

PIQ-94-07

DATE: September 6, 1994

SUBJECT: Medical Support Enforcement for Tribal Members -- Revision to OCSE-PIQ-93-07

TO: Barry L. Morrisroe

Child Support Program Manager

Region X

FROM: David Gray Ross

Deputy Director

Office of Child Support Enforcement

This is in response to an issue raised in the April 22, 1994, letter by the Washington State Acting IV-D Director, requesting reconsideration of the Office of Child Support Enforcement (OCSE) policy interpretation question, dated November 15, 1993, addressing medical support enforcement for tribal members (OCSE-PIQ-93-07). The incoming question in OCSE-PIQ-93-07 was whether the availability of Federally-subsidized health care services to tribal members, such as those available through the Indian Health Service (IHS) would satisfy the obligation of a noncustodial parent to provide health insurance.

After consultation with the Director of the Division of Legislation and Regulations of the IHS, OCSE responded to the incoming question in OCSE-PIQ-93-07. The PIQ specified that the Federal regulations, at 45 CFR 303.31(b)(1), require IV-D agencies to petition the court or administrative authority to include health insurance that is available to the absent parent at reasonable cost, in new or modified support orders, unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid.

As suggested by the IHS, OCSE also specified in the PIQ that OCSE would consider IHS health care services to be satisfactory health insurance if it is available to the custodial parent and the family is not on Medicaid. The PIQ also required that the IV-D agency document in the case record the availability of IHS services to the custodial parent and child(ren) when deciding not to petition for inclusion of medical support in the form of health insurance in the support order.

The State's question and our response follow:

Question: May OCSE's policy be broadened to hold that IHS health care is also an acceptable alternative to private health insurance in cases where the dependent children are receiving Medicaid?

Response: Yes. After consideration of the information presented and consultation with and the concurrence of the Health Care Financing Administration (HCFA) and the IHS, OCSE will consider IHS health care services to be satisfactory health insurance if such services are available to the custodial parent, regardless of whether the family is eligible for Medicaid. The IV-D agency would still need to document in the case record, in accordance with requirements of 45 CFR 303.2(c), the availability of IHS services to the custodial parent and child(ren) when it decides not to petition for inclusion of medical support in the form of health insurance in the support order. Nothing in this response shall affect the eligibility of dependent Indian children for Medicaid or the status of the IHS as the payor of last resort as provided in 42 CFR 36.61.

cc:ACF Regional Administrators

Regions I - X

Child Support Program Managers

Regions I - IX