

**§ 136a.42 Appointment actions.**

(a) Preference will be afforded a person meeting any one of the definitions of § 36a.41 whether the placement in the position involves initial appointment, reappointment, reinstatement, transfer, reassignment, promotion, or any other personnel action intended to fill a vacancy.

(b) Preference eligibles may be given a schedule A excepted appointment under 5 CFR 213.3116(b)(8). If the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

[43 FR 29783, July 11, 1978, as amended at 65 FR 53914, Sept. 6, 2000]

**§ 136a.43 Application procedure for preference eligibility.**

To be considered a preference eligible, the person must submit with the employment application a Bureau of Indian Affairs certification that the person is an Indian as defined by § 36a.41 except that an employee of the Indian Health Service who has a certificate of preference eligibility on file in the Official Personnel Folder is not required to resubmit such proof but may instead include a statement on the application that proof of eligibility is on file in the Official Personnel Folder.

[43 FR 29783, July 11, 1978, as amended at 65 FR 53914, Sept. 6, 2000]

### **Subpart F—Abortions and Related Medical Services in Indian Health Service Facilities and Indian Health Service Programs**

AUTHORITY: Sec. 1, 42 Stat. 208, 25 U.S.C. 13; sec. 1, 68 Stat. 674, 42 U.S.C. 2001; sec. 3, 68 Stat. 674, 42 U.S.C. 2003.

SOURCE: 47 FR 4018, Jan. 27, 1982, unless otherwise noted.

**§ 136a.51 Applicability.**

This subpart is applicable to the use of Federal funds in providing health services to Indians in accordance with the provisions of subparts A, B, C, H, I and J of this part.

**§ 136a.52 Definitions.**

As used in this subpart:

*Physician* means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery at an Indian Health Service or tribally run facility, or by the State in which he or she practices.

**§ 136a.53 General rule.**

Federal funds may not be used to pay for or otherwise provide for abortions in the programs described in § 36a.51, except under the Circumstances described in § 36a.54.

[47 FR 4018, Jan. 27, 1982, as amended at 65 FR 53914, Sept. 6, 2000]

**§ 136a.54 Life of the mother would be endangered.**

Federal funds are available for an abortion when a physician has found and so certified in writing to the appropriate tribal or other contracting organization, or service unit or area director, that "on the basis of my professional judgement the life of the mother would be endangered if the fetus were carried to term." The certification must contain the name and address of the patient.

**§ 136a.55 Drugs and devices and termination of ectopic pregnancies.**

Federal funds are available for drugs or devices to prevent implantation of the fertilized ovum, and for medical procedures necessary for the termination of an ectopic pregnancy.

**§ 136a.56 Recordkeeping requirements.**

Documents required by § 36a.54 must be maintained for three years pursuant to the retention and custodial requirements for records at 45 CFR 74.20 *et seq.*

[47 FR 4018, Jan. 27, 1982, as amended at 65 FR 53914, Sept. 6, 2000]

**§ 136a.57 Confidentiality.**

Information which is acquired in connection with the requirements of this subpart may not be disclosed in a form which permits the identification of an individual without the individual's consent, except as may be necessary for the health of the individual or as may be necessary for the Secretary to monitor Indian Health Service program

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activities. In any event, any disclosure shall be subject to appropriate safeguards which will minimize the likelihood of disclosures of personal information in identifiable form.

**Subpart G—Residual Status**

**§ 136a.61 Payor of last resort.**

(a) The Indian Health Service is the payor of last resort of persons defined as eligible for contract health services under these regulations, notwithstanding any State or local law or regulation to the contrary.

(b) Accordingly, the Indian Health Service will not be responsible for or authorize payment for contract health services to the extent that:

(1) The Indian is eligible for alternate resources, as defined in paragraph (c), or

(2) The Indian would be eligible for alternate resources if he or she were to apply for them, or

(3) The Indian would be eligible for alternate resources under State or local law or regulation but for the Indian's eligibility for contract health services, or other health services, from the Indian Health Service or Indian Health Service funded programs.

(c) *Alternate resources* means health care resources other than those of the Indian Health Service. Such resources include health care providers and institutions, and health care programs for the payment of health services including but not limited to programs under title XVIII and XIX of the Social Security Act (i.e., Medicare, Medicaid), State or local health care programs and private insurance.

[55 FR 4609, Feb. 9, 1990]

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