

Key Definitions: Long Term Care and the Indian Health Care Improvement Act

The Indian Health Care Improvement Act defines key terms, including “assisted living service”, “home and community-based services”, “hospice care”, and “long term care services,” by reference to existing statutes:

Assisted Living Service (defined by section 232(b) of the National Housing Act (12 U.S.C. 1715(w)(b))):

- A. a public facility, non-proprietary facility, or facility of a private non-profit corporation that,
- B. makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and
- C. provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility.

Assisted Living Service Facilities operated under the IHCIA authority (25 U.S.C. §1621d):

- A. shall not be required to obtain a license, but
- B. shall meet all applicable standards for licensure.

Home and Community-Based Service (defined as one or more of the services specified in paragraphs (1) through (9) of section 1929(a) of the Social Security Act (42 U.S.C. 1396t(a)) that are or will be provided in accordance with applicable standards:

1. Homemaker/home health aide services
2. Chore services
3. Personal care services
4. Nursing care services provided by, or under the supervision of, a registered nurse
5. Respite care
6. Training for family members in managing the individual
7. Adult day care
8. In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility)
9. Such other home and community-based services (other than room and board) as the Secretary may approve.

Hospice Care (delineated as the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)):

- A. nursing care provided by or under the supervision of a registered professional nurse,
- B. physical or occupational therapy, or speech-language pathology services,

- C. medical social services under the direction of a physician,
- D. (i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,
- E. medical supplies (including drugs and biologicals) and the use of medical appliances, while under such a plan,
- F. physicians' services,
- G. short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not be provided consecutively over longer than five days,
- H. counseling (including dietary counseling) with respect to care of the terminally ill individual and adjustment to his death,
- I. for a Hospice program carried out under the IHCIA, "such other services as an Indian tribe or tribal organization determines are necessary and appropriate to provide furtherance of that care." 25 U.S.C. §1621d(a)(3)(B).

Long Term Care Services (defined in section 7702B(c) of the Internal Revenue Code of 1986): These "qualified long-term care services" are defined as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which - (A) are required by a chronically ill individual, and (B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.