tribal organizations, to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs.

(2) To provide information, direction, and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.

(3) To assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior.

(4) To provide authority and opportunities for Indian tribes and tribal organizations to develop, implement, and coordinate with community-based programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams.

(5) To ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access.

(6) To modify or supplement existing programs and authorities in the areas identified in paragraph (2).

(b) Plans**(1) Development**

The Secretary, acting through the Service, Indian tribes, and tribal organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, and urban Indian organizations to develop local plans, and for all such groups to participate in developing areawide plans for Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

(A) An assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional and self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

- (i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

(ii) an estimate of the financial and human cost attributable to such illness or behavior.

(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c).

(C) An estimate of the additional funding needed by the Service, Indian tribes, tribal organizations, and urban Indian organizations to meet their responsibilities under the plans.

(2) National clearinghouse

The Secretary, acting through the Service, shall coordinate with existing national clearinghouses and information centers to include at the clearinghouses and centers plans and reports on the outcomes of such plans developed by Indian tribes, tribal organizations, urban Indian organizations, and Service areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian tribe, tribal organization, urban Indian organization, or the Service.

(3) Technical assistance

The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

(c) Programs

The Secretary, acting through the Service, shall provide, to the extent feasible and if funding is available, programs including the following:

(1) Comprehensive care

A comprehensive continuum of behavioral health care which provides—

(A) community-based prevention, intervention, outpatient, and behavioral health aftercare;

(B) detoxification (social and medical);

(C) acute hospitalization;

(D) intensive outpatient/day treatment;

(E) residential treatment;

(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

(G) emergency shelter;

(H) intensive case management;

(I) diagnostic services; and

(J) promotion of healthy approaches to risk and safety issues, including injury prevention.

(2) Child care

Behavioral health services for Indians from birth through age 17, including—

(A) preschool and school age fetal alcohol spectrum disorder services, including assessment and behavioral intervention;

(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

(C) identification and treatment of co-occurring disorders and comorbidity;

(D) prevention of alcohol, drug, inhalant, and tobacco use;

(E) early intervention, treatment, and aftercare;

(F) promotion of healthy approaches to risk and safety issues; and

(G) identification and treatment of neglect and physical, mental, and sexual abuse.

(3) Adult care

Behavioral health services for Indians from age 18 through 55, including—

(A) early intervention, treatment, and aftercare;

(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

(D) promotion of healthy approaches for risk-related behavior;

(E) treatment services for women at risk of giving birth to a child with a fetal alcohol spectrum disorder; and

(F) sex specific treatment for sexual assault and domestic violence.

(4) Family care

Behavioral health services for families, including—

(A) early intervention, treatment, and aftercare for affected families;

(B) treatment for sexual assault and domestic violence; and

(C) promotion of healthy approaches relating to parenting, domestic violence, and other abuse issues.

(5) Elder care

Behavioral health services for Indians 56 years of age and older, including—

(A) early intervention, treatment, and aftercare;

(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

(D) promotion of healthy approaches to managing conditions related to aging;

(E) sex specific treatment for sexual assault, domestic violence, neglect, physical and mental abuse and exploitation; and

(F) identification and treatment of dementias regardless of cause.

(d) Community behavioral health plan

(1) Establishment

The governing body of any Indian tribe, tribal organization, or urban Indian organization may adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat substance abuse, mental illness, or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service popu-

lation. This plan should include behavioral health services, social services, intensive outpatient services, and continuing aftercare.

(2) Technical assistance

At the request of an Indian tribe, tribal organization, or urban Indian organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian tribe, tribal organization, or urban Indian organization in the development and implementation of such plan.

(3) Funding

The Secretary, acting through the Service, Indian tribes, and tribal organizations, may make funding available to Indian tribes and tribal organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

(e) Coordination for availability of services

The Secretary, acting through the Service, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of their place of residence.

(f) Mental health care need assessment

Not later than 1 year after March 23, 2010, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

(Pub. L. 94-437, title VII, §702, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

Section 702 of Pub. L. 94-437 is based on section 181 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 1665a, Pub. L. 94-437, title VII, §702, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4573, provided for Indian Health Service program, prior to the general amendment of this subchapter by Pub. L. 111-148.

§ 1665b. Memoranda of agreement with the Department of the Interior

(a) Contents

Not later than 1 year after March 23, 2010, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda¹ of agreement, or review and

¹ So in original. Probably should be “memorandum”.

update any existing memoranda of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) under which the Secretaries address the following:

(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

(2) The existing Federal, tribal, State, local, and private services, resources, and programs available to provide behavioral health services for Indians.

(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

(4)(A) The right of Indians, as citizens of the United States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

(B) The right of Indians to participate in, and receive the benefit of, such services.

(C) The actions necessary to protect the exercise of such right.

(5) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and Service unit, Service area, and headquarters levels to address the problems identified in paragraph (1).

(6) A strategy for the comprehensive coordination of the behavioral health services provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and Indian tribes and tribal organizations (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.)) with behavioral health initiatives pursuant to this chapter, particularly with respect to the referral and treatment of dually diagnosed individuals requiring behavioral health and substance abuse treatment; and

(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services.

(7) Directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 1665a(c) of this title and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412).

(8) Providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian tribes and tribal organizations.

(b) Specific provisions required

The memoranda of agreement updated or entered into pursuant to subsection (a) shall in-