



LEXISNEXIS' CODE OF FEDERAL REGULATIONS  
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\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 25 -- INDIANS  
CHAPTER I -- BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR  
SUBCHAPTER D -- HUMAN SERVICES  
PART 20 -- FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAMS  
SUBPART A -- DEFINITIONS, PURPOSE AND POLICY

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*25 CFR 20.100*

**§ 20.100 What definitions clarify the meaning of the provisions of this part?**

Adult means an Indian person age 18 or older.

Adult care assistance means financial assistance provided on behalf of an Indian adult who is not eligible for any other state, federal, or tribal assistance as documented in the case file and who requires non-medical personal care and supervision due to advanced age, infirmity, physical condition or mental impairment.

Appeal means a written request for correction of an action or decision of a specific program decision by a Bureau official (§ 20.700) or a tribal official (§ 20.705).

Applicant means an Indian individual by or on whose behalf an application for financial assistance and/or social services has been made under this part.

Application means the written or oral process through which a request is made for financial assistance or social services.

Assistant Secretary means the Assistant Secretary -- Indian Affairs.

Authorized representative means a parent or other caretaker relative, conservator, legal guardian, foster parent, attorney, paralegal acting under the supervision of an attorney, friend or other spokesperson duly authorized and acting on behalf or representing the applicant or recipient.

Bureau means the Bureau of Indian Affairs of the United States Department of the Interior.

Bureau Standard of Assistance means payment standards established by the Assistant Secretary for burial, disaster, emergency, TWEP and adoption and guardian subsidy. In accordance with Public Law 104-193, the Bureau standard of assistance for general assistance is the state rate for TANF in the state where the applicant resides. Where the Bureau provides general assistance on a reservation that extends into another state, the Bureau will provide general assistance to eligible Indians based on the standard of assistance where the applicant resides if the applicant is not eligible for state general assistance or TANF. The Bureau standard of assistance for adult care assistance is the state rate for adult care assistance in the state where the applicant resides. The Bureau standard of assistance for foster care is the state rate for foster care in the state where the applicant resides as provided by Title IV of the Social Security Act (49 Stat. 620).

Burial assistance means a financial assistance payment made on behalf of an indigent Indian who meets the eligibility criteria to provide minimum burial expenses according to Bureau payment standards established by the Assistant Secretary.

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 social services.

Case management means the activity of a social services worker in assessing client and family problem(s), case planning, coordinating and linking services for clients, monitoring service provisions and client progress, advocacy, tracking and evaluating services provided, such as evaluation of child's treatment being concurrent with parent's treatment, and provision of aftercare service. Activities may also include resource development and providing other direct services such as accountability of funds, data collection, reporting requirements, and documenting activities in the case file.

Case plan means a written plan with time limited goals which is developed and signed by the service recipient and social services worker. The case plan will include documentation of referral and disapproval of eligibility for other services. The plan must incorporate the steps needed to assist individuals and families to resolve social, economic, psychological, interpersonal, and/or other problems, to achieve self-sufficiency and independence. All plans for children in foster care or residential care must include a permanency plan which contains a time specific goal of the return of the child to the natural parents or initiation of a guardianship/adoption.

Child means an Indian person under the age of 18 except that no person who has been emancipated by marriage will be deemed a child.

Child assistance means financial assistance provided on behalf of an Indian child, who has special needs as specified in § 20.100. In addition, assistance includes services to a child who requires placement in a foster home or a residential care facility in accordance with standards of payment levels established by the state or county in which the child resides. Further, assistance includes services to a child in need of adoption or guardianship in accordance with payment levels established by the Assistant Secretary.

Designated representative means an official of the Bureau who is designated by a Superintendent to hold a hearing as prescribed in §§ 20.700 through 20.705 and who has had no prior involvement in the proposed decision under § 20.603 and whose hearing decision under §§ 20.700 through 20.705 will have the same force and effect as if rendered by the Superintendent.

Disaster means a situation where a tribal community is adversely affected by a natural disaster or other forces which pose a threat to life, safety, or health as specified in §§ 20.327 and 20.328.

Emergency means a situation where an individual or family's home and personal possessions are either destroyed or damaged through forces beyond their control as specified in § 20.329.

Employable means an eligible Indian person who is physically and mentally able to obtain employment, and who is not exempt from seeking employment in accordance with the criteria specified in § 20.315.

Essential needs means shelter, food, clothing and utilities, as included in the standard of assistance in the state where the eligible applicant lives.

Extended family means persons related by blood, marriage or as defined by tribal law or custom.

Family assessment means a social services assessment of a family's history and present abilities and resources to provide the necessary care, guidance and supervision for individuals within the family's current living situation who may need social service assistance and/or services.

Financial Assistance means any of the following forms of assistance not provided by other federal, state, local or tribal sources:

- (1) Adult Care Assistance for adults who require non-medical personal care and supervision;
- (2) Burial Assistance for indigent burials;
- (3) Child Assistance for any child with special needs, in need of placement in a foster home or residential care facility, or in need of adoption or guardianship;

(4) Disaster Assistance;

(5) Emergency Assistance for essential needs to prevent hardship caused by burnout, flooding of homes, or other life threatening situations that may cause loss or damage of personal possessions;

(6) General Assistance for basic essential needs; or

(7) Tribal Work Experience Program for participants in work experience and training.

Foster care services means those social services provided to an eligible Indian child that is removed from his or her home due to neglect, abandonment, abuse or other maltreatment and placed in a foster home. Services must also be extended to the affected family members and foster parent(s) with a goal of reuniting and preserving the family.

General Assistance means financial assistance payments to an eligible Indian for essential needs provided under §§ 20.300 through 20.319.

Guardianship means long-term, social services and court approved placement of a child.

Head of household means a person in the household that has primary responsibility and/or obligation for the financial support of others in the household. In the case of a two parent household, one will be considered the head of household for the purpose of making an application for benefits.

Homemaker services means non-medical services provided by social services, in the absence of other resources, to assist an eligible Indian in maintaining self-sufficiency, and preventing placement into foster care or residential care. Examples of services included in homemaker services are: cleaning an individual's home, preparing meals for an individual, and maintaining or performing basic household functions.

Household means persons living together who may or may not be related to the "head of household."

Indian means:

(1) Any person who is a member of an Indian tribe; or

(2) In the Alaska service area only, any person who meets the definition of "Native" as defined under *43 U.S.C. 1602(b)*: "A citizen of the United States and one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final."

Indian court means Indian tribal court or Court of Indian Offenses.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community which is recognized as eligible for the special programs and services provided by the United States because of their status as Indians.

Individual Self-sufficiency Plan (ISP) means a plan designed to meet the goal of employment through specific action steps and is incorporated within the case plan for the general assistance recipient. The plan is jointly developed and signed by the recipient and social services worker.

Near Reservation means those areas or communities designated by the Assistant Secretary that are adjacent or contiguous to reservations where financial assistance and social service programs are provided.

Need means the deficit after consideration of income and other resources necessary to meet the cost of essential need items and special need items as defined by the Bureau standard of assistance for the state in which the applicant or recipient resides.

Permanency plan means the documentation in a case plan which provides for permanent living alternatives for the child in foster care, a residential care facility, or in need of adoption or guardianship. Permanency plans are developed and implemented in accordance with tribal, cultural, and tribal/state legal standards when the parent or guardian is unable to resolve the issues that require out-of-home placement of the child.

Protective services means those services necessary to protect an Indian who is the victim of an alleged and/or substantiated incident of abuse, neglect or exploitation or who is under the supervision of the Bureau in regard to the use and disbursement of funds in his or her Individual Indian Money (IIM) account.

Public assistance means those programs of financial assistance provided by state, tribal, county, local and federal organizations including programs under Title IV of the Social Security Act (*49 Stat. 620*), as amended, and Public Law 104-193.

Recipient is an eligible Indian receiving financial assistance or social services under this part.

Recurring income means any cash or in-kind payment, earned or unearned, received on a monthly, quarterly, semiannual, or annual basis.

Regional Director means the Bureau official in charge of a Regional Office.

Reservation means any federally recognized Indian tribe's reservation, pueblo, or colony, including Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (*85 Stat. 688*).

Residential care services means those rehabilitation services provided to an eligible Indian child that is removed from his or her home due to lack of resources in the home to care for him or her and placed in a residential care facility.

Resources means income, both earned and unearned, and other liquid assets available to an Indian person or household to meet current living costs, unless otherwise specifically excluded by federal statute. Liquid assets are those properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties, and retirements and annuities.

Secretary means the Secretary of the Interior.

Service area means a geographic area designated by the Assistant Secretary where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location. "The Assistant Secretary has designated the entire State of Alaska as a service area."

Services to children, elderly and families means social services, including protective services provided through the social work skills of casework, group work or community development to assist in solving social problems involving children, elderly and families. These services do not include money payments.

Special needs means a financial assistance payment made to or on behalf of children under social services supervision for circumstances that warrant financial assistance that is not included in the foster care rates; for example, respite care, homemaker service, day care service, and may include basic needs (special diets) which are not considered as a medical need where other resources are not available.

Superintendent means the Bureau official in charge of an agency office.

Supplemental Security Income (SSI) means cash assistance provided under Title XVI of the Social Security Act (*49 Stat. 620*), as amended.

Temporary Assistance for Needy Families (TANF) means one of the programs of financial assistance provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Tribal governing body means the federally recognized governing body of an Indian tribe.

Tribal redesign plan means a tribally designed method for changing general assistance eligibility and/or payment levels in accordance with *25 U.S.C.A. § 13d-3*.

Tribal Work Experience Program (TWEP) means a program operated by tribal contract/grant or self-governance annual funding agreement, which provides eligible participants with work experience and training that promotes and preserves work habits and develops work skills aimed toward self-sufficiency. The Bureau payment standard is established by the Assistant Secretary.

Unemployable means a person who meets the criteria specified in § 20.315.

## **§ 20.101 What is the purpose of this part?**

The regulations in this part govern the provision to eligible Indians of the following kinds of financial assistance and social services:

- (a) Adult Care Assistance;
- (b) Burial Assistance;
- (c) Child Assistance;
- (d) Disaster Assistance;
- (e) Emergency Assistance;
- (f) General Assistance;
- (g) Services to Children, Elderly and Families; and
- (h) Tribal Work Experience Program.

**§ 20.102 What is the Bureau's policy in providing financial assistance and social services under this part?**

(a) Bureau social services programs are a secondary, or residual resource, and must not be used to supplement or supplant other programs.

(b) The Bureau can provide assistance under this part to eligible Indians when comparable financial assistance or social services are either not available or not provided by state, tribal, county, local or other federal agencies.

(c) Bureau financial assistance and social services are subject to annual Congressional appropriations.

**§ 20.103 Have the information collection requirements in this part been approved by the Office of Management and Budget?**

The information collection requirements contained in §§ 20.300, 20.400, and 20.500 were submitted for clearance to the Office of Management and Budget under *44 U.S.C. 35d et seq.* This information collection was approved by OMB with OMB Control #1076-0017. The expiration date is on the form. The information is collected to determine applicant eligibility for services. The information will be used to determine applicant eligibility and to insure uniformity of services. Response is required to obtain a benefit. The public reporting burdens for this form are estimated to average 15 minutes per response including time for reviewing the instructions, gathering and maintaining data, and completing and reviewing the form.

SUBPART B -- WELFARE REFORM

**§ 20.200 What contact will the Bureau maintain with State, tribal, county, local, and other Federal agency programs?**

We will coordinate all financial assistance and social services programs with state, tribal, county, local and other federal agency programs to ensure that the financial assistance and social services program avoids duplication of assistance.

**§ 20.201 How does the Bureau designate a service area and what information is required?**

The Assistant Secretary can designate or modify service areas for a tribe. If you are a tribe requesting a service area designation, you must submit each of the following:

(a) A tribal resolution that certifies that:

(1) All eligible Indians residing within the service area will be served; and

(2) The proposed service area will not include counties or parts thereof that have reasonably available comparable services.

(b) Additional documentation showing that:

(1) The area is administratively feasible (that is, an adequate level of services can be provided to the eligible Indians residing in the area.);

(2) No duplication of services exists; and

(3) A plan describing how services will be provided to all eligible Indians can be implemented.

(c) Documentation should be sent to the Regional Director or Office of Self-Governance.

The Director or office will evaluate the information and make recommendations to the Assistant Secretary. The Assistant Secretary can make a determination to approve or disapprove and publish notice of the designation of service area and the Indians to be served in the Federal Register . Tribes currently providing services are not required to request designation for service areas unless they make a decision to modify their existing service areas.

#### **§ 20.202 What is a tribal redesign plan?**

If you are a tribe administering a general assistance program, you can develop and submit to us a tribal redesign plan to change the way that you administer the program.

(a) A tribal redesign plan allows a tribe to:

(1) Change eligibility for general assistance in the service area; or

(2) Change the amount of general assistance payments for individuals within the service area.

(b) If you develop a tribal redesign plan it must:

(1) Treat all persons in the same situation equally; and

(2) Will not result in additional expenses for the Bureau solely because of any increased level of payments.

#### **§ 20.203 Can a tribe incorporate assistance from other sources into a tribal redesign plan?**

Yes, when a tribe redesigns its general assistance program, it may include assistance from other sources (such as Public Law 102-477 federal funding sources) in the plan.

#### **§ 20.204 Must all tribes submit a tribal redesign plan?**

No, you must submit a tribal redesign plan under § 20.206 only if you want to change the way that the General Assistance program operates in your service area.

#### **§ 20.205 Can tribes change eligibility criteria or levels of payments for General Assistance?**

Yes, if you have a redesign plan, you can change eligibility criteria or levels of payment for general assistance.

(a) The funding level for your redesigned general assistance program will be the same funding received in the most recent fiscal or calendar year, whichever applies.

(b) If you do not have a prior year level of funding, the Bureau or Office of Self-Governance will establish a tentative funding level based upon best estimates for caseload and expenditures.

(c) A Bureau servicing office can administer a tribal redesign plan as requested by a tribal resolution.

**§ 20.206 Must a tribe get approval for a tribal redesign plan?**

If you have a Public Law 93-638 contract or receive direct services from us, you must obtain our approval before implementing a redesign plan. You can apply for approval to the Regional Director through the Bureau servicing office.

(a) You must submit your redesign plan for approval at least 3 months before the effective date.

(b) If you operate with a self-governance annual funding agreement, you must obtain the approval of the redesign from the Office of Self-Governance.

(c) If you operate with a Public Law 102-477 grant, you must obtain approval from the Bureau Central Office.

**§ 20.207 Can a tribe use savings from a tribal redesign plan to meet other priorities of the tribe?**

Yes, you may use savings from a redesign of the general assistance program to meet other priorities.

**§ 20.208 What if the tribal redesign plan leads to increased costs?**

The tribe must meet any increase in cost to the General Assistance program that results solely from tribally increased payment levels due to a redesign plan.

**§ 20.209 Can a tribe operating under a tribal redesign plan go back to operating under this part?**

Yes, a tribe operating under a tribal redesign plan can choose to return to operation of the program as provided in §§ 20.300 through 20.323.

**§ 20.210 Can eligibility criteria or payments for Burial Assistance, Child Assistance, and Disaster Assistance and Emergency Assistance change?**

No, unless otherwise provided by law, the Bureau nor a tribe may change eligibility criteria or levels of payment for Burial Assistance, Child Assistance, Disaster Assistance, and Emergency Assistance awarded in Public Law 93-638 contracts, Public Law 102-477 grants, or Public Law 103-413 self-governance annual funding agreements.

**§ 20.300 Who qualifies for Direct Assistance under this subpart?**

To be eligible for assistance or services under this part, an applicant must meet all of the following criteria:

(a) Meet the definition of Indian as defined in this part;

(b) Not have sufficient resources to meet the essential need items defined by the Bureau standard of assistance for those Bureau programs providing financial payment;

(c) Reside in the service area as defined in § 20.100; and

(d) Meet the additional eligibility criteria for each of the specific programs of financial assistance or social services in §§ 20.301 through 20.516.

SUBPART C -- DIRECT ASSISTANCE  
ELIGIBILITY FOR DIRECT ASSISTANCE

**§ 20.301 What is the goal of General Assistance?**

The goal of the General Assistance program is to increase self-sufficiency. Each General Assistance recipient must work with the social services worker to develop and sign an Individual Self-Sufficiency Plan (ISP). The plan must outline the specific steps the individual will take to increase independence by meeting the goal of employment.

**§ 20.302 Are Indian applicants required to seek assistance through Temporary Assistance for Needy Families?**

Yes, all Indian applicants with dependent children are required to apply for Temporary Assistance for Needy Families (TANF) and follow TANF regulations.

**§ 20.303 When is an applicant eligible for General Assistance?**

To be eligible for General Assistance an applicant must:

(a) Meet the criteria contained in § 20.300;

(b) Apply concurrently for financial assistance from other state, tribal, county, local, or other federal agency programs for which he/she is eligible;

(c) Not receive any comparable public assistance; and

(d) Develop and sign an employment strategy in the ISP with the assistance of the social services worker to meet the goal of employment through specific action steps including job readiness and job search activities.

**§ 20.304 When will the Bureau review eligibility for General Assistance?**

The Bureau will review eligibility for General Assistance:

(a) Every 3 months for individuals who are not exempt from seeking or accepting employment in accordance with § 20.315 or the ISP;

(b) Every 6 months for all recipients; and

(c) Whenever there is a change in status that can affect a recipient's eligibility or amount of assistance. Recipients must immediately inform the social services office of any such changes.

**§ 20.305 What is redetermination?**

Redetermination is an evaluation by a social services worker to assess the need for continued financial assistance as outlined in § 20.304. It includes:

- (a) A home visit;
- (b) An estimate of income, living circumstances, household composition for the month(s) for which financial assistance is to be provided; and
- (c) Appropriate revisions to the case plan and the ISP.

#### **§ 20.306 What is the payment standard for General Assistance?**

(a) Under Public Law 104-193, the Bureau must use the same TANF payment standard (and any associated rateable reduction) that exists in the state or service area where the applicant or recipient resides. This payment standard is the amount from which the Bureau subtracts net income and resources to determine General Assistance eligibility and payment levels;

(b) If the state does not have a standard for an adult, we will use either the difference between the standard for a child and the standard for a household of two, or one-half of the standard for a household of two, whichever is greater; and

(c) If the state does not have a TANF program, we will use the AFDC payment standard which was in effect on September 30, 1995, in the State where the applicant or recipient resides.

#### **§ 20.307 What resources does the Bureau consider when determining need?**

When the Bureau determines General Assistance eligibility and payment levels, we consider income and other resources as specified in §§ 20.308 and 20.309.

(a) All income, earned or unearned, must be calculated in the month it is received and as a resource thereafter, except that certain income obtained from the sale of real or personal property may be exempt as provided in § 20.309.

(b) Resources are considered to be available when they are converted to cash.

#### **§ 20.308 What does earned income include?**

Earned income is cash or any in-kind payment earned in the form of wages, salary, commissions, or profit, from activities by an employee or self-employed individual. Earned income includes:

(a) Any one-time payment to an individual for activities which were sustained over a period of time (for example, the sale of farm crops, livestock, or professional artists producing art work); and

(b) With regard to self-employment, total profit from a business enterprise (i.e., gross receipts less expenses incurred in producing the goods or services). Business expenses do not include depreciation, personal business and entertainment expenses, personal transportation, capital equipment purchases, or principal payments on loans for capital assets or durable goods.

#### **§ 20.309 What does unearned income include?**

Unearned income includes, but is not limited to:

(a) Income from interest; oil and gas and other mineral royalties; gaming income per capita distributions; rental property; cash contributions, such as child support and alimony, gaming winnings; retirement benefits;

(b) Annuities, veteran's disability, unemployment benefits, and federal and state tax refunds;

(c) Per capita payments not excluded by federal statute;

(d) Income from sale of trust land and real or personal property that is set aside for reinvestment in trust land or a primary residence, but has not been reinvested in trust land or a primary residence at the end of one year from the date the income was received;

(e) In-kind contributions providing shelter at no cost to the individual or household, this must equal the amount for shelter included in the state standard, or 25 percent of the state standard, whichever is less; and

(f) Financial assistance provided by a state, tribal, county, local, or other federal agency.

#### **§ 20.310 What recurring income must be prorated?**

The social services worker will prorate the following recurring income:

(a) Recurring income received by individuals over a 12-month period for less than a full year's employment (for example, income earned by teachers who are not employed for a full year);

(b) Income received by individuals employed on a contractual basis over the term of a contract; and

(c) Intermittent income received quarterly, semiannually, or yearly over the period covered by the income.

#### **§ 20.311 What amounts will the Bureau deduct from earned income?**

(a) The social services worker will deduct the following amounts from earned income:

(1) Other federal, state, and local taxes;

(2) Social Security (FICA);

(3) Health insurance;

(4) Work related expenses, including reasonable transportation costs;

(5) Child care costs for children under the age of 6 except where the other parent in the home is unemployed and physically able to care for the children; and

(6) The cost of special clothing, tools, and equipment directly related to the individual's employment.

(b) For self-employed individuals, the social services worker will deduct the costs of conducting business and all of the amounts in paragraph (a) of this section.

#### **§ 20.312 What amounts will the Bureau deduct from income or other resources?**

The social services worker will deduct the following amounts from income, or other resources:

(a) The first \$ 2,000 of liquid resources annually available to the household;

(b) Any home produce from a garden, livestock, and poultry used by the applicant or recipient and his/her household for their consumption; and

(c) Resources specifically excluded by federal statute.

#### **§ 20.313 How will the Bureau compute financial assistance payments?**

(a) The social services worker will compute financial assistance payments by beginning with the Bureau standard of assistance and doing the following:

- (1) Subtracting from all resources calculated under §§ 20.307 through 20.310;
- (2) Subtracting the rateable reduction or maximum payment level used by the state where the applicant lives;
- (3) Subtracting an amount for shelter (see paragraph (b) of this section for details on how to calculate a shelter amount); and
- (4) Rounding the result down to the next lowest dollar.

(b) The social services worker must calculate a shelter amount for purposes of paragraph (a)(3) of this section. To calculate the shelter amount:

- (1) The shelter amount must not exceed the amount for shelter in the state TANF standard;
- (2) If the state TANF does not specify an amount for shelter, the social services worker must calculate the amount as 25 percent of the total state TANF payment; and
- (3) If there is more than one household in a dwelling, the social services worker must prorate the actual shelter cost among the households receiving General Assistance; this amount cannot exceed the amount in the standard for individuals in similar circumstances. The head of each household is responsible for his/her portion of the documented shelter cost.

(c) The social services worker must not provide General Assistance payments for any period before the date of the application for assistance.

**§ 20.314 What is the policy on employment?**

(a) An applicant or recipient must:

- (1) Actively seek employment, including the use of available state, tribal, county, local or Bureau-funded employment services;
- (2) Make satisfactory progress in an ISP; and
- (3) Accept local and seasonable employment when it is available.

(b) A head of household who does not comply with this section will not be eligible for General Assistance for a period of at least 60 days but not more than 90 days. This action must be documented in the case file.

(c) The policy in this section does not apply to any person meeting the criteria in § 20.315.

**§ 20.315 Who is not covered by the employment policy?**

The employment policy in § 20.314 does not apply to the persons shown in the following table.

The employment policy in § 20.314 does not apply to . . .	if . . .	and . . .
(a) Anyone younger than 16.		
(b) A full-student under the age of 19.	He/she is attending an elementary or	He/she is making satisfactory progress.

	secondary school or a vocational or technical school equivalent to a secondary school.	
(c) A person enrolled at least half-time in a program of study under Section 5404 of Pub. L. 100-297.	He/she is making satisfactory progress	He/she was an active General Assistance recipient for a minimum of 3 months before determination/redetermination of eligibility.
(d) A person suffering from a temporary medical injury or illness.	It is documented in the case plan that the illness or injury is serious enough to temporarily prevent employment.	He/she must be referred to SSI if the disability status exceeds 3 months.
(e) An incapacitated person who has not yet received Supplemental Security Income (SSI) assistance.	A physician, psychologist, or social services worker certifies that a physical or mental impairment (either by itself, or in conjunction with age) prevents the individual from being employed.	The assessment is documented in the case plan.
(f) A caretaker who is responsible for a person in the home who has a physical or mental impairment.	A physician or certified psychologist verifies the condition	The case plan documents that: the condition requires the caretaker to be home on a virtually continuous basis; and there is no other appropriate household member available to provide this care.
(g) A parent or other individual who does not have access to child care.	He/she personally provides full-time care to a child under the age of 6.	
(h) A person for whom employment is not accessible.	There is a minimum commuting time of one hour each way.	

**§ 20.316 What must a person covered by the employment policy do?**

(a) If you are covered by the employment policy in § 20.314, you must seek employment and provide evidence of your monthly efforts to obtain employment in accordance with your ISP.

(b) If you do not seek and accept available local and seasonal employment, or you quit a job without good cause, you cannot receive General Assistance for a period of at least 60 days but not more than 90 days after you refuse or quit a job.

**§ 20.317 How will the ineligibility period be implemented?**

(a) If you refuse or quit a job, your ineligibility period will continue as provided in § 20.316(b) until you seek and accept appropriate available local and seasonal employment and fulfill your obligations already agreed to in the ISP;

(b) The Bureau will reduce your suspension period by 30 days when you show that you have sought local and seasonal employment in accordance with the ISP; and

(c) Your eligibility suspension will affect only you. The Bureau will not apply it to other eligible members of the household.

**§ 20.318 What case management responsibilities does the social services worker have?**

In working with each recipient, you, the social services worker must:

(a) Assess the general employability of the recipient;

(b) Assist the recipient in the development of the ISP;

(c) Sign the ISP;

(d) Help the recipient identify the service(s) needed to meet the goals identified in their ISP;

(e) Monitor recipient participation in work related training and other employment assistance programs; and

(f) Document activities in the case file.

**§ 20.319 What responsibilities does the general assistance recipient have?**

In working with the social services worker, you, the recipient, must:

(a) Participate with the social services worker in developing an ISP and sign the ISP;

(b) Perform successfully in the work related activities, community service, training and/or other employment assistance programs developed in the ISP;

(c) Participate successfully in treatment and counseling services identified in the ISP;

(d) Participate in evaluations of job readiness and/or any other testing required for employment purposes; and

(e) Demonstrate that you are actively seeking employment by providing the social services worker with evidence of job search activities as required in the ISP.

**§ 20.320 What is TWEP?**

TWEP is a program that provides work experience and job skills to enhance potential job placement for the general assistance recipient. TWEP programs can be incorporated within Public Law 93-638 self-determination contracts, Public Law 102-477 grants, and Public Law 103-413 self-governance annual funding agreements at the request of the tribe.

**§ 20.321 Does TWEP allow an incentive payment?**

Yes, incentive payments to participants are allowed under TWEP.

(a) Incentive payments are separate. The Bureau will not consider incentive payments as wages or work related expenses, but as grant assistance payments under §§ 20.320 through 20.323.

(b) The approved payment will not exceed the Bureau maximum TWEP payment standard established by the Assistant Secretary.

**§ 20.322 Who can receive a TWEP incentive payment?**

(a) The head of the family unit normally receives the TWEP assistance payment.

(b) The social services worker can designate a spouse or other adult in the assistance group to receive the TWEP assistance payment. The social services worker will do this only if:

- (1) The recognized head of the family unit is certified as unemployable; and
- (2) The designation is consistent with the ISP.

(c) Where there are multiple family units in one household, one member of each family unit will be eligible to receive the TWEP incentive payment.

**§ 20.323 Will the local TWEP be required to have written program procedures?**

Yes, the local TWEP must have specific written program procedures that cover hours of work, acceptable reasons for granting leave from work, evaluation criteria and monitoring plans and ISP's for participants. Work readiness progress must be documented in each ISP.

**§ 20.324 When can the Bureau provide Burial Assistance?**

In the absence of other resources, the Bureau can provide Burial Assistance for eligible indigent Indians meeting the requirements prescribed in § 20.300.

**§ 20.325 Who can apply for Burial Assistance?**

If you are a relative of a deceased Indian, you can apply for burial assistance for the deceased Indian under this section.

(a) To apply for burial assistance under this section, you must submit the application to the social services worker. You must submit this application within 30 days following death.

(b) The Bureau will determine eligibility based on the income and resources available to the deceased in accordance with § 20.100. This includes but is not limited to SSI, veterans' death benefits, social security, and Individual

Indian Money (IIM) accounts. Determination of need will be accomplished on a case-by-case basis using the Bureau payment standard.

(c) The Bureau will not approve an application unless it meets the criteria specified at § 20.300.

(d) The approved payment will not exceed the Bureau maximum burial payment standard established by the Assistant Secretary.

#### **§ 20.326 Does Burial Assistance cover transportation costs?**

Transportation costs directly associated with burials are normally a part of the established burial rate. If a provider adds an additional transportation charge to the burial rate because of extenuating circumstances, the social services worker can pay the added charge. To do this, the social services worker must ensure and document in the case plan that:

(a) The charges are reasonable and equitable;

(b) The deceased was an eligible indigent Indian who was socially, culturally, and economically affiliated with his or her tribe; and

(c) The deceased resided in the service area for at least the last 6 consecutive months of his/her life.

#### **§ 20.327 When can the Bureau provide Disaster Assistance?**

Disaster assistance is immediate and/or short-term relief from a disaster and can be provided to a tribal community in accordance with § 20.328.

#### **§ 20.328 How can a tribe apply for Disaster Assistance?**

(a) The tribe affected by the disaster is considered the applicant and must submit the following to the Regional Director through the local Superintendent:

(1) A tribal resolution requesting disaster assistance;

(2) A copy of county, state, or Presidential declaration of disaster; and

(3) The projected extent of need in the service area not covered by other federal funding sources.

(b) The Regional Director must forward the above tribal documents and his/her recommendation to the Assistant Secretary for final decision on whether disaster assistance will be provided and to what extent.

#### **§ 20.329 When can the Bureau provide Emergency Assistance payments?**

Emergency Assistance payments can be provided to individuals or families who suffer from a burnout, flood, or other destruction of their home and loss or damage to personal possessions. The Bureau will make payments only for essential needs and other non-medical necessities.

#### **§ 20.330 What is the payment standard for Emergency Assistance?**

The approved payment will not exceed the Bureau's maximum Emergency Assistance payment standard established by the Assistant Secretary.

**§ 20.331 What is Adult Care Assistance?**

Adult care assistance provides non-medical care for eligible adult Indians who:

- (a) Have needs that require personal care and supervision due to advanced age, infirmity, physical condition, or mental impairments; and
- (b) Cannot be cared for in their own home by family members.

**§ 20.332 Who can receive Adult Care Assistance?**

An adult Indian is eligible to receive adult care assistance under this part if he/she:

- (a) Is unable to meet his/her basic needs, including non-medical care and/or protection, with his/her own resources; and
- (b) Does not require intermediate or skilled nursing care.

**§ 20.333 How do I apply for Adult Care Assistance?**

To apply for adult care assistance, you or someone acting on your behalf must submit an application form to the social services worker.

**§ 20.334 What happens after I apply?**

- (a) The Bureau will determine eligibility based upon the income and available resources of the person named in the application.
- (b) Upon approval by the Bureau Line Officer, payments will be approved under purchase of service agreements for adult care provided in state or tribally licensed or certified group settings, or by individual service providers licensed or certified for homemaker service.

**§ 20.335 What is the payment standard for Adult Care Assistance?**

The approved payment for adult care assistance will not exceed the applicable state payment rate for similar care.

SUBPART D -- SERVICES TO CHILDREN, ELDERLY, AND FAMILIES

**§ 20.400 Who should receive Services to Children, Elderly, and Families?**

Services to Children, Elderly, and Families will be provided for Indians meeting the requirements prescribed in § 20.300 who request these services or on whose behalf these services are requested.

**§ 20.401 What is included under Services to Children, Elderly, and Families?**

Services to Children, Elderly, and Families include, but are not limited to, the following:

- (a) Assistance in solving problems related to family functioning and interpersonal relationships;
- (b) Referral to the appropriate resource for problems related to illness, physical or mental handicaps, drug abuse, alcoholism, and violation of the law; and
- (c) Protective services.

In addition, economic opportunity and money management may also be provided.

#### **§ 20.402 When are protective services provided?**

Protective services are provided when children or adults:

- (a) Are deprived temporarily or permanently of needed supervision by responsible adults;
- (b) Are neglected, abused or exploited;
- (c) Need services when they are mentally or physically handicapped or otherwise disabled; or
- (d) Are under the supervision of the Bureau in regard to the use and disbursement of funds in the child's or adult's Individual Indian Money (IIM) account. Those IIM accounts that are established for children will be supervised by the Bureau until the child becomes an adult as defined in 25 CFR 115.

#### **§ 20.403 What do protective services include?**

Protective services provided to a child, family or elderly person will be documented in the case files and:

- (a) Can include, but are not limited to, any of the following:
  - (1) Providing responses to requests from members of the community on behalf of children or adults alleged to need protective services;
  - (2) Providing services to children, elderly, and families, including referrals for homemaker and day care services for the elderly and children;
  - (3) Coordinating with Indian courts to provide services, which may include, but are not limited to, the following:
    - (i) Investigating and reporting on allegations of child abuse and neglect, abandonment, and conditions that may require referrals (such as mental or physical handicaps);
    - (ii) Providing social information related to the disposition of a case, including recommendation of alternative resources for treatment; and
    - (iii) Providing placement services by the court order before and after adjudication.
  - (4) Coordinating with other community services, including groups, agencies, and facilities in the community. Coordination can include, but are not limited to:
    - (i) Evaluating social conditions that affect community well-being;
    - (ii) Treating conditions identified under paragraph (b)(1) of this section that are within the competence of social services workers; and
    - (iii) Working with other community agencies to identify and help clients to use services available for assistance in solving the social problems of individuals, families, and children.
  - (5) Coordinating with law enforcement and tribal courts, to place the victim of an alleged and/or substantiated incident of abuse, neglect or exploitation out of the home to assure safety while the allegations are being investigated. Social services workers may remove individuals in life threatening situations. After a social services assessment, the

individual must be either returned to the parent(s) or to the home from which they were removed or the social services worker must initiate other actions as provided by the tribal code; and

(6) Providing social services in the home, coordinating and making referrals to other programs/services, including Child Protection, and/or establishing Multi-Disciplinary Teams.

(b) Must include, where the service population includes IIM account holders:

(1) Conducting, upon the request of an account holder or other interested party, a social services assessment to evaluate an adult account holder's circumstances and abilities and the extent to which the account holder needs assistance in managing his or her financial affairs; and

(2) Managing supervised IIM accounts of children and adults (in conjunction with legal guardians), which includes, but is not limited to, the following:

(i) Evaluating the needs of the account holder;

(ii) Developing, as necessary and as permitted under 25 CFR 115, a one-time or an annual distribution plan for funds held in an IIM account along with any amendments to the plan for approval by the Bureau;

(iii) Monitoring the implementation of the approved distribution plan to ensure that the funds are expended in accordance with the distribution plan;

(iv) Reviewing the supervised account every 6 months or more often as necessary if conditions have changed to warrant a recommendation to change the status of the account holder, or to modify the distribution plan;

(v) Reviewing receipts for an account holder's expenses and verifying that expenditures of funds from a supervised IIM account were made in accordance with the distribution plan approved by the Bureau, including any amendments made to the plan; and

(vi) Petitioning a court of competent jurisdiction for the appointment of, or change in, a legal guardian for a client, where appropriate.

#### **§ 20.404 What information is contained in a social services assessment?**

A social services assessment must contain, but is not limited to, the following:

(a) Identifying information about the client (for example, name, address, age, gender, social security number, telephone number, certificate of Indian blood, education level), family history and medical history of the account holder;

(b) Description of the household composition: information on each member of the household (e.g., name, age, and gender) and that person's relationship to the client;

(c) The client's current resources and future income (e.g., VA benefits, retirement pensions, trust assets, employment income, judgment funds, general assistance benefits, unemployment benefits, social security income, supplemental security income and other governmental agency benefits);

(d) A discussion of the circumstances which justify special services, including ability of the client to handle his or her financial affairs and to conduct day-to-day living activities. Factors to be considered should include, but are not limited to:

(1) Age;

(2) Developmental disability;

(3) Chronic alcoholism or substance abuse;

(4) Lack of family assistance or social support systems, or abandonment;

(5) Self-neglect;

(6) Financial exploitation or abuse;

(7) Physical exploitation, neglect or abuse;

(8) Senility; and

(9) Dementia.

(e) Documentation supporting the need for assistance (e.g., medical reports, police reports, court orders, letters from interested parties, prior assessments or evaluations, diagnosis by psychologist/psychiatrist); and

(f) Summary of findings and proposed services to meet the identified needs of the client.

#### SUBPART E -- CHILD ASSISTANCE

##### **§ 20.500 Who is eligible for Child Assistance?**

A child is eligible for Child Assistance under this subpart if all of the following criteria are met:

(a) The child must meet the requirements in § 20.300.

(b) The child's legally responsible parent, custodian/guardian, or Indian court having jurisdiction must:

(1) Request assistance under this part in writing;

(2) State that they are unable to provide necessary care and guidance for the child, or to provide for the child's special needs in his/her own home; and

(3) Provide a documented social services assessment from the social services worker of whether parent(s), custodian, guardian(s) are able to care for their child.

(c) All income accruing to the child, except income exempted by federal statute, must be used to meet the cost of special needs, foster home or residential care facility as authorized and arranged by social services.

##### **§ 20.501 What services can be paid for with Child Assistance funds?**

The social services program can use Child Assistance funds to pay for services as shown in the following table.

Service that can be paid	Conditions that must be met	Maximum payment level
(a) Room and board at residential care facilities licensed by the tribe or state.	There must be no other resources available to pay these costs. See § 20.502 for other conditions that must be met.	The state or county residential care rate in the state in which the child resides.
(b) Adoption or guardianship subsidies	There must be no other resources available to pay for this service. See § 20.503 for other conditions that must be met.	The Bureau's maximum adoption and guardianship payment standard.
(c) Short-term homemaker services	There must be no other resources (such as Medicaid) available to pay for this service.	As approved by the Bureau line officer.

Services can be purchased for a maximum of 3 months. See § 20.504 for other conditions that must be met.

(d) Temporary foster care

See § 20.509 for conditions that must be met

The state or county foster care rate in the state in which the child resides.

#### **§ 20.502 Can Child Assistance funds be used to place Indian children in residential care facilities?**

You, the social service program, can use Child Assistance funds to purchase or contract for room and board in licensed residential care facilities.

(a) You can use Child Assistance funds to pay only for room and board. You must pay for other services that may be needed, including mental health, education, and physical therapy from other sources.

(b) Before placement the various funding sources must sign an agreement that specifies the services each source will pay. The Bureau Line Officer must approve this agreement.

#### **§ 20.503 When can Child Assistance funds be used for Indian adoption or guardianship subsidies?**

You, the social services program, can use Child Assistance funds to provide either adoption or guardianship subsidies if all of the following are true:

(a) The child is 17 or younger;

(b) The child has been in foster care prior to approval of the subsidy;

(c) The social services worker has considered all other available resources, attempted permanency planning, and documented in the case file that placement was in the best interest of the child; and

(d) The Bureau Line Officer approves the subsidy before it is authorized and redetermines eligibility on a yearly basis.

#### **§ 20.504 What short-term homemaker services can Child Assistance pay for?**

You, the social services program, can use Child Assistance funds to pay for homemaker services as specified in § 20.501 and this section. While housekeeping services are covered, homemaker services must focus on training household members in such skills as child care and home management. Homemaker services are provided for:

(a) A child who would otherwise need foster care placement or who would benefit from supportive (protective) supervision;

(b) A severely handicapped or special needs child whose care places undue stress on the family; or

(c) A child whose care would benefit from specialized training and supportive services provided to family members.

#### **§ 20.505 What services are provided jointly with the Child Assistance Program?**

The services listed in this section are provided by Services to Children, Elderly, and Families under this subpart jointly with the Child Assistance Program.

(a) Social services provided for children in their own home aimed at strengthening the family's ability to provide for and nurture their child. These supportive services can include:

- (1) Social work case management;
- (2) Counseling for parents and children;
- (3) Group work, day care; and
- (4) Homemaker services, when necessary.

(b) Protection of Indian children from abuse, neglect or exploitation in coordination with law enforcement and courts.

(c) A written case plan must be established within 30 days of placement and reviewed within 60 days of placement or as outlined in tribally established standards, when temporary placement outside the home is necessary. The case plan must contain a written agreement signed among the various funding sources to identify the services that will be paid by each source in those instances where the child requires services outside the authority of the Child Assistance program.

#### **§ 20.506 What information is required in the foster care case file?**

At a minimum the following information is required:

- (a) Tribal enrollment verification in accordance with § 20.100;
- (b) A written case plan (established within 30 days of placement), which would include a permanency plan detailing the need for and expected length of placement;
- (c) Information on each child's health status and school records, including medications and immunization records;
- (d) Parental consent(s) for emergency medical care, school, and transportation;
- (e) A signed plan for payment, including financial responsibility of parents and use of other appropriate resources;
- (f) A copy of the certification/license of the foster home;
- (g) A current photo of each child;
- (h) A copy of the social security card, birth certificate, Medicaid card and current court order;
- (i) For a placement beyond 30 days, copy of the action taken or authorized by a court of competent jurisdiction that documents the need for protection of the child;
- (j) For an involuntary placement, a social services assessment completed by a social services worker within 30 days of placement;
- (k) Documentation of a minimum of one visit to the placement setting per month by the social services worker with each child; and
- (l) A list of all prior placements, including the names of the foster parents and dates of placements.

#### **§ 20.507 What requirements must foster care providers meet?**

If a child needs foster care, the social services worker must select care that meets the physical, behavioral, and emotional needs of the child. Foster care is intended to be short-term. The case plan must show that all of the requirements in paragraphs (a) through (c) of this section are met:

(a) All foster homes must be certified or licensed by the tribe or other appropriate authority. Foster care placements beyond 30 days must be made through a court of competent jurisdiction to ensure that:

- (1) Federal background checks are completed prior to placement as required by Public Law 101-630; and
- (2) Training (optional for placements with relatives) is provided to the foster family.

(b) If the child is placed with relatives in an adoption and guardian placement, the case file must contain an approved current home study.

(c) An off-reservation foster home, or residential care facility under contract must meet the licensing standards of the state in which it is located or tribally established certifying/licensing standards.

**§ 20.508 What must the social services agency do when a child is placed in foster care, residential care or guardianship home?**

The social services agency must make efforts to secure child support for the child in foster care or residential care through a court of competent jurisdiction.

**§ 20.509 What must the social services worker do when a child is placed in foster care or residential care facility?**

When a child is placed in foster care or a residential care facility the social services worker must do all of the following:

- (a) Discuss with foster parents or caretakers, the child's special needs, including disabilities;
- (b) Provide counseling or referral to available resources;
- (c) Refer any child requiring medical, substance abuse, or behavioral (mental) health services to an appropriate health services to be assessed and to receive services;
- (d) Ensure that the case plan provides for all necessary costs of care (including clothing, incidentals, and personal allowance) in accordance with established state standards of payments;
- (e) Develop a foster family agreement signed and dated by the parties involved that specifies the roles and responsibilities of the biological parents, foster parents, and placing agency; the terms of payment of care; and the need for adherence to the established case plan;
- (f) Immediately report any occurrences of suspected child abuse or neglect in a foster home or residential care facility to law enforcement and protective services in accordance with tribal standards and reporting requirements under Public Law 101-630; and
- (g) Complete a yearly assessment of each tribal or state licensed foster home or residential care facility evaluating how the home has fulfilled its function relative to the needs of the child placed in the home.

**§ 20.510 How is the court involved in child placements?**

The court retains custody of a child in placement and the care and supervision must be given to the appropriate social services agency. While the court can issue any court order consistent with tribal law, the courts do not have the authority to require expenditure of federal funds to pay for specifically prescribed or restrictive services or out-of-home placements of children. Case plans must be reviewed with the appropriate court at least every 6 months and a

permanency hearing held within 12 months after a child enters foster care or residential care, or according to established tribal standards. These standards can be established in the tribal code and can be in accordance with available funding source requirements.

**§ 20.511 Should permanency plans be developed?**

Permanency planning must be developed for all child placements within 6 months after initial placement of the child. Every reasonable effort will be made to preserve the family and/or reunify the children with the family and relatives when developing permanency plans. However, the child's health and safety are the paramount concern.

**§ 20.512 Can the Bureau/tribal contractors make Indian adoptive placements?**

The Bureau is not an authorized adoption agency and staff must not arrange adoptive placements. However, long-term permanency planning can involve the Bureau social services workers cooperating with tribal courts to provide an adoption subsidy. Tribal contractors will provide adoption services as authorized by the tribal courts in accordance with tribal codes/law.

**§ 20.513 Should Interstate Compacts be used for the placement of children?**

Interstate compact agreements should be used when appropriate for foster care, adoption and guardianship to protect the best interests of the child and to assure the availability of the funding resources and services from the originating placement source.

**§ 20.514 What assistance can the courts request from social services on behalf of children?**

The courts can request the following:

- (a) Investigations of law enforcement reports of child abuse and neglect;
- (b) Assessment of the need for out-of-home placement of the child; and
- (c) Provision of court-related services following adjudication, such as monitoring, foster care, or residential care, or pre/post placement services.

**§ 20.515 What is required for case management?**

Social services workers must document regular contact with children and families in accordance with specific program requirements. The social services agency is responsible for implementation of quality case management; this requires the supervisor's review of case plans every 90 days.

**§ 20.516 How are child abuse, neglect or exploitation cases to be handled?**

Reported child abuse, neglect or exploitation cases and the requirement for background clearances will be handled in accordance with the Indian Child Protection and Family Violence Prevention Act of 1990, Public Law 101-630, 25 CFR part 63, federal and/or state laws where applicable, and tribal codes which protect Indian children and victims of domestic violence. This includes developing and maintaining Child Protection Teams in accordance to Public Law 101-

630 and collection of child abuse, neglect and exploitation data according to Public Law 99-570. Those cases referred by the state will be handled according to the Indian Child Welfare Act, Public Law 95-608, and 25 CFR part 23.

## SUBPART F -- ADMINISTRATIVE PROCEDURES

### **§ 20.600 Who can apply for financial assistance or social services?**

(a) You can apply for financial assistance or social services under this part if you:

- (1) Believe that you are eligible to receive benefits; or
- (2) Are applying on behalf of someone who you believe is eligible to receive benefits.

(b) Under paragraph (a) of this section, any of the following may apply for benefits on behalf of another person: relatives, interested individuals, social services agencies, law enforcement agencies, courts, or other persons or agencies.

### **§ 20.601 How can applications be submitted?**

You can apply for financial assistance or social services under this part by:

- (a) Completing an application that you can get from your social services worker or tribe; or
- (b) Through an interview with a social services worker who will complete an application for you based on the oral interview.

### **§ 20.602 How does the Bureau verify eligibility for social services?**

(a) You, the applicant, are the primary source of information used to determine eligibility and need. If it is necessary to secure information such as medical records from other sources, you must authorize the release of information.

(b) You must immediately report to your social services worker any changes in circumstances that may affect your eligibility or the amount of financial assistance that you receive.

### **§ 20.603 How is an application approved or denied?**

(a) Each application must be approved if the applicant meets the eligibility criteria in this part for the type of assistance requested and all recipients will be redetermined for eligibility every 6 months. Financial assistance will be made retroactive to the application date.

(b) An application must be denied if the applicant does not meet the eligibility criteria in §§ 20.300 through 20.516.

(c) The social services worker must approve or deny an application within 30 days of the application date. The local social services worker must issue written notice of the approval or denial of each application within 45 days of the application date.

(d) If for a good reason the social services worker cannot meet the deadline in paragraph (c) of this section, he or she must notify the applicant in writing of:

- (1) The reasons why the decision cannot be made; and

(2) The deadline by which the social services worker will send the applicant a decision.

**§ 20.604 How is an applicant or recipient notified that benefits or services are denied or changed?**

If the Bureau increases, decreases, suspends, or terminates financial assistance, the social services worker must mail or hand deliver to the applicant or recipient a written notice of the action. The notice must:

- (a) State the action taken, the effective date, and the reason(s) for the decision;
- (b) Inform the applicant or recipient of the right to request a hearing if dissatisfied with the decision;
- (c) Advise the applicant or recipient of the right to be represented by an authorized representative at no expense to the Bureau;
- (d) Include the address of the local Superintendent or his/her designated representative to whom the request for a hearing must be submitted;
- (e) Advise the applicant or recipient that failure to request a hearing within 20 days of the date of the notice will cause the decision to become final and not subject to appeal under 25 CFR part 2; and
- (f) Be delivered to the applicant 20 days in advance of the effective date of the action.

**§ 20.605 What happens when an applicant or recipient appeals a decision under this subpart?**

If you are an applicant or recipient and appeal a decision made under § 20.604, you can continue to receive your assistance while your appeal is pending. For this to happen, you must submit your appeal by the deadline in § 20.604(e).

**§ 20.606 How is an incorrect payment adjusted or recovered?**

- (a) When an incorrect payment of financial assistance has been made to an individual or family, a proper adjustment or recovery is required.
- (b) The proper adjustment or recovery is based upon individual need as appropriate to the circumstances that resulted in an incorrect payment.
- (c) Before adjustment or recovery, the recipient will be notified of the proposal to correct the payment and given an informal opportunity to resolve the matter.
- (d) If an informal resolution cannot be attained, the recipient must be given a written notice of decision and the procedures of § 20.604 will apply.
- (e) If a hearing is requested, the hearing will be conducted in accordance with the procedures under §§ 20.700 through 20.705.

**§ 20.607 What happens when applicants or recipients knowingly and willfully provide false or fraudulent information?**

Applicants or recipients who knowingly and willfully provide false or fraudulent information are subject to prosecution under *18 U.S.C. § 1001*, which carries a fine of not more than \$ 10,000 or imprisonment for not more than 5 years, or both. The social services worker will prepare a written report detailing the information considered to be false and submit the report to the Superintendent or his/her designated representative for appropriate investigative action.

**§ 20.700 Can an applicant or recipient appeal the decision of a Bureau official?**

Yes, if you are an applicant or recipient, and are dissatisfied with a Bureau decision made under this part, you can request a hearing before the Superintendent or his/her designated representative. You must submit your request by the deadline in § 20.604. The Superintendent or his/her designated representative can extend the deadline if you show good cause.

## SUBPART G -- HEARINGS AND APPEALS

### **§ 20.701 Does a recipient receive financial assistance while an appeal is pending?**

Yes, if you appeal under this subpart, financial assistance will be continued or reinstated to insure there is no break in financial assistance until the Superintendent or his/her designated representative makes a decision. The Superintendent or his/her designated representative can adjust payments or recover overpayments to conform with his/her decision.

### **§ 20.702 When is an appeal hearing scheduled?**

The Superintendent or his/her designated representative must set a date for the hearing within 10 days of the date of request for a hearing and give written notice to the applicant or recipient.

### **§ 20.703 What must the written notice of hearing include?**

The written notice of hearing must include:

- (a) The date, time and location of the hearing;
- (b) A statement of the facts and issues giving rise to the appeal;
- (c) The applicant's or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau;
- (d) The applicant or recipient's right to present both oral and written evidence during the hearing;
- (e) The applicant's or recipient's right to confront and cross-examine witnesses at the hearing;
- (f) The applicant's or recipient's right of one continuance of not more than 10 days with respect to the date of hearing; and
- (g) The applicant's or recipient's right to examine and copy, at a reasonable time before the hearing, his/her case record as it relates to the proposed action being contested.

### **§ 20.704 Who conducts the hearing or appeal of a Bureau decision or action and what is the process?**

(a) The Superintendent or his/her designated representative conducts the hearing in an informal but orderly manner, records the hearing, and provides the applicant or recipient with a transcript of the hearing upon request.

(b) The Superintendent or his/her designated representative must render a written decision within 10 days of the completion of the hearing. The written decision must include:

- (1) A written statement covering the evidence relied upon and reasons for the decision; and

(2) The applicant's or recipient's right to appeal the Superintendent or his/her designated representative's decision pursuant to 25 CFR part 2 and request Bureau assistance in preparation of the appeal.

**§ 20.705 Can an applicant or recipient appeal a tribal decision?**

Yes, the applicant or recipient must pursue the appeal process applicable to the Public Law 93-638 contract, Public Law 102-477 grant, or Public Law 103-413 self-governance annual funding agreement. If no appeal process exists, then the applicant or recipient must pursue the appeal through the appropriate tribal forum.