



MAR 20 2020

Dear Urban Indian Organization Leader:

I am writing to provide an update on the Agency's determination that Urban Indian Organizations (UIOs) are not eligible to participate in the Community Health Aide Program (CHAP) authorized by Federal law at 25 U.S.C. § 1616l.

Under the Indian Health Care Improvement Act (IHCIA), the Indian Health Service (IHS) has operated a CHAP in the State of Alaska. 25 U.S.C. § 1616l(a). In 2010, Congress authorized the IHS to expand that program and create a national CHAP. 25 U.S.C. § 1616l(d). The authority is for the "Service," which refers to the IHS itself. 25 U.S.C. § 1603(18). Since the authority is limited to the Service, it cannot be expanded beyond IHS unless authorized elsewhere in the law. For example, through the Indian Self-Determination and Education Assistance Act (ISDEAA), Tribal contractors step into the place of the IHS and assume operation of services that the IHS would otherwise provide under the IHCIA, including a CHAP. *See* 25 U.S.C. §§ 5321, 5385.

While UIOs occupy an important role in the Indian health system, these organizations are not the "Service" and are not authorized under the ISDEAA to assume operation of services that the IHS would otherwise provide. A UIO is a nonprofit corporate body organized under state law that the IHS funds pursuant to IHCIA-authorized Federal procurement contracts or grants for health services the organizations provide to urban Indians. *See* 25 U.S.C. §§ 1603(29), 1653.

Subchapter IV of the IHCIA establishes the IHS's authority to award contracts and grants to UIOs. 25 U.S.C. § 1651-1660h. Urban Indian Organizations are authorized to participate in IHCIA programs authorized in other subchapters, if the relevant provision specifically authorizes their participation. So, for example, UIOs are referenced in some of the health professions authorities in Subchapter I. *See, e.g.*, 25 U.S.C. § 1613. Inclusion of UIOs in some provisions, however, does not transfer to other provisions. To the contrary, general rules of statutory construction tell us that the specific reference to UIOs in certain provisions prevents IHS from including them under other provisions that do not reference UIOs. For the same reason, although American Indian and Alaska Native (AI/AN) Tribes and Tribal Organizations are mentioned throughout the IHCIA, neither are eligible to enter into a contract with the IHS pursuant to Subchapter IV of the IHCIA; instead, Subchapter IV authorizes the IHS to provide contracts or grants to UIOs specifically, and Indian Tribes and Tribal Organizations are not eligible for such awards. For these reasons, UIOs are not eligible to participate in the CHAP.

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If you have any questions, please contact Rose Weahkee, Ph.D., Acting Director, Office of Urban Indian Health Programs, IHS, by telephone at (301) 480-3184, or by e-mail at rose.weahkee@ihs.gov, or to Mr. Darrell LaRoche, Director, Office of Clinical and Preventive Services, IHS, by e-mail at IHSCHAP@ihs.gov.

Sincerely,

/Michael D. Weahkee/

RADM Michael D. Weahkee, MBA, MHSA
Assistant Surgeon General, U.S. Public Health Service
Principal Deputy Director