

# INDIAN AFFAIRS MANUAL

**1.1 Purpose.** This chapter establishes Indian Affairs' (IA) policy for the management of child protection and child welfare services for Indian children and families. Specifically, this policy provides roles and responsibilities for preventing and addressing child abuse and child neglect, and for protecting and improving the quality of life of Indian children and their families.

**1.2 Scope.** This policy applies to all IA program offices under the authority of the Assistant Secretary - Indian Affairs (AS-IA) involved in providing child protection and child welfare services to Indian children and families. This policy may also apply to entities carrying out activities on behalf of IA that are authorized under Title I (Self Determination) (also referred to as P.L. 93-638 Title I Tribes) and/or under Title IV (Self Governance Tribes), if expressly agreed to in their contracts, compacts, or if the requirement to abide by such policy is otherwise required by law.

**1.3 Policy.** It is the policy of IA to provide child protection and child welfare services to eligible Indian children and families. IA will comply with all applicable federal laws and regulations, and any Departmental policies and procedures, as they relate to the protection and welfare of Indian children and families.

**1.4 Authority.**

**A. Statutes and Regulations.**

- 1) P.L. 93-638, Indian Self Determination and Education Assistance Act (ISDEAA) of 1975, as amended
- 2) P.L. 99-570, Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986
- 3) P.L. 101-630, Title IV, Indian Child Protection and Family Violence Prevention Act of 1990
- 4) P.L. 101-647, Crime Control Act of 1990
- 5) P.L. 109-248, Adam Walsh Child Protection and Safety Act of 2006
- 6) P.L. 111-211, Tribal Law and Order Act (TLOA) of 2010
- 7) P.L. 113-4, Violence Against Women Reauthorization Act (VAWA) of 2013
- 8) P.L. 114-165, Native American Children's Safety Act (NACSA) of 2016

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- 9) 25 CFR 2, Appeals From Administrative Actions
- 10) 25 CFR 20, Financial Assistance and Social Services Programs
- 11) 25 CFR 23, Indian Child Welfare Act (ICWA)
- 12) 25 CFR 63, Indian Child Protection and Family Violence Prevention
- 13) 25 U.S.C. § 1901 et seq., ICWA of 1978

### **B. Guidance.**

- 1) Bureau of Indian Affairs (BIA) Memorandum, Approval of a Blanket Waiver of Enrollment Requirement for Child Assistance Payments Less Than One Year of Age Who Are Drug-Affected or In Need of Protection, February 3, 2016 (see Attachment 1)
- 2) BIA Memorandum, Social Services Payment Standards for Programs in 25 CFR 20 and Transition Actions, December 12, 2000 (see Attachment 2)
- 3) Financial Assistance and Social Services Case Management System (FASS-CMS) Cloud Process Guide – Child & Family Services, July 22, 2019. The guide can be found online: <https://inside.indianaffairs.gov/systems/fass-cms/fass-cms-process-guide-child-protection>
- 4) Guidelines for Implementing the Indian Child Welfare Act, 96476 Federal Register, Volume 81, No. 251, December 30, 2016

### **1.5 Responsibilities.**

- A. Director, BIA** is responsible for ensuring that IA processes and resources are in place to facilitate compliance with the services provided to protect and improve the quality of life of Indian children and families.
- B. Deputy Bureau Director (DBD), Office of Indian Services (OIS), BIA** is responsible for ensuring that IA processes and resources are in place to facilitate the provision of child protection and child welfare services to federally recognized Tribes and eligible Indians.
- C. Chief, Division of Human Services (DHS), OIS** is responsible for program oversight and development/recommendation(s) of IA policy and procedures. This includes coordination of programming with regional offices, BIA agencies, Tribes, and other

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Federal Government agencies.

- D. Headquarters, DHS staff** is responsible for providing policy oversight, technical assistance on applicable statutes and program regulations, and training. These subject matter experts assist the Division Chief in the development/recommendation of program policy, the delivery of services, and responding to congressional inquiries and data calls.
- E. ICWA Specialist, DHS** is responsible for:
- 1) providing oversight of the NACSA child protection program and other related social services to ensure that children are in safe environments;
  - 2) representing the BIA and promoting working relationships at the national level with federal and state social service agencies as directed to implement the objectives of the BIA's Indian child welfare and child protection services; and
  - 3) serving as a key team member on a wide variety of projects, studies, etc. intended to enhance programs and regulations relating to the IA's management of child protection and child welfare services.
- F. Family Advocacy Social Worker, DHS** is responsible for:
- 1) providing oversight of Bureau-wide practices and procedures to ensure compliance and accountability in the delivery of services to Indian children, elderly, and families, including services related to child protection, Individual Indian Monies (IIM) account holders, and the prevention of family violence;
  - 2) managing program evaluations and assessments, including identifying and disseminating best practices and performance measurement outcomes, by analyzing applicable programs and audiences; and
  - 3) identifying the information needs of children and families, including the needs of minors with IIM accounts and victims of violence, and disseminating relevant information through appropriate policy and protocols.
- G. Regional Director (RD)** is responsible for the administration, monitoring, and oversight of Human Services programs operated by BIA agencies, Tribal governments, and Tribal organizations. The RD is considered the Officer in Charge (OIC).
- H. Regional Human Services staff** is responsible for:
- 1) providing oversight of Tribal/BIA agency programs within his/her respective region, including providing technical assistance and training to BIA agency staff and federally recognized Tribes; and
  - 2) collecting the Indian Child Welfare Quarterly and Annual Report, and the Financial

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Assistance and Social Services Report (FASSR).

- I. BIA Agency Superintendent** is considered the Bureau Line Officer (BLO), and is responsible for the administration and management of the BIA Social Services staff in his/her respective agency as well as authorizing Purchase of Services Agreements (POSAs) and payments in the FASS-CMS Cloud.
- J. BIA Agency Social Services staff** is responsible for:
- 1) administering BIA Social Services programs within his/her respective agency and/or for Tribes serviced by the agency;
  - 2) providing technical assistance and training on BIA Social Services programs to Tribally contracted or compacted programs; and
  - 3) providing direct services, such as child protection and child welfare services, as authorized by 25 CFR Parts 20, 63, and 115. These services may include:
    - determining eligibility for services;
    - responding to child protection referrals and conducting intakes;
    - conducting investigations and assessments;
    - making child safety decision determinations and investigative outcomes;
    - removing children in life-threatening situations and making an out-of-home placement(s);
    - making every reasonable effort to preserve the family and/or reunify the children with their family and relatives;
    - initiating referrals, and coordinating services and resources;
    - developing case and permanency plans;
    - ensuring that background checks are conducted in accordance with the NACSA for every covered individual (an adult, age 18 or older);
    - initiating and participating in court proceedings (as applicable);
    - maintaining case records and safeguarding confidential information; and
    - participating in Child Protection Teams (CPT) and Multidisciplinary Teams (MDT).
- K. Tribal Social Services staff** is staff authorized under an ISDEAA Title I contract or Title IV self governance funding agreement to carry out duties previously administered by the Secretary of the Interior under 25 CFR Parts 20, 63, and 115. Tribal Social Services staff must adhere to existing federal regulations unless a waiver is approved

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by the AS-IA prior to program operation/execution that deviates from established regulations.

**L. Director, Office of Self Governance (OSG)** is responsible for:

- 1) implementing Title IV of the ISDEAA (Pub. L. 93-638), as amended regarding child protection and child welfare services;
- 2) providing oversight and technical assistance for Tribal programs that provide child protection and child welfare services through a self-governance funding agreement; and
- 3) collecting the Indian Child Welfare Quarterly and Annual Report, and the FASSR.

**1.6 Definitions.** Additional definitions applicable to this chapter are found in 25 CFR§20.100.

- A. Case** means a single type of assistance and/or service provided to an individual or household in response to an identified need, which requires intervention by BIA or Tribal Social Services.
- B. Child abuse** includes, but is not limited to, any case in which a child is deceased, or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, or soft tissue swelling, and this condition is not justifiably explained or may not be the product of accidental occurrence; and any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.
- C. Child neglect** includes, but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened.
- D. Crimes against persons** are defined by local law. Adjudicating officers must contact local law enforcement agencies to determine if the crime for which an applicant or employee was found guilty (or entered a plea of nolo contendere or guilty) is defined as a crime against persons.
- E. Family violence** means any act, or threatened act, of violence, including any forceful detention of an individual, which results, or threatens to result, in physical or mental injury, and is committed by an individual against another individual to whom such person is, or was, related by blood or marriage or otherwise legally related, or with whom such person is, or was, residing, or with whom such person has, or had, intimate or continuous social contact and household access.

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- F. Indian child** means any unmarried person who is under age eighteen and is either: (1) a member of an Indian Tribe, or (2) eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.
- G. Indian Tribe** means a federally recognized Tribe on the BIA’s annual list published in the Federal Register as required by law each January, which is viewable at [www.bia.gov](http://www.bia.gov).
- H. Local child protective services agency** is an agency of the Federal Government, state, or federally recognized Tribe that has the primary responsibility for child protection on any Indian reservation, or within any community in Indian country.
- I. Local law enforcement agency** is that federal, Tribal, or state law enforcement agency that has primary responsibility for the investigation of an instance of alleged child abuse within the involved Indian jurisdiction.
- J. Person responsible for the child’s welfare** is any person who has legal or other recognized duty for the care and safety of an Indian child and may include any employee or volunteer of a children’s residential facility, and any person providing out-of-home care, education, or services to an Indian child.
- K. Related assistance** means the counseling and self-help services for abusers, victims, and dependents in family violence situations; referrals for appropriate health-care services (including alcohol and drug abuse treatment); and may include food, clothing, childcare, transportation, and emergency services for victims of family violence and their dependents.

### 1.7 Reports and Forms.

The FASSR identifies information about the services and activities necessary to protect an Indian child who is the victim of an alleged and/or substantiated incident of child abuse, child neglect, or exploitation. The FASSR is found online: <https://www.bia.gov/policy-forms/online-forms> (click on the tab labeled “Indian Affairs Specific Forms and Guidance”).

There are also two Office of Management and Budget (OMB)-approved forms that apply to this chapter:

- 1) OMB 1076-0017, Application for Financial Assistance. An individual or family may apply for BIA Financial Assistance and Social Services by completing the application process with the assistance of a social services worker and providing the following

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required information: proof of Tribal membership, proof of residency, and proof of income and resources.

- 2) OMB 1076-0131, Indian Child Welfare Quarterly and Annual Report. The BIA collects information about Tribal child abuse and neglect data to determine the extent of service needs in Indian communities and to provide data for the annual program budget justification.

Both OMB forms are found online on the IA Online Forms webpage:

<https://www.bia.gov/policy-forms/online-forms> (click on the tab labeled “IA Paperwork Reduction Act (PRA) Forms”).

## Approval

Darryl LaCounte

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LaCounte  
Date: 2022.07.05 14:49:53 -04'00'

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Darryl LaCounte  
Director, Bureau of Indian Affairs

Date

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## Attachment 1




### United States Department of the Interior


OFFICE OF THE SECRETARY  
Washington, DC 20240

FEB 03 2016

#### Memorandum

To: Bureau of Indian Affairs, Regional Directors

Through: Director, Bureau of Indian Affairs 

From: Assistant Secretary – Indian Affairs 

Subject: Approval of a Blanket Waiver of Enrollment Requirement for Child Assistance Payments for Children Less Than One Year of Age Who Are Drug-Affected or In Need of Protection

This memorandum is in response to a request for a waiver dated September 25, 2015, from the Bureau of Indian Affairs (BIA), Great Plains Region. In the request, the Region reported increased incidences of American Indian and Alaska Native (AI/AN) children born exposed to drugs who did not have immediate access to child assistance services within the Region. On January 9, 2014, the Rocky Mountain Region was granted a waiver of the enrollment requirements in 25 CFR 20.300 to allow BIA staff to provide child protection services and child assistance if placement were necessary for children: (1) less than 1-year of age who would be eligible for enrollment and whose parents were tribal members, and (2) when the children were identified as drug-affected or in need of protection.

It is Indian Affairs policy to protect at-risk children and families.<sup>1</sup> The Secretary retains the power to waive or make exceptions to regulations in all cases permitted by law where the Secretary finds that such waiver or exception is in the best interest of Indians.<sup>2</sup> Pursuant to my delegated authority from the Secretary (209 DM 8), I find that it is in the best interest of AI/AN children. Therefore, I approve a blanket waiver of the tribal enrollment requirement<sup>3</sup> to allow BIA and tribal staff to provide child protection services and child assistance services when placement is necessary for any child: (1) less than 1-year old who is eligible for tribal enrollment and whose parents are tribal members and (2) if the child is identified as drug-affected or in need of protection. A blanket waiver allows for the protection of AI/AN children until they are officially enrolled in a tribe.

We understand that most of these children should be eligible for Title IV-E services. All other available resources shall be utilized for the on-going care of these children, once they become tribal members.

Should there be any questions, please contact Ms. Evangeline M. Campbell, Chief, Division of Human Services, at (202) 513-7621 or via email: [evangeline.campbell@bia.gov](mailto:evangeline.campbell@bia.gov).

<sup>1</sup> (70 IAM section 1.3).

<sup>2</sup> (25 CFR section 1.2).

<sup>3</sup> (25 CFR 20.300(a)).



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## Attachment 2

Attachment 1.



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

DEC 12 2000

Social Services  
MS 4669-MHB

Memorandum

To: All Regional Directors  
All Central Office Directors  
Director, Office of Self Governance

Through: Deputy Commissioner of Indian Affairs

From: Assistant Secretary - Indian Affairs

Subject: Social Services Payment Standards for Programs in 25 CFR 20 and Transition Actions

Effective as of this date the following maximum payment standards in accordance with the 25 CFR Part 20 Social Services Regulations (§ 28.100 Bureau Standard of Assistance) are established and supercede any previous standards: (1) TWEP: \$115.00 per person per month, (2) Burial: \$2,500.00 per burial, (3) Emergency and Disaster: \$1,000.00 per household and, (4) Adoption and Guardian Subsidy: 75 percent of the state regular family Foster Care rate for the age group of the child in the state where the child resides. Only the regular family Foster Care rate may be used and this does not include treatment and specialized services.

To effect a smooth transition from the previous regulations to the revised regulations effective November 20, 2000, the following actions are authorized:

(1) Individuals aged 18-21 who previously were served under the old regulations § 20.1(h) Child Welfare Assistance and who are ineligible under the new definition of Child in § 20.100 may continue to be served through May 30, 2001. This will allow sufficient time to place those individuals in facilities appropriate to meet their needs and to seek waivers in situations where there are extenuating circumstances.

(2) Placement in tribal facilities for Child Assistance and Adult Care Assistance require the facilities to be licensed or certified pursuant to 25 CFR 20.502, 25 CFR 20.507, and 25 CFR 20.334. Because of the time involved in developing licensing and certification standards, tribes already operating the facilities are given a period not to exceed March 20, 2001, to develop these standards. If the physical plant for these facilities have deficiencies, tribes should correct the deficiencies or develop a justification for a waiver that would be time limited.

Please advise all Bureau of Indian Affairs offices and tribes of this action and adjust contracts and compacts accordingly. If you have any questions regarding these payment standards, please contact Larry Blair at (202) 208-2479.